

Date: 21 February 2024
Your Ref: EN010116
Our Ref: 15984



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To whom it may concern,

NORTH LINCOLNSHIRE GREEN ENERGY PARK PROJECT

THE PLANNING ACT 2008 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

APPLICATION BY THE NORTH LINCOLNSHIRE GREEN ENERGY PARK LIMITED (“THE APPLICANT”) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED THE NORTH LINCOLNSHIRE GREEN ENERGY PARK (“THE PROPOSED DEVELOPMENT”)

This is the Applicant's response to the Request for Information issued by the Secretary of State for Energy Security and Net Zero on 14 February 2024.

The Applicant has been asked to provide an update on the proposed Section 106 agreement with the tenant farmer and relevant landowner to provide mitigation for potential exceedances in air emissions at the Risby Warren Sites of Special Scientific Interest (SSSI).

As set out in the Applicant's response to the Secretary of State's second consultation (Document Reference 9.46) submitted on 12 January 2024, the Applicant maintains that the need for and the benefits delivered from the Project outweigh the limited adverse impact on the Risby Warren SSSI.

The Applicant is also of the view that it will be able to secure an environmental permit incorporating technology types that will avoid the adverse effects on Risby Warren SSSI, such that there would not then be a need for any further mitigation.

In the event the Secretary of State takes a different view on the planning balance such that the potential for adverse effects at Risby Warren SSSI do tip the balance and would lead the Secretary of State to be minded to refuse the DCO, a draft requirement was proposed to secure the necessary avoidance or mitigation of any residual adverse effects.

However, the Applicant has continued to progress negotiations and prepared a draft section 106 agreement in an attempt to secure the proposed mitigation of residual adverse effects at Risby Warren SSSI should it be required in order to obtain an environmental permit. The proposed draft agreement has now been circulated to the tenant (County Turf Limited), North Lincolnshire Council and Natural England for comment.

The landlord (and leasehold owner) has not been included as a party as tenancies governed by the provisions of the Agricultural Holdings Act 1986 attract a high degree of security of tenure because the circumstances in which it is possible for a landlord to take steps to terminate such a tenancy are heavily restricted by statute. For this reason, the tenant has sufficient covenanting strength.

Partners

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The covenant wording included in the agreement is linked to the wording proposed for the draft requirement and is set out below. If the Secretary of State requires sight of the full draft section 106 agreement this can be provided upon request:

CREATION OF COVENANT

*Subject to clause 4, the Covenantor **hereby covenants** with the Council to cease outdoor pig farming on the Mitigation Land prior to the commissioning of the energy from waste facility forming part of the Development and for the duration of the Covenant Period.*

CONDITIONALITY

If the Developer is able to demonstrate and evidence to the satisfaction of the Council that the air emissions from the Development will not give rise to a Potentially Significant Effect on the Risby Warren SSSI and that it has secured a Permit without the cessation of pig farming on the Mitigation Land being required the Covenantor shall be released from the covenants contained in this Agreement.


The Applicant has received the following responses:

- confirmation from the tenant of an intention to proceed subject to legal advice on the draft agreement and impact on tenancy; and,
- confirmation from Natural England that they have no comments on the draft agreement.

To date no response has been received from North Lincolnshire Council but we are continuing to follow this up with them.

The Applicant will endeavour to reach an agreement on the drafting and complete the agreement in advance of the decision date of 15 March 2024 and will provide a further update on 1 March 2024.

Yours faithfully,



DWD

For and on behalf of North Lincolnshire Green Energy Park Limited