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Environment Agency

The Planning Inspectorate
[OaklandsFarmSolar@planninginspectorate.gov.uk]

Our ref: XA/2024/100121/05-L01
Your ref: EN010122

Date: 26 November 2024

Dear Sir

EXAMINATION - OAKLANDS FARM SOLAR DEADLINE 6 (26 NOVEMBER 2024) - EA RESPONSE TO EXQ3. OAKLANDS FARM SOLAR PARK, DERBYSHIRE.

We have now reviewed the Examining Authority's (ExA) Third Written Questions (ExQ3), and our comments are provided below.

5. Project lifetime and decommissioning

5.1 End state after decommissioning

Section 3.1 and paragraph 1.7 of Appendix A of the Outline Decommissioning Environmental Management Plan (Outline DEMP) [REP5-015] set out the anticipated end state after decommissioning. The Applicant [REP5-024, REP5-025] considers that it is not necessary to review and agree updates to the description of the end state through the construction and operational phases.

a) ***Do SDDC, DCC, EA, or NE have any comments?***

We note that the Applicant has amended Requirement 22 (Decommissioning and restoration) to ensure the Decommissioning and Environmental Management Plan (DEMP) is approved by the Local Planning Authority in consultation with the EA. Therefore, we have no further comments to make.

c) ***Please could SDDC, DCC, EA, NE also summarise any outstanding concerns at Deadlines 7 and 8 with suggestions about how they might be addressed?***

We have no remaining concerns as we will be consulted on the DEMP (Requirement 22),

6. Agriculture and soils

6.4 Potential loss of BMV agricultural land

a) ***Please could EA set out any remaining concerns in relation to the restoration of BMV agricultural land at Deadlines 7 and 8 with suggestions about how they might be addressed?***

The potential loss of Best and Most Versatile (BMV) agricultural land is not within the remit of the EA. Natural England are the lead for BMV agricultural land. Therefore, we have no comments to make in relation to the restoration of BMV agricultural land following decommissioning.

6.5 Decommissioning of underground cables

The ExA [EV4-002] requested that the Applicant respond to SDDC's concerns that cables left in place after decommissioning could conflict with future agricultural land uses including in relation to the reinstatement of land drainage.

Chapter 4 of the ES [REP5-019] secures a minimum depth of cables of 0.9m, apart from a minimum depth of 0.7m at onsite cabling between PV modules and inverters and from inverters to transformers and the crossing of Coton Road.

NE [AS-033] say that "*the maximum possible depth of a soil profile is generally considered to be 1.2 m and therefore, the cables may be laid partially within the depth of the natural soil profile, but will be well below the topsoil layer and the minimum depth of cover over the cables is not considered to compromise the ability of the overlying agricultural crops to produce a functioning and effective root system. This depth is expected to be consistent with the industry standard of 0.9m depth.*"

Paragraph 2.6.9 of the Outline CEMP [REP5-011] includes that "*During construction of the Proposed Development, piling of solar panel mounts and / or the installing underground electrical cabling via trenching may result in disturbance or damage to existing land drains. Where this occurs and creates an unacceptable surface drainage issue, other measures (e.g., repairing or installing new land drains) would be available to rectify such drainage issue. Once established, the drainage on-site will be monitored, and drainage measures altered or improved as necessary."*

Section 3.1.4 of the Outline DEMP [REP5-015] says that "*the Applicant intends to remove buried cables after decommissioning, though will be led by the planning authority and relevant policy in place at the time of decommissioning. The cables may be left in situ, depending on the method which is likely to have the least environmental impact at the time*."

Paragraph 1.6 of the Outline SMP embedded in the Outline DEMP [REP5-015] includes that "*The Applicant commits to the repair of land drains or the installation of new land drains where removal of solar panel mounts and/or the removal of underground electrical cabling results in damage or disturbance to existing land drains and where an unacceptable surface water issue occurs as a result. Once established, the drainage on-site will be monitored for up to 5 years, and drainage measures altered or improved as necessary*."

EA [REP5-043] say that:

- cables in general, unless oil filled, would be unlikely to be considered as a waste if left in the ground;
- the Applicant would need to demonstrate that leaving cables in situ would not result in pollution.
- if the Applicant proposes to install cables in such a manner as to mitigate likely adverse impacts, a risk assessment will need to be undertaken to determine what can be designed in or out to achieve appropriate mitigation; and
- risks to the environment will remain at the time of decommissioning so another risk assessment should also be carried out before decommissioning takes place.

d) ***Please could EA and SDDC summarise any outstanding concerns about the decommissioning of cables in relation to agriculture, soils, and pollution at Deadlines 7 and 8 with suggestions about how they might be addressed?***

We have no remaining concerns as the EA are to be consulted on the DEMP in line with Requirement 22. At the time of decommissioning the Applicant would need to demonstrate, as part of the DEMP, that leaving cables in situ would not result in pollution to ground or surface water.

12. Water quality, resources, drainage, and flooding

12.1 Battery Energy Storage System fire risk and related emergency response and pollution

The EA [REP5-043] said that the pollution risks of emergency response had not been appropriately assessed.

a) ***Is the EA satisfied that the submitted Outline Drainage Strategy included in the updated Flood Risk Assessment (FRA) [REP5-017] addresses its concerns?***

Yes. The surface water system has been designed with an automated pollution control valve (linked to the fire detection system). Therefore, surface water runoff will not be discharged during a fire event, preventing it from leaving the locality and allowing the potential contaminants to be removed/ treated.

12.2 Flood Risk Assessment (FRA)

The EA [REP5-043] raised concerns about the Sequential Test and flood risk climate change allowance.

a) ***Is the EA satisfied that the submitted update to the FRA [REP5-017] addresses its concerns?***

Sequential Test
The Applicant has confirmed they have not undertaken the Sequential Test, but they have sequentially tested the site.

As the Environment Agency (EA) confirmed at Issue Specific Hearing 1, it is not within the remit of the EA to determine whether the Sequential Test has been passed as we are unable to advise on whether alternative sites are reasonably available or whether they would be suitable for the proposed development. We also won't advise on whether there are sustainable development objectives that mean steering the development to any alternative sites would be inappropriate.

However, we refer the Examining Authority to Paragraph 5.8.7 of National Policy Statement EN-1, which is clear that new energy infrastructure should only be necessary in flood risk areas in the exception, for example where there are no reasonably available sites in areas at lower risk. According to the PPG (Paragraph: 024 Reference ID: 7-024-20220825), new development should be steered to areas with lowest risk of flooding, taking all sources of risk and climate change into account.

The Applicant has committed to update the FRA to address the Sequential Test at Deadline 6. Once information on the Sequential Test is detailed in the FRA, we will mark this issue as agreed and therefore resolved. However, the Local Planning Authority will need to determine if the test has been passed.

Climate change allowances
The correct climate change allowances have been used, which is the Higher Central allowance for the 2080's epoch.

The EA [REP5-042, [REP5-043] also raised concerns about the proposed river crossings/ culverts and consequent increases in flood risk off site, which it notes is against the Overarching National Policy Statement for Energy (NPS EN-1) policy in relation to the Exception Test. It suggested possible solutions, including make all

new crossings temporary, to be in situ for only the construction and decommission phases.

The updated FRA [REP5-017 Section 8.5] indicates increases in flood risk off site.

Paragraph 5.8.11 of NPS EN-1 states that: "Both elements of the Exception Test will have to be satisfied for development to be consented. To pass the Exception Test it should be demonstrated that:

• "the project would provide wider sustainability benefits to the community that outweigh flood risk; and

• the project will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible will reduce flood risk overall."

The Applicant [REP5-026] updated paragraph 1.14.1 of the Outline CEMP [REP5-011] to include that the "Temporary Construction Haul Road would be removed following construction and reinstated for decommissioning. Following removal of the Temporary Construction Haul Road (after construction and decommissioning), the land will be restored to its current condition. This will include removal of temporary culverts." Paragraph 3.1.2 of the Outline DEMP [REP5-015] now includes that the "Temporary Construction Haul Road (including temporary culverts) would be removed following decommissioning, and the land will be restored to its current condition".

a) Do EA or DCC (as Lead Local Flood Authority) have any comments?

The Applicant's modelling has shown that implementing new watercourse crossings (culvert structures) causes increased flood risk off site to depth of up to 15cm. This is against government policy NPS EN-1 as there must not be an increase in offsite flood risk to pass the Exception Test.

The *Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 1*[REP5-026] states that "*the Applicant has reviewed paragraph 2.10.88 of National Policy Statement for Renewable Energy Infrastructure EN-3 and commits to removing the three (3) culverts following construction of the proposed development. This commitment is secured in paragraph 1.14.1 of the outline Construction Environmental Management Plan ("CEMP") and table 4.2 of Chapter 4 Project Description of the Environmental Statement. The culverts will be required to be reinstalled to enable decommissioning of the Proposed Development, and thereafter removed. This commitment is secured in paragraph 3.1.2 of the outline DEMP and table 4.2 of Chapter 4."*

The removal of the culverts for the operational phase seems like a reasonable way forward to address the off-site increase in fluvial flood risk. However, there is still a

risk that flood risk could be increased off-site during construction if an event were to occur.

Following a meeting with the Applicant's consultants on 26 November 2024 they have proposed to install a temporary clear span bridge structure (instead of a culvert) at crossing 3, which is the crossing that causes the offsite increase. This will likely remove the offsite flood increase. We are awaiting updated model runs which include the clear span structure to determine the appropriateness of this approach. We will provide the Examining Authority with an update at Deadline 7.

Yours faithfully

Mr Lewis Pemberton
Planning Specialist