

APPLICATION BY ECOTRICITY (HECK FEN SOLAR) LTD FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED HECKINGTON FEN SOLAR PROJECT

Issue Specific Hearing 3 (ISH3) Environmental Matters

Action	North Kesteven District Council response
<p>AP1 - Schedule 2 Requirement (R) 3 (Phasing the authorised development and date of final commissioning) - With reference to the Applicant's comments at ISH3 and in REP2-012 (point 14) provide written comments in response to their view that it would be inappropriate for Relevant Planning Authorities (RPAs) to approve a phasing plan.</p>	<p>REP2-012 states that the Applicant needs flexibility and control over the number of construction phases but recognises that the phasing strategy will need to be in accordance with the measures and assumptions in the ES. The applicant proposes that wording within Requirement 3 should make clear that the phasing strategy submitted pursuant to Requirement 3 must include a statement that the phases are in line with the assumptions in the ES, and that they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the ES.</p> <p>The applicant has suggested revised wording as follows:</p> <p><i>" 3.— (1) No part of the authorised development may commence until a written scheme setting out the phase or phases of construction of the authorised development has been submitted to both relevant planning authorities and the county authority.</i></p> <p><i>(2) The scheme submitted pursuant to paragraph (1) must include—</i> <i>(a) a timetable for the construction of the phase or phases of the authorised development;</i> <i>(b) a plan identifying the phasing area(s); and</i> <i>(c) a statement that the phasing is in line with the assumptions in the environmental statement and is unlikely to give rise to any materially new or materially different environmental effects compared to those assessed in the environmental statement.</i></p> <p><i>(3) The phasing scheme must be implemented as notified under paragraph (1)."</i></p> <p>We understand that the applicant seeks flexibility and does not wish to bound by an RPA approval process, however the overall intention of the Requirement (from the Council's perspective) is to set out an overall high level planned/envisaged phasing strategy for the site by reference to a phasing masterplan and broadly the order of those works linked to matters such as the delivery of associated infrastructure, and the timing and location of mitigation measures.</p>

	<p>We understand the need for some flexibility to be able to depart from a masterplan in response to matters such as unforeseen supplier issues or local constraints however we still consider it important that broad geographical principles of phasing linked at high level to triggers or associated works for infrastructure delivery are submitted to and should be approved by the RPAs.</p> <p>The revised wording as proposed is still deficient in that it is essentially just a notification of phasing and the timetabling of construction within that phase/phases of the authorised development, and does not give the authorities the right of approval.</p> <p>Whilst the revised wording still requires the applicant to confirm that the phasing is in line with the assumptions in the environmental statement and is unlikely to give rise to any materially new or materially different environmental effects, this would be generally restricted to comparison of environmental effects and would not necessarily capture details of triggers for the implementation of specific works necessary in a given phase if those triggers are not already set out in the ES control document/s. As set out below it is also not yet clear if the phasing of the development is a relevant consideration to delivery of the BNG strategy.</p> <p>It should be relatively straightforward to distil these from other Requirements (for example construction and operational noise mitigation measures) and align those measures to a specific phase/s such that if there is a departure from the overall plan on the basis of unforeseen circumstances then the applicant is at least bound by those principles, or an alternative/temporary strategy, pending the phasing reverting to the initial plan.</p>
<p>AP3 - R8 (Landscape ecological management plan) Provide written comment on the amendments made to R8</p>	<p>We note that the applicant is prepared to consider the additional wording in draft Requirement R8 in relation to parts (a) and (b) namely submission and agreement of the location, number, timings, species, size and planting density of any soft landscaping measures along with details of further ecological survey work and agreement of protection, mitigation and avoidance measures.</p>

With reference to part (c) of the draft Requirement we welcome in principle the applicant's commitment to securing 60% of BNG in habitat units within the drafting, as now proposed. The applicant has requested that as a result of securing 'well above the minimum' of 10%, they would welcome confirmation from the RPAs of the additional weight that should be given to the benefits accruing from the project in the context of BNG.

The latter is not a matter for NKDC to comment on as planning weighting is for the decision maker to apply and not the RPA in this case. We would however reiterate that if the applicant seeks to align increasing weight with increasing BNG then the latter must be able to be evidenced at the point of decision and we noted from the ISH that the applicant appears content to fallback to a more defensible (in evidence) position of demonstrating 60% BNG rather than seeking to evidence a greater quantum.

The Council has exchanged feedback with the applicant in relation to BNG following the ISH4 ecology session, and our position is that it should be possible for the applicant to commit to additional provision above 60%. However, this is still a significant shortfall from the "over 100% in habitat units" claimed as recently as Deadline 2 (DL2) within the Applicant's response to the LIRs [REP2-078]. This is notwithstanding that, in summary, the baseline reports (e.g. the phase 1 habitat survey reports) do not provide detailed accounts of the baseline condition of each relevant habitat (e.g. composition of each of the woodlands and hedgerows include within the calculations) nor the relevant underpinning evidence.

Instead it primarily explains how the baseline condition score has been derived which is not the same thing. Additional information is required in relation to the condition rating/scoring, weighting and mapping of arable field margins, hedgerow, woodland and ditches (baseline) and post-development grassland types.

Ultimately it is the applicant's discretion whether they seek to increase the committed BNG percentage in the draft Requirement however if that is the case then the decision taker will need to ensure that any adjusted planning weight aligns with a clearly evidenced position at that point in time.

Finally we have no objection to the Requirement fixing the use of Metric 4.0 given that to remove this reference could introduce future uncertainty in relation to complying with a fixed BNG figure.

AP13 - Land and Soils - provide a response to the Applicant's summaries as above.	As requested NKDC will provide a response by Deadline 4.

Issue Specific Hearing 4 (ISH4) Environmental Matters

Action	North Kesteven District Council response
AP1 - Historic Environment - Provide a plan/details of where public access can be gained for the Examining Authority to carry out a future Unaccompanied Site Inspection at Kyme Tower	Please see attached the plan showing where public access can be gained for the Examining Authority to carry out a future Unaccompanied Site Inspection at Kyme Tower. This plan has been agreed with the applicant.
AP6 - Provide further comments regarding the five year replacement clause in R8(3) (Landscape ecological management plan) of the draft DCO and consider whether there is justification for seven years	Further to the ISH and specifically LEMP (R8) para (3) the Council's position is that the replacement period should be 7 years not 5. This can be justified by reference to the extract of the 2020 NKDC Tree Strategy - paragraph 2.2 – which specifies the 7-year replacement period. The strategy was subject to consultation and has been adopted by Full Council and therefore carries full weight as an adopted policy document. Given that draft R21 (Community Orchard) ties back into the LEMP it will also need to be bound by the same replacement plantings period.