

Heckington Fen Solar Park

EN010123

Statement of Common Ground with Environment Agency

Applicant: Ecotricity (Heck Fen Solar) Limited

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STATEMENT OF COMMON GROUND

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INTRODUCTION

This Statement of Common Ground (SoCG) has been prepared by Ecotricity (Heck Fen Solar) Limited (“the Applicant”) in conjunction with Environment Agency (“EA”).

The proposed development comprises the construction, operation (including maintenance), and decommissioning of a ground mounted solar photovoltaic (PV) electricity generation and energy storage facility (hereafter referred to as “the Energy Park”), cable route to, and above and below ground works at, the National Grid Bicker Fen Substation (hereafter referred to as “the Proposed Development” (inclusive of Energy Park)) on land at Six Hundreds Farm, Six Hundreds Drove, East Heckington, Sleaford, Lincolnshire.

In the table (**Matters to be agreed**) below of this SoCG:

- “Agreed” indicates where the issue has been resolved
- “Not Agreed” indicates a final position of the parties that is not agreed, and
- “Under discussion” indicates where these points are the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties.

It can be taken that any matters not specifically referred to in this SoCG are not of material interest or relevance and therefore have not been considered further. It is recognised however that engagement between all parties will need to continue due to their joint interest in matters arising from the Proposed Development.

The purpose of the SoCG is to identify the areas where the principal parties do not agree and remain in dispute. This will allow the Examination to focus on the most pertinent issues.

The Proposed Development

It is agreed that the proposed development is for a temporary use of land only which will be in place for a period of 40 years from the date of the commencement of electricity generation.

Impacts of the development

It is agreed that all environmental constraints and sensitive receptors (under the EA’s remit) relevant to the determination of the application have been considered in the application plans and documents.

It is agreed that the development proposed is an EIA development, and the submitted EIA assesses the realistic worst-case effects of the development.

Notwithstanding the fact that a small number of mitigation measures to address the impacts (as listed in the table below) are yet to be agreed, it is agreed that these outstanding matters are capable of being addressed through the DCO requirements, Protective Provisions or side agreements to the DCO.

MATTERS TO BE AGREED

Reference and Status	Topic	EA’s Position	Applicant’s Position
1. Assessment of effects (including survey areas, baseline data and methodology) relating to Flood Risk and Drainage			
1.1. Under Discussion <u>Agreed</u>	Environmental Statement Chapter 9 – Hydrology, Hydrogeology, Flood Risk and Drainage Chapter 9 alongside Appendix 9.1: Flood Risk Assessment, Parts 1 and 2 (Rev 2)	The EA has reviewed the FRA from a fluvial perspective only (other sources of flooding such as groundwater, drainage systems, reservoirs, canals and ordinary watercourses fall under the remit of other flood risk	The Applicant can confirm the finished floor level of the control room at the energy park site will be at or above 2.25mAOD. This could be <u>Figure 4.21 and Figure 4.22 are resubmitted to confirm this.</u>

Reference and Status	Topic	EA's Position	Applicant's Position
		<p>management authorities). The FRA is appropriate to the scale, nature and location of the development from a fluvial perspective. However, we request clarity in respect of the flood risk mitigation design levels quoted in paragraph 9.1.3 ([AS-020]. This paragraph appears to be stating that "The solar panels and other flood-sensitive infrastructure (transformers, energy storage modules, control rooms, etc) will therefore be elevated above the 1,000 year + 20% breach flood level of 1.95mAOD". However, it then goes on to state that only the 'other flood-sensitive infrastructure, such as transformers and energy storage modules, will be elevated above the breach flood level by localised ground raising and/or appropriate foundation design, with any sensitive equipment located at or above 2.25mAOD (1,000 year + 20% breach flood level of 1.95mAOD + 300mm freeboard).</p> <p>It is the EA's view that the finished floor level of the control rooms should be set at or above the 2.25mAOD level and we request confirmation that this is</p>	<p>Furthermore this comment is added to the Outline Design Principles at the next revision.</p>

Reference and Status	Topic	EA's Position	Applicant's Position
		included as 'flood-sensitive infrastructure'.	
2. Assessment of effects (including survey areas, baseline data and methodology) relating to Groundwater Protection			
2.1 Agreed	Chapter 9 alongside Appendix 9.2: Ground Investigation Report with regard to the risk posed to controlled water only	Based on the available information, the proposed development site is understood to be predominantly Greenfield in nature and is considered to be in an area of low environmental sensitivity for groundwater. On this basis, we consider the proposed development to pose a negligible risk to controlled waters. We agree that further intrusive investigation is not required at this time, in so far as it relates to the risk to controlled waters. We support the approach to implement a watching brief during construction work, to ensure that the risk from any unforeseen contamination can be appropriately managed.	The Applicant welcomes this confirmation and has no further comment.
3. Assessment of effects (including survey areas, baseline data and methodology) relating to Water Resources (including the OESSMP)			
3.1 Agreed	Paragraph 9.6.36 (Chapter 9 [APP-062] states "The crossing of ditches, drains and watercourses using open-cut techniques has the potential to reduce the flow capacity	This paragraph is predominantly considering changes to flood risk. However, there is also a need to ensure that water levels are not changed in such a way as to impact the water	The Applicant recognises that, as part of its Project's construction phase, separate consents/licences may be required to enable the

Reference and Status	Topic	EA's Position	Applicant's Position
	<p>and/or change the flow regime.....flows will be managed in accordance with the methodologies set out in Outline Construction Environmental Management Plan”.</p>	<p>availability of any water abstraction licences. In addition, any construction works that involve crossing waterbodies should be assessed with regard to the need for a licence to impound water. There is no guarantee that an application for a licence to abstract or impound water will be successful.</p> <p>The EA notes that if water abstraction and/or impoundment licences are required, the Applicant will provide relevant assessments with those applications as part of the Project's construction phase. This is acceptable.</p>	<p>works comprising the Authorised Development to be carried out. Document 7.5 outlines those consents and licences which the Applicant may require.</p> <p>Water abstraction and/or impoundment licences are included in the "Summary of Additional Consents Likely to be Required" (Appendix to Document 7.5).</p> <p>If required, the Applicant will submit further applications to the EA for the purpose of obtaining these, at which point the relevant assessment considerations would need to be addressed before a licence was granted.</p>
<p>3.2 Agreed</p>	<p>Document 7.11 Outline Energy Storage Safety Management Plan [APP-242] - Paragraph 1.5.2.1</p>	<p>Although this appears to be still under review, depending on the chosen technology, should water be required to be stored on-site for emergency use, there are no details provided of where this water is to be sourced. The EA determined East Anglia to be 'an area of serious water stress' (Environment Agency, Water stressed area – final classification 2021). If the Applicant wants to abstract more than 20m3/day,</p>	<p>The proposed tanks, if required, would be filled slowly from adjacent watercourses, during construction abstracting less than 20m3/day which, assuming a maximum of abstraction, would take 125 days to fill. With a construction period of 30 months there is an option to reduce this daily abstraction amount and collect rainwater also prior to the energy storage being up and</p>

Reference and Status	Topic	EA's Position	Applicant's Position
		<p>in order to fill this storage from the adjacent watercourses, then they would need an abstraction licence. There is no guarantee that an application for a licence to abstract water will be successful – we are pleased to see acknowledgement of the need to apply to the EA for such a licence in document 7.5 [APP-236].</p>	<p>running. Further detail is provided in Chapter 18: Miscellaneous (APP-071).</p>
<p>4. Compliance with the Water Framework Directive</p>			
<p>4.1 Agreed</p>	<p>Para. 9.5.19 of Chapter 9 outlines the waterbodies identified relative to the proposed development and these are included in document '2.5 Water Bodies in a River Basin Management Plan' [APP-010].</p>	<p>The EA is satisfied that subject to the identified mitigation within the outline Construction Environment Management Plan (oCEMP) being fully implemented and best practice methods being followed in respect of pollution prevention; as well as the relevant water abstraction licences and discharge permits being obtained prior to construction commencing for that activity, there should be no deterioration on waterbody status. An abstraction licence may be required depending on the volume needed for dust suppression. Water in the area can be scarce during the warmer, drier months of the year and may not be readily available. The Applicant may</p>	<p>The Applicant concurs with the position and welcomes the confirmation that the EA is satisfied with the identified mitigation. The water tanks proposed near the onsite substation can be installed earlier in the construction process as required in order to assist with water being readily available for dust suppression.</p>

Reference and Status	Topic	EA's Position	Applicant's Position
		need to consider having water storage in place sooner rather than later, ready for use for dust suppression purposes.	
5. Drafting of the Outline Construction Environmental Management Plan (with focus on Appendices E, F, J & K)			
5.1 Agreed	Appendix K (Outline Site Waste and Material Management Plan) - Duty of Care and waste classification	<p>In order to meet the Applicant's objectives for the waste hierarchy and obligations under the duty of care, it is important that waste is properly classified. Some waste (e.g. soil and wood) may be either hazardous or non-hazardous waste dependent upon whether or not they contain material which has hazardous properties i.e. HP14 Ecotoxic.</p> <p>Proper classification of the waste both ensures compliance and enables the correct onward handling and treatment to be applied. In the case of treated wood, it may require high-temperature incineration in a directive compliant facility. More information on this can be found on the Government's website entitled 'Classify different types of waste' and the technical guidance on waste entitled 'Waste classification technical guidance' also available on the Government's website. This includes information about waste</p>	<p>The Applicants notes this and thanks the EA for their advice.</p> <p>The Applicant also refers the EA to Requirement 18 of the draft DCO (document reference 3.1) which provides that a Decommissioning and Restoration Plan must be provided at the end of the life of the Project. The Decommissioning and Restoration Plan must be in accordance with the outline Decommissioning and Restoration Plan (document reference 7.9) which provides that waste will follow the Waste Hierarchy.</p>

Reference and Status	Topic	EA's Position	Applicant's Position
		classification and assessing waste. The Applicant must not use landfill waste acceptance criteria (WAC) results for waste classification purposes.	
5.2 Under Discussion <u>Agreed</u>	Appendix K (Outline Site Waste and Material Management Plan) - Management and reporting systems	Where development involves any significant construction or related activities, we would recommend using a management and reporting system to minimise and track the fate of construction wastes, such as that set out in PAS402: 2013, or an appropriate equivalent assurance methodology. This should ensure that any waste contractors employed are suitably responsible for ensuring waste only goes to legitimate destinations.	The Applicant is content to utilise such a management and reporting system, and an update to <u>has updated Appendix K of</u> the OCEMP can be made at the next relevant revision.
5.3 Agreed	Appendix K (Outline Site Waste and Material Management Plan) - Hazardous waste: Consignment notes	Please see the latest guidance regarding the use of consignment notes for movements of hazardous waste on the Government's webpage entitled Dispose of Hazardous Waste - Consignment Notes.	Noted with thanks.
5.4 Agreed	Appendices E and F (Outline Soil Management Plans)	The Environment Agency has reviewed the Outline Soil Management Plans for issues limited to its remit and is satisfied that the plans reference the correct guidance as contained in the Construction Code of Practice for the Sustainable Use of Soils on	The Outline Soil Management Plans are considered sufficient to protect soils on the Energy Park and the Grid Connection Route as outlined in the OCEMP.

Reference and Status	Topic	EA's Position	Applicant's Position
		<p>Construction Sites (Defra 2009). However, the Environment Agency defers to Natural England for broader comments on its general suitability in respect of soil resources, their management and maintenance during construction and for the lifetime of the development.</p>	
<p>6. Draft DCO, including relevant Articles, Requirements (including procedure for discharge) and Protective Provisions</p>			
<p>6.1 Agreed</p>	<p>Part 2, Principal Powers, Article 6 & Protective Provisions (Schedule 13, Part 5</p>	<p>The Applicant has requested the disapplication of the consent required in relation to the carrying out of a relevant flood risk activity under the Environmental Permitting (England and Wales) Regulations 2016. We are currently working with the Applicant to reach agreement on Protective Provisions and will update the Examining Authority again when these are finalised to confirm if we can agree to the disapplication of this legislation.</p>	<p>The Applicant and the EA have now agreed a satisfactory form of Protective Provisions for the benefit of the EA. These Protective Provisions will be included in the next version of the dDCO submitted at Deadline 2 (document reference 3.1). The agreement of the Protective Provisions between the parties and their inclusion as part of the DCO will enable the Applicant to disapply the need for separate consent (outside of the DCO process) from the EA for flood risk activities under the Environmental Permitting (England and Wales) Regulations 2016. Instead the process under the protective provisions, which provide</p>

Reference and Status	Topic	EA's Position	Applicant's Position
			protection for the EA, will be followed.
6.2 Agreed	Requirement 6 (Detailed design approval)	EA are satisfied that flood risk mitigation is secured in the DCO at Schedule 2, Requirement 6(2), which ensures the detailed design must accord with the outline design principles in the FRA, subject to the confirmation being received regarding the setting of the finished floor level of the control rooms at or above 2.25mAOD (above Ordnance Datum).	The Applicant welcomes this confirmation and can confirm that the finished floor level of the Energy Park control room will be at or above 2.25mAOD. This could be <u>has been</u> added to the Outline Design Principles at the next revision .
6.3 Agreed	Requirement 13 (Construction Environmental Management Plan)	EA welcome inclusion as a specific consultee to the discharge of this Requirement.	The Applicant notes this and no further comment is required.
6.4 Agreed	Requirement 18 (Decommissioning and restoration) Outline Decommissioning and Restoration Plan included with the application (Document 7.9) [APP-240]	EA note the Requirement secures a final plan to be submitted and approved within 12 months of the date that the undertaker decides to decommission any part of the authorised development. The EA would like to be consulted on the final plan as it is stated that the cables may be removed and therefore requests that it is added as a specific consultee to the discharge of this Requirement.	The Applicant can confirm the EA can be consulted on the final Decommissioning and Restoration Plan at the relevant time; the Applicant will update the draft DCO (document reference 3.1) at Deadline 2 to make this clear in the wording for Requirement 18.

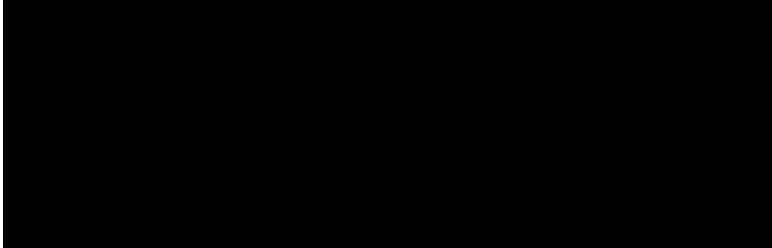
Reference and Status	Topic	EA's Position	Applicant's Position
6.5 Under Discussion <u>Agreed</u>	Schedule 14 (Article 42) – Procedure for discharge	<p>EA note that Paragraph 1 of this procedure defines the term “business day”. However, the procedures in paragraphs 3 and 4 use the term “working days”. It would be helpful if these terms could be amended to be consistent with the interpretation.</p> <p>The EA also requests that paragraph 3 is amended to allow the relevant planning authority 20 business days in which to notify the Applicant of any further information required. This is needed to provide adequate consultation timescales that align with those in the Development Management Procedure Order 2015, i.e. 21 days (equivalent to 15 business days) in addition to the 5 business days allocated for the relevant planning authority to issue the consultation.</p>	<p>The Applicant agrees the term ‘business day’ can be used throughout with term ‘working days’ replaced. The Applicant will reflect <u>has reflected</u> this in the next version of the draft DCO (document reference 3.1) <u>submitted at Deadline 2</u>.</p> <p>The Applicant notes the comment on the period within paragraph 3 of Schedule 14 and the request to increase this to 20 business days; the Applicant may consider <u>has considered</u> this in discussion with the relevant planning authorities and the EA. Precedent <u>Whilst precedent</u> seen in Longfield Solar Farm Order 2023 includes 10 working days (rather than 20), as such it would be our preference to maintain 10, <u>however after further consideration we can accept 20 days</u>.</p>
7. Relevant other agreements, consents, permits and licences			
7.1 Agreed	Paragraph 7.94 mentions the use of septic tanks during construction.	Any septic tank installed during the construction or operational phase will need to comply with the General	The Applicant is content that any septic tank installed will be comply with the GBR for small sewage

Reference and Status	Topic	EA's Position	Applicant's Position
		<p>Binding Rules (GBR) for small sewage discharges, which can be found at the Government's website entitled 'Septic tanks and sewage treatment plants: what you need to do'. If the septic tank(s) does not meet the GBR then an environmental permit will be required – we welcome the acknowledgement of this requirement in entry 13 of the "Consents and Licences Required Under Other Legislation" table included in Document 7.5 [APP-236]. The Applicant should refer to relevant guidance at www.gov.uk/permits-you-need-for-septic-tanks/apply-for-a-permit.</p>	<p>discharges. Should this not be the case the relevant permit will be sought.</p>
7.2 Agreed	Dewatering activities, mentioned in paragraph 7.104	<p>The Applicant may wish to consider whether they can comply with the EA's Regulatory Position Statement 261 available on the Government's website entitled 'Temporary dewatering from excavations to surface water'. If the Applicant intends to discharge dewatering water to the ground this may be considered to be a groundwater activity and an Environmental Permit may be required. We are pleased to see the acknowledgement that if this is necessary, then applications will be</p>	<p>The Applicant notes this and the acknowledgement within Consents and Licences Required Under Other Legislation (Entry 12). This position is also made clear in Article 14(8) of the DCO (document reference 3.1).</p>

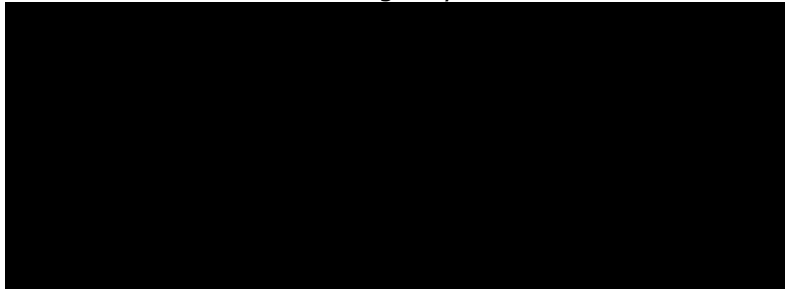
Reference and Status	Topic	EA's Position	Applicant's Position
		made to the EA, by the Applicant's contractor, before construction commences (entry 12 of the "Consents and Licences Required Under Other Legislation" table, included in Document 7.5 [APP- 236]).	
8. EA Landholdings			
8.1 Under Discussion	Document 4.3 Book of Reference	<p>The EA is the freehold owner of several plots of land adjacent to the South Forty Foot Drain, where the Applicant wishes to acquire access rights (Plots 63A; 63B; 63C; 63D; 72; 73A; 73B; 245; 286) and cable rights (Plots 63A; 63B; 72; 245; 286). The EA is currently <u>'s solicitors are</u> negotiating Heads of Terms <u>the easement documents</u> with the Applicant's agent with a view to entering into an option for an Easement agreement <u>legal team</u>. Without a satisfactory agreement being in place there is uncertainty concerning the project's impact on the EA's flood risk management operations. At this stage, therefore, the EA must object to any acquisition of rights over its land. However, we <u>The EA</u> will continue to work with the Applicant to resolve this matter during the Examination period.</p>	<p>The Applicant notes this comment and is comfortable an agreement will be reached. The cable will pass under land owned by EA and will be subject to a drilled solution due to the engineering difficulty of crossing the railway line, South Forty Foot Drain <u>Discussions will continue between the legal teams to ensure this is resolved as soon as possible.</u></p>

SIGNATORIES

Duly authorised for and on
behalf of Ecotricity (Heck Fen Solar) Limited



Duly authorised for and on
behalf of Environment Agency



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