

Application reference - EN010123

Proposal - Application by Ecotricity (Heck Fen Solar) Limited for an Order Granting Development Consent for the Heckington Fen Solar Park

North Kesteven District Council Deadline 6 submission - summary statements from parties regarding matters that they have previously raised during the Examination and have not been resolved to their satisfaction

- 1 In summary the Council's position is that there is a clear conflict and tension with Central Lincolnshire Local Plan policies S14 and S67 and the Overarching National Policy Statements for Energy (EN-1) and Renewable Energy Infrastructure (EN-3), which came into force in January 2024, in relation to agricultural land impacts which needs to be factored into the planning balance.
- 2 We note paragraph 2.10.29 of the National Policy Statement for Renewable Energy Infrastructure (EN-3) which confirms that land type is not a determining factor, and we fully accept that agricultural land impacts are one of a number of material planning considerations that the Examining Authority needs to consider and weigh in the overall planning balance. We also note that, during the course of the Examination, onshore and offshore electricity generation methods that do not involve fossil fuel combustion are now considered to be Critical National Priority (CNP) infrastructure by virtue of the January 2024 NPSs.
- 3 Nevertheless, taken collectively those policies remain clear and consistent in reiterating that only where the proposed use of any agricultural land over and above despoiled and brownfield land has been shown to be necessary, poorer quality land should be preferred to higher quality land. In addition, whilst dating from 2015, the Written Ministerial Statement referenced HCWS488 sets out that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence.
- 4 Paragraph 180 (b) of the December 2023 NPPF retains the same policy approach as its predecessor by advising that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the economic and other benefits of the best and most versatile agricultural land. The newly-introduced footnote 62, albeit in relation to plan-making, advises that the availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.

- 5 The Council has worked positively with the applicant throughout the pre-application process and we welcome scheme modifications resulting in the removal of areas of Grade 1 and 2 land from the Order Limits. Of itself this was a positive step. We also accept that the applicant is entitled to decide, unilaterally, that removal of additional areas of BMV land would be commercially unattractive. However, it remains the case that nearly half of the Energy Park site is classed as BMV land. This is a significant proportion.
- 6 In the Council's view, the applicant has not proven that the need to develop BMV land (as distinct from the overall case set out in the applicant's Statement of Need – document PS-142) has been clearly established (CLLP policy S67, first bullet point), nor in relation to point 3 that the impacts of the proposal upon ongoing agricultural operations have been minimised through the use of appropriate design solutions.
- 7 The consideration given to 'alternatives' (including avoidance) in the context of land use and agriculture was restricted to three paragraphs (6.23 to 6.25; 6.22 to 6.24 in PS-142) in the Statement of Need/Planning Statement and at paragraphs 8.4.12 to 8.4.17 of REP2-062. The general premise is that there will not be any permanent loss of agricultural land, that the proposal is temporary in nature with an operational lifespan of up to 40 years and that there will be an expected increased productivity from arable cropping uses following the removal of the panels.
- 8 ES Chapter 16, paragraph 16.6.4 confirms that whilst an earlier alternative indicative site layout (Revision J) reduced the Energy Park site by approximately 110ha (removing land to the south and west – including a 49ha panelled area) this was not taken forward as it was neither appropriate or commercially attractive 'when considering the wider planning balance and reductions in energy generation'.
- 9 With reference to the ALC results and the distribution of grades across the energy park site Order Limits, we would continue to highlight to the Examining Authority that there remain large cohesive, connected tracts of land proposed for solar panels in the south west and western limits of the site in particular, which are either wholly or primarily BMV, and which could be removed from the Order Limits. The most obvious are fields G4, G5-7, G9, G10, G17-19, G21 and G23 as shown on document APP-077 'Field Plan'. Whilst this would reduce the renewable energy capacity of the site it would strike an improved balance in terms of the proportion of BMV to non-BMV.
- 10 Whilst paragraph 16.5.40 of ES Chapter 16 refers to the divisions of fields across the Energy Park by deep ditches, which create a physical barrier between fields, and where there are also usually only single bridge entry points to most fields (prohibiting farming other than on a whole-field scale) we are not aware that the applicant has tested or has been able to rule out (on farming operational/practicality grounds) further alternatives.

- 11 The Council's agricultural consultant, Landscape, also queried some of the applicant's suggestions in terms of the degree to which existing site drainage/irrigation conditions and the extent of blackgrass impacts the ability to farm the existing site to its fullest extent. Landscape highlight that there are methodologies to limit and manage blackgrass, and that evidence of irrigation constraints are more anecdotal rather than based in firm evidence.
- 12 The applicant's overall analysis is that construction and operational effects, when assessed at a national level, are slight to moderate adverse in relation to the permanent sealing over of land and soil quality impacts during construction. 'Very large adverse' impacts are concluded in association with the cumulative operation of other (primarily PA2008) solar farms in Lincolnshire/Rutland.
- 13 The Council's position is that the 'temporary' loss of 257ha of BMV land is significant in its own right and that 40 years represents a 'generational' change of land use. Whilst we accept that the applicant has applied for a temporary 40-year permission, consistent with all other solar NSIP schemes, in the Council's view there is somewhat of an inevitability that many of these proposals, including at Heckington Fen, will be repowered. Indeed, paragraph 163 (c) of the NPPF notes in the case of applications for the repowering and life-extension of existing renewable sites that decision makers should 'give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable'.
- 14 We welcome the negotiations that the applicant has entered into in relation to mitigation measures for BMV impacts; primarily by way of sheep grazing, and acknowledge that these are likely to be some of the more detailed proposals put forward in this regard at this stage of the PA2008 process. However, the requirement for such detail has been largely driven by (and is reflective of) the scale and proportion of impacts on BMV land relative to other solar NSIP projects in Lincolnshire.
- 15 Landscape's position is that whilst sheep grazing between panels on the site is possible, the area is not known for such activity, and concerns have been expressed by Landscape about the likelihood of this occurring. As above, the outline Operational Environmental Management Plan (REP5-011) has been subject to a number of amendments however unfortunately the Council and Applicant have been unable to reach common ground on the content under the sub-heading of 'Grazing Management' in particular on grazing density once new grassland has established. The Council's overall position is that mitigation by grazing does not in any event wholly overcome the generational change and adverse impact on BMV land arising from the land use change to solar energy generation.

- 16 The Council's conclusion is that through the combination of the scale of the project and the amount of BMV land taken up by the development, the impact should be classed as 'significant' at both District and County level including cumulatively with other solar projects in Lincolnshire/Rutland. We would therefore invite the ExA to carefully factor this matter into the planning balance in their recommendation to Secretary of State for Energy Security and Net Zero.