

## **Nationally Significant Infrastructure Project: EN01027 Mallard Pass Solar Farm**

### **Comments on Draft Development Consent Order July 2023**

Lincolnshire County Council (“LCC”) attended the Issue Specific Hearings (ISH) held on 11 to 13 July 2023 inclusive. At the ISHs the ExA invited written submissions on the suggested drafting of the articles and requirements as set out in the draft Development Consent Order (dDCO). Below are LCC’s comments and suggestions at this stage.

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#### **Article 2 – Interpretation**

“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised development to the extent that such works do not give rise to any material new or different environmental effects than those identified in the environmental statement and “maintenance” and “maintaining” are to be construed accordingly;

#### **Schedule 2 – Requirements**

##### **Landscape and ecology management plan**

7.—(1) No phase of the authorised development may commence, and no part of the permitted preliminary works for that phase comprising vegetation removal may start, until a landscape and ecology management plan (which must be substantially in accordance with the outline landscape and ecology management plan) has been submitted to and approved by the relevant planning authority for that phase or, where the phase falls within the administrative areas of both the District of South Kesteven and the County of Rutland, both relevant planning authorities, following consultation with Natural England and Lincolnshire County Council.

(2)(f) how the plan proposals will contribute to the achievement of a minimum of ~~10~~60% biodiversity net gain for the whole of the authorised development during the operation of the authorised development;

##### **Fencing and other means of enclosure**

8.—(1) No phase of the authorised development may commence, and no part of the permitted preliminary works for that phase comprising the provision of temporary means of enclosure may start, until written details of all proposed temporary fences, walls or other means of enclosure, including those set out in the construction environmental management

plan, for that phase have been submitted to and approved by the relevant planning authority or, where the phase falls within the administrative areas of both the District of South Kesteven and the County of Rutland, both relevant planning authorities following consultation with Lincolnshire County Council.

(2) No phase of the authorised development may commence until written details of all permanent fences, walls or other means of enclosure for that phase have been submitted to and approved by the relevant planning authority or, where the phase falls within the administrative areas of both the District of South Kesteven and the County of Rutland, both relevant planning authorities following consultation with Lincolnshire County Council.

### **Archaeology**

10.—(1) No phase of the authorised development may commence, and no part of the permitted preliminary works for that phase ~~comprising the intrusive archaeological surveys~~ may start, until a Written Scheme of Investigation for that phase has been submitted to and approved in writing by ~~the Lincolnshire County Council~~ relevant planning authority for that phase or, where the phase falls within the administrative areas of both the District of South Kesteven, or where the phase falls within the administrative area of both the District of South Kesteven and the County of Rutland, Rutland County Council and Lincolnshire County Council ~~both relevant planning authorities~~, such approval to be in consultation with Historic England.

(2) The approved scheme must— (a) identify areas where archaeological work is required; and (b) the measures to be taken to protect, record or preserve any significant archaeological remains that may be found (i.e. preservation in situ, preservation by record or mix of these elements).

(3) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive ground works may take place only in accordance with a approved Written Scheme of Investigation and any archaeological works must be carried out by a suitably qualified and competent person or body previously notified to the relevant planning authority.

~~(2) Any archaeological surveys carried out in relation to any phase of the authorised development must be carried out in accordance with the approved written scheme of investigation for that phase.~~

### **Construction environmental management plan**

11.—(1) No phase of the authorised development may commence until a construction environmental management plan (which must be substantially in accordance with the outline construction environmental management plan) for that phase has been submitted to and approved by the relevant planning authority for that phase or, where the phase falls within the administrative areas of both the District of South Kesteven and the County of Rutland, both relevant planning authorities, such approval to be in consultation with the Environment Agency and Lincolnshire County Council.

## Operational environmental management plan

12.—(1) Prior to the date of final commissioning for any phase of the authorised development, an operational environmental management plan (which must be substantially in accordance with the outline operational environmental management plan) for that phase must be submitted to and approved by the relevant planning authority for that phase ~~or~~ where the phase falls within the administrative areas of both the District of South Kesteven and the County of Rutland, both relevant planning authorities, such approval to be in consultation with the Environment Agency and Lincolnshire County Council.

## Decommissioning and restoration

18.—(1) Decommissioning of the authorised development must commence no later than 40 years following the date of final commissioning of the authorised development<sup>i</sup>.

(2) Within 12 months (or such longer period of time that may be agreed with the relevant planning authority) of the date that the undertaker decides to decommission any part of the authorised development the undertaker must submit to the relevant planning authority for that part ~~(or both relevant planning authorities where that part falls within the administrative areas of both the District of South Kesteven and the County of Rutland) for approval, in consultation with the Environment Agency, a decommissioning environmental management plan for that part.~~ a decommissioning environmental management plan for approval which must include a decommissioning traffic management plan and site waste management plan, in consultation with the Environment Agency and Lincolnshire County Council<sup>ii</sup>.

(3) Where the undertaker decides to decommission a part of the authorised development that falls within the administrative areas of multiple planning authorities, the decommissioning environmental management plan must be submitted to each relevant planning authority and the approval of all relevant planning authorities is required for the purposes of this paragraph.

(4) The decommissioning environmental management plan must be substantially in accordance with the framework decommissioning environmental management plan.

(5) No decommissioning works must be carried out until the relevant planning authority has approved the decommissioning environmental management plan submitted in relation to those works.

(6) The decommissioning environmental management plan must be implemented as approved.

(7) This requirement is without prejudice to any other consents or permissions that may be required to decommission any part of the authorised development.

## Schedule 16 – Procedure for Discharge of Requirements

### Applications made under requirement

2.—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement the relevant planning authority must give notice to the undertaker of its decision on the application within a period of ~~eight~~ ten weeks beginning with the later of—

(a) the day immediately following that on which the application is received by the authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 3; or

(c) such longer period that is agreed in writing by the undertaker and the relevant planning authority

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<sup>i</sup> LCC maintain that the DCO should be time limited and therefore have suggested a 40 year timeframe be cited in the DCO.

<sup>ii</sup> This requires further consideration as the 12 month time period is imprecise and only takes effect when the undertaker “decides” to decommission (if an operational lifetime is not set). An additional requirement or mechanism is therefore needed that deals with panels which stop exporting for a specified period of time – for example they must be replaced within 12 months or decommissioned for any period longer than 12 months. Perhaps this could form part of a requirement to submit an annual maintenance report which would set out what panels/parts may or may not be maintained/replaced and decommissioned.