

Alicia Kearns MP
Member of Parliament for Rutland and Melton

Alicia Kearns MP Mallard Pass Planning Inspectorate Representation

This representation is in response to the Planning Inspectorate's call for comment (Ref: EN010127) issued on 2nd April 2024 regarding the proposed Mallard Pass Solar Plant.

Highways Agreement between Applicant and Rutland County Council and Lincolnshire County Council.

Applicant Misrepresenting Negotiation with Lincolnshire County Council (LCC) as Applicable to Rutland County Council (RCC):

In the Applicant's response to the Planning Inspectorate, they state that they are negotiating with Lincolnshire County Council and that *"all the authorities (being LCC, RCC and SKDC) would be party to the Agreement"*.

They further state that *"the Applicant has been dealing directly with LCC on the basis that they are in a position to liaise with RCC on highways matters and that an agreement reached with LCC on highways matters should also be acceptable to RCC. RCC had previously indicated in meetings with the Applicant that they were happy for this to be the arrangement."*

I contacted both RCC and LCC to ask whether RCC had given LCC the authority to negotiate a joint Highways Agreement on RCC's behalf. RCC's response was as follows:

"Rutland County Council has not authorised LCC to negotiate Highways comments or any legal agreements relating to the Mallard Pass Development on behalf of RCC. This will be picked up directly by officers at RCC.

Rutland County Council has responded to the Secretary of State and advised we have not agreed the wording of any side agreements in relation to highways matters and that the current wording requires significant amendment.

Lincolnshire County Council have also advised the applicant that they are not instructed to represent RCC in relation to this case."

Equally, in discussions with Lincolnshire County Council, it was confirmed that officers at the Council are not aware of the lead arrangements to which the Applicant refers, and that no draft has been agreed.

Comments:

It is difficult to reach any conclusion other than the Applicant has deliberately attempted to mislead the Planning Inspectorate and Secretary of State. Equally they have failed to engage effectively with RCC and LCC on reaching a Highways Agreement. A deal with Lincolnshire County Council would not be applicable or acceptable to Rutland County Council. The Secretary of State and Planning Inspectorate should seek further information from the Applicant as to why they have submitted evidence to the Planning Inspectorate suggesting otherwise.

It is deeply concerning that the Applicant does not have a Highways Agreement in place this late into their application, and even more so that they are seeking to negotiate an agreement with only one of the required Local Authorities.

The Applicant should officially correct the record and confirm that any negotiation or agreement with LCC will not be applicable to RCC. The Applicant should also provide an up to date and accurate report on the progress towards individual Highways Agreements with all relevant stakeholders.

Misrepresentation of Progress Towards a Highways Agreement.

The Applicant states in their response to the Planning Inspectorate that it is “*confident that an agreement can be reached as good progress has been made.*”

In Rutland County Council’s response to the Planning Inspectorate stated “*The Local Highways Authority has indicated fundamental issues with the agreement proposed to it that remain unresolved at this time. Due to the nature of the amendments required I would anticipate that an agreement **would not likely be completed within a period of two months** without significant amendments made by the applicant.*”

Equally, in discussions with Lincolnshire County Council, it was confirmed that **no draft has agreed, nor progress made since November.**

Comments:

The Applicant has misrepresented progress towards a Highway Agreement to the Planning Inspectorate and Secretary of State.

There is a clear contradiction between the submission by the Applicant and that of Rutland County Council, as well as the position of Lincolnshire County Council. The Planning Inspectorate should request an updated and accurate submission by the Applicant setting out the areas of disagreement blocking the conclusion of a Highways Agreement.

The Planning Inspectorate should also make clear to the Applicant that submissions should be accurate and not include misrepresentations to sway the Planning Inspectorate and ultimately the Secretary of State towards a more favourable decision.

This behaviour by the Applicant, of misrepresenting issues, has been a constant throughout this process.

Agreement Between Applicant and Network Rail for Cabling Crossing.

The Applicant confirmed in their response that there is still no agreement with Network Rail for a cabling crossing but that they are “*confident*”an agreement can be reached.

It is unacceptable for such a large NSIP energy development not to have a cabling agreement in place this late into an application. No response was lodged with Network Rail at the time of this response.

Comments:

Whilst there is still no agreement between the Applicant and Network Rail, the alternative of cabling through the village of Essendine is mentioned. This would require compulsory acquisitions (CA) across the village and surrounding countryside.

In my previous submissions to the Planning Inspectorate, I highlighted that senior executive from Canadian Solar had told me that they had no plans for CAs in a meeting in the House of Commons in October 2022. Likewise, residents of Essendine were not adequately consulted on the possibility of CAs, with them not mentioned during the initial public consultation held by the Applicant.

It seems clear that the late inclusion of CAs in Essendine to the application was a contingency measure should a deal fail to be agreed with Network Rail. This demonstrates that the Applicant does not have confidence an agreement can be reached, and equally demonstrates once more a lack of meaningful consultation with residents.

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As an agreement is still not reached, residents of Essendine are being left in limbo, with the Applicant unable to confirm to either them or the Planning Inspectorate which cabling routes will be used.

This is indicative of the poor approach to consultation and public engagement taken by the Applicant that has seen trust in the community for this development irredeemably broken.

Community Compensation Benefit

The Planning Inspectorate did not request information from the Applicant on community compensation benefits. Despite this, the Applicant unilaterally decided to provide a figure in their response that **has not been agreed** with Local Authorities.

Community compensation benefit was being negotiated in private and it is poor practice by the Applicant to publicly reveal a figure of their choosing, without consulting or agreeing a final amount with the relevant County Councils.

Comments:

The eagerness of the Applicant to include a figure in their response to the Planning Inspectorate contrasts with their engagement with Rutland County Council. RCC state in their response that *“despite contacting the applicant’s agents in respect of Community Benefit in December 23 and again at the beginning of March 24, no response was received until 25th March 2024 when a reply was provided indicating that a revised proposal in respect of Community Benefit would be provided during the week commencing 27th March 2024.”*

It is clear that RCC has attempted, albeit unsuccessfully, to enter a negotiation with the Applicant on multiple occasions. The inclusion of an unagreed figure without consulting the relevant stakeholders seems a cynical attempt by the Applicant to promote their community credentials to the Planning Inspectorate. This figure should be withdrawn by the Applicant and formal, private negotiations opened with RCC, LCC and other relevant stakeholders. The Applicant should also publicly commit to matching at a minimum the level of community compensation currently being agreed industry wide by DESNZ and solar industry group representatives.