

APPLICATION BY GT R4 LIMITED, TRADING AS OUTER DOWSING OFFSHORE WIND

POST HEARING SUBMISSIONS
ON BEHALF OF LINCOLNSHIRE COUNTY COUNCIL
AT DL3

Introduction

1. Lincolnshire County Council (“LCC”) attended Issue Specific Hearing (“ISH”) 1 and ISH3 held on 4th and 5th December 2024 respectively. A summary of LCC’s oral representations for both hearings appears below.

ISH1 : the draft DCO

2. LCC spoke to Agenda Item 3.2(2) – requirements and conditions of the DCO.
3. First, in relation to Requirements 10, 11 and 12 LCC considers that it is the best placed authority to be defined as the “relevant planning authority” via an amendment to Article 2:
 - a. LCC has engaged throughout the DCO process,
 - b. these requirements relate to county-wide matters such as landscape impacts and biodiversity which are best considered at a county-wide level rather than split between the districts,
 - c. LCC is well resourced in relation to the handling of applications to discharge requirements for these topics,
 - d. LCC is also well-placed to monitor compliance and, if necessary, enforce in relation to these issues.
4. Following ISH1 LCC has received agreement from the District Councils that they are agreeable to LCC being defined as the relevant planning authority for these matters. The Applicant confirmed at the hearing that it equally would not object to this amendment.
5. Second, LCC considers that Requirement 12 should be amended (or a new requirement inserted) to include a specific requirement to achieve biodiversity net gain. The Applicant has repeatedly said that it is “committed to delivering a biodiversity net gain” (see REP2-051). However, at present the DCO does not secure this. The DCO secures landscaping and ecological *measures* but does not

address whether these measures would result in a gain or a loss overall. LCC's ecologist is concerned that there would in fact likely be a loss on site. Notably, the BNG Principles and Approach document [APP-302] makes reference to the potential need for off-site measures to be required. None of this is secured. As such, for the Applicant to rely upon a "gain", of whatever scale, this should be secured beyond merely securing broad measures which may or may not result in a net gain. LCC considers that the Applicant's criticisms of the Defra metric, if reasonable, could be overcome by drafting of the requirement to avoid the applicant being tied to Defra metric 4.0.

6. Third, LCC has concerns about Requirement 17 as currently drafted. All elements of Requirement 17 require compliance with the current Outline Written Scheme of Investigation ("OWSI"). However, LCC (and Historic England) have considerable concerns in relation to the adequacy of that document (this is a topic returned to below in relation to ISH3). One (but not the only) issue with the OWSI is that it fails to prescribe a quantum of trial trenching. The Applicant has acknowledged that further trial trenching is required and indeed is proposing further trenching in the new year. This is welcomed but it should reach an extent of 2% of the order limits with a 2% contingency. A scheme for this further trenching should be submitted to LCC for its approval. Following which, the Applicant should be required to update the OWSI once a stage has been reached where LCC and the Applicant agree that mitigation can adequately be defined. LCC has suggested the wording from Mallard Pass requirement 10. This is a clean, simple requirement which avoids the wordy cross-referencing to the inadequate OWSI which is a feature of the Applicant's current Requirement 17.
7. Following ISH3, LCC has agreed to meet with the Applicant (and discuss with Historic England) a way forward, the ExA will be updated at DL4.
8. Fourth, LCC is concerned as to a mismatch between timescales for highways approvals, some of which sit within Articles 12-16 and are subject to a 56 day approval time limit, and others are within the Requirements. The LCC and the Applicant will discuss how this can be overcome practically.
9. Fifth, LCC considers that 13 weeks is a more realistic timescale for the discharge of requirements. Notably other DCOs in this area which are also renewable energy generating projects have included much longer timescales than those currently proposed by the Applicant. For example, Mallard Pass includes 10 weeks, Gate Burton is also 10 weeks and at Cottam, the DCO provides for the full 13 weeks sought by LCC. The Applicant's current drafting is out of step with other recent DCOs in this area. Noting, of course that LCC requires a sufficient amount of time in light of the sheer number of recent and proposed DCOs in this area.

IS3 - Environmental Matters

10. 3.2 Landscape and Visual effects: LCC has agreed that the study area is sufficient. LCC considers that the maintenance and management of proposed planting is key given the length of the project and the reliance upon mitigation planting proposed in order to make any landscape and visual effects acceptable. A “standard” 5 year planting condition would not be sufficient because this merely covers the establishment of the mitigation planting and not the aftercare to maturity. The LVIA has assessed the potential impacts of the Development during construction, operation year 1 and operation year 15. Any management documentation would, as a minimum extend to year 30, as stated in paragraph 225. The management plan would need to detail the full specification, schedules and drawings at time of planting, details of all monthly/ annual maintenance measures will need to be quantified. A mechanism for monitoring the effectiveness of the visits and provision for replacement planting would also be agreed.
11. The OLEM, Document reference 8.10, details the landscape mitigation strategy during construction and operation phases for both the cable route and the OnSS. Paragraph 33 states that purpose of the mitigation strategy is to “effectively screen” the OnSS, consequently we would require a high percentage of planting mitigation to reach maturity, a minimum of 95%. Therefore, an effective management plan and a process of monitoring is essential. As part of that strategy, some planting will be placed off-site. We would require that off-site planting had the same management mechanism alongside an agreement that any species planted in order to mitigate the visual effects of the OnSS offsite were protected for the life of the Development.
12. We agree to the merits of advance planting prior to construction, but would need a comprehensive establishment management plan which could then be absorbed into the overall management plan. Also, this planting would need to be protected during construction in accordance with best-practice principles.
13. 3.3 Design: LCC will discuss with the District Authorities as to whether it should be the relevant planning authority in relation to design.. Following ISH3 LCC has received agreement from the District Councils that they are agreeable to LCC being defined as the relevant planning authority for this requirement.
14. 3.5 Heritage: LCC continues to have concerns in relation to the adequacy of the OWSI including:
 - a. The OWSI sets out the standard generic options for archaeological mitigation. These need to be tied to sufficient baseline evidence for site-specific fit for purpose proportionate mitigation measures.

- b. For preservation in situ and enforceable measures, the OWSI states that this will be provided at a later date. This is not satisfactory. LCC would expect these details to be set out within the OWSI.
 - c. The OWSI has no methodology for assessing the significance of archaeology that could be affected. These details should be included within the OWSI.
 - d. LCC is not satisfied that the OWSI provides for sufficient protection for unknown archaeological assets. The OWSI scope of works are generic. Again, we require site-specific and targeted mitigation measures that are effective, fit for purpose and enforceable.
 - e. LCC has concerns that the measures detailed within the OWSI would not be effective in identifying archaeology within the redline boundary and determining its significance.
15. The Applicant appears to recognise that insufficient survey work has been undertaken to date, hence an agreement to undertake further trial trenching at the start of the year. However, this means that at present the OWSI has not been properly informed by baseline information and predictions as to the likelihood and significance of below ground archaeology are not well informed by survey work.
16. Additional survey work including aerial photography and trial trenching to cover 2% of the site with a 2% contingency should be expressly required as part of the DCO or an approved document. At present, this is not the case. Only once that survey work has been completed can mitigation be designed.
17. The Applicant's statement that LCC could refuse to discharge Requirement 17 if it was based on "insufficient" trial trenching is unrealistic given that adequacy of the WSI submitted under Requirement 17, as currently drafted, is judged against the OWSI as it stands today. The OWSI currently provides for no threshold value for acceptable amounts of trial trenching so a WSI based on any, or no, additional trenching would be "in accordance with the OWSI" and LCC would be required to approve that document. This can be easily solved by securing within the DCO a commitment to additional trenching and survey work and updates to the OWSI to correct for the issues set out above and, specifically, to define an appropriate quantum of trial trenching.
18. 3.6 Traffic and Transport: LCC is concerned about future cumulative effects given the number of large scale projects in this area. The plan and chart within [REP2-055] demonstrate the scale and number of projects across LCC's area and show a clear potential for significant overlapping between the construction phases of these projects. In order to manage this, LCC suggests that the current Energy Forum is formalised as a steering group or forum which the Applicant is required to form part of during its construction phase.

19. 3.7 Biodiversity Net Gain (BNG): LCC stated that it is happy to engage with the applicant in relation to potential opportunities being considered to deliver BNG. LCC believes that there are opportunities to deliver BNG, both within the cable route and adjacent to it. LCC is pleased to hear that the applicant is in discussion with nearby landowners and organisations like the RSPB but would welcome some clarity around those discussions in a timely manner, so that if the applicant is relying on or proposing to deliver a net gain in biodiversity, there is clarity around what will be delivered, where and how much.

20. LCC is keen to see a commitment to deliver a net gain in biodiversity which is sufficiently detailed in terms of how and where it will be delivered and adequately secured so as to be enforceable. The Council reiterated the comments it made at ISH in relation to the need to secure BNG as set out in paragraph 5 above. In addition the Council confirmed that recent consented DCOs in the County included a specific requirement related to BNG. Reference was made to Cottam Solar which was granted Consent in September 2024 which included a specific BNG requirement as set out below:-

“Biodiversity net gain”

(1) No part of the authorised development may commence until a biodiversity net gain strategy has been submitted to and approved by each relevant planning authority, in consultation with the relevant statutory nature conservation body.

(2) The biodiversity net gain strategy must include details of how the strategy will secure a minimum of 76.8% biodiversity net gain in habitat units, a minimum of 56.1% biodiversity net gain in hedgerow units and a minimum of 10% biodiversity net gain in river units for all of the authorised development during the operation of the authorised development, and the metric that has been used to calculate that those percentages will be reached.

(3) The biodiversity net gain strategy must be substantially in accordance with the outline landscape and ecological management plan and must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.”

21. 3.8 Land Use, Geology and Ground Conditions in respect of the Agricultural Land Classification

22. It is noted that the Applicant view is that the site specific surveys will not be needed to be done at this stage to inform the ES. They would be done post consent to inform design detail and soil management, not the overarching environmental impacts.

23. The Council’s comments on pre-commencement ALC surveys, referred the ExA to Natural England comments on this matter *‘in the absence of a detailed site specific soil and ALC survey, assuming that all grade three land is best and most versatile, it’s impossible to provide an*

accurate baseline and demonstrate the likely potential impacts'. LCC concurs with this position on this matter.

24. In respect of bogged down vehicles and consideration as to how these matters could be addressed. The Council is not aware of any specific examples that we can point the ExA to, the Council are aware that this can happen, it was noted that from previous discussions in the hearing between the applicant and TH Clements that the applicant was aware of the possibility and considering the feedback and it that this issue could be addressed within the soil management plan. Note that there are occasions where there is justification for the ECC to be buried at a greater depth but appreciate there may be complications in that regard and would be interested to hear from the applicant on that matter.
25. Dust Contamination LCC confirmed that we were satisfied with the approach of the applicant. LCC did not raise any specific issues around this topic and have no further comments to make.
26. Actions arising from the issue Specific Hearing LCC noted that whilst it understood the logistical reasons for holding the Issue Specific Hearings this week in a fully virtual way this is not the preferred format for LCC. Its position is that hybrid arrangements for Issue Specific Hearings is a much more productive way to hear evidence and request that if further Issue Specific Hearings are required by the ExA this should be held in a hybrid form with the majority of the participants in the same room and a link is provided for those who are not able to attend in person.

Appendix 1: ISH3 Hearing 5th December 2024 - Archaeology Summary Points

Matt Parker Wooding, Lincolnshire County Council Infrastructure Archaeologist commenting on the cultural heritage section

We require all work within Lincolnshire to be undertaken in accordance with the [Lincolnshire Archaeology Handbook](#). This publication is the collated guidance based on the experience and knowledge of past and present Lincolnshire county archaeologists who have worked in archaeological management in the development process. It sets out methodological requirements that have been proven to be effective in managing the archaeological implications arising in a development context. These are not arbitrary techniques but ones that are known and proven as best practice and where they have not been employed, there has been a demonstrable impact on project deliverability, timeframes and harm to archaeological remains.

Archaeological best practice and guidance states that obtaining sufficient information at an early stage is vital for the effective management of the archaeological resource, meaning that designs can be amended and archaeology protected where warranted and that costly delays are avoided where archaeological remains are discovered late in project planning or the construction phase.

Omitting total geophysical survey coverage and the absence of aerial photographic analysis of the whole route except for a portion around the Scheduled Monument at Slackholme will undoubtedly result in archaeological remains being missed at this stage and we are concerned that this missed opportunity will result in unnecessary harm to archaeological remains. We ask for total coverage of geophysical survey and aerial photographic analysis.

However, these techniques are effective at discovering some types of archaeological sites, such as Iron Age and Roman activity, but less so at earlier prehistoric remains or human burials, which can often only be found through archaeological trenching. The assessment has identified areas of periodic inundation where early prehistoric activity is likely to be confined to higher sand and gravel islands and elsewhere along the route, substantial areas of peat may contain significant archaeological remains so the effective evaluation of these areas is vital in establishing the location of this type of potentially highly significant and fragile archaeology.

As their archaeological specialist stated in her response, there has been insufficient evaluation along the route of the scheme. Although there is acknowledgement that further phases of archaeological evaluation will be undertaken, which we welcome, this will be at a late stage, potentially post-consent, which means that any risk to archaeological remains will not be fully understood until sufficient work has been done. The investigations to date have focussed on learning more about the archaeological sites we already know about and omitting areas where no geophysical survey has been done or aerial photographic analysis undertaken, so we are effectively going in completely unaware of the potential here for archaeological activity. This is not best practice and conflicts with industry guidance and EIA regulations.

We are particularly concerned about the so-called “blank” areas, because this is obviously an extensively large landscape and there will be previously unrecorded archaeology there. On another NSIP, within the first two days of trenching of blank areas, they found unexpected Saxon burials within 20cm of the ground surface. Our concern is that when the development moves forward, given the limited trenching to date and the paucity of proposed archaeological evaluation work within ‘blank’ areas, there will be unidentified unexamined archaeology which will be damaged or destroyed by the development process.

Effective management of the archaeological risk requires that appropriate evidence to be gathered at a stage where it can be built into the design process or accounted for in any works programme. The Applicants archaeological consultant has listed a number of possible mitigation options but although some will be suitable, where and how they will be implemented is not known and therefore it is unclear if they will be suitable or even practicable as the location, significance, depth and extent of any unknown archaeological remains to be preserved is not known.

What we need is the minimum at every stage in order to inform the next step. In the archaeological process and in the planning or in this case, in the NSIP process it's to do just enough to have an understanding in order to move forward. And then every step is taken in an informed way.

Archaeology can either be investigated and recorded or it needs to be protected and preserved in situ. And that site specific mitigation is what we need. So for there to be an outline mitigation strategy that says we can do preservation in situ or we could investigate archaeology where we have the opportunity.

So in summary:

- It is essential as per the relevant legislation and guidance (EIA Regs, NPPF, Lincolnshire Archaeology Handbook etc) that the applicant undertake sufficient evaluation to adequately describe and assess the impacts of the proposed development on the archaeological resource.
- There are numerous examples in Lincolnshire where evaluation trenching has been the sole identifying technique for significant archaeological remains which were missed by documentary research and geophysical survey. Several of the main mitigation areas for the Heckington Fen Solar Farm (NSIP) were only identified through evaluation trenching.
- Trial trenching in conjunction with geophysical survey are used to understand the archaeological resource. Without a combination of those two techniques and the complimentary information that they provide, it is not possible to have a sufficiently robust understanding of the archaeological implications of the development and cannot with any degree of certainty establish an adequate mitigation strategy.
- Failing to adequately evaluate the proposed site places significant risk on the development/construction phase of work where unexpected archaeological remains will lead to programme delays, the unnecessary destruction of archaeological assets and potentially a consented scheme that is not deliverable as designed.
- What we are asking for is the standard approach employed across Lincolnshire, which is the minimum level of works required to understand and manage the implications from the development on the archaeological resource across the full redline boundary of the Outer Dowsing project.

We look forward to working with the Applicants archaeological consultant to establishing an effective approach to managing and mitigating the archaeological risk that will arise within the Outer Dowsing scheme.