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10 February 2023

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Dear Ms Hanion,

Planning Act 2008 (as amended) – Section 55

Adequacy of Consultation Request – Application by Gate Burton Energy Park Ltd for a Development Consent Order for Gate Burton Solar Project

Thank you for your letter dated 30 January 2023. In response to your request for a view from Lincolnshire County Council on the adequacy of consultation and having had regard to Section 42 (Duty to consult), 47 (Duty to consult the local community) and 48 (Duty to publicise) of the Planning Act 2008 (as amended) I can confirm that Lincolnshire County Council is of the view that Gate Burton Solar Project Ltd has carried out adequate pre-application consultation in accordance with the requirements as set out in Sections 42,47 and 48 of the Act.

The applicant commenced early engagement with Lincolnshire County Council from Autumn 2021. Regular meetings with the Planning Lead together with technical meetings with landscape, highways, minerals and waste, fire and rescue and heritage officers have taken place throughout the majority of the pre-application process up until the submission of the Development Consent Order (DCO) application.

Two member engagement briefings have been held with Lincolnshire County Councillors. The first prior to non-statutory consultation with local councillors affected by the project and the portfolio holder for Planning. A second face to face briefing took place with local councillors and members of the Planning and Regulation Committee prior to the start of the statutory consultation phase.

The applicant conducted a period of non-statutory engagement in January and February 2022. The County Council responded to the EIA Scoping Opinion request from the Planning Inspectorate and raised a number of issues including heritage, flood risk and economic and growth.

Gate Burton Energy ParkLtd consulted the Council on the draft Statement of Community Consultation (SoCC) in April 2022. The points raised by the Council in response to the draft SoCC were:

“That the SOCG should make reference to and identify seldom heard groups so that they could adequately engage in the consultation process.”

The applicant addressed these matters in the final version of SoCC as set out in the applicant’s Consultation Report dated January 2023.

The applicant undertook their Section 42 consultation between 22 June 2022 and 5th August 2022 and allowed six weeks for consultation responses rather than the 28 days minimum period. Lincolnshire County Council made a number of points in response to this statutory consultation which are referenced and responded to in the applicant’s Consultation Report Ref 4.1 dated January 2023.

A targeted consultation was carried out between 3rd November and 13th December 2022 again exceeding the minimum 28 day period and the County Council provided comments in relation to this targeted consultation exercise relating to landscape and visual amenity issues.

The applicant’s Consultation Report sets out the consultation programme that has been undertaken and I am satisfied that Gate Burton Energy Park Ltd has undertaken an extensive and inclusive consultation programme in support of their scheme.

I can therefore confirm that Lincolnshire County Council considers that Gate Burton Energy Park Ltd has carried out adequate pre-application consultation pursuant to Sections 42,47 and 48 of the 2008 Planning Act.

Notwithstanding the above, Lincolnshire County Council has been contacted by 7000 Acres who have raised specific concerns about the adequacy of consultation undertaken and question if Gate Burton Energy Park Ltd has adequately completed its obligations pursuant to section 44 of the 2008 Planning Act. A copy of 7000 Acres letter is attached to this response for information purposes only and whilst Lincolnshire County Council does not wish to make any comment on this, the Planning Inspectorate are invited to consider 7000 Acres comments when deciding to accept the application or not.

Yours sincerely

Neil McBride
Head of Planning

The 7000 Acres Group

info@7000acres.co.uk

**The Planning Inspectorate
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BS1 6PN**

Copied to:

**Lincolnshire County Council
West Lindsey District Council
Sir Edward Leigh MP**

Dear Inspector

Gate Burton Energy Park

1. Introduction

The 7000 Acres Group is a collection of concerned residents formed from over 30 villages in and around the footprint of the Cottam, West Burton, Gate Burton and Tillbridge Solar Farm Projects. We have grave concerns over the Pre-Application consultations and how they have been conducted by the Applicants.

In the case of the Gate Burton Energy Park, we believe that Low Carbon has not followed the Planning Act 2008 Regulations and Guidance, has made deliberately partial or misleading statements, has not made information widely available and overall not consulted in good faith. In particular, the Applicant has not followed applicable Guidance, as required by the Planning Act 2008 Chapter 2 Section 50, that states:

“Guidance about pre-application procedure

- (1) Guidance may be issued about how to comply with the requirements of this Chapter.*
- (2) Guidance under this section may be issued by the Secretary of State.*
- (3) The applicant must have regard to any guidance under this section.”*

We will demonstrate that the Applicant has not followed the published Guidance and Best Practice (shown in Advice Notes). The Pre-Application Guidance¹ paragraph 20 states:

“Experience suggests that, to be of most value, consultation should be:

- based on accurate information that gives consultees a clear view of what is proposed including any options;*
- shared at an early enough stage so that the proposal can still be influenced, while being sufficiently developed to provide some detail on what is being proposed; and*
- engaging and accessible in style, encouraging consultees to react and offer their views.”*

These three requirements are discussed below.

2. Accurate Information

Layout

The Applicant has **not** provided accurate and sufficient information to give intelligent consideration to the scheme. The National Policy Statement for Renewable Energy Infrastructure -Draft (En-3) paragraph 2.49.15 requires an Applicant to set out a worst-case option. Low Carbon failed to provide a worst-case scenario during the consultation phase. During public open days Low Carbon quoted the “Rochdale Envelope” to several residents as a reason why detailed information did not need to be provided at this stage. However, Advice Notice Nine: Rochdale Envelope paragraph 3.4 states:

“There is opportunity within the statutory Pre-application procedure for applicants to determine the most appropriate consultation programme for their needs and to time the consultation to appropriate stages in the evolution of the Proposed Development.

However, the consultation must be undertaken on issues that have been clearly identified and on a Proposed Development that is as detailed as possible. The bodies consulted need to be able to understand the proposals. The details of the Proposed Development should therefore be described as clearly and simply as

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418009/150326_Pre-Application_Guidance.pdf

possible. Obviously fewer options and variations within a project description make it easier to understand, especially by those less familiar with the PA2008 process.”

As detail was missing, or only made available in the PEIR, the average local resident was effectively excluded from the consultation. This situation was compounded by the increasing proportion of an ageing population and the relatively low socio-economic demographic in the region. Therefore, a significant proportion of the population do not have the necessary valid evidence to make an informed opinion. For example, information on the height of the solar panels (3.5m) was only available in the PEIR and not in the leaflets or public consultation posters.

Generating Capacity

Low Carbon has given an incomplete picture of the generating capacity of the scheme.

- The publicity material promulgated by Low Carbon stated that the Gate Burton Energy Park could generate 500MW of electricity. This information is at best only partially, but certainly not wholly, true in that it only describes the proportion that the scheme can produce at maximum power for a limited period on a cloudless sunny summer day. Low Carbon are being highly selective in the way they are presenting the information. By looking at the headline “maximum capacity” figure, it provides a good impression of the project, but by any other practical measure usual generating capacity is much smaller. For instance, load and capacity factors widely used in the industry are as follows:
 - In DUKES (Digest of UK Energy Statistics), the long-term annual average power delivered by solar is between 9%-11% of rated power, i.e. for Gate Burton at $500\text{MW} \times 11\% =$ up to 55MW average over the year.
 - The UK Capacity Mechanism uses a combination of technical availability and intermittency (for renewable generators) to create a “de-rating factor” for capacity. For solar, this is typically 2% - 3%, providing an indication of the amount of capacity that could be relied upon when most required, i.e. for Gate Burton at $500\text{MW} \times 3\% = 15\text{MW}$.

Once again the Low Carbon submission does not provide a realistic assessment of the value of this project for a lay resident to make an informed judgement of the scheme.

Use of Brownfield Sites

Low Carbon has not considered or documented the use of all alternative Brownfield Sites, contrary to draft EN-3 paragraph 2.48.15:

“It is recognised that at this scale, it is likely that applicants’ developments may use some agricultural land, however applicants should explain their choice of site, noting the preference for development to be on brownfield and non-agricultural land.”

Currently three of the five largest solar farms in the UK are on brownfield ex RAF Airfields (Lyneham, West Raynham and Wroughton). Lincolnshire is not short of disused airfields, but none were considered in the PEIR. This is a significant failing of the proposals submitted by Low Carbon.

Further Issues

Low Carbon made a number of inaccurate statements about increasing environmental diversity, without supporting evidence. Again this has the potential to mislead residents and minimise comment and opposition.

Low Carbon publicity states that only low value farming land will be used. Evidence, including crop yields, prove this statement to be inaccurate.

3. Timing of the Consultation

This is one of four solar NSIPs in close geographical proximity with similar project timings. The time available for this consultation was too short, as it does not allow for the cumulative impact of the four schemes to be considered. The Infrastructure (Environmental Impact Assessment) Regulations 2017 and Advice Notice Seventeen require a cumulative effects assessment (CEA) to be conducted. This requires:

“For the purposes of this Advice Note, ‘other existing development and/or approved development’ is taken to include existing developments and existing plans and projects that are ‘reasonably foreseeable’.”

The other three solar schemes are covered under existing plans or are reasonably foreseeable. Therefore the combined effect of all four solar schemes must be considered and made available for the public consultation to be valid. Failure to inform the wider public

at this stage on the cumulative impact will not permit all the affected communities to make intelligent consideration of the scheme.

4. Engagement

The core consultation zone identified by Low Carbon was within 2 kilometres from the boundary. However, due to the size of the project people outside the 2 kilometre zone will be affected. Also, due to the cumulative impact of the other four proposed NSIPs a much wider consultation zone must be applied.

The public response to the consultation appeared to be low at the public meetings and two online sessions but no figures have been published by Low Carbon. The low public engagement is likely to be due to the limited publicity of consultation events and their timings.

Some expressed an opinion that the Low Carbon pre-populated feedback forms did not allow local residents to express their concerns in an easily accessible way.

5. Summary

During the Pre-Application Phase, Low Carbon has made a number of misleading statements in their consultation material and has consistently underplayed the impact of what will be one of potentially four vast solar and battery industrial sites. It has limited access to information and so the average local resident has not been provided with accurate, timely and easily accessible information on the project, which has denied them their right to fully understand the proposal.

During a Public Consultation the Gunning Principles should be applied. In this case it is clear that two Principles have been ignored: firstly, there has been insufficient information provided to give "*intelligent consideration*" of the project; secondly, there has been inadequate time for consideration and response due to the enormity of this and the other three adjacent solar projects.

Therefore, we insist that the Pre-Application consultation phase is extended, and Low Carbon is required to provide comprehensive and accurate information to local residents. Where processes such as the Rochdale Envelope are invoked, the relevant Planning Guidance must be followed.

Yours Sincerely

Jamie Allan on behalf of the 7000 Acres Group