

GATE BURTON ENERGY PARK

POST HEARING SUBMISSIONS FOLLOWING ISSUE SPECIFIC HEARING 2, REGARDING THE DRAFT DEVELOPMENT CONSENT ORDER

ON BEHALF OF WEST LINDSEY DISTRICT COUNCIL

INTRODUCTION

1. The table set out below provides written summaries of the oral submissions made on behalf of West Lindsey District Council (“WLDC”) at Issue Specific Hearing 2 (“ISH2”) on Wednesday 23rd August 2023, regarding the draft Development Consent Order (“dDCO”).
2. The below written submissions only address matters discussed at ISH2. Accordingly, where submissions raised in the post hearing submissions following Issue Specific Hearing 1 have not been addressed by the Applicant, or the dDCO has not been amended in line with those submissions, they remain as WLDC’s position.

WRITTEN SUMMARY

dDCO REFERENCE	SUBMISSIONS
Article 9 – Power to alter layout, etc., of streets	No comments.
Article 44 (schedule 9) dML	No comments.
Schedule 2 – Requirements	
5. Detailed design approval	No comments.
6. Battery safety management	WLDC consider that this requirement should contain a retention clause. WLDC are content with LCC being the relevant determining authority however request that it is named as a consultee.

10. Surface and foul water drainage	No comments. WLDC are content that LCC are the relevant determining authority for this requirement.
11. Archaeology	No comments.
14. Construction traffic management plan	WLDC are content that LCC are the relevant determining authority however request that it is named as a consultee.
19. Decommissioning and restoration	WLDC welcome the Applicant's inclusion of a 60 year temporal limit in the updated dDCO as previously requested.
	WLDC consider that the requirement should contain a notification requirement if the decommissioning is to occur before the 60 years.
	WLDC consider that the deletion of "date of decommissioning" and addition of "date of final commissioning" in Part 1 of the dDCO is not sufficiently clear, where the new definition relates to each part of the authorised development whereas requirement 19 references the full authorised development.
	WLDC also consider that the ES does not (and indeed cannot) provide a full assessment of the decommissioning due to the baseline not being known, or the methods of removal at the time of decommissioning. WLDC therefore requests that the Appellant explain how such works are dealt with by the requirement and why they would not fall outside of the scope of the ES.
Schedule 15	WLDC notes that Schedule 15 is subject to further negotiations and agreements, as set out in the Explanatory Memorandum. However, it is requested that the Applicant provides clarification as to how the same is also going to be adequately addressed within the DCO itself.

Schedule 16 – Procedure
for discharge of
requirements

WLDC strongly objects to the Schedule 16 as currently drafted. Schedule 16 has been amended from a 6 week to 8 week time period, however that continues to be considered unreasonably short for the reasons set out below. The Applicant has not provided any further justification in the updated Explanatory Memorandum and accordingly WLDC's previous submissions remain as follows.

The 8 week approval period currently required by Article 46.2 does not adequately reflect the usual timescale for EIA development which is 16 weeks. It is submitted this time period should apply given some of the requirements include the need to assess complex material (especially in respect of requirement 5 which is akin to a reserved matters application), may require the need to procure external expertise to review material, and there may be the requirement for approvals to be determined by WLDC committee(s) therefore requiring the alignment with meeting calendars and processes. It is noted that the Longfield DCO allowed a period of 10 weeks, however discharge applications under this DCO are likely to be made concurrently with West Burton, Cottam and Tillbridge applications if they are granted consent. It is also noted that there is no mechanism in the dDCO restricting the number of discharge applications that could be simultaneously submitted. In this context a 16 week determination period is entirely reasonable. WLDC would consider the proposal for some requirements to be subject to a shorter determination period than others, where they are less complex and are not subject to consultation requirements. Subject to the submissions made above in respect of consultation requirements, WLDC consider that a provision should be added allowing agreements for a reasonable extension of time, with such an agreement not being unreasonably withheld, particularly if the relevant determining authority is required to consult other bodies.

WLDC object to the deemed approval provision. The justification relied on by the Appellant is one of efficiency (Explanatory Memorandum at 6.16.1) do not cite any unique or specific reason why such a provision should be included. This is especially relevant whether other DCOs, including those cited in the Explanatory Memorandum itself, do not provide for deemed approval or only do so in relation to certain requirements, rather than all of them. Indeed, the Applicant describes the Schedule 16 process as 'bespoke' (Explanatory Memorandum at 6.16.1). Given the importance and significance of the substantive areas governed by the requirements WLDC submits that it is unacceptable for any of the requirements to be subject to deemed approval.

WLDC maintains its objection to the requirement under Article 46.3.(2) that further information must be requested in 10 working days. The relevant determining authority will need to sufficiently assess the information in able to identify whether further information is required. This essentially requires that the WLDC all but procedurally determine the application in 10 working days.

Similarly, WLDC object to the time periods in 3.(3), in particular, it is unreasonable to require the relevant determining authority to request further information within 15 working days where they have consultation requirements, as the response period of such consultees is not within their control.

WLDC submit that the usual fee provision (see the Longfield DCO and Advice Note 15), which has been excluded without any justification given by the Appellant, is reinstated in Schedule 16.