

APPLICATION BY GATE BURTON ENERGY PARK LIMITED

POST HEARING SUBMISSIONS

ON BEHALF OF LINCOLNSHIRE COUNTY COUNCIL

AT DL3

Introduction

1. Lincolnshire County Council (“LCC”) attended Issue Specific Hearing (“ISH”) 2 and ISH3 held on 23rd August and 23rd-24th August respectively. A summary of LCC’s oral representations for both hearings appears below.

Preliminary matters

2. As raised at previous hearings, LCC remains concerned to ensure that members of the public wishing to participate in the examination of this and other DCO applications should be able to participate meaningfully and easily. LCC’s concerns were again highlighted in ISH3. LCC’s concerns are notably still shared by members of the public, 7000 Acres and West Lindsey District Council (WLDC). This arises particularly in relation to the assessment of cumulative effects and LCC continues to encourage the ExA to consider holding joint hearings with other on-going examinations. This is eminently possible given that the Cottam and West Burton examinations are now underway. The benefit of such a joint hearing was demonstrated during the discussions under Items 3 and 7 of Issue Specific Hearing 3 when the cumulative impacts of landscape and construction traffic were discussed and it was clear that the discussion would have benefited from the other developers being present to provide responses from their perspective.

ISH2 – the draft DCO

Item 4 – Article 9

3. LCC considers that Article 9 requires amendment to ensure clarity. At present, it is not clear what “consent of the Street Authority” refers to. Following discussions with the Applicant outside of the ISH, it appears that the Applicant intends to refer to a s.278 agreement under the

Highways Act 1980. LCC is content with this in terms of the substance, but the Article requires amendment to reflect this intention.

Item 5 – Schedule 2 requirements

4. Requirement 6 – LCC considers it should be the discharging authority for this Requirement. The only outstanding matter between LCC and the Applicant relates to the monitoring of this Requirement on an ongoing basis and the mechanism for a monitoring fee to be paid to LCC in this regard.
5. Requirements 10 and 11 – LCC is content with the existing drafting of these provisions.
6. Requirement 19 – LCC is grateful that the Applicant has agreed to reconsider the wording of Requirement 19 and agrees that 19(2) should be re-worded to remove reference to the trigger point being the Applicant “deciding” something. Instead, the provision should refer to the decommissioning environmental management plan being required to be submitted to the relevant authority no less than 12 months prior to the expiration of 60 years from the date of final commissioning.

Item 5 - Schedule 16

7. The Applicant has still failed to provide any clear reasoning as to why the model provision in relation fees has not been included within the dDCO contrary to the guidance within Appendix 1 to Advice Note 15. This was a matter raised by LCC at ISH1 and at paragraph 14 of LCC’s post-hearing representations. No clear justification for the omission of this term has been forthcoming and LCC repeats its submission that this should be included and Advice Note 15 followed. Further, in line with Advice Note 15 this should be included within the DCO itself rather than relegated to a side-agreement or a PPA which the authority has no certainty would be forthcoming.
8. In relation to time periods, LCC considers that 10 weeks would be a reasonable period having regard to the 13-week period permitted under the Town and Country Planning Act 1990 regime for approval of reserved matter applications. Article 5 is essentially identical to such a condition and is naturally referable to a much larger scale development. The implications of missing such a deadline are also more serious – there is no automatic deemed discharge under the TCPA regime.

Item 6 – Consents, Licences and other agreements

9. A separate agreement is likely to be necessary to provide a mechanism for the Applicant to pay a monitoring fee to LCC in relation to the battery safety management plan given the intention to require ongoing compliance for the lifetime of the development under draft Requirement 6(5).

ISH3 Session 1 – Landscape

Item 3 – Character and Visual Amenity

10. In relation to the main buildings and consideration of a ‘design code’ – LCC would welcome more information up front but do not consider that this needs to form part of a formal ‘design code’ document. This could be achieved within the existing outline design principles document. LCC notes the Applicant’s acceptance at ISH3 that there is scope to develop further details around design and consider this should be done.
11. In relation to effects, LCC considers that the scheme is significantly harmful in landscape terms, changing large areas to a technology/industrial landscape rather than the existing arable use.
12. Mr Brown explained that his starting point was to recall that landscape and visual assessments are separate and regardless of screening proposed and its potential effectiveness, one cannot get away the change in land use when considering the landscape effects. There will be a very large change in land use from agriculture arable to solar .
13. In relation to sequential effects, LCC’s main concern relates to sequential views defined in GLVIA table 7.1 as views obtained when moving through the landscape and views which are either frequent or occasional depending upon the speed of the receptor. Naturally, walkers and horse riders have more time to perceive effects but motorists may travel through a greater number of viewpoints where effects can be experienced. At the ISH, all parties discussed a travel time of up to 30 minutes through what will become a landscape where intermittent views of solar infrastructure (panels and more prominent fencing and CCTV poles) may be experienced. In relation to the scale of effects, whilst mitigation assists to screen in some places this will take up to 15 years to mature and does not assist with mitigating construction effects.
14. Further, mitigation planting may cause its own issues particularly in relation to the eastern part of the site which is much more open and where woodland planting is not necessarily characteristic of the landscape. Mr Brown (and LCC) has concerns that mitigation planting shortens views and changes experience of the user enjoying open views. For example, VP4 is currently an open panoramic view and hedgerow planting changes the character of this view from the baseline.

15. LCC agrees that the AGLV has fed into the Applicant's assessment. The AGLV is a valued landscape in terms of the NPPF.
16. LCC's view is that the effects will be felt at a regional and national character level scale. Moreover, LCC considers that the assessment should focus upon effects on key characteristics of the relevant character areas rather than merely looking at percentage ground coverage in 2D. At a regional or national level, the move away from arable land use to solar will be significant and notable even at this scale. This is true both in terms of the solus effect of the scheme and in combination with other pipeline projects.
17. LCC considers that there are unacceptable landscape effects flowing from this project both alone and in combination with others which should be afforded considerable adverse weight in the overall balance.

Item 4 - BMV

18. LCC has no additional comments over and above the objections raised within its LIR which remain. In short, there is a loss of BMV which should weight negatively in the balance. LCC considers that taking such land out of arable production for 60 years is a meaningful 'loss' or negative effect which needs to be afforded proper weight. The Applicant's attempt to reduce this to a 2ha loss based upon permanent effects should be rejected (see REP2-044 at p.16), a loss for 60 years is a significant adverse effect which should be weighed into the balance.

Item 5- Sheep Grazing

19. As acknowledged by the Applicant, this is not proposed to be secured by any mechanism. On this basis, it cannot be afforded any meaningful weight and is not an apt tool to mitigate landscape effects from change in land use away from arable/agricultural use. The Applicant's assertions that the land would remain in agricultural use, albeit not arable, should therefore be rejected and the assessment should instead be based upon a total loss of the whole application site away from agricultural use. This is relevant both in terms of the assessment of landscape effects and loss of productive, good quality agricultural land more generally.

Item 8 – Battery Energy Storage Systems

20. The Council draws the ExA attention to its response to Q1.1.21 of the Examiners Questions regarding the need for further information that is required to bring the Outline Battery Safety

Management Plan to the required standard and also for the need to produce an Emergency Response Plan.

21. In recognition of the emerging technology of Battery Energy Storage Systems (BESS) and the challenges this poses to Fire and Rescue Services the National fire Chiefs Council circulated a letter to all Chief Fire Officers on the 22 August 2023 drawing attention to the updating of Renewable and low carbon energy Planning Policy Guidance that was updated in August 2023 by the Department of Levelling Up, Housing and Communities to include reference to BESS.
22. This planning policy guidance encourages planning authorities to consult with their local Fire and Rescue Service as part of formal planning consultations and directing developers to the National Fire Chiefs Council guidance on BESS schemes. From the discussion with the Lincolnshire Fire Service who have developed standing advice for BESS based on national guidance a program of monitoring and risk assessment has been identified which will be necessary once the BESS has been established to ensure it complies with the Outline Battery Management Safety Plan and Emergency Response Plan. During the first year of operation this will involve 21 days of work for the Fire Service and then 2 days in each subsequent year for the lifetime of the development.
23. The need for this monitoring and assessment will enable early engagement to ensure the required standards are being complied with; To ensure the BESS is constructed to the correct standards with support from the Fire Service; early development of emergency response plans; familiarisations of the BESS for local fire crews and overview by the Fire Service; development of on-going maintenance and updating risk information; and assurance for local residents and communities that the BESS are being independently inspected and monitored to reduce the risk of a fire.
24. To enable the Fire and Rescue Service to undertake the necessary monitoring to ensure the BESS is in accordance with draft requirement 6(5) a financial contribution is required via a Section 106 Agreement to the Fire Service so that it has sufficient resources in places to undertake the monitoring of the BESS connected to this project and potential 9 other BESS connection to other solar NSIP projects that are in the pipeline and if consented are likely to be in construction in similar timeframes and require this initial and on-going maintenance.
25. In respect of the necessary tests for a Section 106 Agreement to be secured in terms of necessity as set out above this monitoring would ensure the obligations of draft requirement 6(5) are met helping to minimise the risk of a fire event and potential pollution caused by contaminated water used to put out a fire within the BESS.

26. In terms of the second test for a Section 106 Agreement this is clearly related to the proposed development given the need for draft requirement 6 which if not imposed leads to the conclusion that the development is unacceptable from a fire safety/risk perspective and would require a recommendation from the ExA to the Secretary of State that the DCO should not be granted without such a requirement being imposed.
27. In terms of the third test that the Agreement should be related in scale and kind to the development the nature of the obligation will be required for paying for the time of Lincolnshire Fire and Rescue Officers to undertake the necessary monitoring which will be proportionate to the amount of time to undertake this monitoring and inspection. The potential for 10+ BESS in the County to support large solar related development that will require monitoring and inspection is a resource that the Fire Authority has no budget to cover. The approach is to ensure each developer pays a contribution to the Fire Service for the time taken which is proportionate relative to the size of the BESS and the cost is distributed evenly amongst all developers. Without the financial contribution for this dedicated support the Fire Service is unlikely to be able to undertake the necessary level of monitoring and inspections this significant number of BESS. This increases the chances of an accident which will be detrimental to the amenity of local residents and potentially damaging to the local environment via pollution entering soils and local watercourses.