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To the Applicant
(By email only)

Your Ref:

Our Ref: EN010132

Date: 18 April 2023

Dear Mr Douglass

Planning Act 2008 (as amended) – Section 51

Application by West Burton Solar Project Limited for an Order Granting Development Consent for the West Burton Solar Project

Advice following issue of decision to accept the application for examination

On 18 April 2023 the Secretary of State decided that the application for the above project satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA2008). The Planning Inspectorate's acceptance checklist and the application documents have been published and made available on the project page of our website.

In undertaking checks at the acceptance stage, the Inspectorate has made some initial observations in relation to the application. This letter comprises advice to the Applicant provided under section 51 of the PA2008 in respect of these initial observations. The Applicant should pay attention to its content and consider how appropriate action might be taken in response.

Minor errors and omissions

There are minor errors and omissions, as reflected in Box 30 of the acceptance checklist.

1. Land Plan

A north arrow is not present and see comment below relating to Book of Reference.

2. Works Plan

Work number 8B 'A156' is not identified consistently in comparison to the other work number 8Bs as it is outlined in blue, whereas work number 8B 'West View Farm' is outlined in red.

3. Crown Land Plan

Although there is no requirement that the precise location of the Crown Lands Plan is shown within the overall site, it would ease navigation if this was included within an overall plan identifying the plots within the Order land.

4. Draft Development Order

4.1 Definition of "Order land"

The definition of "Order land" in Article 2(1) of the dDCO is drafted so it could relate to land outside the land plans, since it includes land "affected by the authorised development". The EM makes clear this is not intended, and the Applicant is therefore asked to consider alternative drafting or to give further justification in the EM for this wider definition.

There would appear to be a divergence with Article 18 which only applies within the Order Lands and the EM for this provision which indicates it could apply outside. These issues should be resolved.

4.2 "Generating Station"

There is no definition of "generating station" in Article 2. It is therefore unclear which of the numbered works in Schedule 1 Article 4 might apply to and whether it applies to just work 1 or works 1 to 4, for example whether, for these purposes, the battery energy facility is included.

4.3 Written Scheme of Investigation

In the definition of the Written Scheme of Investigation (WSI) within Article 2(1) of the dDCO the WSI is identified as being in Schedule 14. While the Written Scheme of Investigation (Doc WB3.6.13.7) forms part of the Environmental Statement (ES) this is not explicit in the drafting. It is suggested that either the definition in Article 2(1) is amended to make it clear the WSI forms part of the ES or the WSI is specifically referred to in Schedule 14.

4.4 Article 6 – Application and modification of statutory provisions

The Explanatory Memorandum *(the EM) should explain why it is necessary to disapply each provision in Article 6(1) for this particular scheme (see below). While some provisions have been described not all have been done so. The EM explains what the effect of Article 6(3) is, but does not explain why this is necessary and should do so.

4.5 Article 12 – Use of private roads & Article 39 – Tree Preservation Orders

As examples of a lack of specificity to the scheme within the EM (see below), it is not clear whether there are any private roads or trees protected by Tree Preservation Orders within the Order lands. Clearly, these provisions are only necessary should such exist. The EM, or some other plan within the overall application, should identify these.

4.6 Schedules 4 to 8 of the dDCO

While identified on the relevant plans, some of the names of the highways are not very specific. Examples are “Main Road” and “Common Lane”. There may more than one of these nomenclatures in the applicable Local Authority District. It is suggested that an additional column is included into each table adding the Parish(es) of the highways and streets referred to.

4.7 Schedule 10 of the dDCO

It is noted that Plots 4-049, 4-40 and 4-043 all occur in both rows one and two of Schedule 10. Could it be clarified as to whether this is correct and if so, the Applicant is asked to consider alternative drafting.

5. Explanatory Memorandum

The EM fails at various locations to explain why a provision in the draft Development Consent Order (the dDCO) is required for this particular proposal as opposed to what the provision would achieve. The Applicant is requested to review the whole document with this objective in mind. Specific examples are set out above, but the Applicant should review the whole document. Greater use of precedents from made Development Consent Orders could also be included within the EM, explaining any differences in drafting.

6. Environmental Statement Appendix WB5.1 – Site Selection Assessment

The text references various Annexes to this document. However, Annexes A and D are not included. Could these please be provided.

7. Land Plan, Book of Reference and Statement of Reasons

The Book of Reference makes reference to the terms “Freehold Acquisition”, “Temporary Possession” and “Acquisition of Rights”

In respect of the term “Freehold Acquisition” read in conventional English, it is not clear whether this refers to the acquisition of the freehold alone, leaving all other pre-existing rights intact, or seeks to obtain clean title. The Statement of Reasons in paragraph 5.3.1. states: “The areas of the Order land over which compulsory acquisition powers are sought in respect of all interests (including freehold) are shown edged red and shaded pink” indicating the latter. Similar issues apply in relation to the terms “Temporary Possession” and “Acquisition of Rights”.

The Applicant might consider the use of alternative words or phrases to “Freehold Acquisition”, “Temporary Possession” and “Acquisition of Rights” in the Book of

Reference and Statement of Reasons to make it clear in that document the extent of the rights sought.

It is suggested that the same term or phrase should be used on the Land Plans, the Book of Reference and the Statement of Reasons setting out the full extent of the rights sought the rights sought to ensure those affected are fully appraised.

Please pay close attention to the advice set out in this letter and act on it accordingly. Ensuring that documentation is complete and accurate in a timely manner will assist other parties and the Examining Authority and contribute to a more efficient examination.

We trust you find this advice helpful, however if you have any queries on these matters, please do not hesitate to contact our office using the contact details at the head of this letter.

Yours sincerely

Robert Cook

Robert Cook
Case Manager

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