



National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Your Ref EN010132

Our Ref IPP-146

Friday 22nd November 2023

Dear Sir or Madam,

RE: West Burton Solar Project DCO Application by West Burton Solar Project Limited (“the Application”)

Summary of Relevant Representation

The Canal & River Trust (“the Trust”) previously provided comments to the applicant on the route options for the cable connection. The representations made here are without prejudice to any further or amended representations which the Trust may make following a comprehensive review of the Application as part of the examination process.

The Trust’s role and responsibilities

The Trust is a statutory party¹ for the purposes of s.88(3) of the Planning Act 2008 (“the 2008 Act”) as the Application is likely to have an impact on the River Trent, or land adjacent to the river, which is an inland waterway in England. The Trust is a statutory undertaker for the purposes of s.127 of the 2008 Act. The Trust is navigation authority for the River Trent and has a duty to maintain the river between Meadow Lane Lock, Nottingham and Gainsborough Bridge as a commercial waterway under s.105 of the Transport Act 1968 and is lessee of the foreshore and riverbed under a lease from The Crown Estate dated 16 February 2011 and registered at the Land Registry under title number NT473004. The Trust is freehold owner of land to the west of the River Trent registered at the Land Registry under title number NT239763 which is used operationally as a dredging tip.

The Trust also has environmental and recreational duties under s.22 British Waterways Act 1995 when considering proposals relating to its functions. These include consideration of effects on flora and fauna and preserving access to towing paths for the public. The Trust’s charitable objects include, for the public benefit, the preservation, protection, operation, and management of inland waterways for navigation and conservation, protection and improvement of the natural environment and landscape of inland waterways.

In light of the Trust’s responsibilities, our focus is on the potential impact of the project on the operation and management of the river as a navigation and the river’s ecology.

¹ Reg 3 & Schedule 1, Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 (SI 2015/4620)

West Burton Solar Project (“the Project”) and the River Trent

The proposed route of the cable connection for the Project would have one interface/crossing (underground) with the River Trent, just south of Trent Port, Marton. The River Trent in this location is a tidal commercial waterway used by both large commercial vessels and for leisure purposes. As navigation authority, the Trust is responsible for navigational safety for this part of the river. The Trust is also the owner and operator of the dredging tips for the deposition of river dredgings to maintain the navigational safety of the River Trent. The southern bund and edge of the western dredging tip is located within Works Package 5A. This is a rural stretch of river with a mixture of open fields and mature hedgerows within the managed river flood plain. The river corridor is well used for leisure and recreation and the west riverbank carries the long-distance Trent Valley Way path.

Collaborative working with other solar NSIPs in the area

We welcome a joint working approach with all four solar schemes (Gate Burton, Cottam, West Burton and Tillbridge) to ensure efficiency in the consenting process and to limit the potential for short and long term economic, environmental, and social impacts on the navigation and its users.

The draft Development Consent Order (DCO) and Protective Provisions (PPs) for the Trust

There are a number of provisions within the draft DCO which would impact the Trust as navigation authority for the River Trent. The draft DCO was not shared with the Trust as part of a pre-application consultation. On first review, we have concerns with article 16 (discharge of water); article 19 (authority to survey and investigate land); article 20 (compulsory acquisition of land); article 22 (compulsory acquisition of rights), article 25 (acquisition of subsoil); article 30 (temporary use of land); article 31 (statutory undertakers). We have not yet ascertained whether the disapplication of legislation proposed by article 6 and schedule 3 impacts the Trust’s responsibilities. We welcome further explanation from the applicant about the legislation to be disappplied, particularly whether and, if so, how it impacts the Trust.

The draft DCO does not contain any specific protective provisions for the Trust. The Trust notes that other statutory undertakers have been afforded protective provisions within schedule 16. Following the acceptance of the Application for examination, we have asked the applicant if they would be willing to include protective provisions for the Trust. To aid the examination we have prepared a set of protective provisions which would resolve and satisfy our principal concerns. The protective provisions have been adapted from the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 (made 7 December 2022). A copy of these is appended to this letter. The Trust reserves the ability to add to and amend the draft protective provisions as part of the examination process.

The Trust’s Third-Party Works Code of Practice

As with other nationally significant infrastructure projects (NSIPs) that include works that interface with the Trust’s network, any parts of the Project with the potential to affect the River Trent should be carried out in accordance with the Canal & River Trust Third-Party Works Code of Practice (CoP). DCOs for these NSIPs have included an express obligation obliging the applicant to have regard to the CoP in the detailed survey, design, construction, and approval of the relevant works. The protective provisions enclosed with this representation contain appropriate wording.

The Trust’s CoP is designed to safeguard all users of the navigation and to deal with the nuances of developing adjacent to a commercial waterway with an ever-changing tidal riverbed. The extent of potential impacts from development adjacent to, or under, navigational waters could reach far beyond the crossing point proposed. Ensuring that development is appropriately located and controlled on land adjacent to the Trust’s network is crucial to limit the potential for risk to users of the river and the associated economic, environmental, and social consequences.

Canal & River Trust

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Through the CoP, developers engage with the Trust's engineers who are specialists in navigational safety, the protection and safeguarding of the riverbed and the ecology of the waterway. It is essential that the proposals incorporate appropriate measures to protect the users of the river before, during and after construction for all temporary and permanent works affecting the waterway, including surveying and sampling within the waterway. Engaging with the Trust's engineers ensures the appropriate measures are taken.

The protective provisions and use of the CoP will deal with the Trust's concerns which relate to:

- Horizontal Directional Drilling and surveys
- Protection of the Trust's dredging tip
- Discharge of water into, and prevention of siltation etc. of, the river
- Noise & Vibration
- Ecology & Biodiversity in the river
- Lighting during construction
- Landscape & Visual Impact
- Use of River Trent for Works Traffic

Horizontal Directional Drilling

Whilst HDD methods are proposed, we can find no reference to the proposed depth of the drilling beneath the riverbed. Survey would therefore appear a necessary precaution to establish the geological substrate and depth of riverbed silt in order to calculate an appropriate depth for HDD beneath the tidal waters of the River Trent to prevent sediment mobilisation. This would inform the design process and prevent the mobilisation of silt from the riverbed which would have potentially detrimental impacts on the navigational safety of the River Trent and its ecology. We look forward to ensuring that all survey work of the River Trent, including ground investigations carried out with full consideration for navigational safety within this commercial waterway and reviewing the technical drawings of the project in relation to the riverbed. The dredging tip site should also be fully surveyed and protected as an operational asset. We propose that this would be in accordance with the mechanisms contained in the protective provisions. Similarly, we look forward to working with the applicant in relation to the launch and reception areas for the river crossing, ensuring appropriate measures are put in place to protect and safeguard our assets, particularly in relation to the dredging tip and its bund. The dredging tip is the subject of an environmental permit, and the Trust will need to be satisfied that the proposed works would not cause any of the conditions of that permit to be breached.

Other impacts

The Trust welcomes the measures in the Outline Construction Environmental Management Plan and the Outline Ecological Protection and Mitigation Strategy that:

- Seek to prevent silt and contaminants entering watercourses;
- Propose noise monitoring;
- Propose careful siting of drilling entry and exit pits, suitable depth control and visual monitoring to minimise the potential for the release of sediment during drilling;
- Set out measures to minimise the need for lighting.

Use of River for Works Traffic

Should the applicant propose to use the waterway for commercial use, the Trust would wish to have oversight of this and anticipates this would be done through protective provisions.

Yours faithfully,

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