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Our ref:  
AN/2022/132712/10-L01  
Your ref: EN010132

Date: 08 April 2024

By email:

[WestBurtonSolarProject@planninginspectorate.gov.uk](mailto:WestBurtonSolarProject@planninginspectorate.gov.uk)

## **Order Granting Development Consent for the West Burton Solar Project (EN010132) - Examining Authority's second written questions.**

Dear Andrea

I refer to the notification from the Planning Inspectorate on the 19 March 2024 notifying us of the Examining Authority's second written questions.

Our answers to the questions where the Environment Agency is referred to in the 'question to' column are as follows:

### **2.3.4 EMF Risk Assessment**

The Environment Agency's views are sought on the submitted 'Risk Assessment on EMF Impacts on Fish' document which is appended to Appendix 1 of the Applicant's Response to Written Representations at Deadline 1 Part 1 [REP3-034]. Both the Environment Agency and the Applicant are requested to provide a progress update and progress through an updated SoCG at Deadline 5.

### **Environment Agency Response**

As you will be aware from the letter dated 31 January 2024 that we submitted to your hearing on 7<sup>th</sup> February 2024, in terms of the impacts of Electro Magnetic Fields (EMF) on fish, further discussions have taken place with the applicant on this topic in connection with the proposed Cottam solar project.

In connection with this, we concluded, based on the information he has provided, that the works would prove a low risk to fish.

However, as this is an area of very little research, we cannot say there will categorically be no risk to fish populations. Accordingly, we have asked the Applicant for that project to agree to undertake a scheme of monitoring to corroborate the predicted impacts of EMF on fish.

In our representation for the Cottam DCO, we had asked for this scheme of monitoring to be secured via a requirement and therefore asked for the same to be included in the West Burton DCO. However, since we submitted our letter on 31<sup>st</sup> January, there have been further discussions on this topic with the Applicant for the Cottam solar project. As a result, it has been agreed to secure this scheme of monitoring via the outline Operational Environmental Management Plan (OEMP), which the Environment Agency will be a consultee on, rather than as a direct requirement of the DCO.

It is considered that the same should apply to West Burton and we note that wording to cover this has already been included in the Outline Operational Environmental Management Plan Revision C February 2024 submitted to you at Deadline 4.

It is intended that this matter will be concluded via the Statement of Common Ground to be submitted in time for Deadline 6.

### **2.3.5 Cable Depth**

The Applicant concludes that burying the cables to a minimum depth of 0.9m and given the limited span of the corridor this would provide sufficient mitigation to prevent adverse effects on aquatic life and in particular protected species. The Outline Design Principles provide a minimum buried depth below the bed of the river Trent of 5m. Please can IPs comment on the potential impact on aquatic life from cable depth of 5m.

### **Environment Agency response**

We are unclear why a depth of 0.9m is now being mentioned and which document concludes this depth is acceptable. All of the discussions to date seem to relate to the cable being 5m deep below the river bed. We have found a reference to a depth of 0.9m on page 7 of the appendix 1 to the Applicant's Responses to Written Representations and other submissions at Deadline 1 Part 1 Prepared by Lanpro Services (January 2024) which refers to a National Grid 400kV 0.9m buried cable. However, the conclusion to this appendix (in paragraph 2.4.1) says 'Electric fields generated by the proposed cable are not likely to be perceived beyond the armouring of the cable itself, and certainly not beyond the 5m buried depth below the riverbed, therefore potential effects of electric fields on fish are not considered likely'.

We believe the greater the depth below the river bed that the cable is buried it will reduce the impact upon fish. Therefore, a cable at 5m would be our preference.

This would also seem to be consistent with the depth discussed in connection with the Cottam solar farm project and the statement in 1.1.3 of appendix 1 to the Applicant's Responses to Written Representations and other submissions at Deadline 1 that the installation of 400kV cables will be within the same location underneath the River Trent as part of a shared grid connection corridor.

Notwithstanding this, we would request an absolute minimum of 1.5m depth below the Trent and that all works are in accordance with Exemption FRA3. A 0.9m depth would be unacceptable on flood risk grounds. Full requirements are set out below, and as per [Exempt flood risk activities: environmental permits - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/exempt-flood-risk-activities-environmental-permits):

- You cannot install a pipe crossing by excavating an open trench through the river.
- the service crossing is within 10 degrees of perpendicular to the direction of flow in the main river
- the service crossing is at least 1.5m below the riverbed along its whole length, and the same height is maintained for at least 5m beyond each bank (measured from the top)
- the distance from the launch and reception pits to the landward side of each bank of the main river is:
  - 8m or more in the case of a non-tidal main river
  - 16m or more in the case of a tidal main river
- the service crossing does not pass through any bank, culvert, remote defence or river control works on the main river or through any sea defence
- the service crossing is 50m or more upstream of any impoundment or artificially raised channel
- you erect permanent hazard markers on both banks of the main river
- you remove from the flood plain all excavated material not re-used on the site of the works
- your works do not disturb the bed and banks of the main river

### 2.5.11 Schedule 2 (Requirements)

Noting the insertion of the Requirement 22 into dDCO Revision E [REP4-024] relating to Long Term Flood Risk mitigation, and the comments made in the Statement of Commonality [REP4-061], the parties are asked to provide further justification for this Requirement, noting that on this basis information regarding long term flood risk effects would be provided after the Secretary of State has made their decision.

#### Environment Agency response

The Flood Risk Assessment was initially reviewed on the basis that the development would have an expected lifetime of 40 years.

“The Review of Likely Significant Effects at 60 Years” document was then submitted at a later date, which indicated the development would have a lifetime of at least 60 years. Due to this, the climate change allowance for the 2080s epoch should be used. According to the Planning Practice Guidance, a climate change allowance of 39% should be used for essential infrastructure. Therefore, mitigation measures should be applied in accordance with a 1 in 100 year + 39% climate change design flood event to ensure the development is resilient for its entire lifetime and does not increase flood risk elsewhere up to and during the design flood.

We hold hydraulic modelling for the Tidal Trent for this flood event. We advised the applicant to request this data to update their Flood Risk Assessment and apply the necessary mitigation measures/floodplain compensation in accordance with the updated climate change allowance for the extended lifetime.

Since we did not receive sufficient prior notification that the development lifetime was to be extended, there was insufficient time for us to respond to the data request and the applicant update the FRA in time for the submission deadline, hence this information being submitted at a later date. Ideally, this information should be submitted and reviewed prior to the Secretary of State decision making process. However, we are aware that the DCO timescales would not allow for this, and that the submitted information will be provided prior to construction at the detailed design stage.

## 2.5.17 Schedule 19 – Protective Provisions, Part 9

With reference to Schedule 16, Part 9 [REP4-24], the Applicant's Deadline 4 Update on Schedule of Progress regarding Protective Provisions (PP) and Statutory Undertakers [REP4-063] noted that, whilst PP have been included in the draft DCO, discussions are ongoing. The Applicant and the EA are requested to submit a single, jointly prepared set of PP, identifying any areas where agreement cannot be reached and providing details of each party's position on areas of disagreement, together with any alternative wording proposed.

### Environment Agency response

In terms of the Protective Provisions, they are currently as we have agreed for the Cottam Solar Farm except for one change. Under the definition of "specified works" we note the applicant has moved works which are likely to "affect any drainage work or volumetric rate of flow of water in or flowing to or from any drainage work" from applying to any distance from a drainage work to now only applying where the works are within 8 metres of the base of a remote defence. The amendment we are seeking means the relevant part of the DCO should read:

"specified work" means so much of any work or operation authorised by this Order as is in, on, under, over or within—

- (a) 8 metres of the base of a remote defence which is likely to—
    - (i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence; or
    - (ii) interfere with the Agency's access to or along that remote defence;
  - (b) 16 metres of a drainage work involving a tidal main river or 8 metres of a drainage work involving a non-tidal main river; or
  - (c) any distance of a drainage work and is otherwise likely to—
    - (i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;
    - (ii) affect the flow, purity or quality of water in any main river or other surface waters;
    - (iii) cause obstruction to the free passage of fish or damage to any fishery;
    - (iv) affect the conservation, distribution or use of water resources; or
    - (v) affect the conservation value of the main river and habitats in its immediate vicinity;
- or which involves—

(d) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and

(e) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work.

The applicant has agreed to this and advises they make this change in the version of the draft DCO which they aim to submit at Deadline 5. Providing this is done, we will be happy that the Protective Provisions are agreed.

I hope these replies are of assistance.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the details below.

Yours sincerely

Wayne Cattell  
Planning Advisor

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