



WEST BURTON SOLAR PROJECT – EN-010132

WEST LINDSEY DISTRICT COUNCIL – 20038501

ISSUE SPECIFIC HEARING 5 – ENVIRONMENTAL MATTERS- GENERAL

THURSDAY 13th MARCH 2024

SUMMARY OF HEARING

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ISSUE SPECIFIC HEARING 5		
3. CULTURAL HERITAGE		
a.	Study area selection	WLDC had no further comments to make on the Study Area.
b.	Whether there has been a reasonable baseline assessment of the archaeological resource and the nature of development impacts upon it.	WLDC had no further comments to make on the baseline assessment of the archaeological resource.
c.	Approached to mitigation and the management of identified non-designated archaeological remains.	WLDC had no further comments to make on the approach to mitigation and the management of identified non-designated archaeological remains.
d.	The assessment of effects of the scheme on the Stow Park medieval bishop's palace and deer park, the	WLDC maintains its view set out in the LIR and Written Representation with regard to the unacceptable harm the West Burton Solar Project will have on the Scheduled Monument at Stow Park Medieval Bishop's Palace and Deer Park.

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identified harm and consideration of mitigation measures.

ExA, Applicant and Historic England discussion

WLDC noted the discussion regarding the degree of harm that the proposal will have upon the Stow Park medieval bishop's palace and deer park. The ExA recognised the clear disagreement between the applicant and Historic England regarding the extent of the harm. Historic England's (HE) position is that the proposal would clearly result in 'substantial harm' being caused to the scheduled monument as a consequence of the proposed works would intrude within its setting, causing impacts which would constitute 'substantial harm'.

HE further explained the strong relationship between the moated site (the bishop's palace) and the deer pale. Whilst acknowledging that the landscape is naturally different from how it would have been encountered in the medieval age, HE explained that experience of all park landscapes are kinetic. The setting, its understanding and contribution to the significance of the Scheduled Monument is about movement through the space. There are good views across this landscape at various points, at which one can reconstruct the space visually and mentally and interpret how the landscape would have looked and how it relates to the understanding of the assets.

HE explained that the introduction of solar arrays into this space would drastically transform this experience, with the introduction of modern infrastructure. Whilst the landscape has inherently altered over time, it is broadly similar being agricultural in character. The introduction of solar panels will result in the space no longer being that of a modified landscape. HE also confirmed that the various components of the ancient monument need to be considered as a whole.

In response, the applicant stated that they are in agreement with the listing of the scheduled monument and the three elements of the monument derive their significance from their archaeological and historic interest. The dispute between the applicant and HE relates to the how the setting contributes to the significance of the scheduled monument.

The applicant sought to justify their position in this regard by stating that the post-medieval landscape has been compromised by the railway line and the Ministry of Defence storage facility. As a consequence, the applicant considers that the landscape no longer feels like a former deer park when you stand within it, as most of it is not a modern agrarian landscape. The applicant also gave weight to the reversible nature of the scheme in justifying the acknowledged harmful impacts.

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In response to a question from the ExA regarding how the design of the scheme has sought to respond to the Scheduled Monument, the applicant confirmed that mitigation measures are limited due to any presence of solar arrays in the area would be considered harmful. Reducing the height of the panel would not significantly reduce that impact, however the project has avoided directly impacting the boundary of the scheduled monument.

In response to what measures they consider could or should be taken to mitigate the impacts, HE states that their view as the statutory body is that all panels from the areas adjacent (within) the Scheduled Monument would remove their concerns. HE stated that, in their view, it is very unusual that this has not already been designed out considering the designation of the asset.

In response, the applicant stated that this would result in the loss of 128MW which would affect the feasibility of the project. In reply to a question from the ExA, the applicant confirmed that both fixed and tracking panel of a height of 4.5 metres are being considered and that reducing their height would not alter the conclusions in the ES.

WLDC position

WLDC wholly concurs with the view expressed by HE which reflects fundamental objection to the application set out in the Local Impact Report and Written Representation, in that unacceptable harm will be caused to the medieval bishop’s palace and deer park Scheduled Monument.

WLDC wished to comment further on this position but was unable to do so during the hearing but wishes to take this opportunity to make clear its views clear.

The starting position is to have regard to the statutory duty the decision maker has with regard to impacts of development upon listed buildings, conservation areas and scheduled monument. Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 requires decision makers, when deciding applications for development consent which affects or is likely to affect a scheduled monument or its setting, to have regard to the desirability of preserving the scheduled monument or its setting. It is therefore clear that this statutory duty relates to the setting of scheduled monuments and not solely any direct physical harm.

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The schedule description for the bishop’s palace and deer park scheduled monument is clear in that the historic importance of the designated Scheduled Monuments of the Bishop’s Palace and the park pales are defined and bound by the deer park to which they relate and frame. The park was naturally a rural landscape and it is this character that is integral to the importance of the Scheduled Monument. Any degradation or erosion of that landscape character will cause significant harm to the setting of the Scheduled Monuments.

NPS EN-1 (2023) requires great weight to the conservation of a heritage asset, irrespective of whether any potential harm amounts to substantial, total loss, or less than substantial harm to its significance (para. 5.9.25). Substantial harm to Scheduled Monuments should be “wholly exceptional” (para. 5.9.28). Where a proposed development will lead to substantial harm of a designated asset, the Secretary of State should refuse consent unless it can be demonstrated that the substantial harm to, or loss of, significance is necessary to achieve substantial public benefits that outweigh that harm or loss. Loss of significance relates to the setting of Scheduled Monument and not simply direct physical harm.

Policy S57 of the CLLP requires proposals to protect, conserve and seek opportunities to enhance the environment of Central Lincolnshire. Development that will result in substantial harm to, or the total loss of, a designated heritage asset will only be granted permission where it is necessary to achieve substantial public benefits that outweigh the harm or loss (or subject to a range of criteria relating to viability and use of an asset).

The West Burton Solar Project ES concludes a ‘large adverse’ impact upon the bishops palace Scheduled Monument. WLDC consider this to equate to ‘substantial harm’ for the purposes of NPS, NPPS and CLLP policy.

WLDC considers that the significance of an medieval deer park relates not only to the containment and protection of deer, but also the wider character of the landscape. As a consequence, this setting would experience substantial harm by the loss of rural character that would entail by the existence of solar panels.

WLDC wholly disagrees with the applicant’s attempt to justify the adverse impacts on the basis that the current landscape has changed from the original medieval landscape. This is clearly apparent as landscapes change over time, however the historic importance of the Scheduled Monuments are defined by rural landscape that still exists today. In it unquestionable that the assets are current read and understood in relation to the rural landscape character that they

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frame. The applicant, however, takes the position that, as the rural landscape has changed since medieval times (albeit still a rural landscape that can be understood), the construction of modern solar panels of up to 4.5metres in height with modern utilitarian boundary fencing makes no difference in terms of that landscape character and the role it has in defining the setting of the Scheduled Monument.

WLDC considers that the setting of the Scheduled Monuments would be materially harmed through the construction of solar panels and the fact no direct physical harm to the Scheduled Monuments does not avoid the statutory duty and policy requirement to conserve their setting.

The approach taken by the applicant and their attempts to justify the acceptability of the impacts of the project on the Scheduled Monument has been flawed.

The likely impacts and their acceptability expressed by HE does not come as a surprise to the applicant. HE made the applicant aware during the EIA scoping and statutory pre-application phases of the project that the siting of the solar panels within the setting of the scheduled monument would be unacceptable, providing well evidenced advice in doing so. The applicant has chosen to go against this advice from the statutory body, and have sought to justify the impacts on the basis that the removal of panels would be 'too detrimental to the scheme' and that it would be 'temporary and reversible' (Consultation Report, Appendix 5.13: Section 42 Applicant Response, pp.415-419). This justification is weak in that, no evidence has been provided to demonstrate what 'too detrimental to the scheme' means in policy terms; in any even the commercial viability of a project does not constitute a reason to override the statutory duty; and the lifespan of the project for 60 years means that the project should be considered 'permanent' and not a temporary impact.

WLDC notes and agrees with HE's position that the removal of panels within the setting of the scheduled monument is required in order for the impacts to be acceptable. If the panels and infrastructure are not removed, WLDC's view is that the DCO application should be refused on the basis of unacceptable substantial harm that would be caused to the bishop's palace and deer park Scheduled Monument.

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e.	Cumulative impacts, on the wider landscape of heritage assets setting with specific reference to effects on Roman Villa at Scampton	<p>WLDC have no comments to make regarding the cumulative impact assessment on the wider landscape of heritage assets.</p> <p>WLDC noted the discussion regarding the updated assessment carried out by the applicant and HEs agreement with the conclusions.</p>
4. LANDSCAPE AND VISUAL		
a.	Review of design coherence and the assessment of landscape and visual effects	<p>WLDC have made previous comments in writing regarding the design methodology adopted by the applicant.</p> <p>Although WLDC were unable to make specific comments on this agenda item, previous comments remain reflective of its position with regard to the approach to overall scheme design, and how its fragmented and piecemeal layout has contributed to a scheme with far greater impacts than other schemes with the same installed capacity but that have been designed within contiguous and well-contained sites.</p>
b.	Identification and control of design parameters, including post-consent	<p>WLDC notes that the applicant intends to respond to this agenda item in writing.</p> <p>WLDCs current view is that it doesn't readily identify significant value in the imposition of detailed design controls and parameters post-consent. For such measure to genuinely be effecting in guiding the design of the scheme, they should be imposed at the start of the pre-application process and be able to be influenced through the statutory consultation and EIA processes.</p>
c.	Management/control of tree and hedgerow removal and management	<p>WLDC agree with LCCs position disagreeing with the assessment conclusions reached by the applicant. The extensive change in landscape character as a consequence of the proposed</p>

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	<p>of mitigation/enhancement measure post-consent</p>	<p>scheme will adverse through the construction of solar panel and associated infrastructure upon currently open rural agricultural land.</p> <p>WLDCs position is that it is understood that the conclusions of 'beneficial' impact reached by the applicant with regard to landscape and visual impacts are based upon the proposed mitigation planting. What is not clear however is how that proposed mitigation has been balanced with the fundamental change in overall landscape character. When character (and not solely visual effects) are considered, the applicant has not explained how such a wide area of landscape character change can occur but be concluded as 'beneficial' solely due to boundary treatment reinforcements. WLDC is not clear if the applicant has given due weight to landscape character as an impact in itself, as opposed to only giving consideration to whether receptors can 'see' the development (visual effects not landscape character).</p> <p>WLDC maintains fundamental objections to the application based upon it adverse impacts on a wide area of landscape causing harm that outweighs the benefits of the project, particularly on a cumulative basis with other nearby projects.</p>
<p>d.</p>	<p>Assessment of cumulative landscape and visual effects.</p>	<p>WLDC remain of the view that there remains a significant inconsistencies between the cumulative assessments carried out by each respective project. The conclusions vary significantly, which suggests an inconsistent application of methodology and a significant variation in professional judgement.</p> <p>This inconsistency is highlighted starkly in the Join Report on Interrelationships which remains a document that simply reports these inconsistencies and does not constitute a coherent and consistent cumulative assessment upon which the decision maker can rely.</p> <p>The fact that there is such a wide variation in conclusion leaves all parties, and particularly the Secretary of State, in a position where there is uncertainty regarding what the likely cumulative impacts are likely to be. This will inherently cause confusion and scope for inconsistency in decision making, especially where three of the NSIP projects could be determined at the same time.</p>

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WLDC has maintained a consistent view in all examinations that a cumulative assessment that considers all scenarios must be carried out. In the absence of such an assessment, the SoS is limited, in WLDCs view, to only being able to refuse all three application, grant one of them, or grant all of them. There is no environmental information available to make a decision on any other combination (e.g. grant 2 of the 3 applications).

The cumulative assessment for the West Burton Solar Project has not properly considered and explained its conclusions for the 60 year lifespan for Gate Burton, Cottam and west Burton cumulatively. There is no proper reassessment to explain how the additional 20 year lifespan proposed mid-examination for Cottam and West Burton has been dealt with, including what weight has been given to an additional 20 years period.

At 'acceptance' stage of the West Burton project there was Cottam with a 60 year lifespan, Cottam with a 40 year lifespan and West Burton with a 40 year lifespan. Following the increase in the lifespan of Cottam and West Burton by a further 20 years each, the applicant has simply updated a summary chapter of the ES and stated 'no change' to the magnitude of impacts. The lack of proper assessment and explanation as to how this conclusion has been reached is unacceptable and renders the EIA inadequate for decision making purposes. At no stage has the applicant acknowledged any change to impacts whatsoever despite two NSIP-scale project now being proposed to exist for an additional 20 years each to 60 years. WLDC does not consider this to be credible as there will inherently be some change to the impacts and professional judgement have been applied to reach them.

WLDC maintains concerns regarding the likely failure rate of panels (beyond a typical 25 year warranty) and BESS infrastructure, particularly during the additional 20 year lifespan now being sought by the applicant following the submission of the application. The applicant states that the increase in the lifespan would result in an increase in the amount of the project panel requiring replacement to 24% of the overall project. This could equate to around 100Ha of the project being subject to replacement (re-construction) which would constitute an NSIP-scale project in its own right. This replacement activity is likely to give rise to significant environmental effects (especially as the frequency and extent of the replacement is unknown), particularly in relation to traffic, noise, air quality and waste. Should all projects currently in the planning system be consented and require the same ratio of 'replacement' and at similar times in the operational cycle of the projects, the impacts on the environment could be significant and adverse. This scenario has not been adequately assessed or communicated within the application documents (both the

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5. CUMULATIVE IMPACTS

a.	Overview of the approach to the consideration of cumulative effects:	WLDCs position on the approach taken to the assessment of cumulative impacts are set out in the summary of the discussion regarding landscape and visual impacts above and were not, and will not, be repeated here.
	i) Applicant to provide an overview including methodology, the likely significant effects identified, any updates and the approach to ongoing collaboration.	The concerns expressed regarding the unilateral extension of the project lifespan to 60 years by the applicant without demonstrating how the implication of the extension of time has been assessment equally applies throughout the ES. All chapters that reference the 40 year lifespan have inherently been assessed on that basis, and no explanation of the additional weight given to the additional 20 years has been given in these chapters.
	ii) Consideration of whether other plans or projects need to be included in the cumulative assessment.	WLDC maintain the view that the application must be considered as a permanent project for the purpose of decision making as the length of time goes beyond what a 'temporary' project could reasonably be considered.
	iii) Consideration of whether an appropriate level of detail has been considered at construction, operational and decommissioning stages, particularly in terms of how construction activity and mitigation would be co-ordinated.	
b.	Topic based discussion (if not already covered in ISH3 and ISH4 discussions):	
	i) Climate change	
	ii) Construction traffic management	
	iii) Cultural heritage	
	iv) Landscape	
	v) Biodiversity and Ecology	
	vi) Soils and ag	

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	vii) Socio-economic	
	viii) Waste	
c.	Any other points not already covered on cumulative assessment and impacts	