



# The Planning Inspectorate

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## To the Applicant

**Neil Elliot**  
**Nicholas Hill**  
**Emma Hill**  
**Rodger Andrew Brownlow**  
**SNSE Ltd**  
**SNSEM Ltd**  
**SNSD Ltd**  
**Parochial Church Council of the  
Parish of Stow-with-Sturton**  
**EDF Energy (Thermal Generation) Ltd**  
**National Grid Electricity Distribution**  
**Network Rail Infrastructure Ltd**  
**Environment Agency**  
**Lincolnshire County Council**

Your Ref:

Our Ref: EN010132

Date: 23 April 2024

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Dear Sir/Madam

## **The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17**

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

The Examining Authority (ExA) is writing to request further information from the Applicant and the above named Affected Persons, under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended). This is to address further points of clarification and also following its observations and considerations of submissions made at Deadline 5. The ExA is not expecting any other Interested Parties to respond to this request for further information, but they may do so should they wish to.

All documents referred to in the questions below can be found in the [Examination Library](#), which can be found on the [project page](#) of the National Infrastructure Planning website.

### **Request for further information from the APPLICANT**

1. For the avoidance of doubt, please provide further detail as to how diligent enquiry has been carried out, noting that there are many 'unknown' interests in Part 1, Part 2 and Part 3 the Book of Reference [REP4-032].

2. The Schedule of Negotiations [REP4-064], the Schedule of Progress Regarding Protective Provisions and Statutory Undertakers [REP4-065] and the Schedule of Progress regarding objections and agreements in relation to Compulsory Acquisition, Temporary Possession, other land rights and blight [REP4-063] identify a number of plots for which the owners have not agreed to the Compulsory Acquisition of their land. The Applicant confirms in their response to the ExA second written question 2.4.2 [REP5-039] that there may be some instances where objections to compulsory acquisition of land is not formally withdrawn once agreement is reached. Noting the possibility of outstanding objections, the Applicant is asked to please address the following:
  - a) What assessment, if any, has been made of the effect upon individual Affected Persons and their private loss that would result from the exercise of Compulsory Acquisition powers in each case;
  - b) How has it been demonstrated within the application that the public benefits of the scheme would outweigh any residual adverse effects including private loss suffered by individual landowners and occupiers; and
  - c) Demonstrate how such a conclusion has been reached and how the balancing exercise between public benefit and private loss has been carried out?
  
3. Section 9 of the Statement of Reasons [REP4-028] addresses human rights.
  - a) Please provide a more detailed demonstration that interference with human rights in this case would be proportionate and justified; and
  - b) Explain how the proportionality test has been undertaken and how this approach has been undertaken in relation to individual plots?
  - c) For the avoidance of doubt, please set out all the factors that are regarded as constituting evidence for a compelling case in the public interest for the Compulsory Acquisition and Temporary Possession powers sought and where, giving specific paragraph references, are these set out in the submitted documentation?
  
4. The Applicant is asked to please clarify the following discrepancy in the Statement of Reasons [REP4-028] with regard to the land ownership of the mains solar arrays sites:
  - a) Paragraph 5.1.2 of the sets out that Option Agreements have been entered into with the owners of the three Sites.
  - b) Paragraph 7.9.1 sets out that the site are within four landownerships.
  - c) Paragraph 7.9.2 sets out that Option Agreements have been entered into for each of the Sites.
  
5. The ExA notes that references to “Access to Works Plan” have been changed to “Access Plans”, with reference to this alternation being made in Schedule of Changes [REP1-054]. The Applicant is asked to clarify the reason for this change.
  
6. ExA second written question 2.4.9 [REP5-039] makes reference to the Canal and River Trust’s concerns about the implications of the Land South of Marton Grid Connection Options Report [REP2-009], with reference to the implications of Option 2. The Applicant’s response indicates that it is not proposing to proceed with Option 2.

However, the Report sets out at paragraph para 11.1.5 that ‘Option 1 utilises the existing shared Grid Connection Corridor provided in the original DCO application and retains cables through the same land as is proposed for the barns. This option would either require the cables to be installed under the barns (1a and b), which would be challenging and undesirable, or the barns to be relocated/ not constructed (1c).

Significant uncertainty is associated with all three options due to the lack of opportunity for site surveys and uncertainty over the construction of the barns. Therefore, to assess a worst case scenario it would be assumed that this option would result in the barns not being constructed or demolished. Whilst it is considered that this is still a viable option and justified for the construction of the scheme, it should only be pursued if Option 2 was not viable.

Paragraph 11.1.6 also sets out that 'Option 2 utilises the same Grid Connection Corridor but proposes to construct the cables around the agricultural buildings. This would avoid impacts on the agricultural barns associated with Option 1.'

The Applicant is therefore asked to clarify the implications of the conclusions of this Report.

7. With reference to the Stow Park Cultural Heritage Position Statement [REP5-027], the Applicant sets out at paragraph 5.1.1 that the removal of the solar panels within the Stow Park Deer Park would result in the loss of approximately 104.145 MWp of installed capacity resulting in West Burton 3 capacity being reduced to 186.615 MWp. The Applicant is asked to please clarify how these figures relate to the overall generating capacity of the Proposed Development.
8. The Applicant is asked to ensure that the latest versions of all submitted documentation consistently refers to the proposed 60 year life of the Proposed Development, rather than 40 year. For example, the Non-Technical Summary [APP-308] paragraph 6.9.13 and the Design and Access Statement Part 1 [APP-314] paragraph 4.2.3 are not consistent in this regard.

### **Request for responses from AFFECTED PERSONS**

9. The Examining Authority requests that the following Affected Persons confirm whether they continue to have an objection to the Proposed Development, and if so, to confirm their position.

**Neil Elliot**

**Nicholas Hill**

**Emma Hill**

**Rodger Andrew Brownlow**

**SNSE Ltd**

**SNSEM Ltd**

**SNSED Ltd**

**Parochial Church Council of the Parish of Stow-with-Sturton**

**EDF Energy (Thermal Generation) Ltd** (noting that the responses to the ExA second written question 2.4.13 [REP5-039] set out that the parties continue to engage).

**National Grid Electricity Distribution** (noting that the Applicant's response to ExA second written question 2.5.14 [REP5-039] set out that the parties continue to engage).

**Network Rail Infrastructure Ltd** (noting the Network Rail response to ExA second written question 2.4.12 [REP5-039], and the Applicants suggestion in the Statement of Commonality that they aim to have a final SoCG in place by D6)

**Environment Agency** (noting that the Statement of Common Ground [REP5-012] submitted at D5 does not refer to whether or not the Environment Agency's initial objection to any acquisition of land or rights in relation to its land interests remains).

If the Affected Person is able to confirm that it no longer has an objection to the Proposed development the ExA also requests confirmation as to whether their representations should be considered to be withdrawn, or whether the representations concerning absent land rights matters made should still be considered to be extant.

## **Request for information from LINCOLNSHIRE COUNTY COUNCIL**

10. LCC's response to ExA second written question 2.5.3 [REP5-039] states that '*Article 11 - still needs to include wording "Streetworks Authority Approval". ...*' and that there is a '*tension between the proposal to include details in the OCTMP and the fact the DCO doesn't reflect any need for the Highways Authority to approve these details*'.

The ExA notes that the outline Construction Traffic Management Plan (oCTMP) submitted at Deadline 4 [REP4-039] has been amended to include certain provisions requested by LCC. The ExA understands that further comments and discussions are ongoing.

LCC is asked to confirm the progress of these discussions, including any suggested wording which may overcome its identified tension. Please update on progress regarding wording, and commentary on suggested changes to date.

Responses should be submitted by **Deadline 6 (30 April 2024)**.

Yours faithfully

*Andrea Mageean*

## **Examining Authority/ Lead Member of the Panel of Examining Inspectors**

This communication does not constitute legal advice.

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