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Your contact for this matter is:
Russell Clarkson

[REDACTED]

09 December 2024

Dear Mr Wheadon,

Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

Application by West Burton Solar Project Limited ("the Applicant") for an Order granting Development Consent for the proposed West Burton Solar Project

Thank you for providing West Lindsey District Council (WLDC) with the opportunity to comment on the additional application documents submitted in connection with the above application.

Our response to the submission is set out below.

WLDC position following the submission of the additional documents

WLDC maintains its objection to the application for development consent due to the 'substantial harm' it will cause to the Medieval Bishop's Palace and Deer Park Stow Park Scheduled Monument.

This objection is maintained on the basis that, following review of the applicant's submitted documents, the scheme has not been formally amended to remove solar panels and associated infrastructure. Updated documents appear to have been submitted on a 'without prejudice' basis and, in WLDC's view, do not constitute a formal amendment to the scheme.

Background

The impact of the West Burton Solar Project upon the Medieval Bishop's Palace and Deer Park Scheduled Monument has been raised as a key concern and objection since the pre-application phase of the application.

Historic England provided advice, including at a site visit in May 2022, raising significant concerns regarding the installation of panels within the Deer Park (as defined by the Park Pales).

WLDC shared these significant concerns, raising the impacts upon the Scheduled Monument and its setting as amounting to substantial harm, that indicates a refusal of development consent. These views and the reasoning behind them were expressed in WLDCs Relevant Representation, Local Impact Report, Written Representation and

additionally through written submissions during the examination and at Issue Specific Hearings.

During the examination, in response to representations made by WLDC, Historic England and others, the applicant maintained their position that the impact on the affected Scheduled Monument was 'less than substantial harm' and maintained that such impacts were acceptable. The applicant's position was clear in that they did not consider the removal of panels necessary to overcome the harm judged to occur by WLDC and Historic England and showed no intention to make such amendments.

Indeed, the applicant was further explicit in their position by submitting a 'Stow Park: Cultural Heritage Position Statement'(REP5-027) during the examination. The statement reaffirmed the applicant's firm view that the impacts were acceptable and expressed the position that the removal of panels within the medieval deer park would result in:

'a substantial loss of energy generation for the Scheme (44% loss of solar generation within West Burton 3), and as a consequence this would significantly undermine the benefits detailed in the Statement of Need [APP-320](para. 6.1.3)'

The applicant's position was clear in that there was no intention to amend the scheme to address the fundamental concerns regarding the impact on the Scheduled Monument, maintaining its view on impact that differed from Historic England, and providing evidence that the removal of the panels would materially affect the benefits of the scheme.

Secretary of State's request for further information

WLDC have noted the Secretary of State's letter, dated 19th September 2024, requesting further information from the applicant to which this representation relates.

With regard to the Stow Park Deer Park, the Applicant was requested to provide further information regarding the 'option to remove solar panels'. The Applicant was requested to provide 'any necessary updates to the Environmental Statement (ES), describing the potential for new environmental effects, or effects of different significance, that could arise from the amendment'. The updates were requested to include confirmation as to whether the existing baseline surveys remain valid for informing assessment. The applicant was also requested to submit an updated 'Biodiversity Net Gain Report' to present revised BNG Metric calculations due to the removal of panels within the Stow Park Deer Park and to provide updated to the plan for delivering BNG.

The applicant was further requested to provide the following documents.

- Updated Book of Rights;
- Updated Book of Reference;
- Updated Land Plans;
- Updated Works Plan;
- Updated Development Consent Order;
- Updated outline Landscape and Ecology Management Plan;
- Updated outline Ecological protection and Mitigation Strategy;
- Updated outline Construction Environmental Management Plan; and
- Updated outline Soil Management Plan.

Applicant's submission

In response to the request for information made by the Secretary of State, the applicant has submitted updated documents, but has not appeared to provide the following:

- Updated ES (Ch.13);
- Updated Book of Rights;
- Updated outline Ecological protection and Mitigation Strategy;
- Updated outline Construction Environmental Management Plan; and
- Updated outline Soil Management Plan

The Applicant makes it clear that the submission of the amended documents is made 'without prejudice' to their position regarding the impacts to the Scheduled Monument and the acceptability of the scheme overall.

The applicant's covering letter proceeds to reiterate its position on the acceptability of the project in its current form, devoting the majority of the letter to re-stating the position advanced during the examination. Indeed, it is noted within the applicant's Covering Letter that *"It remains the Applicant's position that solar panels within the Deer Park should remain within the Scheme."*

West Lindsey District Council's position

WLDC has raised a fundamental objection to the West Burton Solar Project throughout the consenting process. It has made its views clear to the Examining Authority through its Relevant Representation, the Local Impact Report, the Written Representation and through written and oral submissions during the examination. WLDC's views have aligned with that of Historic England, who informed the applicant themselves of the unacceptable impact on the Scheduled Monument as far back as May 2022. Notwithstanding these views, the applicant has maintained their position that the scheme is acceptable with regard to impacts upon the Scheduled Monument and has defended that throughout rigorous examination. No indication that any consideration of amending the scheme has been given by the applicant throughout the process.

It is noted that the Secretary of State's request that the applicant provide further information regarding the option to remove solar panels, was made "without prejudice to the Secretary of State's final decision" and it is believed the applicant has sought to be cooperative, on this provision.

The applicant has been fair in their consistency, reiterating in their covering letter that the submission of the updated documents has been made 'without prejudice' and follow that clarification with a further commentary of why they consider the amendment to not be necessary. The letter makes clear that *"It remains the Applicant's position that solar panels within the Deer Park should remain within the Scheme."*

WLDC is therefore now unclear as to the status of the submitted documents. It does not appear to constitute a formal amendment to the application and is not being proposed by the applicant. The position appears to be that the original scheme is the one to be formally determined by the Secretary of State.

It is on this basis that WLDC maintains its previous objection to the scheme as it appears not to have been formally amended and the applicant's position is against doing so.

Turning back to the submission, WLDC does not understand why the applicant has not submitted the documents requested. As the documents were formally requested by the Secretary of State to ensure the necessary information is before them to make a decision, WLDC are concerned about whether a robust decision can be made in their absence.

In addition to the updated documents requested by the Secretary of State, WLDC considers that the following documents would also need to be updated should the removal of the panels be formally proposed:

- Environmental Statement – (Chapter 13 ‘Cultural Heritage’ in particular);
- Heritage Statement;
- Planning Statement.

The above documents are integral to enable Interested Parties and the Secretary of State to fully understand the impacts of the application to be determined. Not providing an updated ES chapter and Heritage Statement is a fundamental gap in the application, which prevents full scrutiny and conclusions to be reached by Interested Parties, and restricts them from providing an informed judgement on the degree of harm (in EIA and policy terms) to the Secretary of State. This matter is of particular importance given the statutory duty imposed upon the decision maker.

The requirement for an updated Planning Statement is triggered by the applicant’s submissions during the examination regarding the ‘*substantial loss*’ of energy generation for the Scheme, that would ‘*significantly undermine the benefits detailed in the Statement of Need*’. Should the amendments to the scheme now be made, it is clear from the applicant’s own words that the benefits of the project will be significantly reduced and undermined. Having an understanding of the magnitude of that impact is essential to enable the benefits of project to be weighed against the harm caused to the Scheduled Monument that will remain even if the panels are removed. In the current circumstances, WLDC does not see how a robust assessment of the scheme against statutory requirements and NPS policy can take place, and nor can an adequate planning balance be made.

In the absence of all documents requested by the Secretary of State and the further documents identified by WLDC, there is currently inadequate information upon which to base a sound decision against any alternative to that which was considered during the formal examination.

Notwithstanding the above position, WLDC wishes to assist the Secretary of State as far as possible in this representation with regard to its views on the updated documents. Clearly, the removal of panels as shown on the submitted documents would reduce the impact upon the Scheduled Monument. It should be noted that the panels have been removed from the are defined as the Scheduled Monument in agreement with Historic England. As panels are retained up to the boundary of the Scheduled Monument, and works are retained within the Deer Park (Works 7 and 8a), there will inevitably still be harm to the historic asset.

Based upon the information submitted (and in the absence of an updated EIA and Heritage Statement), WLDC’s view is that the impacts are likely to be reduced from ‘substantial harm’ to ‘less than substantial harm’ (upper end). This judgement can, however, only be ratified once full updated assessment documents are provided by the applicant. The amended scheme therefore still imposes a statutory duty on the Secretary of State to have regard to impacts on scheduled monuments, as set out in regulation 3 of the Infrastructure Planning (Decisions) Regulations (2010) with regard to having regard to the desirability of preserving the scheduled monument or its setting.

Summary of position

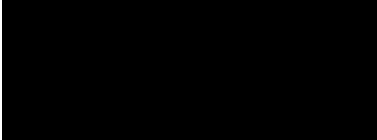
WLDC maintains its fundamental objections to the scheme on the basis that the submitted documents and position of the applicant do not represent a formal amendment to the application.

Should the Secretary of State wish to determine the application based upon the removal of the panels as requested, WLDCs position is that there is currently inadequate information (both EIA and other supporting documents) to enable a fully informed decision.

WLDC remains committed to its role within the examination of this application and is prepared to provide clarity on its firm position on an amended scheme on the basis the required information is provided to enable it to do so.

In the absence of any further information being submitted, WLDC maintains its fundamental objections and invites the Secretary of State to determine the application on the basis of the scheme subject to the examination; that is with solar panels located within the Scheduled Monument that cause 'substantial harm'.

Yours sincerely,



Russell Clarkson
Development Management Team Manager
On behalf of West Lindsey District Council

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