



The Planning Inspectorate

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The Applicant

Your Ref:

Our Ref: EN010133

By email

Date: 30 November 2023

Dear Ms Browning,

Planning Act 2008 (as amended) – Section 89

Application by Cottam Solar Project Limited for an Order Granting Development Consent for the Cottam Solar Project

Notification of intention to submit a request for changes to the Application

Thank you for your letter dated 21 November 2023 providing notification of the Applicant's intention to submit a request for changes to the Application. I note that the letter invites the ExA's comments including on the proposed timetable and proposed consultation arrangements. These, along with a summary of the proposed changes, are set out below.

Summary of Proposed Changes

The Applicant's notification letter explains that the proposed changes are expected to comprise:

1. An extension to the Order limits immediately to the south of Torksey Ferry Road, for works to construct and operate the 400kV cable and associated development;
2. An extension to the Order limits to the east and west along Torksey Ferry Road to accommodate access during construction and (for some parts of the road) during operation;
3. An extension to the Order Limits along A156 High Street to increase the size of the visibility splay for access AC108;
4. A change to Order limits so Work No. 6 runs to the south of West Farm, Normanby by Stow; and



5. An extension to the Order Limits to the east of Stone Pit Lane to allow for flexibility in the location of the construction access for the transportation of abnormal loads.

Full details of the intended changes can be found in the Applicant's Change Request Notification letter which is available on the [project webpage](#) of the National Infrastructure Planning website.

Materiality of the Proposed Changes

The Applicant explains that it considers that the proposed changes are not so substantial as to constitute a materially different project. It is ultimately for the ExA to decide whether or not a proposed change is material and we do not at this stage have sufficient information to reach a view as to materiality. On receipt of the formal change request, we will consider this matter further.

However, the Applicant should note that it is possible that we may consider the proposed changes are not acceptable as a change or that there is insufficient time within the timetable to accommodate the proper examination of the changes.

Consultation

As ExA, it is important that we ensure that the rights of IPs and anyone else that could be affected by a proposed change are protected. AN16 recommends that, as a starting point, Applicants should consult all those persons prescribed in the PA 2008 under section 42(a) to (d) who would be affected by the proposed change. If applicable, applicants should identify any newly prescribed persons (ie those who have been consulted in relation to the requested change but were not consulted on the original application).

The Applicant's notification letter indicates that it is carrying out targeted non-statutory consultation in relation to each of the proposed changes. This includes with the host authorities, a number of statutory undertakers, affected persons, landowners and statutory bodies. AN16 makes clear that if a targeted approach to the identification of those affected by the request to change the application is adopted then detailed justification should be provided why it is deemed unnecessary to consult all of the prescribed persons.

We note that at this stage the Applicant does not expect any of the changes would result in any new or different likely significant environmental effects. We also note the proposed change would engage the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 ("the CA Regulations") which includes opportunities for interested parties and others to comment on the proposed changes.

On that basis, our initial view is that further public consultation may not be necessary. However, that will depend on the nature of any application. Full details of all consultation undertaken along with details of any responses received should be submitted along with the change application.

When submitting the change request, it is recommended that the Applicant submits a statement which:



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- lists the persons (affected by the changes) under section 42 (a) to (d) who have been consulted (identifying particularly any new persons ie those who were consulted in relation to the proposed change but not in relation to the original application);
- identifies (within the above list) those section 42 (d) persons who are “affected persons”, meaning those persons over whose land Compulsory Acquisition powers will be exercised;
- provides justification as to why any person under section 42 (a) to (d) is not affected by the proposed changes and has not therefore been consulted (if any); and
- includes details of any consultation responses received.

If we decide to accept the changes into the Examination, all Additional Affected Persons, Additional Interested Parties and Interested Parties will have an opportunity to make representations on the changed application in writing or orally at hearings as the Examination progresses.

With regard to any notice to be published regarding the proposed changes under the CA Regulations you are advised to contact the Case Team with regard to the wording of any such notice to ensure that this identifies the appropriate mechanism for the submission and receipt of any responses to ensure they are properly captured as Relevant Representations.

Information on Environmental Impacts

The Applicant states that assessments are currently being undertaken to determine any changes to the potential environmental impacts set out in the Environmental Statement (ES) and that it will submit a report of supporting environmental information relating to the changes proposed. This should be submitted with the Change Application.

We note that the Applicant anticipates that findings relating to ecology, archaeology and transport will need to be updated as a result of the changes to the Order limits but no materially new or different environmental effects are anticipated.

Furthermore, we note that the Applicant intends to submit a revised version of any document forming part of the Environmental Statement or that is referred to in the draft Development Consent Order, incorporating the proposed changes with the Change Application.

The Applicant is asked to ensure that all documentation to support the change request is submitted as a discrete and separate contained set of information with each document clearly identified in both the document heading and the file name as relating to the change request.

If this documentation is provided alongside other changes to the Application that would otherwise be forthcoming those other changes to the original documentation not including the proposed changes as a result of the change request should also be submitted as separate versions and identified as such. This will retain the ability of the Application to



proceed if the change is not accepted and the documentation should clearly allow for that eventuality.

Examination Procedure and Timing

Our initial comments on the Applicant's proposed timetable are set out below:

- The Applicant's notification letter indicates a date of 12 December 2023 as the latest date for the submission of the proposed Application. This is around 12 weeks before the close of the Examination (5 March 2024). The Applicant should submit any change application as soon as possible in order to ensure that sufficient time remains to examine the proposed changes and comply with the requirements of the CA Regulations.
- The suggested time limit for the acceptance of the proposed change application is 3 days. Regulation 6(1) of the CA Regulations allows for up to 28 days. Based on the information currently available, the Applicant should include **a minimum of 5 working days** for us to respond to the Application. However, this will depend on both the timing and nature of the final application.
- The Applicant proposes to publish notices in accordance with Regulation 8 of the CA Regulations on 21 December 2023 and 28 December 2023. We are mindful that this is immediately before, and during, the Christmas period when many people may not be as engaged in the process as at other times. As such, we consider that publishing a further notice in early January drawing attention to the proposed change application, signposting where information can be found and how to make a representation would be desirable and will help ensure fairness to all of those affected by the proposed changes. This additional notice should clearly state that it is in addition to the notification requirements under Regulation 8 of the CA Regulations and drafted to ensure it does not affect the deadline for the receipt of representations under Regulation 8(2)(f).
- In view of the tight timescales, we anticipate setting a deadline for the submission by the Applicant of the Certificate of Compliance under Regulation 9 of the CA Regulations. This is likely to be no later than 29 January 2024.
- Regulation 11 of the CA Regulations provides for a maximum of 28 days for the initial assessment of principle issues following the deadline for receipt of representations. The Applicant's proposed timetable suggests 5 working days following the deadline for receipt of representations for us to carry out an initial assessment of principle issues, to issue any amended timetable and to provide notification of any hearings. We are also mindful that Deadline 4 responses are also due to be submitted during the period (30 January 2024). We consider 5 working days may not be sufficient and additional time may be necessary to carry out this work. We strongly recommend that any request to change the application is submitted as soon as possible to ensure sufficient time remains in the Examination to examine the proposed changes and comply with the requirements of the CA Regulations.



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- The proposed timetable provides just 21 days between our notification of any hearings and the holding of those events. The Applicant should ensure that it has sufficient time to arrange publication of notification of any hearings and provide confirmation that it can do so as part of its change application.
- The Applicant's proposed timetable indicates a date of 22 February 2023 for the receipt of Written Representations. The ExA is concerned that this would not allow sufficient time to give interested parties an opportunity to comment on any written representations relating to the proposed provision or responses to written questions received from an additional interested party, interested party or others.
- The Applicant draws attention to the approach adopted by the ExA in the Gate Burton Energy Park examination where the period for Written Representations ran concurrently with the period for Relevant Representations. In view of the limited time remaining in this Examination, we are minded to adopt a similar approach and run the period for Relevant Representations and Written Representations concurrently. Based on the Applicant's proposed timetable, the date for receipt by the ExA of both Relevant Representations and Written Representations would be 26 January 2024.
- We also anticipate the early publication of a timetable which reserves dates for hearings (with formal notification of the hearings provided at a separate date) and identifies future deadlines (or additional information to be submitted for existing deadlines) may be able to address some of these matters.

Next steps

The Applicant should ensure that any change application is submitted **as soon as possible** (and, in any event, no later than 12 December 2023) and that it responds fully to the points made above. The Applicant should also ensure that it contains sufficient information to enable us to prepare further questions, if necessary.

A copy of this letter will be published on the [project webpage](#) of the National Infrastructure Planning website.

If you have any questions, please do not hesitate to contact the Case Team on the details above.

Yours sincerely

Rory Cridland

Lead Member of the Examining Authority

This communication does not constitute legal advice.

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