

COTTAM SOLAR PROJECT (EN0101331)

POST HEARING SUBMISSIONS FOLLOWING ISSUE SPECIFIC HEARING 5, REGARDING THE DRAFT DEVELOPMENT CONSENT ORDER

ON BEHALF OF WEST LINDSEY DISTRICT COUNCIL (20037171)

INTRODUCTION

1. The table set out below provides written summaries of the oral submissions made on behalf of West Lindsey District Council (“WLDC”) at Issue Specific Hearing 5 (“ISH5”) on 8 December 2023, regarding the draft Development Consent Order (“dDCO”). This document also responds where relevant to any comments made by the Applicant, Lincolnshire County Council (“LCC”) and/or 7000 Acres Action Group (“7000 Acres”) at ISH5.

WRITTEN SUMMARY

ISH5 AGENDA AND DCO REFERENCE	SUBMISSIONS
Article 17 – the Applicant will be asked to explain why this article is necessary.	No comments.
Article 18 - the Applicant will be asked to provide clarification on its response to ExQ1.1.9 and its position as stated in the Explanatory Memorandum [APP-017].	No comments.
Article 35(3)(c) – the Applicant will be asked to provide further justification for the retention of this provision.	No comments.
Requirement 21 - The Applicant will be asked to provide further justification for the 60 year period included in Requirement 21. The Applicant will also be asked to signpost where in the ES it is stated that the scheme was undertaken on the basis that it would not be time limited.	WLDC submits that the ES is clearly assessed on the basis of a temporal period of 40 years, and as such that Requirement 21 should reflect, and be in line with, the environmental impacts which have been assessed.

Express reference is made to a 40 year assessment period in the following parts of the ES:

Chapter 4 “Scheme Description”

para.4.2.3

para. 4.3.6(b)

Chapter 8 “Landscape and Visual Impact Assessment” (Nov update)

Para. 8.4.18

Chapter 9 “Ecology & Biodiversity”

Para. 9.4.7

Para. 9.6.3

Para. 9.6.6

Planning Statement (D2 submission)

Para. 3.3.11

WLDC considers that the ‘Review of Likely Significant Effects at 60 Years’ [REP2-058] fails to sufficiently set out the methodology applied, and reasons why, certain conclusions have been reached in respect of the changes to the assessment.

The Review does not give adequate depth or explanation as to why a 50% increase in the operational lifetime of the development is now being sought, mid-examination. At paragraph 1.1.4 the Review states “*A 60-year period has been chosen to provide flexibility for the Scheme to continue operating where the solar PV panels continue to generate electricity after the average lifespan of 40 years has passed.*”

If the development would now exceed the “average lifespan” WLDC invites the Applicant to clarify whether this would equate to a greater failure of equipment (batteries, solar panels etc.) and would therefore lead to a greater need for replacement equipment and increased waste.

In its current form WLDC submits that insufficient detail is provided to justify the conclusions, especially where there is a reliance on professional judgement. WLDC requests that the Applicant reviews and provides a more detailed assessment. In particular, WLDC requests that the methodology and reasons in respect of

	<p>assessment that are based upon the 40 year period are clarified and updated where required. Such ES chapters include:</p> <p>Chapter 2: EIA process and Methodology Chapter 4: Scheme Description Chapter 7: Climate Change Chapter 9: Ecology and Biodiversity Chapter 18: Socio-Economics.</p> <p>WLDC also considers that a mechanism should exist in Requirement 21 either to automatically trigger decommissioning if the project ceases to generate energy for a period of 12 months; or, in the alternative, to trigger a review mechanism whereby the relevant determining authority is notified that energy generation has ceased, the reasons why it has ceased, and when it will continue to generate energy. The review mechanism would preclude the automatic triggering of decommissioning but would provide the relevant determining authority with the power to determine that decommissioning should occur if the energy cessation is continued without good reason and/ or an intention or plan to reinstate generation. This safeguards against the physical continuation of a project that is not producing energy (<i>i.e.</i> resulting in the continued disbenefits of the project without the disbenefits). WLDC are happy to propose wording depending on the Applicant's response.</p>
<p>OTHER ASPECT OF THE dDCO</p> <p>Schedule 2 - Requirements</p> <p>Requirement 9 – Biodiversity net gain</p>	<p>WLDC considers that a phasing requirement should be included in the dDCO, which is also reflected in the wording of other requirements.</p> <p>WLDC also submits that requirements 6, 8, 9 and 20 should have retention clauses. WLDC understands that the control documents may require maintenance or retention but considers that their retention should be secured in the dDCO. The implementation of those documents, as currently drafted, does not necessarily equate to their retention.</p>

Schedule 17 – Procedure for discharge of requirements

WLDC considers that a minimum percentage of BNG should be secured in the dDCO that reflects those asserted in the oLEMP. WLDC considers that the approach taken in the Longfield DCO Correction Order addresses concerns about the biodiversity metric changing.

WLDC objects to the inclusion of a deemed consent provision. Due to the scale and potential complexity of the details and their importance to ensure that mitigation for a large scale infrastructure project is assessed and implemented, it is wholly unacceptable to impose a deemed consent provision. Additionally, with the potential cumulative impact of having to process subsequent approvals for several similar projects, it is essential that WLDC has sufficient time to make well informed decisions in the public interest.

The deemed consent provision also has an impact on WLDC's position with regard to the approval timescales discussed below. Should the deemed consent provision be retained, WLDC consider that a longer determination period is proportionate. The timescales WLDC considers to be acceptable are influenced by whether a deemed consent provision is included in the DCO. If it is retained, a longer period of time is required to enable WLDC to fulfil its duties in the determination of subsequent applications that relate to EIA development.

Consistent with the reasons that WLDC object to the deemed consent provision, it is essential that WLDC has reasonable time to interpret, assess, have regard to consultee representations, negotiate and formally determine complex and technical details that are required in order for the project to be acceptable.

WLDC's position on the timescale are therefore:

Should there be no deemed consent provision, WLDC request that the following timescales be specified:

Requirement 5 = 13 weeks

Other Requirements = 10 weeks

Should a deemed consent provision be retained, WLDC request that the following timescales be specified:

Requirement 5 = 16 weeks
Other Requirements 13 weeks

The above timescales allow a reasonable and proportionate timescale in order to assess and determine typically complex and 'new' information relating to a large scale EIA development.

WLDC also considers that the drafting of Article 46.5, the fees provision, should be updated to reflect the Applicant's oral statements in ISH5, in particular that it is intended to require a payment for each discharge requirement application, irrespective of whether that application deals with the discharge of that requirement for the entirety of the project or just a part of it.

Schedule 17 (5) Fees for discharge – with due regard to Advice Note 15 WLDC considers that, due to the scale and complexity of the details for which subsequent approval will be sought, a set fee for specific requirements is reasonable and proportionate. WLDC suggests the following

(1) Where an application is made to the relevant planning authority for written consent, agreement or approval in respect of a requirement discharge, a fee is to apply and must be paid to the relevant planning authority for each application.

(2) The fee payable for each application under sub-paragraph (1) is as follows—

(a) a fee of £2,535 for the first application for the discharge of each of the requirements 5, 6, 7, 8, 9, 11, 13, 14, 15, 18, 19 and 21;

(b) a fee of £578 for each subsequent application for the discharge of each of the requirements listed in paragraph (a) and

(c) a fee of £145 for any application for the discharge of—

*(i) any other requirements not listed in paragraph (a); and
(iii) any approval required by a document referred to by any requirement or a document approved pursuant to any requirement.*

WLDC will continue to engage with the applicants and LCC to seek to agree final wording of this provision.