

APPLICATION BY COTTAM SOLAR PROJECT LIMITED

POST HEARING SUBMISSIONS
ON BEHALF OF LINCOLNSHIRE COUNTY COUNCIL
AT DL3

Introduction

1. Lincolnshire County Council (“LCC”) attended ISH2, 3 4 and 5 on environmental matters and the draft DCO held on 5th and 6th December and Friday 8th December respectively. A summary of LCC’s oral representations for both hearings appears below. This document is limited to addressing matters where there was an element of disagreement at the ISHs, all other matters on the agenda were either agreed or LCC had no comments to make.

ISH2

The historic environment

2. LCC remains concerned that the level of information submitted in relation to below ground archaeology remains insufficient. The Applicant has undertaken desk based work and technical surveying but has not corroborated this with sufficient trial trenching across the site. This is in conflict with relevant guidance, means the likely significant effects have not been accurately described (or LCC can have no confidence that this is the case) and is out of step with work done on other similar projects in the area.
3. Mr Matthew Adams, LCC’s Senior Historic Environment Officer attending ISH 2 and commented as follows:
4. In his view, it is essential as per the relevant legislation and guidance (including the EIA Regs, and NPPF) that the applicant undertakes sufficient evaluation to adequately describe and assess the direct and indirect impacts of the proposed development on cultural heritage.
5. The applicant has undertaken sufficient documentary and non-intrusive survey work, but has only completed 17.5% coverage of the necessary intrusive field evaluation (trenching) work to date. This leaves over 80% of the site where the impact from development is not properly understood and cannot be reasonably assessed.

6. There are numerous examples in Lincolnshire & Nottinghamshire where evaluation trenching has been the sole identifying technique for significant archaeological remains which were missed by documentary research and geophysical survey. Several of the main mitigation areas for the Heckington Fen Solar Farm (NSIP) were identified through evaluation trenching alone.
7. It is essential that trial trenching in conjunction with geophysical survey are used to understand the archaeological resource. Without a combination of those two techniques and the complimentary information that they provide, it is not possible to have a sufficiently substantial understanding of the archaeological implications of the development and cannot with any degree of certainty establish an adequate mitigation strategy.
8. The archaeological assessment submitted by the applicant is therefore incomplete and we can neither know where the archaeology lies nor understand the impact of the development and consequently the outline mitigation strategy (written scheme of investigation) is premature in putting forward its recommendations and cannot currently be agreed as a whole and complete strategy for mitigation of the development's pact.
9. Mitigation measures for the 17.5% of the site that has been properly evaluated have been discussed with the applicant and broad agreement of the scope in these areas has been reached with the exception of the use of concrete shoes as a mitigation technique. Further refinement of the approach is still required and further discussion has been arranged with the applicant and LCC, as encouraged by the ExA.
10. The archaeological mitigation strategy for the grid connection cable corridor route to the south of Stow Park Road (A1500) and to the connection point at Cottam Power Station has been agreed. Sufficient assessment was undertaken for this section of the development (notably by another applicant which shares the same cable corridor).
11. We do not agree that piling is a low impact activity or that it is an acceptable mitigation strategy, especially in areas that have not been sufficiently evaluated. The scheme will result in having hundreds of thousands of point impacts within the solar area coupled with service trenches, other infrastructure and heavy construction activity that will lacerate and puncture the archaeological resource without clarity and without understanding the nature of the resource it's impacting upon. In the case of some sensitive archaeological remains (for instance human burials) piling will have an extraordinarily high impact and many of these features do not show up on geophysical survey alone.
12. Failing to adequately evaluate the proposed site places significant risk on the development/construction phase of work where unexpected archaeological remains will lead to programme delays, the unnecessary destruction of archaeological assets and potentially a

consented scheme that is not deliverable as designed – a point notably supported by Historic England in this instance.

13. At ISH2 the Applicant attempted to justify the small percentage of trial trench coverage by reference to research undertaken into coverage for other projects, however, there are many inputs into the decision as to what is an appropriate trenching percentage and without understanding the site and the project on a case-by-case basis, comparables are of little use. Further, LCC considers the most directly comparable project is Gate Burton as it is close by geographically and of a similar scale. The Gate Burton applicant has worked with the Council to undertake a sufficient amount of trenching and the Council is, in that case, happy to condition the remainder within a requirement. The same is not true here.

Agriculture and Soils

14. The Applicant's ES relies upon a 40 year time horizon but the Applicant now seeks a 60 year consent. The Applicant's advocate noted at ISH5 that this was treated as a permanent application and that in numerous places the ES notes that there was, at that stage, no set timeframe for decommissioning.
15. It is in this light that the Applicant's reliance on IEMA guidance should be seen. The Guidance treats temporary and permanent effects as entirely binary and, unlike other established guidance such as GLVIA3, fails to acknowledge that some temporary effects are temporary in name only. A 60 year lifespan is all but equivalent to an entire life time and, on a human scale, is hardly "temporary" in the common use of this word. As recognised by GLVIA3, effects of this longevity should be assessed as essentially permanent effects as that is how they are experienced in reality.
16. The Applicant conceded at ISH2 that there is no proposal to secure sheep grazing. As such, the entire site is to be removed from agricultural use for the duration and should be assessed on this basis. The soil resource may eventually become available again but the loss for 60 years is a significant and weighty adverse effect of the proposal. This is particularly so when assessed in combination with other projects in Lincolnshire which are all for similar timescales.

Landscape and visual

17. Contrary to the Applicant's assessment, which identifies significant beneficial landscape effects on both landscape character areas and individual contributors to landscape character, Mr Brown on behalf of LCC has assessed the project as resulting in significant adverse impacts on landscape character. The Applicants assessment does not provide appropriate justification for assessing several beneficial landscape and visual effects that have been judged would occur through the construction and operation of a large solar development. There are also several minor beneficial landscape effects (not significant) identified in the assessment, predominantly at the Operation (Year 1) phase of the development, that also lack justification: newly establishing grassland areas and maintaining existing hedgerows to increase height to 5m (as outlined in Appendix 8.2 of the assessment) are not a perceptible benefit at such an early stage and tall 5m hedges are out of character being a very tall element when hedges are typically relatively low in this landscape.
18. Whilst establishing planting will add a positive element to this landscape and vegetation removal, as shown on the Landscape and Ecology Mitigation and Enhancement Plans (Rev A), is relatively minimal, this is in the context of extensive change to land use over a large area, affecting the current sparsely settled and quiet agricultural character, which is currently unprecedented in the county in terms of scale. LCC has considered whether the secured mitigation balances out the change but concluded that the urbanising element in rural agricultural land is a definite, significant and adverse change. Mitigation planting goes some way to reduce this but the result is an adverse impact. In this context it is striking that the Applicant's conclusions are at the polar opposite end of the scale.
19. It is possible to calibrate these judgements to some extent – Gate Burton shares landscape character areas and this applicant recorded no benefits to landscape or visual receptors, identified in their report. Another way to calibrate is that if someone was sent to undertake an assessment of this LCA, how would the project, if constructed, impact that assessment? In our view, the scheme would become a defining feature in that landscape and in the LCA. This speaks to the major change and the adverse nature of the effect.
20. Landscape matters will be discussed with the Applicant via the SOCG. An initial meeting has been organised with the applicant on the 4th January 2024 which will focus on the areas of contention/points of disagreement over the conclusions on the significant landscape and visual effects. This will provide an opportunity to discuss the Applicants findings and investigate where any realignment of judgements may be possible.

Battery storage and fire safety

21. LCC is satisfied that the project will be safe but requires recovery of funding from the Applicant to enable the required frequency of site visits. It is noted that the Applicant has agreed to the principle of providing necessary sums and the precise mechanism for doing so will be discussed with the Applicant.

ISH4 – Cumulative effects

22. No residual adverse cumulative effects were identified within the Applicants assessment, and only a few adverse cumulative landscape effects were identified. LCCs position is that the cumulative landscape and visual effects of the development would bring about significant landscape and visual effects when assessed alongside the proposed Gate Burton, West Burton and Tillbridge Solar schemes. The mass and scale of these projects combined would lead to adverse effects on landscape character and visual amenity over an extensive area. The landscape character of the local, and likely regional area, may be completely altered, particularly when experienced sequentially while travelling through the landscape. LCC's disagreement with the Applicant's landscape assessment will be explored further via the SOCG and the meeting with the applicant on the 4th January 2024 will provide an opportunity to discuss the Applicants findings and investigate where any realignment of judgements may be possible.

ISH5 – draft DCO

23. Article 9: discussions with Applicant are ongoing around the level of detail provided for highways works. LCC is concerned that detailed highways works which affect safety e.g. access details are left to requirement discharge with a deemed discharge provision rather than via s.278 procedure.
24. Welcome amendment to (4) which provides that powers in (2) can be subject to s.278 procedure but this leaves over works which are in Schedule 5 and would theoretically see a sub-standard junction be approved via deemed discharged if the Highway Authority was unable to respond to a discharge request in time. Given the safety implications of this, it is unacceptable.
25. Article 15 – a similar point arises as in relation to Article 9. There is a requirement for LCC consent for measures not in Schedule 8 but only a notification requirement for measures which are in Schedule 8. LCC would prefer detail to be submitted to us for *approval* rather than just a notification provision. This has potentially important implications if signals and other road

traffic regulation measures are considered cumulatively with other projects where other applicants have similar powers.

26. Other DCOs provide more control to the Highway Authority. For example the (draft) A12 widening DCO provides at the introduction to the equivalent Article that the various powers are granted “*subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld...*”
27. This does not duplicate the CTMP approval procedure as, if the CTMP includes the necessary details for proposed traffic regulation then the approval of the CTMP would amount to approval for the purposes of this requirement. Alternatively it would be open to the Applicant to submit separate details for approval outside of the CTMP.
28. Article 38 - hedgerows. LCC has had discussions with Applicant around two parts of this provision – trees and shrubs/ hedgerow definitions potentially overlap and clarity is required around how this will operate.
29. Requirement 9: LCC note that there is no set % for BNG secured. Para 1.1.12 of the planning statement relies upon a 96% net gain but this is not secured (note the Requirement only secures the OLEMP but this does not refer to percentages).
30. For Requirement 12 there is a tension between the Council and the applicant, the Council’s archaeology team are not satisfied with the written scheme of investigation as currently drafted as there is disagreement as to what should be included in this document. The wording of this requirement is not agreed and discussions are on-going outside of the examination. At the core of this disagreement is the amount of trial trenching that should be undertaken across the Order limits. The Councils Local Impact Report will provide further details relating to this disagreement.
31. LCC proposes a more detailed requirement as follows:

“(1) No development may commence until an overarching Archaeological Mitigation Strategy has been submitted to and approved by the relevant Planning Authorities, such approval to be in consultation with Historic England;

(2) No phase of the authorised development may commence, and no part of the permitted preliminary works for that phase may start, until a supporting Written Scheme of Investigation for that phase has been submitted to and approved in writing

by the relevant Planning Authorities, such approval to be in consultation with Historic England.

(3) The approved scheme must— (a) identify areas where archaeological work is required; and (b) the measures to be taken to protect, record or preserve any significant archaeological remains that may be found (i.e. preservation in situ, preservation by record or mix of these elements).

(4) Pre-construction archaeological investigations and pre-commencement material operations which involve intrusive ground works may take place only in accordance with the approved Written Scheme of Investigation and any archaeological works must be carried out by a suitably qualified and competent person or body previously notified to the relevant planning authority”

32. Requirement 21 : needs a clause which requires notification and the submission of a scheme in any event 12 months before the date in part (1) i.e. at year 59.
33. Part (3) of requirement 21 does not work well. “within 12 months of the intended date of decommissioning” if the intention is to provide a scheme 12 months prior to the date of decommissioning then it should say so. “within 12 months” could mean 1 week before.
34. Schedule 17 (5) Fees for discharge – advice note 15 suggested drafting for this provision includes space for the insertion of a set fee. This is proposed here and LCC suggests.

(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, and 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

(ii) any approval required by a document referred to by any requirement or a document approved pursuant to any requirement.

