

Rory Cridland
Lead Member of the Examining Authority
National Infrastructure Planning
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Our ref: AN/2022/132733

Your ref: EN010133

Date: 29 January 2024

By email:

CottamSolarProject@planninginspectorate.gov.uk

Order Granting Development Consent for the Cottam Solar Project (EN010133) - Examining Authority's second written questions.

Dear Mr Cridland

I refer to the Examining Authority's second written questions issued by the Planning Inspectorate on 16 January 2024.

Our answers to the questions where the Environment Agency is referred to in the 'question to' column are as follows:

2.1.1 Environment Agency (EA)/Applicant Article 6 (Application and modification of statutory provisions).

Question: Please provide an update on discussions regarding the disapplication of the Environmental Permitting (England and Wales) Regulations and the drafting of the Protective Provisions (PPs) for the benefit of the EA (and identify any outstanding matters).

Environment Agency Answer:

Protective Provisions

We agree the wording of the protective provisions for the protection of the Environment Agency included in the Revision C, Deadline 3 version of the dDCO. We compared this wording with that agreed in the Gate Burton DCO and although we did note some very minor changes, (the most notable being the replacement of the wording "land held by the undertaker for the purposes of or in connection with the

specified works" with the defined term "Order land" at paragraph 108(1)), these changes are acceptable.

The protective provisions are in lieu of the requirement for a flood risk activity permit under Regulation 12 of the Environmental Permitting Regulations 2016 and the provisions of byelaws made under (or as though made under) paras 5, 6 or 6A of the WRA 1991. On this basis, we agree the disapplication provisions listed in Articles 6(1)(f) and (h) of the dDCO, subject to the inclusion of the Revision C protective provisions appearing in the made DCO.

Disapplication of the requirement for abstraction and impoundment licences

We have advised the applicant's solicitor that we do not agree to the disapplication of the requirement for an abstraction or an impoundment licence under Sections 24 and 25 Water Resources Act 1991 and we insisted that Article 6 of the dDCO is amended to delete these disapplication provisions. Under Section 150 of the Planning Act 2008, the applicant requires our consent to the inclusion of a provision in the DCO that disapplies the requirement for these licences and we do not give that consent.

They have responded by saying they will remove the references to Sections 24 and 25 of the WRA 1991 in Article 6 of the Deadline 4 version of the draft DCO (being submitted on Tuesday 30th January 2024).

On this basis, we are happy that this point has been resolved.

Overall, we have agreed the protective provisions with the applicant on the basis that they have agreed to remove references to Sections 24 and 25 of the Water Resources Act 1991 from Article 6 of the Deadline 4 version of the draft DCO.

2.7.5 Environment Agency/Water Management Consortium

Question: Please confirm whether your organisation is now content with the Applicant's approach to the buffer from watercourses.

Environment Agency Answer:

We note the distances shown in Part 9 of the Draft Development Consent Order Revision E dated 19 December 2023.

These distances seem pretty standard and it appears the wording has been lifted from the Environmental Permitting Regulations 2016 so we have no issues with them.

We are, however, aware that page 11 of the Outline Operational Management Plan (Revision B dated December 2023) makes reference to buffers from watercourses, but it does not specifically mention main rivers. It is considered this should be amended to read:

Stand-off distances from waterbodies are:

- EA Main Rivers, Ordinary Watercourses and Ditches – 8m
- IDB watercourses – 9m
- Other water bodies – 25m

Please can the applicant address this point.

2.13.11 Applicant/Environment Agency

Question: The Environment Agency's views are sought on the submitted 'Risk Assessment on EMF Impacts on Fish' document which is appended to the Applicant's Written Summary of the Applicant's Oral Submission and responses at Issue Specific Hearing 3 and Responses to Action Points [REP3-034]. The Applicant is also asked to confirm whether this has the potential to have a bearing on the revised Information to Support a Habitats Regulations Assessment document [REP3-024] submitted at Deadline 3, as regards the sea and river lamprey.

Environment Agency Answer:

As a regulator, the Environment Agency uses the best available evidence to make informed decisions. The potential impacts of Electro Magnetic Fields (EMF) on fish are a new/emerging issue, and not well researched. We have contacted leading academic researchers in the field of EMF to help make an assessment of the application. Using the evidence submitted in the risk assessment, we believe the figures provided would prove a low risk to fish.

However, as this is an area of very little research, we cannot say there will categorically be no risk to fish populations. Accordingly, we would like the Applicant to agree to undertake a scheme of monitoring to corroborate the predicted impacts of EMF on fish, as presented in the Environmental Statement. We would suggest that the monitoring is linked to (and will therefore add to) academic research currently on going within the Trent catchment to demonstrate presence/absence of any impact to key protected species such as Lamprey at this site. This may include provision of fish tagging, and receivers at the cable crossing points. Relaying the results of the monitoring to us at regular intervals is also requested.

We therefore request the imposition of the following Requirement on the DCO:

- (1) No part of the electrical cables permitted under Work No. 6B shall become operational until a written electromagnetic field monitoring strategy for the River Trent has been submitted to and approved by the Environment Agency.
- (2) The electromagnetic field monitoring strategy must include, but not be limited to -
 - (a) an appropriate mechanism for surveying any behavioural responses from migratory fish species passing through the area of the cable crossing under the River Trent;
 - (b) a mechanism for relaying the results of the surveys to the Environment Agency on a regular basis; and
 - (c) proposed periods and timings during which surveys will be undertaken to coincide with the main migratory periods for species such as salmon and lamprey.
- (3) The monitoring strategy must be implemented as approved.

I hope these replies are of assistance.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the details below.

Yours sincerely

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