

Cottam Solar Project

Examining Authority's (ExA)

Consultation Draft Development Consent Order (dDCO)

**Schedule of Proposed Amendments to the Applicant's draft Development Consent Order
(dDCO) (Revision F) [[REP4-013](#)]**

Note to Interested Parties:

The Examining Authority (ExA) reminds Interested Parties (IPs) that the recommended schedule of changes to the draft DCO follows a statutory process. It is made irrespective of the recommendation the ExA will make to the Secretary of State (SoS) and is not an indication that the ExA has already made up its mind on the Application.

IPs participation and written responses will be treated as being given without prejudice to any position or view they hold on the scheme. IPs are invited to identify any outstanding concerns on the drafting of the dDCO that they have previously raised and not are not addressed below.

Please note that where parties have indicated that discussions are ongoing in relation to the wording of protective provisions, these matters may not have been included in the schedule below.

Words in bold are intended to assist in the identification of recommended amendments.

NO	ARTICLE/ SCHEDULE	TEXT AS SET OUT IN DRAFT DCO (REVISION F [REP4-013]).	EXA'S RECOMMENDED AMENDMENT	REASON AND NOTES
1.	Article 2 – Interpretation <i>Definition of 'Order land'</i>	“Order land” means the land which is required for, or is required to facilitate, or is incidental to, or is affected by the authorised development shown on the land plans and described in the book of reference;	“Order land” means the land shown coloured pink, blue and yellow on the land plans which is within the limits of land to be acquired or used and described in the book of reference;	The ExA considers the definition as set out in the dDCO is too broad and creates uncertainty. Alternative drafting to that proposed by the ExA will be considered.
2.	Article 2 - Interpretation Various including: <ul style="list-style-type: none"> • ‘access plan’ • ‘crown land plan’ • ‘important hedgerow plan’, • ‘public rights of way plan’ • ‘streets plan’ • ‘works plan’ 	By way of example: “crown land plan ” means the plans of that name identified in the table at Schedule 14 (documents and plans to be certified) and which are certified by the Secretary of State as the crown land plan for the purposes of this Order;	Wording should be amended so that it accords with the singular or plural noun. There are also a number of inconsistencies between the references to works plans and works plan contained in the dDCO. These will need to be amended so they accord.	There is an inconsistency between singular and plural which creates ambiguity.
3.	Article 2 – Interpretation <i>Definition of 'MMO'</i>	“MMO” means the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH;	Removal in its entirety	Consequential amendment flowing from removal of Article 44 and Schedule 9 (see items 8 and 12).
4.	Article 15 – Traffic Regulation Measures	15(5)(b)...to make the provision in one or more newspaper	Amend to ‘ newspapers ’	Typographical error.

5.	Article 17 - Removal of Human Remains	No reproduced due to length	Removal of Article in its entirety	There are no known burial grounds within the Order limits. The ExA is mindful of, and has previously drawn the Applicant's attention to, the approach taken by the SoS in the Longfield Solar Farm Order 2023. While the ExA notes the Applicant's responses to ExQ1.1.8 and oral representations at ISH5, it does not consider that the circumstances are materially different to those in the Longfield application. Furthermore, the ExA considers the possible Anglo Saxon Burial ground referred to by the Applicant can be adequately covered by the WSI secured under Requirement 12. The ExA is therefore minded to recommend the removal of this Article.
6.	Article 35(4)	(4) The Secretary of State must consult the MMO before giving consent to the transfer or grant to another person of the whole	Removal of sub-paragraph (4) in its entirety	Consequential amendment flowing from the removal of Article 44

		or part of the benefit of the provisions of the deemed marine licence.		and Schedule 9 (see items 8 and 12).
7.	Article 42 – Arbitration	42(2)...secretary of State or the Marine Management Organisation	Removal of words in bold	Consequential amendment flowing from the removal of Article 44 and Schedule 9 (see items 8 and 12).
8.	Article 44 – Deemed Marine Licence	The marine licence set out in Schedule 9 (deemed marine licence under the 2009 Act) is deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensable marine activities (as defined in section 66 of the 2009 Act) set out in Part 2, and subject to the conditions set out in Part 3, of the licence.	Removal of Article in its entirety.	The ExA notes the MMOs comments in its Deadline 4 submission [REP4-081] where it strongly objects to the inclusion of the DML. The ExA further notes that the Applicant is seeking the inclusion of a DML on a precautionary basis. The ExA is minded to recommend removal of these provisions from the dDCO.
9.	Schedule 2, Requirement 12 (Archaeology)	The authorised development must be implemented in accordance with the written scheme of investigation.	“12.—(1) No part of the authorised development may commence until a written scheme of investigation for that phase has been submitted to and approved by the relevant	The Applicant’s proposed wording was based on the acceptance of a Written Scheme of Investigation, yet this is not agreed with the relevant host authorities,

			<p>planning authority or, where the phase falls within the administrative areas of both Lincolnshire County Council and Nottinghamshire County Council, both relevant planning authorities.</p> <p>(2) For the purposes of sub-paragraph (1), “commence” includes any permitted preliminary works.</p> <p>(3) The scheme submitted under sub-paragraph (1) must include details of the following —</p> <ul style="list-style-type: none">(a) the programme and methodology of site investigation and recording;(b) the programme for post investigation assessment;(c) measures to protect, record or preserve any significant archaeological remains that have been found (meaning	<p>namely Lincolnshire County Council and Nottinghamshire County Council.</p> <p>The wording also contains limited detail in relation to how the written scheme of investigation is to be implemented.</p> <p>The applicant and Host Authorities may wish to consider whether the WSI could become an outline document and the ExAs proposed wording amended to require the final WSI to substantially accord.</p>
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			<p>preservation in situ, preservation by record or a combination of these elements)</p> <p>(d) provision for analysis of the site investigation and recording;</p> <p>(e) provision for publication and dissemination of the analysis and records of the site investigation;</p> <p>(f) provision for archive deposition of the analysis and records of the site investigation; and</p> <p>(g) nomination of a competent person, persons or organisation to undertake the works set out within the written scheme of investigation.</p> <p>(4) Any archaeological works or watching brief must</p>	
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			<p>be carried out in accordance with the approved scheme.</p> <p>(5) In the event that site investigation is required, the site investigation and post investigation assessment must be completed in accordance with the programme set out in the written scheme of investigation and provision made for analysis, publication and dissemination of results and archive deposition”.</p>	
10.	Schedule 2, Requirement 22 (Long term flood risk mitigation)	Not reproduced due to length	Delete	<p>The ExA is concerned that this requirement is not consistent with the need for the Secretary of State to consider the effects of the Proposed Development over its lifetime, including the worst case scenario as regards flood risk.</p> <p>The ExA does not consider this is a matter which can be deferred for future consideration.</p>

				<p>The Applicant has stated that the purpose of this requirement is long term flood risk mitigation, yet it cannot be known whether there would be appropriate mitigation after 40 years because the Applicant has not considered the flood risk between 40 and 60 years.</p> <p>The ExA is minded to delete this requirement.</p>
11.	Schedule 2, Requirement 23 (Electromagnetic Field Monitoring Strategy)	New requirement	<p>Addition to requirements:</p> <p>23.--(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.</p> <p>(2) The electromagnetic field monitoring strategy must include, but not be limited to - (a) an appropriate mechanism for surveying</p>	<p>The ExA notes the Environment Agency's (EA) request for [REP4-077] such a requirement because there is limited research before it over the risk to the fish population. In addition, the Humber Estuary Special Area of Conservation designation includes the River Lamprey and Sea Lamprey which the EA have stated lay their eggs in suitable gravels</p>

			<p>any behavioural responses from migratory fish species passing through the area of the cable crossing under the River Trent;</p> <p>(b) a mechanism for relaying the results of the surveys to the Environment Agency on a regular basis; and</p> <p>(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.</p> <p>(3) The monitoring strategy must be implemented as approved.</p>	<p>upstream of the proposed cable corridor. As such, the ExA is minded to recommend inclusion of such a requirement in the recommended DCO.</p>
12.	Schedule 9 – Deemed Marine Licence	Not reproduced due to length	Removal of Schedule in its entirety	See Article 44 above.
13.	Schedule 16, Part 13, Paragraph 170(6)	170(6) ‘...from complying with the protective provisions in this Part of this Schedule or any condition contained in Schedule 2 (requirements) or Part 2 of Schedule 9 (Deemed marine licence under the 2009 Act). ’	Removal of words in bold	Consequential amendment flowing from removal of Article 44 and Schedule 9 (see items 8 and 12).

14.	Schedule 16, Part 13, Paragraph 173(5)	'The withholding of an approval of the engineer under this paragraph will be deemed to be unreasonable if it would prevent the undertaker from complying with any condition contained in Schedule 2 (requirements) or Part 2 of Schedule 9 (Deemed marine licence under the 2009 Act). '	Removal of words in bold	Consequential amendment flowing from removal of Article 44 and Schedule 9 (see items 8 and 12).
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