



HELIOS RENEWABLE
ENERGY
PROJECT

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Consents and Licences Position Statement

June 2024



Helios Renewable Energy Project
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Planning Inspectorate Reference: EN010140

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Prepared on behalf of Enso Green Holdings D Limited

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PREFACE

This Consents and Licences Position Statement has been prepared in relation to an application to be made to the Secretary of State for the Department for Energy Security and Net Zero under Section 37 of the Planning Act 2008 (as amended), seeking a Development Consent Order for the Helios Renewable Energy Project (the 'Proposed Development').

The Proposed Development is located within the administrative area of North Yorkshire Council ('NYC').

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1. Introduction and Purpose

1.1. Introduction

- 1.1.1. This document has been prepared by Enso Green Holdings D Limited (the ‘Applicant’). It forms part of the application for a Development Consent Order (the ‘DCO Application’) as detailed in the **Planning Statement [EN010140/APP/7.1]** for the Helios Renewable Energy Project (the ‘Proposed Development’) that has been submitted to the Secretary of State for Energy Security and Net Zero under section 37 of the Planning Act 2008. This document should be read in conjunction with the other documents submitted with the Application.
- 1.1.2. The Proposed Development comprises the construction, operation (including maintenance) and decommissioning of a solar photovoltaic (PV) electricity generating station, with a total capacity exceeding 50 megawatts (MW) with export connection to the National Grid Drax Substation. The Proposed Development has an operational life of 40 years. The Proposed Development lies within the administrative area of North Yorkshire Council.
- 1.1.3. The Proposed Development qualifies as a Nationally Significant Infrastructure Project (NSIP) and will require a DCO to be granted from the SoS, due to its generating capacity exceeding 50MW.
- 1.1.4. The DCO Application Order Limits comprise 475 hectares (ha) of land, which includes the solar PV equipment, substation, battery energy storage system (BESS), interconnecting cable corridor, Grid Connection Corridor, green infrastructure, associated site accesses and other infrastructure integral to the construction, operation and maintenance of the development. The Proposed Development is also described in Schedule 1 of the **draft DCO (dDCO) [EN010140/APP/3.1]** where it is defined as the ‘authorised development’ and is divided into works packages alongside the corresponding works numbers.

1.2. Purpose and Structure of this Document

- 1.2.1. The purpose of this document is to provide information on the additional consents and licences that are or may be required to construct and operate the Proposed Development.
- 1.2.2. Section 37 of the Planning Act 2008 (‘PA 2008’) governs the content of an application

for a DCO, including the requirements for the necessary accompanying documents specified in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ('APFP Regulations').

- 1.2.3. Regulations 5 and 6 of the APFP Regulations provide the statutory requirements for what must accompany a development consent application. Guidance issued by the Department for Communities and Local Government: 'Planning Act 2008: Application Form Guidance' (June 2013) (paragraphs 45 and 46) requires that:

"Where the proposed development will also require other consents, licences, permits, etc, to enable it to be constructed and/or operational, and for which the Secretary of State is not the authorising body under the Planning Act, then the applicant must list and briefly describe these in Box 24. Reference should be made to any that have already been applied for, and a copy enclosed of any that the applicant may already be in the possession of.

The applicant should also, either in Box 24 or elsewhere in one of their application documents, set out whether there are, in principle, any reasons why such consents etc. might not be granted. In providing this information the applicant should reference responses received from the relevant authorising bodies regarding the likelihood of such consents etc. being granted."

- 1.2.4. This document lists those consents which the Applicant currently anticipates could be required. Further consents may be required as the Proposed Development develops due to unforeseen circumstances or legislative changes and the Applicant will keep the Examining Authority up to date with any such developments.

2. Consenting requirements incorporated within the draft DCO

- 2.1.1. Section 33 of the PA 2008 makes it clear that there is no requirement for certain principal conventional consents to be obtained where a DCO is required to authorise a project (as is the case for the Proposed Development).
- 2.1.2. Part 7 of the PA 2008, in particular section 120, makes it clear that the following can be included within a DCO:
- Ancillary matters (including those listed in Part 1 of Schedule 5 to the PA 2008);
 - The application, modification or exclusion of statutory provisions for which the provision may be made in the DCO;
 - Amendment, repeal or revocation of any local legislation, where thought necessary or expedient by the Secretary of State in consequence of or in connection with the DCO; and
 - Incidental, consequential, supplementary, transitional or transitory provisions and savings.
- 2.1.3. Section 150 of the PA 2008 states that a requirement to obtain certain prescribed consents, or authorisations, under the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 can be removed by the DCO with the consenting body's agreement.
- 2.1.4. From the above, it is clear that the intention of the PA 2008 is to encourage as many consents to be 'wrapped up' in a DCO as possible creating a 'one-stop-shop' approach for construction related consents.
- 2.1.5. The Applicant considers that the approach to including consents with a DCO should apply for both those that do, and those that do not, require the agreement of the relevant body under section 150 in order for them to be included in the DCO. The Applicant envisages the approach being as follows:
- The DCO contains an express provision disapplying the requirement for the consent in question.
 - In exchange, the DCO includes 'protective provisions' for the benefit of the body concerned. Protective provisions are incorporated into the **dDCO** for the

Proposed Development at Schedule 11 **[EN010140/APP/3.1]**.

- These protective provisions are specifically stated to have effect unless otherwise agreed between the Applicant and the body concerned.
- Compliance with the provisions is a matter as between the parties and can be enforced accordingly.
- Either way, the protective provisions provide a means for the body concerned to monitor, enforce compliance and to review the effectiveness of the approval regime enshrined in the protective provisions.
- The mechanism of approval being given under the protective provisions allows the body concerned to approach a project in two stages (i) the DCO application stage, where the principle of the project is accepted by the body concerned and the detail of the protective provision is negotiated and (ii) the subsequent approval stages under the protective provisions which cannot be unreasonably refused but where detailed matters going to construction can be properly considered.

2.1.6. This is a tried and tested approach adopted in numerous local and public (hybrid) Acts, Harbour Act Orders, Transport and Works Act Orders for many decades and which is now firmly established in the case of DCOs.

3. Consents

3.1.1. The principal consent for the Proposed Development will be a DCO. The DCO process enables land acquisition, along with many consents and powers, to be dealt with at the same time. The DCO application may, however, need to be supplemented by other applications because:

- A particular consent cannot be contained in the DCO;
- A consenting authority declines to allow a consent to be contained in the DCO; or
- It is not desirable or it is inappropriate to include a consent within the DCO due to the stage of design development and the level of detail available at the time the DCO is made.

3.1.2. The majority of consents required are included, or addressed, within the **dDCO** submitted with the Application **[EN010140/APP/3.1]**, as permitted by various provisions of the PA 2008, although discussions in some of these respects are continuing with the principal stakeholders. These fall into the following categories:

- Authorisation of all permanent and temporary works for the Proposed Development, which is described as the 'authorised development' in Schedule 1 to the **dDCO [EN010140/APP/3.1]** (equivalent to planning permission). Article 3 is the principal power in this respect;
- Compulsory acquisition of land and of rights over land, and the temporary possession of land. Articles 21 to 35 of the **dDCO [EN010140/APP/3.1]** provide these powers;
- Consent to carry out street works. Article 10 (Street works) of the **dDCO [EN010140/APP/3.1]** provides this power;
- Traffic regulation measures required during construction that are equivalent to Traffic Regulation Orders made under the Road Traffic Regulation Act 1984. Article 17 (Traffic regulation) of the **dDCO [EN010140/APP/3.1]** provides this power;
- Consent to alter the layout of streets and to form new, or alter or improve existing, accesses to the highway. Article 11 (Power to alter layout, etc., of streets) provides this power;
- Article 8 (Disapplication and modification of statutory provisions) provides for the

disapplication of a number of legislative provisions:

- i. Land drainage consent(s) under section 23 of the Land Drainage Act 1991 for works affecting the flow in ordinary watercourses and the provision of byelaws made under section 66 of that Act (disapplication of that requirement requires the consent of the relevant body);
- ii. Flood risk activity permit(s) from the Environment Agency under the Environmental Permitting Regulations (England and Wales) 2016 (disapplication of that requirement requires the consent of the relevant body);
- iii. The provisions of the Neighbourhood Planning Act 2017 which relate to the temporary possession of land.

3.1.3. Some of these consents are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. As a result, under section 150 of the PA 2008, the relevant consenting body must agree to the inclusion of these consents within (i.e. disapplied by) the DCO. Discussions between the Applicant and these consenting bodies are ongoing, and the Applicant is confident that the necessary agreements will be obtained before or during the examination of its application. The Applicant will provide appropriate protective provisions where necessary within the DCO (Schedule 11 to the **dDCO [EN010140/APP/3.1]**).

4. Other consents and licences

4.1.1. A summary of the additional consents and licences likely to be required is set out in Table 1 below.

4.1.2. Table 1 lists the type of consent or licence required, the relevant consenting body, any agreement that has been reached with that body, actions to be undertaken and the status of the relevant application (e.g. whether the consent or licence has been granted or the anticipated application submission date).

Table 1: Summary of additional consents and licences likely to be required

Nature of Consent / Licence		Key Legislation	Consenting Authority	Status / Comment
1.	Electricity Generation Licence	Electricity Act 1989	Office of Gas and Electricity Markets (OFGEM)	An application for a generation licence will be applied for post-consent when the project's construction phase is complete/near completion and the project is in a position where it is ready to carry out licensable activities.
2.	Bilateral Connection Agreement To connect the Proposed Development to the NETS	N/A	National Grid	As set out in the Grid Connection Statement [EN010140/APP/7.3] , the Applicant has entered into a grid connection agreement to export electricity generated by the Proposed Development to the National Grid.
3.	Water abstraction or impoundment licence	Water Resources Act 1991 (as amended by the Water Act 2003), Environment Act	Environment Agency	This is a post-consent item which will be kept under review. If

Nature of Consent / Licence		Key Legislation	Consenting Authority	Status / Comment
		1995, Water Resources (Abstraction and Impounding) Regulations 2006		groundwater pumping/dewatering is required, an application will be made by the Applicant's contractor as necessary.
4.	Water activity permits	Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	This is a post-consent item which will be kept under review. If water discharge activities are required then an application for water discharge activity environmental permit will be made by the Applicant's contractor before water is discharged.
5.	Permit for transport of abnormal loads For delivery by road of loads that fall outside standard practice (if required)	Road Vehicles (Authorisation of Special Types) (General) Order 2003 or with authorisation from the Secretary of State under the Road Traffic Act 1988	Department for Transport, National Highways, Local Highway Authority or the police and bridge owners (if any) as appropriate	This is a post-consent item which will be applied for once development consent for the Proposed Development has been granted. Appropriate applications and notifications, in accordance with the Construction Traffic Management Plan [EN010140/APP/6.3.5.2] , will be made by the Applicant's contractor in advance of the delivery of any

Nature of Consent / Licence		Key Legislation	Consenting Authority	Status / Comment
				abnormal loads.
6.	Section 61 Consent Control of noise on construction sites	Control of Pollution Act 1974	North Yorkshire Council	This is a post-consent item which will be kept under review. Any applications required will be made by the Applicant's contractor before construction commences.
7.	Health and Safety related consents	Health and Safety at Work Act 1974 and subsidiary legislation	Health and Safety Executive (HSE)	This is a post-consent item which will be kept under review. Any applications required will be made by the Applicant's contractor before construction commences.
8.	Protected species licence	The Conservation of Habitats and Species Regulations 2017, Wildlife and Countryside Act 1981 or Protection of Badgers Act 1992	The Secretary of State or Natural England	This is a post-consent item which will be kept under review. Any applications required will be made by the Applicant's contractor before construction commences.