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Our ref: AN/2024/135611/02-
L01

Your ref: EN010142

Date: 06 November 2024

By email:

tillbridgesolarproject@planninginspectorate.gov.uk

Dear Nicholas

Order Granting Development Consent for the Tillbridge Solar Project (EN010142) - Written representations submission.

1.0 Introduction

1.1 Your records will show that, on 24 July 2024, the Environment Agency made Relevant Representations to the proposal by Tillbridge Solar Limited to construct a solar farm to the East of Gainsborough in Lincolnshire.

2.0 Scope of these representations

2.1 The points raised in our letter of 24 July 2024 are currently being considered in connection with a Statement of Common Ground being prepared by AECOM. The latest version of this was submitted by the applicant at Deadline 1 and discussions are still ongoing on it at the time of writing this letter.

2.2 We wish to maintain all the points in the letter of 24 July unless resolved by means of the Statement of Common Ground or referred to in this written representation submission.

2.3 These written representations therefore give an update on matters that have progressed since our letter of 24 July 2024 or any new matters that have come to light which we consider you need to be made aware of.

2.4 Our views are given without prejudice to any future detailed representations that we may make throughout the examination process. We reserve the right to add to or amend these representations, including requests for Development Consent

Order Requirements and protective provisions should further information be forthcoming during the course of the examination on issues within our remit.

2.5 In this response, we wish to update you on various topics as follows:

3.0 Ecology and biodiversity

3.1. Since sending our letter of 24 July 2024, there have been ongoing discussions on these topics.

3.2 As you will be aware, in paragraph 3.2 of our letter, we did note some slight discrepancies within the Biodiversity Net Gain calculations around the watercourse element which was concerning the culverting of small sections. The applicant has responded to this by confirming that these small discrepancies are due to the rounding up of the metric to two decimal points within DEFRA's Statutory Metric tool. They say the **Biodiversity Net Gain Report [AS-062]** clarifies this. We have accepted this response and therefore this point has been addressed.

3.3 Further to paragraphs 3.3 to 3.10 of our letter, there have also been ongoing discussions about the impact of Electro Magnetic Fields (EMFs) on fish with the aim of bringing the situation in line with discussions which have taken place for other solar farm proposals at Cottam (your reference EN010133), West Burton (your reference EN010132) and Gate Burton (your reference EN010131).

3.4 In connection with these other schemes, the records show the applicants have been encouraged to collaborate on a monitoring strategy to collect further data on the effects of EMF on migratory fish in the River Trent crossing of the proposed grid connection cable. We are continuing to ask for the same for this scheme via a commitment in the Operational Environmental Management Plan (OEMP) which was updated at Deadline 1.

3.5 An initial contact has been made by the Environment Agency with Hull University with a view to them co-ordinating the project. They are interested in the proposal and want to explore the conversation more. A meeting to discuss this is being arranged at the time of writing this letter.

3.6 Further updates will be given in connection with the Statement of Common Ground and we are hopeful that they can be brought to a satisfactory conclusion providing the monitoring commitment remains in the OEMP. However, we wish to highlight it as a potential concern if the situation on this matter cannot be resolved through the process of agreeing that document.

4.0 Hydrology, flood risk and drainage

4.1 You are aware that we made various points in paragraphs 4.2, 4.3 and 4.4 of our Relevant Representations on these topics including a request for us to be a consultee on the proposed emergency response plan and updated drawings for all main River crossings plus being included as a consultee on the Decommissioning Environmental Management Plan.

4.2 In response to this, we are in receipt of more information from the applicants (as summarised in the Statement of Common Ground submitted at Deadline 1) and they have submitted various documents at Deadline 1 to reflect the points they have made (These comprise an updated draft Development Consent Order (EN010142/APP/3.1 REV03), updated Environmental Statement Figures 3-12 Typical Trenchless Crossings Cross Sections EN010142/APP/6.3 REV01) and 10-5 Watercourses, Flood Zones and Internal Drainage Boards (EN010142/APP/6.3 REV01), an updated Framework Construction Environmental Management Plan (EN010142/APP/7.8 REV01) and an updated Decommissioning Environmental Management Plan (EN010142/APP/7.10 REV01).

4.3 On the basis of all this information, and provided we are included in the final DCO as a consultee on the Construction Environmental Management Plan (and that this enables us to have further opportunities to comment on the emergency response plan and river crossing proposals) and Decommissioning Environmental Management Plan, we are happy that all of our points in paragraphs 4.2 point 2, 4.3 and 4.4 have been addressed.

4.4 However, our comments in paragraph 4.2, point 1 on the subject of Protective Provisions have not been addressed. The latest situation with these is detailed in Section 9 of these Written Representations.

4.5 In addition, in paragraph 4.5 of our Relevant Representations, we referred to 2 temporary construction compounds being within Flood Zone 3 and asked for the situation in relation to these to be looked into further by the applicants. They have now done this and submitted to us a Technical Note prepared by AECOM. The applicants have advised they intend to submit this at Deadline 2.

4.6 We have considered this document and, provided it is submitted to you in the form we have seen, can advise that the proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following Planning Condition is included within the Development Consent Order:

Condition

The development shall be carried out in accordance with the submitted technical note (6.2 Appendix 10-3 Annex F Technical Note 24-10-14, AECOM, 17 October 2024) and the following mitigation measures it details:

- A safe refuge shall be provided at both the North and South temporary construction compounds with finished floor levels no lower than 7.66mAOD
- The Emergency Response Plan for the site will include a requirement for the appropriate persons to sign up to the Environment Agency's flood warning service and will include details of the evacuation plans for the site on receipt of a flood warning.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons

- To reduce the risk of flooding to the proposed development and future occupants

4.7 In the light of the above, we are aware of Section 8.1.2 in the appendix 10-3 Flood Risk Assessment with document reference EN010142/APP/6.2 which says 'No additional flood risk mitigation or floodplain compensation is required for the scheme to be compliant with flood risk policy and guidance'. This will need amending to reflect the need for the works described in the Planning Condition asked for above.

4.8 We also have the following informative comments to make which we should be grateful if you could take into account in determining this application:

4.9 According to Environment Agency modelling, during a breach of defences flood event on the River Trent, flood heights at the site could reach up to 7.33mAOD. The flood warning and emergency response situation therefore needs to be considered.

4.10 We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network. Planning practice guidance (PPG) states that, in

determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

4.11 In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise those determining the applications to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you refer to 'Flood risk emergency plans for new development' and undertake appropriate consultation with the relevant Local Authority emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 173 of the NPPF and the guiding principles of the PPG.

4.12 Finally, on the topic of flood risk, you will be aware from paragraph 4.5 point 3 of our Relevant Representations that we asked about whether there were any other above ground structures in Flood Zones 2 and 3. In response to this, the applicant has confirmed that the cable route corridor and connection at Cottam power station will comprise no permanent above ground infrastructure in Flood Zones 2 and 3. On this basis, this point has been addressed.

5.0 Ground conditions and contamination

5.1. As you will be aware from paragraph 5.3 of our letter of 24 July, we highlighted the need for the applicant to determine the need for a water abstraction licence at an early stage.

5.2 The applicant has responded to this in connection with discussion to agree the Statement of Common Ground by advising the principal contractor will determine the need, if any, to abstract water and any licences to do so. This is set out within the Framework Construction Environmental Management Plan (CEMP) (EN010142/APP/7.8 REV01).

5.3 On this basis, providing this remains in the CEMP, this point is resolved.

5.4 In addition, in paragraph 5.7 of our letter, we highlighted the need to be involved in any discussions about remediating any contamination prior to the commencement of development and to be given the opportunity to comment on any proposals of this nature.

5.5 The applicant has responded to this in connection with the Statement of Common Ground by advising they are happy for the Environment Agency to be consulted on the findings of the site investigation and any proposed remedial works. They add the CEMP has been updated at Deadline 1 to clarify this. In addition, they add Requirement 12 of the draft DCO submitted at Deadline 1 has been updated to provide for the Environment Agency as a prescribed consultee in respect of the final CEMP in general and that our views would be taken into account when designing/carrying out the works.

5.6 Provided the final DCO contains this amendment to ensure we are consulted on the CEMP and this, in turn, secures consultation with us before any remedial works take place, this point is considered to have been addressed and we look forward to receiving any reports for comment in due course.

6.0 Water environment and foul drainage

6.1 As you will be aware from paragraph 6.11 of our letter of 24 July, our preference is always for developments to connect to public sewers. Where this is not possible, we then gave advice on what the applicant should do.

6.2 In discussions in connection with the Statement of Common Ground, the applicant has advised it is not practical to connect to the public sewer due to the distances involved to make a connection. They therefore propose a self-contained drainage system which would be regularly emptied in accordance with all the relevant waste management requirements prevailing at the time. This is accepted and, on this basis, this point is considered to have been addressed.

7.0 Waste

7.1 Various points were made in paragraphs 7.1 to 7.15 of our letter of 24 July 2024 on the topic of waste. These remain as matters that the developer will have to comply with in building and operating the development. They are controlled by other Legislation and so we have no further views to make on them in connection with this DCO application.

8.0 Battery energy storage systems

8.1 In our letter of 24 July we made various comments in paragraphs 8.1 to 8.8 about the proposed battery energy storage systems. Our main comments relate to fire safety, the prevention of pollution of watercourses by water used for putting out any fire which becomes contaminated and the safe disposal of any batteries when they come to the end of their lives.

8.2 As a result of discussions in connection with the Statement of Common Ground, the applicant has considered the implications associated with fires. He advises the Framework Battery Safety Management Plan contains information on this. We also note there is reference to the production of an Emergency Response Plan within the Framework Construction Environmental Management Plan.

8.3 As referred to in Section 11 of this letter below, the Environment Agency wishes to be a named consultee on the Battery Safety Management Plan and Framework Construction Environmental Management Plan. Provided these requirements are included in the final DCO and the latter of these documents allows us to comment on the Emergency Response Plan, we consider this allows for any concerns about safety and pollution of water courses we have to be resolved in due course.

8.4 In response to what will happen to the batteries at the end of their lives, the applicant has assured us that the waste duty of care will be followed for all waste generated on site and all waste will be managed in accordance with the relevant Legislation at the time. On this basis, this comment has been addressed.

9.0 Environmental Permitting and the Protective Provisions within the Development Consent Order (DCO)

9.1 As you will be aware from our letter of 24 July 2024, we advised we do not agree to the set of Protective Provisions included in the draft DCO and we will only agree to the disapplication of the requirement for the Flood Risk Activity Permit once we have agreed with wording of them. This is proposed to be achieved via a standard set of Protective Provisions which the Agency is seeking to agree at a national level. We were expecting to complete this exercise by the end of August. You will then be aware that, at the Issue Specific Hearing on 15 October, I anticipated this would be within 3 to 4 weeks from 8 October. Unfortunately, I am now advised that matters have been delayed further and we are now working to a date of the end of November 2024. This is still well within the timescale for dealing with this DCO application.

9.2 As we have said previously, we do not anticipate any fundamental disagreement and are still confident that we should be able to agree the protective provision wording with the application within the examination period. We will update the applicant and yourselves on this matter as soon as we can.

10.0 Anglian Water Authority Act 1977 (AWAA 1977)

10.1 Further to our comments on this topic, the applicant's legal team has responded with the comments in the following text in italics:

10.2 The Act provides for the development of certain rivers and waterways for recreational purposes for areas including Lincolnshire and provides the Anglian Water Authority powers of management and control in respect of rivers and waterways. The River Trent marks the boundary between Lincolnshire and Nottinghamshire and the Cable Route Corridor crosses the River Trent just south of Littleborough to connect the Principal Site to the National Grid Cottam Substation. The undertaker seeks to disapply the Act on the basis that the Act would allow the Anglian Water Authority to exercise control of the rivers and waterways in Lincolnshire, including the River Trent, which could disrupt the connection of the Principal Site to the National Grid Cottam Substation.

10.3 As raised in the meeting with the EA, it is noted that Schedule 3 only seeks to disapply those sections of the AWAA (and other legislation captured within the Schedule) "in so far as they relate to the construction of any numbered work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation, maintenance or decommissioning of the authorised development". Where there is no conflict between sections of the AWAA and the authorised development these will remain operative and unaffected by the Order. It is also noted that the recently made solar Orders within the vicinity of the Scheme (Gate Burton Energy Park Order 2024 and Cottam Solar Farm Order 2024) both included the AWAA within their schedule of legislation to be disapplied.

10.4 We have considered this response and consider that the explanation provided by the applicant is sufficient and we are no longer concerned by the disapplication of the AWAA 1977. One of our considerations in getting to this position is the fact that, as noted in Section 9 above, we are aiming to have our Protective Provisions in place. Assuming this occurs, they should be capable of addressing any concerns we may have with detailed works plans regarding the cable route corridor crossing the River Trent.

11.0 Requirements

11.1 As you will be aware from Section 11 of our letter of 24 July, the Environment Agency wishes to be a specific named consultee in respect of Schedule 2, Requirement 6 (1) (battery safety management), Requirement 7 (1) (landscape and ecological management plan); Requirement 8 (1) (biodiversity net gain strategy); Requirement 12 (1) (construction environmental management plan); Requirement 13

(1) (operational environmental management plan); and Requirement 20 (1-4) (decommissioning and restoration).

11.2 The applicant has agreed and has responded to this by advising he has submitted a revised DCO at Deadline 1 containing changes which add the Environment Agency as a consultee for all these topics. Providing these changes are included in the final DCO, this point is considered to have been addressed.

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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Planning Advisor

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