



**Canal &  
River Trust**

Making life better by water

National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Your Ref EN010143

Our Ref IPP – 168

Tuesday 11<sup>th</sup> June

**EN010143– East Yorkshire Solar Farm**

**Interested Party Reference Number: EYSF-SP036**

**Deadline One: Comments on Relevant Representation and summary of oral submissions from the Issue Specific Hearing held on 21 May**

**Waterway: River Ouse**

The Trust is a statutory party for the purposes of s.88(3) of the Planning Act 2008 (“the 2008 Act”) as the Application is likely to have an impact on the River Ouse, or land adjacent to the river, for which the Trust is Navigation Authority. The proposed route of the cable connection for the Project would have one interface/crossing below the River Ouse. The River Ouse in this location is a tidal commercial waterway used by both large commercial vessels and for leisure purposes. The Trust is a statutory undertaker for the purposes of s.127 of the 2008 Act. As Navigation Authority for the River Ouse, the Trust has a duty to maintain the river as a commercial waterway and is responsible for navigational safety of this part of the river.

Following the submission of the Trust’s Relevant Representation and our Attendance at the Issue Specific Hearing on 21<sup>st</sup> May 2024, please find below a summary of our oral submissions and update to our written comments.

### **The Draft Development Consent Order (DCO) and Protective Provisions for the Trust - overview**

There are a number of provisions within the draft DCO which could impact the Trust as Navigation Authority for the River Ouse. Following our relevant representation, the Trust has been in discussion with the applicant upon the content of the order and the relevant provisions.

At the hearing, the Trust confirmed that agreement has been reached with the applicant on the content of the order. We understand that a revised Draft Order is to be submitted by the applicant at Deadline One, which addresses our comments and is agreed by the Trust subject to any relevant changes to the Draft Order during Examination.

Matters raised in our Relevant Representation have been addressed as follows:

#### **Schedule 3 Legislation to be Disapplied**

By way of Article 6 and Schedule 3 the DCO would disaply legislation in so far as it relates to the construction, operation, maintenance or decommissioning of the authorised development.

#### **Canal & River Trust**

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The applicant has since shared the content of this legislation with the Trust. Our observations highlight that the Boothferry Bridge Act 1925 contains powers and duties which may be relevant to the Trust's role as navigation authority for the part of the River Ouse in the vicinity of the bridge. Accordingly, amended text to article 6 of the draft DCO has been agreed with the applicant to ensure the Trust's operations would not be inadvertently affected.

#### **Schedule 14, Part 4 Draft Protective Provisions**

Our Relevant Representation raised comments with regards to the completion of wording within the Draft Protective Provisions. Notably, these comprise of:

- Paragraph 28 'Powers requiring the Canal & River Trust's consent'
- Paragraph 39 'Making good of detriment; compensation and indemnity, etc'
- Paragraph 41 'Capitalised Sums'

As confirmed at the Issue Specific Hearing, text relating to these matters has now been agreed. We understand that these will be incorporated within a revised draft DCO to be submitted by the applicant at Deadline One.

#### **The Trust's Third Party Works Code of Practice**

As with other nationally significant infrastructure projects (NSIPs) that include works that interact with the Trust's network, any parts of the Project with the potential to affect the River Ouse should be carried out in accordance with the Canal & River Trust Third Party Works Code of Practice (CoP). DCOs for these NSIPs have included an express obligation obliging the applicant to have regard to the CoP in the detailed survey, design, construction and approval of the relevant works. The Trust's CoP is designed to safeguard all users of the navigation and to deal with the nuances of developing adjacent to a commercial waterway with an ever changing tidal riverbed.

We are satisfied that the agreed Protective Provisions to be included in the draft DCO submitted at Deadline One appropriately secure compliance with the CoP.

#### **Works Affecting the River Ouse**

Our Relevant Representation has raised the following matters concerning Work Number 3, which relates to the cable crossing of the River Ouse, notably:

- The parameters of the Framework CEMP relating to the location of HDD works in relation to the river;
- Risks of noise and vibration on the river; and
- Impact of any temporary lighting on navigational safety

The applicant has confirmed that the Framework CEMP details will confirm that the HDD works would be undertaken a minimum of 5m beneath the bed of the River Ouse and that there will be a 16m buffer between the HDD send and receive pits and the landward toe of flood defences. This will be reflected in the agreed Statement of Common Ground, due to be submitted by the applicant at Deadline One.

The agreed draft Protective Provisions include requirements for the survey of the waterway, approval of plans and protective works by the Trust in addition to a requirement for consultation and collaboration with the Trust over the design of the works. The Trust are satisfied that the content of these, in combination with the CEMP details referred to in the paragraph above, are appropriate to ensure that risks associated with the above matters can be satisfactorily addressed.

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## **Discharge of Water into, and the prevention of siltation etc. of the river**

Unmanaged discharge of water into the Ouse could result in a local impact on siltation, increase the risk of bank collapse or, in the event of a large discharge of water being sought, could impact the safe navigation of passing vessels.

The agreed draft Protective Provisions include a list of powers requiring consent from the Trust which include, under part 2 (2), in relation to the discharge of water. We are satisfied that they provide appropriate protection to ensure that any impact of any proposed discharge of water to the Ouse can be adequately controlled.

## **Use of the River Ouse for Works Traffic**

Our Relevant Representation highlighted that options for alternative non-road based construction transport to and from the site, including use of the river, should be considered alongside the main application, to explore whether this option is feasible (even if just to discount this option).

The applicant has responded to this comment within the agreed Statement of Common Ground with the Trust, due to be submitted at Deadline One. We are satisfied this responds to our comment.

## **The Trust's interest in the River Derwent**

The applicant's Book of Reference as originally submitted has named the Trust as having an interest in the River Derwent in respect of maintenance (Plot 18/09).

As noted in our Relevant Representation, the Trust has no responsibilities as Navigation Authority (or landowner) for the River Derwent in this location. We understand that the Book of Reference is to be amended by the applicant to avoid any future potential confusion. The updated Book of Reference is due to be submitted by the applicant at Deadline One.

The above comments are given without prejudice to other matters or comments that may be raised by the Trust at a later stage of the Examination process.

Please do not hesitate to contact me with any queries you may have.

Yours sincerely,

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