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24th April 2023

Dear Ms Powis,

The Yorkshire Green Energy Enablement (Green) NSIP by National Grid Electricity Transmission Plc.

Version 1 Draft S106 Agreement by Womble Bond Dickinson

Leeds City Council has the following comments to make on the draft S106 Agreement for this project.

Part B of section entitled 'Background'

The land to be bound by the terms of the legal agreement should be identified. Schedule 1 at Appendix 1 is currently blank. All landowners of the 'Sites' will need to be signatories to the legal agreement.

Para. 7.1

The initial estimate of the Council's legal costs is £2,350.00. Womble Bond Dickinson should provide an undertaking to pay this, unless otherwise advised that the cost would be greater.

Para. 7.3

The Council would not issue an invoice and evidence of costs unless its legal costs exceeded £2,350.00.

Para. 11.3.2

Notices to be served should be sent to all Council's listed on the front of the agreement.

Para. 15.1

CIL Liability does not apply to those parts of the development within the Leeds administrative district because no habitable floorspace is being provided.

Para. 18

The Planning Inspectorate ask that S106 Agreements not be completed in counterparts unless there is an exceptional circumstance.

We are not aware that any exceptional circumstances exist and would therefore question the need for the agreement to be signed in counterparts.

Schedule 2, paras. 2.1 and 2.2

We would recommend 3 months rather than 6 months, to deliver swifter benefits of BNG.

We understand that 10% BNG would be provided across the entire project area. We wish to see that a proportionate part of the 10% BNG is provided within the Leeds administrative district, to benefit the biodiversity of Leeds. The Council identified a general area within and/or close to the site area within Leeds for BNG provision, which is referenced at para. 32 of our submitted Local Impact Report.

Schedule 2, para. 2.3

The specified notification period of 25 business days is too short. We would recommend 40 business days, which would effectively provide 8 weeks for Council's to provide their decision notification on any proposed Biodiversity Offsetting Scheme.

Schedule 2, para. 2.5

Another sub-paragraph is recommended to be added to identify and allow for off-site BNG provision. The agreement should include for 'any other land by agreement with the relevant Council or its partners', as an option for delivery of the biodiversity units. This would allow for BNG delivery on land vested in Leeds City Council or one of our partners (e.g. Yorkshire Wildlife Trust, RSPB, Yorkshire Water).

Schedule 2, para. 2.6

Measures to reach the desired/ stated condition of a habitat can take several years to achieve. To make sure the Biodiversity Management Plan is on track, we would recommend the submission of monitoring reports in years 1, 3, 5, 10, 20 and 30 years. For assessing these monitoring reports, Leeds City Council would be a BNG Monitoring Body and therefore should receive an agreed sum. Para. 2.6 does not provide much detail on the assessment of satisfactory completion of BNG works.

BNG Monitoring Body sums (charged for monitoring off-site BNG through consideration of BNG Management Plan and BNG Habitat Monitoring Reports) will depend on what off-site scenario BNG is delivered and whether over 10 Biodiversity Units are being delivered. If the off-site land is managed by the council or its partners, there will be different fees as outlined in scenario 4.

	Scenario	Financial sums
1	Off-site delivered by developer or other private land (not a habitat bank)	BNG Monitoring & Reporting <u>one-off</u> sum of: Up to 10 Biodiversity Units = £2.5K Over 10 Biodiversity Units = £5K
2	Off-site delivered by private habitat bank	BNG Monitoring & Reporting <u>one-off</u> sum of: Up to 10 Biodiversity Units = £2.5K Over 10 Biodiversity Units = £5K
3	Off-site delivered by Council but not through sale of Biodiversity Units	BNG Monitoring & Reporting <u>one-off</u> sum of: Up to 10 Biodiversity Units = £2.5K Over 10 Biodiversity Units = £5K And will need to include: Bespoke off-site BNG Sum for implementing minimum 30 years BNG Management Plan and

		for BNG Habitat Monitoring.
4	Off-site delivered by Council through sale of Biodiversity Units	30-year BNG Management Plan sum and BNG Monitoring & Reporting Body sum of £5K per Biodiversity Unit BNG Implementation and BNG Habitat Monitoring sum of £22.5K per Biodiversity Unit.

Schedule 2, para. 2.7

Biodiversity enhancements delivered pursuant to any Biodiversity Offsetting Scheme should be positively managed from delivery for the lifetime of the development, rather than for 30 years. We would recommend the following replacement text: *'National Grid will manage and maintain the biodiversity enhancements delivered pursuant to the Biodiversity Offsetting Scheme for the lifetime of the development'*. Please note that depending on who is delivering the Biodiversity Units, the above may say Leeds City Council rather than National Grid if the Units are to be delivered on land vested in Leeds City Council, via scenarios 3 or 4.

Likewise, on-site BGN should also be positively managed for the lifetime of the development.

Kind regards

Louise White
Team Leader for Minerals, Waste and Energy Planning.