

19 September 2024

EN070008

David Wallis
Lead Panel Member
Examining Authority for the Viking CCS Pipeline

Dear Mr Wallis

Stallingborough Energy Project Limited – Deadline 6 Submission

- 1.1 Further to the virtual meeting between solicitors for Stallingborough Energy Project Limited (SEPL) and the Applicant on 27 August 2024, the Applicant confirmed on Friday, 13 September 2024 that it was willing to enter into an interface agreement with SEPL. SEPL's solicitors have commenced work on a draft agreement and SEPL looks forward to continued positive discussions with the Applicant.
- 1.2 SEPL is, however, mindful that there is very limited time remaining in the Examination to enter into an agreement with the Applicant. Until an agreement to manage the interaction between the Viking CCS Pipeline (the Scheme) and the Grange Energy Park is entered into, there is no process to ensure the development of the Grange Energy Park and the Scheme can coexist. There is therefore a significant risk to SEPL that there will be a material impediment to the delivery of the Grange Energy Park as a direct result of the exercise of the powers included in the Order.
- 1.3 In view of this risk, draft protective provisions for the benefit of SEPL are attached to this letter. SEPL considers that, unless and until an interface agreement is entered into with the Applicant, the attached protective provisions should be included in the Order. This will provide the necessary process is in place to enable the Grange Energy Park to be developed, and ensure that the Scheme does not unnecessarily impede or obstruct vital renewable energy generation and storage.
- 1.4 The draft protective provisions are adapted from those included in the Gate Burton Energy Park Order 2024 and the Cottam Solar Project Order 2024 for the protection of the developers of different energy projects sharing land within the relevant Order limits. The protective provisions are consistent with standard protective provisions, and are considered to be appropriate for use in this situation where two projects are being developed on the same land.
- 1.5 The draft protective provisions provided at this Examination deadline have also been provided to the Applicant today so that the Applicant has the opportunity to make comments upon them, notwithstanding SEPL's intention and hope that an interface agreement may be entered into as soon as practicable enabling SEPL to withdraw its objection.

Stallingborough Energy Project Limited

part of Island Green Power

PART [x]
**FOR THE PROTECTION OF STALLINGBOROUGH ENERGY PROJECT
LIMITED**

1. The provisions of this Part apply for the protection of Stallingborough unless otherwise agreed in writing between the undertaker and Stallingborough.

2. In this Part—

“apparatus” means the solar panels, cables, structures or other infrastructure owned, operated or maintained by Stallingborough within the Solar Project Area;

“construction” includes execution, placing, altering, replacing, reconstruction, relaying, maintenance, extensions, enlargement and removal; and “construct” and “constructed” must be construed accordingly;

“the Grange Energy Park” means the proposed solar and energy storage project of that name to be located on land including the Solar Project Area, as further described in the request for a screening opinion made to North East Lincolnshire Council and published on 20 February 2024 with reference DM/0183/24/SCR;

“the Grange Energy Park application” means a planning application under the Town and Country Planning Act 1990 submitted to North East Lincolnshire Council for the Grange Energy Park;

“Stallingborough” means Stallingborough Energy Project Limited (company number 14549253) or its successor in title;

“Solar Project Area” means those parts of plots 7/10, 8/1 and 8/2 as shown on the land plans and described in the book of reference in which Stallingborough holds an interest in land or has the benefit of an option agreement;

“plans” includes sections, drawings, specifications, designs, design data, software, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of the Solar Project Area;

“specified works” means so much of any works or operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is within the Solar Project Area.

3. The consent of Stallingborough under this Part is not required where—

- (a) the Grange Energy Park application has been refused and the period to appeal that decision has expired with no appeal having been made;
- (b) the Grange Energy Park application has been refused and the appeal of that decision has been finally determined; or
- (c) Stallingborough has not commenced the Grange Energy Park before the expiry of any planning permission granted pursuant to the Grange Energy Park application.

4. Where conditions are included in any consent granted by Stallingborough pursuant to this Part, the undertaker must comply with the conditions if it chooses to implement or rely on the consent, unless the conditions are waived or varied in writing by Stallingborough.

5. The undertaker must not under the powers of this Order acquire, extinguish, suspend, override or interfere with any rights that Stallingborough has in respect of any apparatus or has in respect of the Solar Project Area without the consent of Stallingborough, which must not be unreasonably withheld or delayed but which may be made subject to reasonable conditions.

6.—(1) The undertaker must not under the powers of this Order carry out any specified works without the consent of Stallingborough, which must not be unreasonably withheld or delayed but

which may be made subject to reasonable conditions and if Stallingborough does not respond within 28 days of the undertaker's request for consent, then consent is deemed to be given.

(2) Subject to obtaining consent pursuant to sub-paragraph (1) and before beginning to construct any specified works, the undertaker must submit plans of the specified works to Stallingborough and must submit any such further particulars available to it that Stallingborough may reasonably require.

(3) Any specified works must be constructed without unreasonable delay in accordance with the plans approved in writing by Stallingborough.

(4) Any approval of Stallingborough required under this paragraph may be made subject to such reasonable conditions as may be required for the protection or alteration of any apparatus (including proposed apparatus) in the Solar Project Area or for securing access to such apparatus or the Solar Project Area.

(5) Where Stallingborough requires any protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such protective works must be carried out to Stallingborough's reasonable satisfaction.

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any specified works, new plans instead of the plans previously submitted, and the provisions of this paragraph shall apply to and in respect of the new plans.

7.—(1) The undertaker must give to Stallingborough not less than 28 days' written notice of its intention to commence the construction of the specified works and, not more than 14 days after completion of their construction, must give to Stallingborough written notice of the completion.

(2) The undertaker is not required to comply with paragraph 6 or sub-paragraph (1) in a case of emergency, but in that case it must give to Stallingborough notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with paragraph 6 in so far as is reasonably practicable in the circumstances.

8. The undertaker must at all reasonable times during construction of the specified works allow Stallingborough and its servants and agents access to the specified works and all reasonable facilities for inspection of the specified works.

9.—(1) After the purpose of any temporary works has been accomplished, the undertaker must with all reasonable dispatch, or after a reasonable period of notice in writing from Stallingborough requiring the undertaker to do so, remove the temporary works in, on, under, over or within the Solar Project Area.

(2) If the undertaker fails to remove the temporary works within a reasonable period of receipt of a notice pursuant to sub-paragraph (1), Stallingborough may remove the temporary works and may recover the reasonable costs of doing so from the undertaker.

10. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable Stallingborough to maintain or use the apparatus no less effectively than was possible before the obstruction.

11. The undertaker must not exercise the powers conferred by this Order to prevent or interfere with the access by Stallingborough to the proposed Solar Project Area.

12. To ensure its compliance with this Part, the undertaker must before carrying out any works or operations pursuant to this Order within Solar Project Area request up-to-date written confirmation from Stallingborough of the location of any apparatus or proposed apparatus.

13. The undertaker and Stallingborough must each act in good faith and use reasonable endeavours to co-operate with and provide assistance to each other as may be required to give effect to the provisions of this Part.

14. The undertaker must pay to Stallingborough the reasonable expenses incurred by Stallingborough in connection with the approval of plans, inspection of any specified works or the alteration or protection of any apparatus or the proposed Solar Project Area.

15.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any specified works, any damage is caused to any apparatus or there is any interruption in any service provided, or in the supply of any goods, by Stallingborough, or Stallingborough becomes liable to pay any amount to any third party, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Stallingborough in making good such damage or restoring the service or supply; and
- (b) compensate Stallingborough for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Stallingborough, by reason or in consequence of any such damage or interruption or Stallingborough becoming liable to any third party as aforesaid.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Stallingborough, its officers, servants, contractors or agents.

(3) Stallingborough must give to the undertaker reasonable notice of any such claim or demand and no settlement or compromise shall be made, unless payment is required in connection with a statutory compensation scheme without first consulting the undertaker and considering its representations.

(4) Stallingborough must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies. If requested to do so by the undertaker, Stallingborough shall provide an explanation of how the claim has been minimised. The undertaker shall only be liable under this paragraph for claims reasonably incurred by Stallingborough.

(5) The fact that any work or thing has been executed or done with the consent of Stallingborough and in accordance with any conditions or restrictions prescribed by Stallingborough or in accordance with any plans approved by Stallingborough or to its satisfaction or in accordance with any directions or award of any arbitrator does not relieve the undertaker from any liability under this Part.

16. Where in consequence of the proposed construction of any part of the authorised development, Stallingborough makes requirements for the protection of existing or proposed apparatus under paragraph 6, the undertaker must use its reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient execution of the Green Energy Park or operation of any apparatus (as the case may be) and Stallingborough must use its reasonable endeavours to co-operate with the undertaker for that purpose.

17. Any dispute arising between the undertaker and Stallingborough under this Part must be determined by arbitration under article 49 (arbitration).