

**From:** [REDACTED]  
**To:** [Cleve Hill Solar Park](#)  
**Subject:** Cleve Hill Solar Park  
**Date:** 30 August 2019 16:33:14  
**Attachments:** [REDACTED]

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Good afternoon,

Please find attached the County Council's response to the Examiners Second Written Questions, and comments on the DCO.

If you have any queries, please let me know

Kind regards,

Francesca

**Francesca Potter MRICS | Senior Strategic Planning and Infrastructure Officer |**  
Environment, Planning and Enforcement | Growth, Environment and Transport | Invicta House,  
Maidstone, Kent, ME14 1XX | Internal: 415673 | External: 03000 415673

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Mr. David H Rose  
Lead Member of the Panel of Examining  
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**Environment, Planning and  
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ME14 1XX

Phone: 03000 415673  
Ask for: Francesca Potter  
Email: [REDACTED]

**BY EMAIL ONLY**

Your reference: EN010085

30 August 2019

Dear Mr. Rose,

**Re: Application by Cleve Hill Solar Park Ltd for an Order Granting Development  
Consent for the Cleve Hill Solar Park – Draft Development Consent Order**

The County Council would like to provide comments on the draft Development Consent Order submitted by the Applicant at Deadline 3 on 1 August 2019.

**Part 1 – Preliminary**

*Interpretation*

The draft DCO defines “permissive paths”; however, it does not provide any detail on the alignment of these paths or the process of establishing these new routes. Additional wording should be inserted into the DCO to clarify the permissive path alignment as the route shown on the Rights of Way Plan. The DCO should also define the process for establishing the permissive paths. KCC recommends the following text is included within the DCO - “following consultation with the KCC PROW and Access Service, the applicant will enter into a licensed permissive path agreement, with the terms and conditions to be agreed with the local highway authority.”

## **Schedule 1 Part 2 – Requirements**

### *Requirement 8: Surface and Foul Water Drainage*

KCC welcomes the inclusion of KCC as Lead Local Flood Authority as a consultee for this Requirement.

### *Requirement 9: Archaeology*

The County Council recognises that Requirement 9 secures the agreement and implementation of a Written Scheme of Investigation (WSI) for archaeological works. This will be in accordance with the Outline WSI and covers the phases of site investigation and post investigation works through assessment, analysis, reporting and archiving. KCC can confirm that it is satisfied with the wording of Requirement 9.

### *Requirement 10: Construction Environmental Management Plan / Requirement 13: European protected species*

The County Council recognises that these requirements refer to breeding birds and protected species. However, the DCO does not currently refer to the other species recorded on site, including foraging bats, water voles and reptiles. The development is proposing to retain the majority of the habitat in which these species were recorded, but there is a need to ensure that they will be protected during the works. KCC recommends that there is a need for a requirement that requests the submission of an Ecological Mitigation Strategy, which includes all species including those associated with the designated sites.

KCC notes that Requirement 13 states: *(3) Where a European protected species is shown to be present, the phase of authorised development must not begin until, after consultation with Natural England and the relevant planning authority, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority.*

It would be useful for the scheme to have an overarching Detailed Mitigation Strategy. If the surveys carried out on the site identify something different than anticipated, the applicant should engage with the Local Planning Authority and Natural England to agree mitigation. The wording for this requirement as currently drafted suggests that if any European protected species are recorded, development will not commence until mitigation has been agreed. The site is adjacent to the Swale SPA/Ramsar/SSSI and is known to provide functionally linked habitat – therefore it is likely that species associated with these sites will be within the site during the pre-commencement surveys.

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The County Council looks forward to working with the applicant and Planning Inspectorate and welcomes the opportunity to comment on matters of detail throughout the Examination.

Should you require any additional information or clarification, please do not hesitate to contact me.

Yours sincerely,



**Stephanie Holt-Castle**

Interim Director for Environment, Planning and Enforcement

## Cleve Hill Solar Park - Kent County Council Response to Examiner's Second Written Questions

ExQ2	Question to	Question	Kent County Council Response
<b>2.0.</b>	<b>General, Cross-topic and Miscellaneous Questions</b>		
2.0.3	Kent County Council	At 4.31 of its <u>Local Impact Report [REP1-004]</u> , Kent County Council requests a Minerals Assessment to assess the safeguarding issues of the economic geologies and the impact that the scheme will have. How relevant is this if the Project was limited to a 40-year time limit? Would the MEASS managed realignment proposals ultimately facilitate mineral extraction or potentially cause a permanent sterilisation	<p>As the Minerals and Waste Planning Authority, the County Council is responsible for ensuring that mineral resources and minerals infrastructure are not needlessly sterilised by other forms of development thus ensuring that a steady and adequate supply of minerals is maintained into the future to facilitate sustainable development. This safeguarding approach is supported by national planning policy guidance in the National Planning Policy Framework (NPPF) and locally in the adopted Kent Minerals and Waste Local Plan 2013-30 (KMWLP). The NPPF requires that development proposals should not be permitted within mineral safeguarding areas where they might constrain potential future use of the economic mineral resource. As such, the policies within the KMWLP aim to prevent the sterilisation of Kent's potentially economic mineral assets.</p> <p>Having carefully assessed the application and information provided by the applicant, the following matters appear to be relevant:</p> <p>It is clear that the proposed development is of a temporary nature and the siting of the solar farm will not result in any loss of the underlying mineral deposits that may be of economic value directly. However, the development is for 40 years. This makes the timespan of the development incompatible with the relevant exemption criterion of Policy DM 7 (4) of the KMLWP. It is not necessarily the case, as put forward by the Mineral Assessment provided to KCC by the applicant on 16 August 2019, that any of the Brickearth or Sub-Alluvial River Terrace Deposits (that would be temporarily sterilised) will not be needed over this period with any certainty. The available current landbank for Brickearth is 22</p>

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			<p>years - three years short of the NPPF requirements, in addition, the land-won sand and the gravel landbank is now well below the 7-year minimum. It may be that 'windfall' sites of Brickearth may potentially come forward by reason of the fact that several (12) development sites identified in the adopted Swale Borough Council Local Plan have Brickearth deposits to provide overall a sufficient supply to meet requirements. However, this is not a certainty for a 40 year timescale. Moreover, the site has potentially substantial sand and gravel reserves, that could be argued are required at this time to ensure a steady and adequate level of supply, as landbank levels are below the NPPF 'at least 7-year' requirement. Therefore, exemption criterion 4 of Policy DM 7 cannot reasonably be invoked with regard to the safeguarded Brickearth Sub-Alluvial River Terrace Deposits as the timescale proposed is arguably too long. The criterion states:</p> <p><b>Policy DM 7</b></p> <p><b>Safeguarding Mineral Resources</b></p> <p>Planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding, where it is demonstrated that [either]:</p> <p><b>4. the incompatible development is of a temporary nature that can be completed and the site returned to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed; or</b></p> <p>The Minerals Assessment does state that without the proposed solar park</p>
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			<p>development the safeguarded minerals will be lost to the marine environment as a consequence of a process of coastal managed realignment within 20 years. This may be the case, though it does not have a direct bearing on whether or not mineral sterilisation is arguably occurring and over a timescale that satisfies criterion 4 of Policy DM 7.</p> <p>Alternatively, if the applicant however were to advance the proposed prior extraction of the mineral deposits Policy DM 9 (Prior Extraction of Minerals in Advance of Surface Development), there is, arguably, a significant environmental impact that has not been explored. The area lies within the Medway and Swale Special Protection Area (SPA) and any large-scale mineral extraction as an act of enabling development prior to the siting of the solar farm development is unlikely to be compatible with the SPA designation, although it is noted that evidence has not been submitted to demonstrate this either way. The requirements of Policy DM 9 have not been explored by the Minerals Assessment. This policy requires any prior extraction to be able to be completed without unacceptable impacts to the environment or communities. In order to be satisfied on mineral safeguarding matters, further clarification should be sought to consider the implications of Policy DM 9 or whether any of the other exemption criteria of Policy DM 7 may apply.</p> <p>KCC has sought to make applicant aware of these comments on the Minerals Assessment and will work with the applicant to resolve these queries.</p>
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2.0.4	The Applicant Kent County Council	A minor difference between Kent County Council and the Applicant is reported in the Applicant's response to Kent County Council's Local Impact Report at paragraph 4.29 [REP2-034] in relation to the Flood Risk Assessment and areas with a concentration of flow. Has this difference been resolved and, if so, where is the agreement set out?	<p>The County Council would like to ensure that reference is made to the requirement to seed the area beneath the panels to ensure that surface water run off from the panels does not create an erosion hazard.</p> <p>KCC would like to clarify that reference is being made to the areas below the panels, including the concentration from rain hitting the solar panels and the increase in velocity in leaving the panels, as opposed to the concentrations from topography.</p> <p>The County Council requests a Drainage Strategy which would provide details of any specific requirements. This Drainage Strategy should be submitted either during this Examination stage, or during detailed design.</p> <p>The County Council does not consider that sufficient information has been provided by the applicant to resolve this matter.</p>
<b>2.3.</b>	<b>Cultural Heritage</b>		
2.3.1	Kent County Council	In its Deadline 3 updated Outline LBMP [REP3-005], the Applicant has modified the proposals for the use of the World War II pill box on the Proposed Development site as a bat roost. Are Kent County Council's concerns around the cultural heritage impacts of these proposals now satisfied?	Kent County Council notes that the revised proposals as set out by the applicant has now excluded the external mounding and overgrowing previously proposed. Given that the external appearance will be mostly preserved, KCC is satisfied with the revised proposals as long as there is a management regime in place that ensures the control of the vegetation (ivy growth) as suggested in paragraph 304, bullet point 3 of the Outline Landscape and Biodiversity Management Plan.
2.3.4	Kent County Council	Historic England [REP2-087] indicates that: <i>"The site of the proposed development has archaeological potential for a range of non-designated assets of different periods and deposits/site types but they are unlikely to</i>	The County Council is satisfied with the approach and methodologies set out in the Outline Written Scheme of Investigation (WSI). Detailed WSIs can be agreed following approval of the Development Consent Order application and in advance of development works. The Council's Principal Archaeological Officer will continue to work with the applicant's



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		<p><i>be of national significance, such that they might have a level of significance comparable to a scheduled monument. Therefore, Historic England does not wish to engage with non-designated archaeological matters and we defer to Kent Council's Heritage Conservation Team".</i></p> <p>The Applicant's Responses to Written Representations received at Deadline 2 [REP3-020] indicates that it will continue to engage with Kent County Council (page 104). Is Kent County Council satisfied with the terms of the updated Outline Written Scheme of Investigation for a Programme of Archaeological Works [REP3-007] and the manner in which it is intended to be secured through Requirement 9 of the updated dDCO [REP3-003], and does it have any outstanding concerns around archaeology?</p>	<p>archaeological and heritage consultants to develop the programme of archaeological works in detail. The WSI can be secured through an appropriately worded requirement, as demonstrated in Requirement 9.</p>
<b>2.8.</b>	<b>Socio-economics</b>		
2.8.1	Kent County Council	<p>At paragraph 4.22 of the Local Impact Report [REP1-004], the Council suggests that the Public Right of Way network connectivity relies on roads to provide connections in places and that the increase in Heavy Goods Vehicles during construction introduces safety concerns and may deter people from using the Public Right of Way network. Please could the Council highlight the particular stretches of</p>	<p>The County Council's concerns relate to the following roads:</p> <ul style="list-style-type: none"> <li>• Faversham Road</li> <li>• Seasalter Road</li> <li>• Sandbanks Lane</li> <li>• Head Hill Road</li> </ul>

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		road where this concern exists?	
2.8.6	The Applicant Kent County Council	<p>The updated Mitigation Schedule submitted at Deadline 3 [REP3-011] states the mechanism for securing the proposed permissive path, however this is yet to be determined. It is noted that this is 'mitigation' but rather an enhancement. Nevertheless, please can the Applicant confirm the proposed route to securing this? Can Kent County Council also provide comment as to whether a 'Permissive Path Agreement' would be their preferred option?</p>	<p>The County Council's preference would be for the path to be dedicated as a Public Footpath through a Creation Agreement with the County Council (Highway Act 1980 s25). The dedication as a PRoW would secure the long term sustainability and protection of this route, creating a positive legacy for the Solar Park after its future decommissioning. The County Council believes that the applicant may be unwilling to proceed in this manner.</p> <p>Alternatively, it would be for the applicant to enter into a licensed agreement with the County Council for the new Permissive Path. Whilst the applicant could dedicate permissive access on their own, it is recommended that the applicant enters into a formal permissive path agreement with the County Council, as this approach would clarify the terms and conditions of public use and clearly define future maintenance responsibilities.</p> <p>The benefits of this approach for the applicant are that the County Council would have details of the permission registered and be able to promote responsible use of the route by the public. Furthermore, the landowner would be afforded greater protection against claims for new PRoW across their land made under the Wildlife and Countryside Act 1981.</p> <p>With the agreement of the applicant, KCC would request that the Permissive Path features on OS recreational mapping, to increase public awareness of the new off-road link.</p> <p>The applicant should engage with the County Council at the earliest opportunity to agree the wording of this Licensed Permissive Path</p>

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			Agreement.
2.8.12	The Applicant Kent County Council	<p>Paragraph 2.1.1 of the Outline CTMP submitted at Deadline 3 [REP3-009] states that “<i>during peak construction activity up to 400 members of staff could be working on site</i>”. Please can the Applicant confirm whether this is a maximum daily figure, or will the figure vary due to factors such as shift patterns for example? Please can Kent County Council also provide an opinion on this matter?</p> <p>In addition, Kent County Council, in their Local Impact Report [REP1-004], state “<i>no figures have been provided to give an indication of the traffic profile associated with staff movements throughout the construction period</i>”. Please can the Applicant provide an estimation of such movements during construction?</p>	<p>Kent County Council presumes that the maximum 400 members of staff quoted as being on site during the peak construction activity is intended to represent a maximum daily figure, but appreciates that this is typically only likely to occur for a limited period during the construction programme, when several different construction activities requiring separate trade skills overlap. Clarification by the applicant of this assumption would be welcomed. However, from earlier discussion with the applicant, it is understood that the working day on this project is expected to start before the AM peak on the highway network, and finish after the PM peak. As such, staff movements are likely to take place outside of the network peaks and not conflict with the sensitive periods on the highway. In addition, the specialist nature of many of the construction activities typically attracts a non-local workforce that is temporarily housed in hotel type accommodation and brought to site more efficiently in shared transport. These are measures that can be encouraged through the Construction Traffic Management Plan (CTMP).</p>
<b>9.0</b>	<b>Traffic and Transport</b>		
2.9.1	Kent County Council	<p>Following up on the Applicant's response to ExA1.9.1 [REP2-006], could the Council please confirm that they are content that the spread of vehicles arriving at the site following ferry arrivals can be controlled through the proposed CTMP in accordance with the Applicant's response that:</p> <p><i>“The equipment will be off-loaded from the cargo vessel(s) either into a holding area at</i></p>	<p>The proposed use of a holding area at the port is considered to be a workable method of controlling the spread of vehicles arriving at the site and is believed to be entirely consistent with the type of control that is expected to be included within the CTMP.</p>

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		<p><i>the port or directly onto vehicles for onward transport to the site.</i></p> <p><i>It is envisaged that multiple vehicles can be loaded simultaneously and released from the port in a controlled manner. The remaining goods/equipment will be held at the port until collected and transported to the site in a similar manor at a later stage.</i></p> <p><i>It is expected that the routing, timing and management of vehicles to/from the site will be controlled via the Construction Traffic Management Plan which is required by Requirement 11 of the draft DCO.</i></p>	
2.9.4	The Applicant Kent County Council	<p>At the second Open Floor Hearing on 22nd July 2019, Mr Tom King [REP3-087] raised a concern relating to Table 14.6 of Chapter 14 of the ES [APP-044], which sets out 2018 Baseline Annual Average Daily Traffic Flows. Mr King suggested that Table 14.6 overestimated Heavy Goods Vehicle flows and, as such, Kent County Council may have based its views on unreliable data. Could the Applicant comment on this suggestion and clarify whether the difference between the parties relates to the incorporation of growth factors and translation of counts into future scenarios?</p> <p>We note that the Applicant provided the relevant raw traffic data at Deadline 3 [REP3-024]. Please could Kent County</p>	<p>The County Council is satisfied with the data presented in Table 14.6, which has been derived from the 2017 surveys commissioned by the applicant and scaled to 2018 using the relevant TEMPRO (Trip End Model Presentation Program) growth factor and using the appropriate combination of vehicle classes to determine the HGV numbers. It is also noted that the percentages presented for the HGV traffic is broadly similar to those previously identified in the Transport Assessment that accompanied the London Array development, thus giving a level of confidence that the figures are correct.</p>

## Cleve Hill Solar Park - Kent County Council Response to Examiner's Second Written Questions

		Council confirm whether the Highway Authority is satisfied that Table 14.6 of Chapter 14 of the ES [APP-044] provides an accurate picture of HGV flows?	
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