

Application by Ecotricity for an Order Granting Development Consent for the Heckington Fen Solar Park Project

The Examining Authority's written questions and requests for information (ExQ1)

Issued on 17 October 2023. Responses are due at Deadline 2, on 7 November 2023

Please find below answers to the Examining Authority's written questions from the Environment Agency (EA) [ref no. 20038495].

Ref No.	Question	EA response
3	Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations	
CA.1.1	<p>APs are asked to provide comments on the following:</p> <ul style="list-style-type: none"> i) If they are aware of any inaccuracies in the Book of Reference (BoR) [PS-034], Statement of Reasons (SoR) [PS-030] or Land Plans [PS-013]? If so, please set out what these are and provide the correct details. ii) Consideration of if there are any reasonable alternatives to any Compulsory Acquisition (CA) or Temporary Possession (TP) sought by the Applicant. iii) Confirmation if there are any areas of land or rights that the Applicant is seeking the powers to acquire that you consider are not needed. iv) Detail any other concerns which regard the legitimacy, 	<p>i) The Environment Agency is not aware of any inaccuracies in the Book of Reference or Land Plans in relation to its landholdings. (However, please see response to CA.1.6 below in relation to an inaccuracy in respect of Plots 63A, 63B and 72)</p> <p>The Environment Agency hopes to have resolved all issues in relation to its landholdings by voluntary agreement before the close of the Examination period.</p> <ul style="list-style-type: none"> ii) The Environment Agency has no comments on this. iii) The Environment Agency has no comments on this. iv) The Environment Agency has no comments on this.

Ref No.	Question	EA response
	<p>proportionality or necessity of the CA or TP powers sought by the Applicant that would affect land that you own or have an interest in.</p>	
CA.1.6	<p>The draft SoCG with the Environment Agency (EA) [REP1-004] notes that the parties are negotiating Heads of Terms with a view to entering into an option for an Easement agreement. The Schedule of Negotiations with Statutory Undertakers and Landowners v3 [PS-036] states that the Applicant is hopeful that the necessary rights can be acquired by voluntary agreement, and that concerns relating to plots 63A, 63B and 72 have been addressed by the agreement of protective provisions. Could the EA provide an update regarding this matter and set out any further comments relating to CA and TP of rights.</p>	<p>The draft documents in respect of an option for an Easement agreement have been forwarded to the Environment Agency's solicitors. We, like the Applicant, remain hopeful that the necessary rights can be acquired by voluntary agreement and that these negotiations will be concluded before the end of the Examination period.</p> <p>As mentioned in CA.1.1 above, we do not agree with the statement relating to plots 63A, 63B and 72 included in the Schedule of Negotiations with Undertakers and Landowners [REP1-005 on page 20]. Although Protective Provisions have now been agreed with the Applicant, these relate solely to the disapplication of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk activity permit. In this respect they are separate from the Environment Agency's concerns as the landowner of plots 63A, 63B and 72.</p> <p>For the avoidance of doubt, the Environment Agency's landholdings, in relation to all plots listed in the Book of Reference, are being dealt with under the Easement agreement negotiations. The agreed protective</p>

Ref No.	Question	EA response
		provisions relate solely to the Environment Agency's regulatory remit under the Environmental Permitting Regulations 2016 (and for this application, this relates solely to flood risk activity permits).
5	Development Consent Order	
DCO.1.5	<p>The RR from the EA [RR-009] requests amendments and additions to the protective provisions in the dDCO [PS-024], and the Applicant's response [REP1-019 and REP1-022] states that protective provisions are now agreed and that the dDCO will be updated at D2. Point 6.5 of the draft SoCG with the EA [REP1-011] refers to the wording of Schedule 14 in terms of replacement of 'business day' with 'working days' and the time period for notification. The Applicant's response to this and their oral submissions to ISH1 [REP1-019] states that an amended wording will be reflected in the next deadline. Could the EA confirm if this would address their concerns, and whether they have other outstanding comments relating to the dDCO including the protective provisions at Schedule 13 Part 6 (previously Part 5). The EA may wish to combine their answer with WE.1.4</p>	<p>The Environment Agency has now agreed protective provisions, which we understand will be included in the next iteration of the draft DCO to be submitted at Deadline 2.</p> <p>In respect of Schedule 14, we understand that in the next iteration of the draft DCO the term 'business day' will replace the term 'working day' and a time period of 20 days will be included, as requested, to enable adequate consultation to be undertaken.</p> <p>We also understand that the Environment Agency will be included as a consultee to the discharge of Requirement 18 (Decommissioning and restoration).</p> <p>Providing all the above are found to be satisfactory on review of the revision submitted at Deadline 2, this will address all our outstanding comments relating to the draft DCO.</p>
12	Water Environment & Flood Risk	

Ref No.	Question	EA response
WE.1.4	<p>Water Bodies in a River Basin Management Plan [PS-017] shows the range of watercourses which cross the Order Land and in the surrounding area, many of which will need to be crossed by the Proposed Development.</p> <p>i) Could the Applicant clarify how the directional drilling or similar technology under the IDB drains and other major wet drains would be controlled through the DCO process?</p> <p>ii) Could the IDB, the EA and Lead Local Flood Authority (LLFA) provide any further comments they wish to raise regarding the proposed methods of watercourse crossings and whether you consider the final details are able to be adequately secured by Requirement 6 of the dDCO [PS-024] alongside the protective provisions set out in Schedule 13 Parts 5 and 7.</p> <p>iii) For the smaller field ditches can the Applicant explain how these will be monitored for water retention and rainfall during</p>	<p>ii) Requirement 6 of the dDCO [AS-008] secures that the development accords with the Outline Design Principles [APP-232], and this specifies in Table 1.5 that Works No. 5, 5A and 5B will be undertaken using Horizontal Directional Drilling or similar technology for laying of the cables under the South Forty Foot Drain (the main river that falls under the jurisdiction of the Environment Agency). The protective provisions included in Schedule 13, Part 5 for the Environment Agency will ensure detailed plans and the methodology in relation to the main river crossing will need to be approved by us prior to the works taking place. Accordingly, we are satisfied that details are adequately secured in relation to those watercourses crossings under the Environment Agency's jurisdiction.</p> <p>iv) The Environment Agency is satisfied that subject to the identified mitigation within the outline Construction Environment Management Plan (oCEMP) being fully implemented and best practice methods being followed in respect of pollution prevention; as well as the relevant water abstraction licences and discharge permits being obtained prior to construction commencing for that activity, there should be no deterioration in waterbody status.</p>

Ref No.	Question	EA response
	iv) construction to ensure that silt run off is minimised. Could the EA, IDB or LLFA comment on the mitigation and monitoring measures.	