

TILLBRIDGE SOLAR PROJECT

WEST LINDSEY DISTRICT COUNCIL

**ISSUE SPECIFIC HEARING 3 – ENVIRONMENTAL MATTERS**

**WEDNESDAY 15<sup>TH</sup> JANUARY 2025**

**SUMMARY OF HEARING**

ITEM	
ISSUE SPECIFIC HEARING 3	
3a HEALTH AND SAFETY AND WELLBEING	
<p>The effect of the Proposed Development on human health – including the long term wellbeing of the adjacent communities and the risk presented by incidents relating to battery energy systems storage and working adjacent to other major hazards.</p> <p>Cumulative effects.</p>	<p>WLDC noted that the applicant's topic expert was unable to attend and no material discussion was held on the agenda item. WLDCs position on this matters remains as set out in previous representations.</p> <p>WLDC noted the discussion regarding fire safety and its potential implications upon human health. WLDC agree that a Battery Safety Management Plan, secured through a 'requirement' in the DCO is the appropriate mechanism to seek to control any fire related incidents.</p> <p>WLDC is also supportive of a 'Local Resilience Forum', however remain unclear how this would operate in practice. The mechanism to enable prompt notification to residents and the appropriate action for them to take requires clarification. Having clear procedures prior to the determination of the application is important to ensure that enforcement processes are understood, which includes the roles and responsibilities of each party that may be involved.</p>

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3b LANDSCAPE AND VISUAL IMPACT	
Methodology – including study area, viewpoints and zones of theoretical visibility, and the approach to cumulative/in-combination effects	<p>WLDC confirm that they raise no fundamental objections to the environmental assessment as reported in Chapter 8 of the ES.</p> <p>The objections WLDC raise regarding the determination of the acceptability of cumulative landscape character and visual effects relate to the approach to assessment outside of the scope of EIA (although using the outputs of the EIA to inform an overall judgement. These issues are discussed further below.</p>
Assessment of landscape effects	<p>At the Hearing, the ExA requested that the matters of difference between the applicant and WLDC be made clear.</p> <p><b>Tillbridge Solar Project – in solus</b></p> <p>WLDC maintain an objection to the landscape character impacts of the Tillbridge Solar Project in solus. Its impact on The Cliff, a designated Areas of Great Landscape Value (AGLV) forms the basis of this principal objections. The objection relates to the components of the projects that are located within the AGLV and immediately adjacent to it in the neighbouring Till Vale Landscape Character Area.</p> <p>The National Landscape Area (NCA) within which The Cliff AGLV is located is NCA 45 ‘Northern Lincolnshire Edge with Coversands’. NCA 45 comprises a ridge of Jurassic limestone spanning from Lincoln to the Humber Estuary. This scarp slope rises prominently from the adjacent low lying land, forming the Edge of Cliff. It affords panoramic outward views, especially to the west. The scarp slope is a defining characteristic.</p> <p>As set out in the West Lindsey Landscape Character Assessment (1999), there are three distinct local character areas: the Lower Till Vale, The Cliff and the Limestone Dip Slope that descends towards the Ancholme valley and the Wolds to the east. The transitional zones between all 3 LCAs occur at the top of The Cliff (the ridge). As is natural, there are no precise reference points to delineate the transition between one LCA and the adjacent one. The experience and interpretation of the changes in landscape character on the ground, is one where the characteristics are identified, but the role of one character in forming/defining the other is also recognised especially in a distinct transition from the Till Vale into The Cliff LCAs. This transition, in WLDCs view, is a sensitive one.</p> <p>WLDCs position is that the Lincolnshire Edge scarp slope, ‘The Cliff’, is not only an LCA protected by policy as an AGLV in its own right, but that it also has a clear influence on the character of the adjacent ‘Till Vale’. The Cliff has a strong influence of the Till Vale by providing strong definition and is clearly a strong defining landscape character component of NCA 45. From large parts of the Till Vale, The Cliff forms a distinct and strongly characterising skyline feature, with striking impacts from its feature. It has an intrinsic relationship with the Till Vale.</p>

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	<p>The Tillbridge Solar Project extends up to, into and encroaches upwards into The Cliff LCA/AGLV. The impact of the project directly upon The Cliff and the area that bridges that LCA with the Till Vale This impact which raises the harm to landscape character considerably and is considered unacceptable.</p> <p>WLDC consider that this unacceptable harm could be reduced significantly through a scheme design that recognised the sensitivity and importance of The Cliff, and avoided the imposition of infrastructure in the transitional area and the designated AGLV itself. Removing infrastructure from this eastern area of the scheme would serve to significantly minimise landscape character impacts whilst maintaining an NSIP scale energy generating station project and the benefits it would bring in terms of the generation of electricity from a renewable source.</p> <p><b>Cumulative impacts</b></p> <p>As expressed in previous submissions, WLDC consider the Tillbridge Solar Project unacceptable due to the cumulative landscape character impacts it will impose.</p> <p>As the fourth solar electricity generating station NSIP within the West Lindsey District, the application must be determined by recognising the magnitude of its impacts alongside the other projects as additions to the current baseline; that is a rural agricultural landscape.</p> <p>The three other NSIP projects now consented have all be determined against the baseline that applied at the point the respective decisions were made. As a consequence, despite there being three large scale projects with significant environmental impacts being determined within a similar timeframe, no decision maker has yet to consider the collective impact of all of the projects in considering if they are acceptable. That responsibility now falls to the decision maker in relation to this application.</p> <p>WLDCs view is clear in that the tipping point of harm to landscape character has been reached by the cumulative impacts of the three consented NSIP solar farm projects. Regardless of how Tillbridge Solar Project complies with policy in itself, the key consideration is the additional harm it adds to the consented projects.</p> <p>The landscape character change from the current baseline to that imposed by the four projects would be stark, resulting in a swift and radical change from a landscape character that defines the culture of West Lindsey to once that comprises alien modern infrastructure. The scale and speed of this landscape character change to area spanning approximately 20km x 11km (an estimates extent of solar infrastructure from all four projects ) is unprecedented and unacceptable. The situation of four NSIP adjacent to each other is unprecedented and no decision made under the Planning Act 2008 has yet to consider such impacts and approach to decision making. The situation constitutes an 'exceptional circumstance' for the purpose of NPS EN-1 (para. 4.2.15).</p> <p>In determining the application, WLDC encourages the impacts of not just the conclusions reached in the ES to be taken into account. The cumulative landscape character impacts must be considered as a kinetic and</p>

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	<p>sequential basis, with an appreciation of the scale of the change across the district. This requires a careful awareness of how the projects link together to create the significant adverse impacts. Despite the discussion regarding the 'sequential' experience, WLDC notes that this matter is not addressed or considered explicitly in the ES (chapter 12 only refers to 'sequential' in response to consultation representations).</p> <p>NPS policy does not foresee a unique situation such as those before the decision maker for this project. To WLDC it is clear that the drastic erosion of the prevailing and historic landscape character of West Lindsey is unacceptable on a cumulative basis.</p>
Assessment of visual effects	<p>WLDC confirm that there is not criticism of the approach to the EIA, with the appropriate methodology being applied.</p> <p>WLDC noted the comments from the applicant that assessing the visual effects of the project requires an understanding of the sequential effects as one moves throughout the area. It was acknowledged that the ZTV was not particularly helpful in that regard. The applicant also confirmed the only assessment of visual effects is found in ES Chapter 12.</p> <p>WLDCs position is that there has not been an informed and balanced assessment of the actual visual effects that will be experienced, particularly on a cumulative basis. The ES is simply an assessment, based on VPs and ZTVs, to reach a conclusion based upon a methodology. The cumulative assessment turns only to the other projects and considers what Tillbridge adds to the impacts that those projects will impose (again, largely on a viewpoint by viewpoint basis). It was acknowledged by the applicant that the assessment of visual effects and judgements were only carried out by the LVIA author only.</p> <p>To ensure that a thorough understanding of the large scale cumulative visual effects are applied to policy, WLDC consider that an assessment based upon travelling through the landscape must be carried out. To understand the impacts, consideration of how they will be experienced from traveling north at Blyton through the projects to Saxilby in the south, and Marton in the west to The Cliff in the east is required. It must also be acknowledged that the solar generating station projects will be experienced at points along all major highways in the district alongside minor roads that pass nearby/through them. There will be limited relief from experiencing the visual impacts of the projects cumulative across the West Lindsey District, which WLDC contends is an exceptional circumstance that is not foreseen as an inherent impact in NPS policy.</p> <p>WLDC expected to find a more thorough analysis such as this either in a separate document (non-EIA) or in the Planning Statement to provide an assessment that factors in all aspects to reach planning judgement against policy 'in the round'. No such assessments have been provided.</p>

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	<p><b>Residential Amenity</b></p> <p>Similar to the comments made above, WLDC's position is that there is no assessment within the application documents of the impact of the project (individually and cumulative) in terms of impacts upon residential amenity. WLDC would expect to see a separate assessment where, typically, an LVIA professional and a planning professional would carry out a joint assessment to provide an assessment against policy. Other impacts such as noise, vibration, traffic and glint and glare would also be included to provide a rounded judgement of acceptability.</p> <p>During the hearing there was a discussion around the necessity of a Residential Impact Assessment. The applicant contended that one was not required with the ES providing the impacts required to inform a robust decision. WLDC note, however, that the Gate Burton Energy Park NSIP application did carry out a Residential Visual Amenity Survey, which was helpful in providing an assessment on a 'property-by-property' basis and applying impacts to established 'tests' of acceptability.</p> <p>WLDC also noted the discussion regarding the impact upon what is understood to be 'financially involved' properties. Regardless of whether a current property owner is to benefit from the scheme or not, the assessment of impacts upon properties remain the same and residential amenity should be considered equally in the public interest.</p>
Glint and glare	WLDC made no further comments regarding glint and glare.
Consideration of good design	WLDCs position on good design relates to the impacts upon The Cliff LCA/AGLV as set out above. Based upon the applicant's methodology, WLDC consider is an oddity that the project extends upwards and onto the 'The Cliff'. It is a key influential landscape feature and the benefits of the projects do not outweigh the harm caused at this part of the site.
Mitigation measures	WLDC made no further comments with regard to mitigation.
Cumulative effects	WLDCs comments on cumulative impacts are set out above.
<b>3c NOISE</b>	
Effects of noise during construction, operation and decommissioning	<p>WLDC's principal concern with regard to noise impacts relates to the control of the development through the DCO 'requirements' and the practical implication of resolving noise issues on a cumulative basis.</p> <p>With projects being constructed, operated and maintained in close proximity to each other, there is a likelihood that certain properties will receive noise from different sources. Should a complaint be raised to</p>
Mitigation measures	

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	<p>WLDC, there is no practical process within the application documents that would enable WLDC to investigate which project was the source of the noise and/or to what extent.</p> <p>It appears to WLDC that the only mechanism that would allow the noise source to be identified would be to turn off / cease construction activity at one project to allow measurements to take place of a single project to establish the cause of the complaint.</p> <p>Whilst the applicant submitted at the hearing that there is no precedent in other DCOs for such a mechanism, WLDC contend that is because the need does not typically arise for other NSIP projects. The uniqueness of the cumulative situation in West Lindsey results in matters of control between them being a key issue and it is for this application to resolve them being the last application of the four to be determined.</p> <p>The requirement to identify a clear and efficient mechanism through DCO 'requirements' to deal with noise complaints is even more important to protect residential amenity due to the provisions of Article 7 of the dDCO, which provides the applicant with defence against claims of statutory nuisance. With this mechanism removed, local residents do not have the ability to resolve matters through the Environment Protection Act 1990, and it therefore falls to the DCO 'requirements' to ensure impacts can be remedied swiftly.</p> <p>WLDC also concur with concerns raised regarding the approach to control impacts at properties. As drafted, the applicant need only apply the mitigation as identified regardless of its effectiveness. There is no requirement for the applicant to test that mitigation and, if it does not resolve the impact, there is no requirement to identify a solution that would.</p> <p>WLDC would also like to note that there are precedent in other DCOs with regard to imposing noise limits. The Thurrock Flexible Generation Plant DCO (made 16/02/2022) includes 'requirements' 7 (Construction Hours) and 16 (Operational Noise), both of which impose specific noise limits.</p>
3d BIODIVERSITY AND ECOLOGY	
The effect of the Proposed Development on wildlife at the site throughout the life of the development and beyond.	<p>WLDC note the applicant's comments during the hearing, which reflects their submission at Deadline 3 in response to WLDCs questions.</p> <p>The clarifications have resolved the concerns WLDC had and agreements will be reflected in the updated SoCG.</p>
The effect of the Proposed Development on woodland and hedgerows at the site throughout the life of the development and beyond.	
The potential for electromagnetic field effects on migratory aquatic and terrestrial life.	

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The measures proposed to deliver and maintain biodiversity net gain throughout the life of the project and after its decommissioning.	
3e DEVELOPMENT CONSENT ORDER	
Status of the Requirements and views of the Local Authorities	<p><b>Article 40</b></p> <p>The Applicant's amendment to Article 40 appears to allow the Applicant to fell or lop any tree subject to a tree preservation order made after 10 April 2024. WLDC contends that the amendment is contrary to Advice Note 15, Good practice point 6 which states:</p> <p><i>22.2 Applicants may also wish to include powers allowing them to fell, lop or cut back roots of trees subject to a Tree Preservation Order (TPO). This power can extend to trees which are otherwise protected by virtue of being situated in a conservation area. To support the ExA inclusion of this power should be accompanied by a Schedule and plan to specifically identify the affected trees.</i></p> <p><i>22.3 Trees subject to TPO and/ or are otherwise protected (and likely to be affected) should be specifically identified. It is not appropriate for this power to be included on a precautionary basis. Proper identification of affected trees will enable the ExA to give full consideration to the particular characteristics that gave rise to their designation and the desirability of continuing such protection.</i></p> <p>Whilst the Applicant's intention is understood, WLDC are concerned that the amendment would undermine the tree preservation order process within the entire red line boundary for a significant period of 60 years Article 40(2) ought therefore to be removed. The presence of a tree preservation order does not necessarily prohibit works.</p> <p><b>Decommissioning Plan</b></p> <p>WLDC recorded that the OEMP will be amended to incorporate a 12 month check. Such a provision would be supported.</p> <p><b>Requirement 20 – Decommissioning</b></p>

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	<p>Requirement 20(7) references ‘the decommissioning plan’. It is presumed this is it the same as the decommissioning environmental management plan. If so, WLDC considers that the drafting ought to be amended for precision.</p> <p><b>Schedule 17</b></p> <p>WLDC maintains its position that an appropriate timescale for approval is 13 weeks.</p> <p>WLDC notes the recent West Burton Solar Project decision includes provision for a 10 week approval, however maintains its view that, in the context of the Tillbridge Solar Project as the fourth cumulative project, additional time is required. The West Burton decision serves to establish that approval periods are justifiably increased in relation to the number of cumulative projects and this principal can fairly be applied for this application.</p> <p>WLDC considers that further information and consultation periods in Schedule 17, Article 47.3 ought to be increased to reflect those in both the Cottam and West Burton DCOs which provided for: 20 (2), 10, 10 and 20 (3) working days. The current dDCO provides for shorter periods of 10 (2), 5, 5, 15 (3) working days.</p> <p>WLDCs justification for this request is that, due to the number of projects being undertaken within its administrative area, a number of applications to discharge DCO ‘requirements’ could be received at the same or similar time. This will place a considerable resource burden, especially due to the technical nature of the details and the requirement for consultation.</p> <p>A 13 week period for WLDC to consider applications was deemed to strike the correct balance between the ability to fully consider such applications whilst ensuring delay is kept to a minimum by the ExA examining the Cottam Solar Project (Cottam Solar Project Examining Authority’s Recommendation (05/06/2024) para 7.4.50)</p>



## ITEM

### OTHER MATTERS

#### NPPF – December 2024 updated version

The updated NPPF remains an 'important and relevant' matter for the purpose of determination under section 104 of the PA 2008. The NPPF should be given significant weight as national planning policy

The updated draft NPPF notably removed footnote 63 that supported policy at Section 15 "Conserving and enhancing the natural environment" with regard to the availability of land for food production. To understand the context of the removal of footnote 63, WLDC have referred to the "Government response to the proposed reforms to the National Planning Policy Framework and other changes to the planning system consultation" (12/12/2024).

The Government response to question 82 (the removal of footnote 63) states that the reason for proposing the removal of the text was because it was unclear whether it "provided material benefit, especially as it gives no indication of how local authorities were to assess and weigh the availability of agricultural land when making planning decisions". As many representation echoed these concerns, the footnote has been removed. The Government, however, go on to state that national policy remains clear that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality. The removal of the text in footnote 63 does not change this commitment.

WLDCs position is that the removal of footnote 63 does not change the policy context for the determination of the Tillbridge Solar Project. The Government remains clear in that food security is important for our national security, and where the significant development of agricultural land is necessary, poorer quality land should be preferred to those of a higher quality.

Whilst the Tillbridge Solar Project has sought to avoid BMV, WLDCs position remains that this avoidance does not then indicate compliance with policy. The decision maker still has to consider the loss of agricultural land as a whole and apply appropriate negative weight in the planning balance to it. WLDC submits that this weight is significantly increased when considered cumulatively alongside the three other NSIP solar generating station projects. Even if it were concluded that the Tillbridge project's benefits outweigh the loss of agricultural land in solus, WLDC contends that a tipping point has been reached on a cumulative basis with the other projects. The loss of agricultural land for the production of food will be significant and adverse, with over 3500ha / 35km<sup>2</sup> of agricultural land being lost to solar electricity generating station infrastructure cumulatively.

With regard to other policies in the updated NPPF, there remains a requirement for (summarised):

- Para 135 c) – development to be sympathetic to local character and history, including the surrounding build environment and landscape setting.
- Para 187 – planning decisions should contribute to and enhance the natural and local environments by a) protecting and enhancing valued landscapes...and soils (in a manner commensurate to their

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	statutory status or identified quality in the development plan); b) recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.