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Dear Sir/Madam

Application by Beacon Fen Energy Park Limited for an Order granting Development Consent for the Beacon Fen Energy Park Project

This letter sets out Lincolnshire County Council's (LCC) comments on the additional information and submissions received at Deadline 6, LCC's response to EXQ3 and comments on the updated sequential test assessment [REP5-010].

Comments on additional Information and Submissions received at Deadline 6

Ecology

Outline Landscape and Ecological Management Plan (oLEMP) (REP6-021)

The Council notes the inclusion of information relating to a change request accepted by the Examining Authority (PD-015). The details of the change request include substantial areas of both vegetation removal and establishment. As stated in the Council's Deadline 6 submission (REP6-041), the Council considers that updates to the Applicant's BNG Strategy are required to account for the change.

Appendix 7.11 Botanical Survey Report Solar Array Area (Revision 2) [REP6-023] and Appendix 7.20 Preliminary Ecological Appraisal Report Cable Route and Access Road (Revision 2) [REP6-025]

The Council welcomes the clarification of the methodology used in hedgerow surveys to identify the Status (Importance) of hedgerows and notes the updates to reflect this clarification Table 2 in both documents.

Waste

The following documents have been reviewed in respect of waste matters:

- [REP6-004] 3.1 Draft Development Consent Order
- [REP6-039] 9.22 Applicant's Responses to Deadline 5 Submissions

We note the applicant's commitment, via Requirement 22 of the Draft DCO [REP6-004] and Waste and Recycling Strategy [REP5-033], to provide an 'annual planned replacement schedule' ahead of each operational year which is welcomed. This is a helpful addition to the similar commitment via DCO Requirement 19 for the decommissioning phase. However, we do not agree with the applicant's assertion, in paragraph 2.2.2 of document 9.22 [REP6-039], that this fully addresses LCC's concerns in this matter. Whilst these ongoing waste forecasts will indeed give LCC a measure of control over the applicant's waste strategy they would, by definition, not be received in time for the impacts of those wastes to be considered fully in the Secretary of State's decision. Therefore, we reiterate our previous requests that waste arisings forecasts, made using suitable stated assumptions, are submitted before the close of the examination.

Skills and Training Funding

North Kesteven District Council (NKDC) Deadline 6 submission (REP6-042)

LCC supports NKDC's position regarding the need for a financial contribution in relation to a skills and training package, which LCC has previously requested and is an area of disagreement in our Statement of Common Ground. To carry appropriate weight in the planning balance the stated skills and training benefits, particularly in light of the applicant's assessment of enhanced positive impacts, including the 'significant beneficial' residual effect on the workforce and GVA in Boston Borough and the 'minor beneficial' effect in North Kesteven identified in the ES socio-economics chapter, LCC are of the view that a clear delivery mechanism with secured funding must be established.

Comments on Planning Statement (Revision 2) [REP5-010] Annex G, Site Selection Report Sequential Test Assessment received at deadline 5

LCC has reviewed the updated Site Selection Report (SSR) at Appendix 2 [REP5-010]. The update removed the sequential test assessment from the SSR and provided an expanded upon assessment at Annex G (p176).

LCC previously raised concerns in its LIR [REP1- 044] and oral submissions at ISH1 and ISH 3 (summarised in REP1-045 and REP4-030) regarding the information contained in the sequential test assessment and therefore the Applicant's ability to pass the sequential test in terms of flood risk.

LCC were previously not persuaded by the Applicant's explanation as to why split sites were excluded from the site selection assessment which appeared to be based on viability factors. The original assessment only considered continuous sites that are comparable to the proposed Beacon Fen site and did not assess non- contiguous sites which, when taken together cover an area greater than 300ha (REP5-010 paragraph 1.1.10).

The assessment at paragraph 1.1.13 states that *"Nevertheless, despite the Applicant's justifiable preference for one contiguous site, the Applicant has agreed to consider non-contiguous sites specifically for the purposes of this Sequential Test. In order to do this, the Sequential Test Assessment has been rerun with additional sites identified under a separate methodology."*

At paragraph 1.1.14 it is stated *"Yet this Sequential Test has been undertaken looking for a smaller site of 300 ha."* Paragraph 2.4.3 goes on to state that *"In the event that there are non-contiguous sites that are not adjacent to enough other non-contiguous sites to create an Additional Alternative Site with an area of 300 ha, the assessment would group together sites of a minimum size of 50 ha at a maximum distance of 100 m."*

Seven additional alternative sites have been assessed which are all predominantly located in the unconstrained land to the west of the search area, which is welcomed. All of the sites are preferable in terms in terms of flood risk, however, they are all considered to be less preferable to the proposed Beacon Fen site due to the presence of other constraints, division due to rail, roads, PROW's, which introduces the need for additional cabling and engineering difficulty, the presence of other developments and landowner issues.

Referring to plan G1, in plan form the additional sites all resemble a contiguous site similar in scale to PAS1 to PAS3 (over 300ha's), noting that the assessment describes them as being divided in to number of different parts by the presence of other features such as public roads. LCC would have expected to have seen smaller sites at a greater separation than the stated maximum distance of 100m to have been considered and would highlight its previous comment that other large scale solar schemes in Lincolnshire have successfully combined smaller sites at greater separation and considered to be viable such as Cottam which combines 4 land parcels, Cottam 1 - a discontinuous ring of sub-sites (totalling 812.1ha), Cottam 2, 3a and 3b single sites of 168ha, 132ha and 73ha respectively.

The approach taken at Cottam in their assessment of alternatives is set out in Chapter 5: Alternatives and Design Evolution of the Environmental Statement [APP-040] in the Cottam examination library. The approach taken here for site selection is referenced within paragraphs 5.5.15 to 5.5.18 which states an area of 40ha of contiguous land was identified as the minimum area for large scale solar to be economically viable. An individual site-level threshold of 40ha was applied to their search area of 20km.

LCC question whether this type of approach, if applied to the Beacon Fen project, where consideration is given to smaller land parcels within a wider search area, may have resulted in a preferable site that conforms more consistently to the top tier of the mitigation hierarchy, through avoidance of areas of higher flood risk. LCC considers that a greater proportion of the site, avoiding flood zones 2 and 3, may have been possible should smaller, dispersed sites be used in the alternative sites assessment, which is then used to inform the wider Order Limits.

LCC consider the following policy statements and the application of the mitigation hierarchy to be important to the consideration of this matter:

Schedule 4 (2) of EIA Regulations (2017) requires an Environmental Statement (ES) to include 'A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.'

NPS EN-1 (November 2023) paragraph 4.1.5 states that in weighing adverse impacts against benefits, the SoS should take into account (inter alia):

'its potential adverse impacts, including on the environment, and including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce, mitigate or compensate for any adverse impacts, following the mitigation hierarchy.'

Mitigation Hierarchy is defined in the glossary to EN-1 as 'A term to incorporate the avoid, reduce, mitigate, compensate process that applicants need to go through to protect the environment and biodiversity.'

NPS EN-1 paragraph 4.2.10 requires applicants for Critical National Priority (CNP) infrastructure to show how their application meets the requirements in the NPS and the relevant technology-specific NPS, applying the mitigation hierarchy, as well as any other legal and regulatory requirements. Paragraph 4.2.11 goes on to state the applicants must apply the mitigation hierarchy and demonstrate that it has been applied.

NPS EN-1 paragraph 4.3.15 states ‘Applicants are obliged to include in their ES, information about the reasonable alternatives they have studied. This should include an indication of the main reasons for the applicant’s choice, taking into account the environmental, social and economic effects and including, where relevant, technical and commercial feasibility.’

Para 4.3.16 states ‘In some circumstances, the NPSs may impose a policy requirement to consider alternatives.’

Paragraph 5.8.10 refers to the Exception Test, stating that it ‘is only appropriate for use where the Sequential Test alone cannot deliver an acceptable site. It would only be appropriate to move onto the Exception Test when the Sequential Test has identified reasonably available, lower risk sites appropriate for the proposed development where, accounting for wider sustainable development objectives, application of relevant policies would provide a clear reason for refusing development in any alternative locations identified.’

Specifically in respect of flood risk NPS EN-1 paragraph 5.8.23 states that ‘Consideration of alternative sites should take account of the policy on alternatives set out in Section 4.3 above. All projects should apply the Sequential Test to locating development within the site.’

Therefore LCC respectfully advises the ExA that, in reaching its recommendation, it will need to be satisfied that the site selection process is robust and compliant with the EIA Regulations and relevant policy requirements, including the sequential test.

LCC’s response to EXQ3

BIO.3.2:

LCC has reviewed REP5-013 and considers that there are several concerns relating to ecology and biodiversity which remain outstanding:

- The Applicant has not yet addressed LCC’s concerns regarding insufficient mitigation provision for ground nesting farmland birds, in particular skylark. REP5-013 still predicts a “permanent very low adverse impact” on skylark (REP5-013, 7.6.61). LCC therefore remains concerned about the potential for cumulative impacts on ground nesting bird species, particularly skylark, arising from the number of similar developments across the County.

LCC believes that each development should ensure that it provides adequate mitigation for its own impacts on ground nesting birds to avoid the potential for cumulative impacts as far as possible. A significant negative effect could occur if this

and other developments result in the loss or degradation of habitat which impacts the long term viability of ground nesting bird populations within the county. LCC is of the opinion that measures currently proposed by the Applicant to mitigate its own impacts on ground nesting farmland birds are inadequate and considers that additional mitigation measures are required in order to be confident that cumulative impacts on species such as skylark will not occur.

- LCC maintains its stated opinion that given uncertainties around the impact of large-scale solar developments, a programme of post-construction of bat monitoring is required. The Applicant has not yet committed to the establishment of such a programme.
- LCC also considers that updates to the Applicant's Biodiversity Net Gain Strategy (REP5-070) and Biodiversity Net Gain Metric (REP5-039) to reflect the accepted change request are still required. This includes the assumed removal of a waterbody at Bicker Fen Substation (REP5-013, 7.6.89), an issue which LCC has previously highlighted as requiring clarification.

Until the above matters are satisfactorily addressed, LCC is of the opinion that the ExA cannot be confident that the ecological impacts of the Proposed Development have been fully mitigated.

HEN.3.1:

LCC notes that no mapped or modelled intervisibility assessment has been undertaken at the height of the upper floor levels or the top of the tower. As a result, the potential effects on the setting of Kyme Tower have not been tested in a fully systematic way.

The current assessment relies on the tower's present condition and access constraints. In LCC's view, this does not fully reflect the long-term appreciation and experiential value of the asset.

Although there are no current proposals for restoration, the assessment of setting should not be limited by the tower's present condition or access arrangements when considering the conclusions of the appraisal. In future, were the upper floor levels or access to the top of the tower to be reinstated, even on a limited basis to facilitate access and appreciation of the asset, there is potential for the level of harm currently identified as less than substantial to increase.

Yours faithfully,



For Neil McBride

Head of Planning