



The Planning Inspectorate
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Your ref: EN010153
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To whom it may concern

**ENVIRONMENT AGENCY RESPONSE TO EXAMINING AUTHORITY'S
SCHEDULE OF PROPOSED CHANGES TO THE DRAFT DEVELOPMENT
CONSENT ORDER**

FRODSHAM SOLAR PROJECT, FRODSHAM MARSHES

This letter constitutes the Environment Agency's response to the [Examining Authority's Schedule of Proposed Changes to the draft Development Consent Order](#).

We note that reference no.PC002 requests a new requirement with the following wording:

Unexpected Contamination

23.

(1) The authorised development may not commence until an unexpected contamination protocol has been developed, detailing the steps to follow if previously unidentified contamination (e.g. contaminated soil or groundwater) is encountered. In the event such contamination is found, works in the affected area will pause and the material will be investigated and risk assessed, with appropriate remediation, measures implemented in line with regulatory requirements. The unexpected contamination protocol must be submitted to and approved by the relevant planning authority, in consultation with the Environment Agency, in accordance with requirements 12, 13 and 20.

(2) No part of the authorised development may commence until targeted ground investigations have been carried out at the project substation, the area surrounding and beneath the proposed project BESS (Works No. 2A) and the proposed non-breeding bird mitigation area (Works No. 6C). Soil samples (and leachate, where relevant) from these areas must be collected and laboratory-tested using a laboratory accredited with the British Standards Institution to identify any contaminants and their concentrations. Based on the results, a thorough risk assessment must be

completed to determine safe handling and reuse strategies for the excavated materials. If necessary, site-specific remediation or special handling measures should be devised for those materials and set out in a remedial strategy (for example, isolating or treating any hotspots of contamination).

(3) Remediation measures made under this requirement must be approved in writing by the Local Planning Authority in consultation with the Environment Agency. The findings of these investigations must directly inform the materials management approach included in the final soil management plans drafted in accordance with requirement 16, ensuring that any contaminated soil is managed appropriately from the outset.

(4) If soil contamination levels exceed the thresholds for suitable use as defined by the CL:AIRE Definition of Waste Code of Practice, then that material will not be reused under the most up to date version of the CL:AIRE Definition of Waste: Code of Practice. Instead, such material must be subject to treatment or disposal via an appropriate permitted waste route. If certain excavated soils require treatment to make them safe e.g. stabilisation of contaminated dredge material, a mobile treatment permit must be obtained under The Environmental Permitting (England and Wales) Regulations 2016 and the soil should be treated on-site and only after successful treatment would it be reused, otherwise it will be taken off-site to a facility licensed by the Environment Agency

(5) Additional ground investigation and risk assessment must be undertaken by the undertaker during the detailed design stage to inform foundation and piling strategies. A Foundation Works Risk Assessment (FWRA) will be produced and complied with by the undertaker to address any areas of known or potential contamination, and it must include measures such as dust suppression during ground works and the prevention of silt-laden runoff (using sediment traps, settlement ponds, etc.) to avoid pollution of soil and water. A Piling Risk Assessment (PRA) must be prepared and complied with by the undertaker to ensure that the chosen piling method generates minimal arisings and does not mobilise contaminants; this must guide the adoption of drilling and piling techniques to be undertaken by the undertaker that protect both construction workers and the environment. The FWRA and PRA must be submitted to and approved by the relevant planning authority, in consultation with the Environment Agency prior to commencement of the authorised development.

We approve of the proposed wording, subject to the inclusion of 'groundwater' in regard to the collection of soil samples. For convenience, we have inserted it in bold in the following text:

(2) No part of the authorised development may commence until targeted ground investigations have been carried out at the project substation, the area surrounding and beneath the proposed project BESS (Works No. 2A) and the proposed non-breeding bird mitigation area (Works No. 6C). Soil samples (and leachate and **groundwater**, where relevant) from these areas must be collected and laboratory-tested using a laboratory accredited with the British Standards Institution to identify any

contaminants and their concentrations. Based on the results, a thorough risk assessment must be completed to determine safe handling and reuse strategies for the excavated materials. If necessary, site-specific remediation or special handling measures should be devised for those materials and set out in a remedial strategy (for example, isolating or treating any hotspots of contamination).

We consider the proposed requirement to be appropriate for ensuring that groundwater is not placed at risk of contamination, whether from the discovery of previously unidentified contamination, or from piling and foundation activities. In addition, section (4) accurately reflects the approach we advised the Applicant to adopt in relation to materials management, the CL:AIRE *Definition of Waste: Code of Practice* and environmental permits. This was provided as non-statutory advice to the Applicant on 19 March 2025 (ref. XA/2024/100216/03-L01).

Yours faithfully


Planning Specialist

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