

SYNOPSIS.

These comments relate to discussion of decommissioning and cumulative traffic impact during March hearings.

DECOMMISSIONING

The applicant has produced REP2-030 responding to issues raised at deadline 1. First, I wish to say this must have been challenging and thanks are due to the members of the applicant's team that did the work.

However, REP2-030 did not address my comments on decommissioning that I made in REP1-104 and so were not available to participants of the March hearings. This project is termed temporary, presumably to reduce the weight given to the loss of agricultural land. As such, we need confidence in decommissioning. My concern is the scenario where the undertaker at the end of the term either has ceased to exist or has insufficient funds to complete decommissioning. The applicant may argue that it is then the landowner that will then foot the bill. However, it is quite possible that at the time of decommissioning there is no landowner able to foot the bill (e.g. the benefits of the lease payments could have been securitised into an offshore entity and the landowner will either not exist or have insufficient resources to decommission). The applicant has not identified any safeguards against this scenario but merely asserts the financial robustness of the applicant (for example, in the APP-021 funding statement). The applicant also asserts, for example on page 109 of REP2-030, that "Fosse Green Energy Limited is a company registered in England and Wales with Companies House (Company number 13438725). It is owned by Windel Energy Ltd, a company registered in England and Wales, and Rugeley West Solar Limited, another company registered in England and Wales... the Applicant will remain an English company during the operation of the Proposed Development." It is highly misleading to state that the company will exist during the operation of the Proposed Development as companies can be struck off the Register. Fosse Green Energy has the same ownership structure that secured a DCO for Mallard Pass Solar Farm Limited (company number 12575861). As I pointed out in REP1-104, that company's accounts are overdue. Furthermore, on 3 March 2026, the Registrar of Companies issued a striking off notice for Mallard Pass Solar Farm Limited. My scenario is therefore not implausible, and funds should be set aside for decommissioning during the operational period through an escrow account or bond.

CUMULATIVE TRAFFIC IMPACT

I am finding obstacles to engagement in relation to the cumulative traffic impact and would like to elaborate on a few of these.

First, I wish to establish a point of principle. APP 164 contains minutes of a Fosse Green Energy - Transport Scoping meeting held on 17/12/23 at which names were redacted but it appears to have been attended by the applicant's representatives and LCC officers. The AECOM minutes (minute ref 7) state that "IF – emphasised need for a 'worst case assessment'". During ISH 1 session 4 at 13.39, the applicant's representative noted that "section 2.6 of EN3 sets out that where flexibility is sought, as is the case with the proposed development, applicants should assess the worst case, environmental, social and economic effects of the proposed development to ensure that the impact of the project as it may be constructed have been properly assessed".

However, in the applicant's response on page 222 of REP2-030 to my comments in REP1-104, the applicant expresses a wish to avoid a scenario that would "overestimate the impact on traffic and transport". The response goes on to say "Current available information shows the proposed energy generating and BESS projects in the area will connect to the proposed NGET substation near Navenby NESO at different years". In short, the applicant is considering only the best case, using only one set of assumptions (these being the ones that minimise the cumulative traffic impact). My view is that a range of assumptions should be considered including a reasonable worst case as emphasised by IF back in 2023.

Second, I wish to comment on the applicant's failure to provide accurate information. A fuller list of examples of misleading information is contained in REP1-104 and my submission for deadline 3 so I will not repeat all of it here but just address the information provided by the applicant in relation to the cumulative impact of construction traffic.

In REP1-104, I pointed out errors in the information provided by the applicant in relation to the timing of other schemes (e.g. that the Wellingore BESS would not need an EIA). I contested several of the applicant's assumptions that there would be no temporal overlap with other schemes that would connect to the proposed Navenby Substation (NGNS). Underpinning my view was a recognition that commercial logic would incentivise companies to avoid having significant capital investment idle and not generating revenue. Indeed, this commercial logic is recognised by the applicant; paragraph 2.1.2 of Grid Connection Statement (APP 200) states "The applicant intends to negotiate an advancement in the connection queue post consent". As such, the most likely scenario is one where all the schemes seek to align the end of their construction period with the NGNS commencing operation. No consideration was given in the assessment of the cumulative impact on construction traffic transport to this advancement by the applicant nor similar timing decisions by other projects. The applicant's response in REP2-030 did not address any of my specific points but stated "Lincolnshire County Highways have reviewed the assessment on traffic and transport (Chapter 13 [APP-038]) and the Applicant will provide an update on points of agreement and disagreement in its Statement of Common Ground with LCC at Deadline 3." This is a disingenuous and discourteous evasion of the points I made.

My fear is that LCC Highways based their LIR response on the traffic data supplied by the applicant regarding both Fosse Green traffic and that of other schemes that the applicant has identified as having a potential cumulative impact. Did the applicant reveal the advancement intention to LCC as that would completely alter the temporal overlap with other schemes? Assumptions about scheme timing have a major impact on the cumulative traffic assessment and I am concerned that the numerous deficiencies in the applicant's assumptions may have misled LCC Highways. To clarify this, I would be pleased if LCC could advise the ExA whether Highways audited the assumptions used by applicant regarding scheme timings or whether they accepted the applicant's timings. If, as I suspect, Highways accepted that the applicant had made an appropriate assessment of scheme timings, then the Highways conclusion that the cumulative impact is acceptable now needs reconsideration based upon a range of plausible scenarios.

This leads me to the third point. By not responding to criticisms at deadline 2, the applicant is asking the public to wait until the statement of common ground is published after deadline 3A on 24 March. I do not know how quickly it will be published but, at best, it will leave the public less than a week to respond at deadline 4 (on 31 March). It is therefore crucial that the statement of common ground should be supported by a publicly available cumulative traffic assessment that is explicit about the range of temporal scenarios considered and provides a clear evaluation of the worst case assessment.