



Application by Fosse Green Energy Ltd for an order granting development consent for the Fosse Green Energy solar farm

**Deadline 5 –
Comments on Submissions and
Information Received at Deadline 4**

prepared by

North Kesteven District Council

(ID [REDACTED])

NKDC reference: 23/0325/NSIP

Planning Inspectorate reference: EN010154

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1. This document sets out comments from North Kesteven District Council on material submitted by the Applicant at Deadline 4 of the examination into the Fosse Green Energy proposals.

REP4-009 : Framework Construction Environmental Management Plan (FCEMP) Rev5

Paragraph 2.2.3

2. The Applicant has inserted text committing to informing Lincolnshire County Council of the date of final commissioning, once it has occurred.
3. It is requested that the wording is further amended such that NKDC is also informed of the date of final commissioning. This could perhaps be achieved by using the term 'host authorities' rather than individual councils.

Section 3.7, Table 6 – Noise and Vibration

4. The Council welcomes the addition of item r. starting at the bottom of page 56. However, the Council requests that wording is added to ensure that noise from construction activities shall not be audible at noise sensitive / residential receptors between the hours of 18:00 – 19:00.

REP4-011 : Framework Soil Management Plan (FSMP) Rev 5

5. The Council welcomes the addition of a bullet point in paragraph 6.9.1 at the bottom of page 20, committing to consultation with the host authorities and Natural England on monitoring reports and seeking agreement on aftercare actions.

REP4-018 : Applicant's Response to Deadline 3 and Deadline 3A Submissions

ExQ2, DCO.2.31 - Schedule 15 fees

6. The Council notes that the Applicant is considering the fees and amendments to the DCO text suggested by the Council in its Deadline 3A submissions (REP4-022, pages 9 – 12), and awaits further discussions with the Applicant.
7. The Council notes that the Applicant maintains that indexing application fees is not necessary. The Government has made the following statement regarding fees for applications under the Town and Country Planning Act 1990:

'Planning fees are subject to annual indexation, from 1 April 2025. Every year, planning fees will be increased by the rate of inflation, as measured by the Consumer Prices Index (CPI), from the preceding September. '

(Planning fees: annual indexation from 1 April)

8. Given that statement, the Council would request that the Applicant explains why they and the Proposed Development should be a special case which is not subject to the same rules as other developers. The Council considers that these fees should be subject to indexation using the Consumer Prices Index.
9. This approach has been validated in the case of the made DCO for the Springwell solar farm – specifically via Schedule 16 (5) (3) of the Order, which addresses the fees for the discharge of Requirements as follows:

(3) Where an application under sub-paragraph (1) is made and a fee payable on or after 1 April 2025, then section 18A of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended by the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Amendment Regulations 2023) will apply as modified by this Order, so that “the relevant amount” means the fee payable under sub paragraph (2)(a), (2)(b) or (2)(c) above.

10. s18A of the Fees Regulations confirms that ‘if there is a relevant increase in the consumer prices index, each relevant amount is increased on the fee change date in accordance with paragraph (3)’.
11. Furthermore, Schedule 2 (27) (4) of the draft DCO (document reference REP 8-004) in relation to the Beacon Fen solar farm (EN010151), in relation to the fees for the discharge of Requirements, states that:

(4) The fees specified in sub-paragraph (2) shall be adjusted on each anniversary of the date this Order comes into force by a percentage equal to the index value of the Consumer Price Index (CPI) most recently published prior to that anniversary, provided that in no event shall any annual adjustment exceed 5%.

12. As such the Applicant’s approach is out of step with these recent precedents, the Council continues to resist it and we would welcome the same of the Examining Authority.

ExQ2 ENC.2.09 - BNG monitoring

13. The Council does not accept the Applicant’s response on this point and maintains that funding should be provided for its attendance at the proposed EAG, as well as to carry out monitoring verification checks. The Council will add to this response when answering the Examination Authority’s Third Written Question ENC.3.03.

14. It should be noted that because the Applicant's BNG Report still does not comply with trading rules and requires updated metrics to be applied, it is not possible to provide an accurate detailed costing for the monitoring verification checks. However, pending those corrections, the Council can provide the following information to demonstrate the scale and rationale for the likely fees sought:
- 20% sample each monitoring year supported by AI mapping
 - Area habitats are estimated at 519.36ha of monitorable habitat (habitat of a medium distinctiveness and above or low distinctiveness with a moderate or above condition) made up of 472.94ha of created habitat, 15.78ha of enhanced habitat and 30.64ha of retained habitat
 - For the above habitats, which are of a 'low difficulty' in achieving, the associated BNG monitoring fee would be £50,575.32
 - For hedgerows there are 83.54km of monitorable habitat (14km retained, 19.16km created and 50.38km enhanced)
 - With all hedgerows having a 'low difficulty' in achieving the associated BNG monitoring fee would be £6,518.80
 - For watercourses there are 6.43km of monitorable habitat (0.64km retained and 5.79km enhanced). Some of the difficulties in achieving would be 'moderate' and as such the associated BNG monitoring fee would be £7,635.55
 - The AI mapping support is estimated at £25,190.11
 - This brings the total estimated charge for the 30-year BNG monitoring lifetime to a one off payment of £89,919.78.
15. Once the BNG Report is corrected for errors, these figures may be subject to change; and it may be necessary to update the costs to an annual increase in line with the Council's adopted approach to BNG monitoring fees.
16. We note paragraph 6.4.60 of the Examining Authority's Report of Findings and Conclusions in relation to the Springwell solar farm DCO, and the reporting of the (Springwell) applicant's position that such a monitoring contribution 'is not needed' and that delivery and monitoring of BNG would be secured by the oLEMP/Requirement 8 of the DCO.

17. Nevertheless it remains the case that the Springwell applicant concluded a s106 Agreement – a copy of which has been submitted into the Fosse Green examination - agreeing to a financial payment which can be utilised towards the Council's BNG monitoring responsibilities. The applicant for the Beacon Fen solar farm has made a similar financial commitment through Article 50 of the dDCO; document reference REP8-004.
18. In the same way as its approach to the indexation of Requirement fees above, the Applicant's position remains out of step with examples elsewhere and the Council will continue to resist it.

ExQ2, TT.2.03 - Status of Stepping Out routes

ExQ2, TT.2.09 – public rights of way – mitigation and compensation

19. The Council notes that the Applicant has now shifted away from identifying the existing permissive paths within the site; and in its comments has removed previous references to the locations of these permissive paths having been established through site visits. The Applicant's site visits were clearly inadequate in this regard, and the baseline information on permissive paths used in the ES and shown on drawing AS-024 was significantly incorrect.
20. The Applicant has submitted the following drawings as indicating its revised approach to the provision of permissive paths:
 - REP4-006 : Figure 3-2A Indicative Fixed South-facing Site Layout Plan
 - REP4-007 : Figure 3-2B Indicative Single Axis Tracker Site Layout Plan
21. These drawings are labelled 'indicative', and are not intended to be certified documents. The Council looks forward to having sight of the final permissive path proposals on the Landscape Mitigation Plan contained in the Framework Landscape and Ecological Management Plan, as it is that document which is referred to in the definition of Permissive Paths in the draft DCO, article 2 (REP3A-029). Also showing the permissive paths on the Streets, Rights of Way and Access Plans will be helpful in showing how they connect to the statutory public rights of way network.
22. The Council will continue to discuss permissive paths, including the Stepping Out Walks, with the Applicant and will comment further in due course. At this stage, the Council offers the following comments on the remainder of the Applicant's submissions on this topic at Deadline 4.
23. The changes to the permissive path routes in the area around Thorpe on the Hill, Morton and Tunman Wood represent an overall minor improvement on previous

proposals. The loss of some lengths of the existing Stepping Out permissive routes – for instance the valuable walk along the southern side of Housham Wood – is offset by the retention of the length of permissive path alongside the eastern side of the wood north of Housham Wood Farm. The new route also avoids “funnelling” walkers between panel arrays heading south from Housham Wood; but on the other hand the loss of a length of permissive path to the east of Housham Wood Farm means directing walkers along the public rights of way immediately to the north, where they would have to pass between areas of panel arrays.

24. These changes do not significantly reduce the adverse effects on the experience for users of the two Stepping Out Walks: Morton and Tunman Wood, and Thorpe on the Hill. It is clear that users would experience the loss of open, undeveloped and wide rural views – a major factor in the design and promotion of these walks. The Applicant has never properly acknowledged the value of these walks in terms of their potential to deliver on recreation, mental and physical health, and tourism objectives. Those effects need to be fully mitigated and compensated for.
25. In terms of the total length of permissive path offered, the Applicant has measured this to be 10.2km. Whilst there are limitations with the scale and accuracy of the plans provided, the Council has measured the total length of permissive path as being 9.8km. But in any case, there are significant limitations to the Applicant’s approach which this highlights. Whilst the provision of permissive paths in general is welcome, the failure to recognise the value of and impacts on the Stepping Out Walks in particular is a deficiency of the application. For instance, the permissive path proposed alongside the A46 may be of value to some, especially the occupants of the caravan park nearby. However, in terms of views and noise, that path would never have been selected as part of a Stepping Out Walk.
26. In responding to ExQ2 TT.2.09, the Council identified a number of measures which could mitigate and offset the adverse effects on the Stepping Out Walks. The Applicant has suggested that these might be delivered using the Community Benefit Fund. However, the Council considers this to be insufficient for the following reasons:
 27. Firstly, the community benefit fund is not a secured item. There is nothing to prevent the undertaker from changing its mind on its provision.
 28. Secondly, in order to ensure that the Stepping Out Walks continue to be delivered within the application site – on revised routes in some locations – it will be necessary to re-map, publish and way-mark those routes. The Applicant provides no guarantees that this will be provided for. For instance, without the extensive Stepping Out way-marking the routes would not in fact be Stepping Out walks; but

there is no mechanism to require the undertaker to do or even allow this to take place within the Order Limits.

29. Thirdly, re-routing the Stepping Out walks affected will not fully mitigate for the adverse effects on the user experience. As explained above, simply providing additional km of permissive paths does not address the underlying issue. Therefore measures to offset these adverse effects are necessary. This is why the Council also seeks the following:
- Funding for a new Stepping Out Walk extending from outside the Order Limits in Witham St Hughs; through the site on the public rights of way and permissive paths provided; and onwards (again outside the Order Limits) towards Auburn.
 - Funding for a new Stepping Out Walk to extend from North Hykeham towards Auburn , linking up with the above new walk
30. To deliver these measures, funding is sought. The sums are not large, and are being calculated at present. They will form part of further discussions with the Applicant, but the Council's view is that they should be secured as part of the application in order to fully address its adverse effects.