



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

**Deadline 5A –
Comments on documents submitted by
the Applicant at Deadline 5**

prepared by

North Kesteven District Council

ID



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Planning Inspectorate reference: EN010154

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Comments on documents submitted by the Applicant at Deadline 5

REP5-014 - Framework Operational Environmental Management Plan (FOEMP)

1. The Council notes and welcomes the addition at paragraph 5.1.2 stating that the Community Liaison Group will continue through the operational phase of the Proposed Development.
2. The Council looks forward to Requirement 5(3) of the draft DCO (REP3A-004) being amended to make it consistent with the FOEMP, and thereby properly securing this commitment.

REP5-016 - Biodiversity Net Gain Report (Rev3)

3. NKDC has reviewed this latest version of the BNG report, and also spoken directly with the Applicant. With the exception of two relatively minor points, the Council is now content that the BNG Report meets the required standards, and the trading rules are satisfied. Further detail is set out below.
4. In paragraph 2.8, further discussion has taken place regarding the assumption of habitat type and condition by use of neighbouring habitat parcels when access was restricted. The Council acknowledges that this approach has been used on other applications when degradation has occurred, and so this might apply here. However the NKDC remains uncomfortable in the use of assumptions where enhancements to these assumed habitats are proposed and will result in unit generation. As such, NKDC's standard practice is that that any parcels where condition is assumed must either be recorded as retained or lost, but not enhanced, as the Council cannot be certain that any enhancement would in fact be an enhancement as such when the baseline is not truly known. Taking this approach will not impact the applicant minimum 10% or any trading rules.
5. In paragraph 2.9, the phrase 'purposeful' has been removed from the report and as such the Council is satisfied that no degradation has occurred that needed to be accounted for.
6. In paragraphs 2.10 - 2.12, the issue of strategic significance has been fully addressed in the metric and BNG Report, as required by local policy. As previously mentioned, it is likely that the Local Nature Recovery Strategy (LNRS) will be adopted prior to commencement of the Proposed Development; and as such an updated metric accounting for strategic significance as per the LNRS may be required in the future.

7. In connection with paragraph 2.13, having further reviewed the information regarding rotational habitat and the creation of arable field margins, the minimum committed area of retained and created arable field margins must be consistent across the 30 year operational period. As the metric states 1 year is required to create an arable field margin, the Council considers that the LEMP must ensure that the rotation of these habitats include the established of any new arable field margins in rotation at least 12 months before removal of another. This would negate the need for recalculations and simplify the process for all parties. This may mean at times the area of arable field margin may exceed the commitment, but this would be a temporary situation.
8. For paragraphs 2.14 - 2.15, no negligible area habitats are now present in the metric and no area errors persist. For paragraph 2.16, trading rules are now satisfied as the habitat in question is proposed to be fully retained.

REP5-018 Framework Landscape and Ecological Management Plan (Rev 7)

9. On the Landscape Mitigation Plans the permissive paths are not always shown in a clear and consistent manner. For instance, for the permissive path which would lead to The Avenue at Morton on Sheet 3, it is difficult to identify its route, which on close examination is a continuous pale pink / purple line – whereas the key shows permissive paths shown by a dashed line.
10. The Council therefore asks the Applicant to review how the proposed permissive paths are shown on these drawings.

REP5-026 Permitted Preliminary Works Environmental Management Plan (PPWEMP)

11. NKDC has reviewed the submitted PPWEMP. In general terms the Council welcomes this document, when coupled with Requirement 6(8) in the DCO (REP3A-005), as a means of helping to ensure that the permitted preliminary works (PPW) are carried out in a manner which will limit adverse environmental effects.
12. However, the above comments are made without prejudice to the Council's view that a new requirement should be introduced into the DCO prohibiting PPWs from taking place unless and until the substation proposed by National Grid at Navenby has been granted planning permission and pre-commencement conditions have been discharged.

13. If that new requirement is not imposed, there remains a risk that PPWs and commencement development will take place, with consequent environmental harms; and yet there will be no connection point at Navenby (or elsewhere) available for the Proposed Development. In such a situation the harms from PPWs and commencement development would not be outweighed by the benefit of renewable energy generation. Although some harms might be reversed, some might not in full; and others could take significant time to be reversed.
14. Therefore the Council remains of the view that avoidance sits higher than remedial works in the mitigation hierarchy, and so notwithstanding the PPWEMP, DCO should not be granted without the safeguard of a new requirement in relation to the Navenby substation.
15. As set out elsewhere in relation to EXQ3 GC.3.01 the Council will provide a more detailed response in relation to matters raised by the Secretary of State's decision on the Springwell solar farm in due course.

REP5-025 – Applicant's Response to Deadline 4 submissions

Page 16 of REP5-025 – Framework Construction Environmental Management Plan (FCEMP) Rev 4 (REP3-017)

16. In response to NKDC's request for section 2.3 of the FCEMP to stipulate that should be no audible noise at sensitive receptors during the evening period 18:00 – 19:00 on weekdays, the Applicant has stated as follows:

'The suggestion of "no audible noise at sensitive receptors" is considered subjective (and therefore unenforceable) and disproportionately restrictive to end-of-day activities, hence the Applicant's choice of wording.'

17. The Council has responded to the Applicant's comment in its response to ExQ3 PE.3.01.

Page 16 onwards of REP5-025 – Biodiversity Net Gain (BNG) Report Rev 2 (REP3-025)

18. NKDC has seen these comments, but as a revised version of the BNG Report has been submitted at Deadline 5, the Council has commented on that document separately.

Page 18 of REP5-025 - Framework Decommissioning Environmental Management Plan (FDEMP) Rev 4 (REP3-021)

19. NKDC notes the Applicant's response to comments on the Council's request for a commitment to reassess receptors, and that the mitigation measure in the FDEMP which provides for a fresh dust risk assessment would involve an up to date

assessment of that kind. Whilst this may be the intention, to ensure the FDEMP is clear on this issue, the Council would request that the mitigation makes it clear that receptors would be reassessed as part of the exercise.

Page 18 onwards of REP5-025 – Section 6 of the Framework Landscape and Ecological Management Plan (FLEMP) REP3-029

20. The Council does not offer any further comment on the Applicant's earlier omissions and inaccuracies in their depiction of pre-existing permissive paths within the Order Limits, which have been well documented.
21. More substantively, in relation to closures of permissive paths for maintenance and the additional seven day period sought, the Council does not consider that the Applicant has provided a proper explanation or justification for these closures. It is not sufficient to say that these provisions are optional / discretionary, and may not be implemented. The key point is that if the DCO were to be granted as proposed in this respect, the undertaker would have the power to make these closures. Such a power is considered unnecessary, excessive and unjustified.

Health and Wellbeing Summary Statement (REP3-047) – page 20 onwards of REP5-025 (Stepping Out Walks)

22. There have been extensive submissions in relation to Stepping Out Walks. In this document, NKDC focusses on the Applicant's responses to Proposed Mitigation Measures, on pages 22 – 23.
23. As mitigation and compensation for adverse effects on the user experience for the Stepping Out Walks, NKDC seeks the following measures:
 1. Making sections of Stepping Out Walks which are existing / proposed new permissive paths into statutory rights of way – providing security for their long-term future
 2. Funding to alter the existing Stepping Out Walks (Thorpe on the Hill, and Morton & Tunman Wood) so that they follow whatever new routes are agreed
 3. Funding to make paths from Witham St Hughs across to Aubourn into a new Stepping Out Walk – for example public consultation, waymarking, preparing the route leaflets and marketing, website and walking app presence and use monitoring. This new route would be substantially within the Order Limits.
 4. Funding to create a new Stepping Out Walk outside but adjacent to the Order Limits, from Hykeham to Aubourn – which would provide the opportunity to link up the main urban area with other Stepping Out Walks, including the new Witham St Hughs – Aubourn route referred to above. This would need not just the set up costs and monitoring, but also bringing into the existing maintenance programme.

24. The Applicant has declined to deliver any of these measures. NKDC maintains its objections on this point. Specifically, the Applicant states the following:

'Stepping Out Walks will be retained, noting two amendments to their routeing.'

25. In response, a Stepping Out Walk requires additional measures such as mapping, publicity and specific way-marking. There is nothing in the DCO or the control documents which would secure that these alternative routes will have these measures applied and become part of revised Stepping Out Walks.

'With regards to the Council's request for funding, the Applicant considers that this could be a potential use for the community benefit fund which will be provided by the Applicant once the Proposed Development commences commercial operation should development consent be granted.'

26. The Community Benefit Fund (CBF) is a non-statutory matter which is not secured and so a decision on its provision is not binding and could change. It is distinct from the planning process and cannot be a material planning consideration. Further, the intention to provide a CBF does not mean that the monies could be spent on providing new Stepping Out Walks within the Order Limits. In so far as any new routes would use permissive paths, the Council would have to obtain the agreement of the undertaker at the very least, and there is nothing in the Order to secure this.
27. The Council will discuss this further with the Applicant and provide costings for the items listed under paragraph 23 above.