



WHITESTONE
solar farm

WHITESTONE SOLAR FARM

Volume 5 - Consents and Agreements Position Statement

5.3 CONSENTS AND AGREEMENTS POSITION STATEMENT

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REPORT

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Prepared by:

TLT LLP

Prepared for:

Whitestone Net Zero Ltd

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1 INTRODUCTION

1.1 Introduction

- 1.1.1 This document has been prepared by Whitestone Net Zero Ltd (the Applicant). It forms part of the application for a Development Consent Order (DCO) (the DCO Application) under section 37 of the Planning Act 2008 (PA 2008)ⁱ for Whitestone Solar Farm (the Proposed Development).
- 1.1.2 The Proposed Development comprises the construction, operation and maintenance, and decommissioning of more than 100 MW of solar photovoltaic (PV) arrays, Battery Energy Storage System (BESS), onsite substations and supporting infrastructure, and grid connection infrastructure as described within **Environmental Statement (ES) Volume 1, Chapter 5, The Proposed Development [EN0110020/APP/6.5]** and Schedule 1 to the **draft DCO [EN0110020/APP/3.1]**.
- 1.1.3 The Proposed Development encompasses an area of approximately 1,490 hectares (ha) within the administrative boundaries of City of Doncaster Council (CDC), Rotherham Metropolitan Borough Council (RMBC), Derbyshire County Council (DCC) and North East Derbyshire District Council (NEDDC), the boundary of which is hereafter referred to as the 'Order Limits' and is shown on the **Location Plans [EN0110020/APP/2.1]**.

1.2 Purpose of this document

- 1.2.1 The purpose of this document is to summarise the other consents, licences and agreements that are expected to be needed for the construction and operation (including maintenance) of the Proposed Development outside of the powers sought within the **draft DCO [EN0110020/APP/3.1]**. It is not expected that there would be any new additional types of consents and licences required for the decommissioning stage beyond those identified for the construction stage, notwithstanding that the requirements may evolve prior to decommissioning commencing. Nevertheless, consents and licences of the same type and nature as identified during the construction stage will need to be reapplied for given the period of time that will have lapsed between the construction and decommissioning phases.
- 1.2.2 Section 37 of the PA 2008 governs the content of an application for a DCO, including the requirements for the necessary accompanying documents specified in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations)ⁱⁱ.
- 1.2.3 Regulations 5 and 6 of the APFP Regulations provide the statutory requirement for what must accompany a DCO application. Guidance issued by the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government) in June 2013ⁱⁱⁱ requires that:

“Where the proposed development will also require other consents, licences, permits, etc, to enable it to be constructed and/or operational, and for which the Secretary of State is not the authorising body under the Planning Act, then the applicant must list and briefly describe these in....the application. Reference

should be made to any that have already been applied for, and a copy enclosed of any that the applicant may already be in the possession of.

The Applicant should also, either in... one of their application documents, set out whether there are, in principle, any reasons why such consents etc. might not be granted. In providing this information the applicant should reference responses received from the relevant authorising bodies regarding the likelihood of such consents etc. being granted”.

- 1.2.4 This document lists those consents and agreements which the Applicant currently anticipates may be required to supplement powers within the **draft DCO [EN0110020/APP/3.1]** and the status of any agreement with the regulatory authority (where required). The document will be updated by the Applicant as the project progresses to reflect the most current position.

ⁱ Planning Act 2008. Available online: <https://www.legislation.gov.uk/ukpga/2008/29/section/14>

ⁱⁱ The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Available online: The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

ⁱⁱⁱ Department for Communities and Local Government. Planning Act 2008 Application form guidance (June 2013). Available online: Planning Act 2008: Guidance for the examination of applications for development consent

2 CONSENTS AND AGREEMENTS

2.1 Overview

- 2.1.1 The consent for the Proposed Development will be secured through a DCO. The DCO would provide development consent for the authorised works and enables land acquisition and temporary possession of land, along with many consents and powers to be dealt with at the same time.
- 2.1.2 As set out in Section 33 of the PA 2008, there is no requirement for certain principal conventional consents to be obtained where a DCO is authorising a project. Part 7 of the PA 2008 outlines that a DCO may include:
- Matters ancillary to the development for which consent is granted, in particular for or relating to any of the matters listed in Part 1 of Schedule 5 of the PA 2008.
 - The ability to apply, modify or exclude a statutory provision where provision may be made in the DCO.
 - The ability to make amendments, repeals or revocations of statutory provisions of local application where they appear to the Secretary of State to be necessary or expedient in consequence of or in connection with the DCO.
 - The ability to include incidental, consequential, supplementary, transitional or transitory provisions and savings.
- 2.1.3 It is therefore clear that the intent of the PA 2008 and a DCO is to include as many consents as possible, reducing the need for separate, associated consents and agreements to be sought outside of the DCO process.
- 2.1.4 The Applicant considers that the approach to including consents within a DCO should apply for both those that do, and those that do not, require the agreement of the relevant body under section 150 of the PA 2008 in order for them to be included in the DCO. The Applicant envisages the approach being as follows:
- The DCO contains an express provision disapplying the requirement for the consent in question.
 - In exchange, the DCO includes 'protective provisions' for the benefit of the body concerned.
 - These protective provisions are specifically stated to have effect unless otherwise agreed between the Applicant and the body concerned.
 - Compliance with the provisions is a matter as between the parties and can be enforced accordingly.
 - Either way, the protective provisions provide a means for the body concerned to monitor, enforce compliance and to review the effectiveness of the approval regime enshrined in the protective provisions.
 - The mechanism of approval being given under the protective provisions allows the body concerned to approach a project in two stages (i) the DCO application stage, where the principle of the project is accepted by the body concerned and the detail of the protective provision is negotiated and (ii) the subsequent approval stages under the protective provisions which cannot be

unreasonably refused but when detailed matters going to construction can be properly considered.

- 2.1.5 However, the DCO Application may need to be supplemented by other applications because:
- a specific consent cannot be contained in the DCO;
 - a consenting authority declines to allow a consent to be contained within the DCO (where they have the power to do so); or
 - it is not desirable, or it is inappropriate, to include a consent within a DCO due to the stage of design development meaning the detail required is unavailable.
- 2.1.6 The **draft DCO [EN0110020/APP/3.1]** includes many of the consents and powers required, as permitted by various provisions of the PA 2008. These fall into the following categories:
- Authorisation for all permanent and temporary works for the Proposed Development which are described as the 'authorised development' in Schedule 1 of the **draft DCO [EN0110020/APP/3.1]**;
 - Compulsory acquisition of land and/or rights over land, and temporary possession of land;
 - Traffic regulation measures required during the construction of the Proposed Development, equivalent to Traffic Regulation Orders made under the Road Traffic Regulation Act 1984;
 - Consent to alter the layout of streets and to form new, or alter or improve existing accesses to the highway;
 - Consent to temporarily stop up, divert and replace public rights of way;
 - Land drainage consents under the Land Drainage Act 1991 for works affecting the flow in ordinary watercourses. Protective provisions for the benefit of drainage authorities have been included in the **draft DCO [EN0110020/APP/3.1]**;
 - Requirement of licence for felling works under section 9 of the Forestry Act 1967.
- 2.1.7 The **draft DCO [EN0110020/APP/3.1]** also proposes the disapplication and modification of local legislation. This is explained in further detail in the **Explanatory Memorandum [EN0110020/APP/3.2]**.
- 2.1.8 A number of the above consents are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 (a 'Prescribed Consent'). As a result, under Section 150 of the PA 2008, the relevant consenting body must agree to the inclusion of these consents within the DCO.
- 2.1.9 Discussions between the Applicant and consenting bodies are ongoing. The Applicant is confident that agreement from the relevant consenting bodies will be obtained before or during the Examination of its DCO Application, at which time this document will be updated. Error! Reference source not found. of this document sets out the status of such agreements where they have been sought.

2.2 Consents

- 2.2.1 The extent of other consents that may be sought separately from the DCO and those which the Applicant is seeking to disapply are identified in Error! Reference source not found., along with a position on the necessary agreements.
- 2.2.2 The requirement for additional consents and licences is largely dependent on the finalisation of the detailed design of the Proposed Development, the detailed construction or working methodologies, and discussions with consenting authorities in light of detailed design. There is not therefore sufficient detail at this stage to confirm the requirements in full and it is therefore not practicable to include them within the DCO.
- 2.2.3 The table in Error! Reference source not found. lists the type of consent or licence required, the relevant consenting body, any agreement that has been reached with that body, and any further actions required during construction. This document will be updated as the application progresses through Examination and if / where progress has been made with the consenting bodies.
- 2.2.4 Consents detailed in Error! Reference source not found.for construction are expected to be broadly in line with those expected for decommissioning.

Appendix A – List of Consents

Issue	Consent/Licence/Agreement and Legislation	Key legislation	Consenting Authority	Description / status
Electricity Generation	Electricity Generation Licence	Electricity Act 1989	Office of Gas and Electricity Markets	The Applicant holds an Electricity Generation Licence.
Electricity Generation	Connection Agreement	Electricity Act 1989	National Grid Electricity Transmission	The Applicant has secured a connection agreement with National Grid, to connect to the new National Grid Long Lane 400kV Substation. Details can be found in the Grid Connection Statement [EN0110020/APP/7.1] .
Electricity Transmission	Transmission Licence or exemption	Electricity Act 1989	National Energy System Operator	The Applicant will need to secure a transmission licence or relevant exemption.
Nature Conservation	Protected Species Licence	Conservation of Habitats and Species Regulations 2017, Wildlife and Countryside Act 1981, Protection of Badgers Act 1992	Natural England	<p>Works that could disturb Protected Species or damage or destruction of habitat/ known badger setts within the Order Limits prior to and during construction.</p> <p>Applies to bats, otters and great crested newt, water vole, White-clawed crayfish and badgers within England and Wales.</p> <p>The Applicant does not currently anticipate the need for a licence relating to these species, however as species</p>

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				are mobile and as surveys will be undertaken at the pre-construction stage in the future, the need for a licence may materialise at that stage. To account for this practicality, the Applicant has listed the potential need for this licence to provide flexibility and to ensure any future needs are adequately
Materials and Waste	Exemption for using, treating, storing and disposing of waste	Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	<p>Required for activities involving the use, treatment, disposal or storage of waste.</p> <p>This will be dependent on the nature of the activities taking place during the construction phase.</p> <p>ES Chapter 16 (Other Environmental Topics) [EN0110020/APP/6.16] indicates that based on the current design, no permits in relation to waste are anticipated to be required. However, if in the future any materials likely to be classified as ‘waste’ under the Waste Framework Directive 2008 are proposed to be re-used, the re-use of any excavated material during construction would be managed in line with the Site Waste Management Plan. The Site Waste Management Plan will form part of the Construction Environmental Management Plan (oCEMP). The oCEMP was submitted as part of the application [EN0110020/APP/5.9].</p>
Materials and Waste	Environmental Permit - Part B Local Authority Pollution	Local Authority Pollution Prevention and Control Act 1999	Local Authorities	A Part B Local Authority Environmental Permit may be required from the Local Authority to operate mobile plant for crushing, grinding, screening, grading or mixing, with machinery designed for that purpose of: bricks, tile or concrete or any designated mineral.

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	Prevention and Control			ES Chapter 16 (Other Environmental Topics) [EN0110020/APP/6.16] indicates that based on the current design, no permits in relation to waste are anticipated to be required. However, should this consent be required, post DCO consent discussions will take place with the Local Authorities in advance of construction works requiring crushing and mobile plant permits to determine the need for these permits.
Materials and Waste	Concrete batching and/or Bentonite usage	Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	Permit may be required for the batching of concrete or for the use and disposal of bentonite on-site. Process would be commenced after the making of the DCO.
Materials and Waste	Mobile plant permit	Pollution Prevention and Control Act 1999; Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	Permit may be required for mobile plant used for the treatment of soils and contaminated material. Permit not currently anticipated to be required, however residual possibility through unexpected contamination.
Materials and Waste	Licence to work with Asbestos	Control of Asbestos Regulations 2012	Health and Safety Executive (HSE)	May be required for any works where asbestos is present. Not anticipated to be required, however there is a residual possibility of unexpected sources of asbestos. If required, a licence will be sought by the principal contractor prior to demolition works taking place.

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Water	Water Activity Permits	Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	<p>May be required in relation to temporary construction and permanent operational discharges of water or treated contaminated water to ground or watercourse.</p> <p>Process would be commenced after the making of the DCO.</p>
Water	Water abstraction or impoundment licence	Section 24 of the Water Resources Act 1991 (as amended by the Water Act 2003); Environment Act 1995; Water Resources (Abstraction and Impounding) Regulations 2016	Environment Agency	<p>May be required where pumping or dewatering is proposed.</p> <p>This is considered to be unlikely but should pumping or dewatering activities be required, application would be made by contractor before abstraction or impoundment commences. This will be confirmed at the detailed design stage.</p>
Traffic and Transport	Permit for transport of abnormal loads	Road Vehicles (Authorisation of Special Types)(General) Order 2003 (under the Road Traffic Act 1988); section 44 of the Road Traffic Act 1988.	Department for Transport; National Highways; Local Highway Authority; Police; Bridge owners (as appropriate)	<p>Applications will be made as appropriate in advance of the abnormal load delivery and in line with the principles within the Outline Construction Traffic Management Plan [EN0110020/APP/5.12].</p>

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Highways Works	S.278 Agreement	Highways Act 1980	National Highways	National Highways have requested a s.278 agreement in relation to the authorised development's proposed mitigation.
Noise	Section 61 consent - Control of Pollution Act 1974	Section 61 of the Control of Pollution Act 1974	Relevant Local Authority	May be required during construction and decommissioning to comply with noise regulations.
Health and Safety	Health and Safety notifications / consents	Health and Safety at Work Act 1974 and relevant regulations (e.g. CDM Regulations 2015)	Health and Safety Executive (HSE)	May be required during construction and decommissioning to comply with health and safety regulations
Land Drainage (Ordinary Watercourse)	Land Drainage Ordinary Watercourse Consent	Section 23 of the Land Drainage Act 1991	Lead Local Flood Authority	<p>Section 23 requires that before the erection or alteration of any obstruction to the flow in an ordinary watercourse, a written consent is obtained from the Lead Local Flood Authority for the area. These obstructions include: any mill dam, weir or like obstruction, or a culvert.</p> <p>The Applicant is seeking to disapply this provision in the draft DCO [EN0110020/APP/3.1], however, if the LLFAs do not consent to that disapplication, then a Land Drainage Consent application will be required to allow for any temporary or permanent works that may affect the flow of an ordinary watercourse.</p>



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