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BY EMAIL ONLY

09 January 2018

Dear Ms Cottam,

Re: Proposed application for the granting of a Development Consent Order (DCO) for the Cleve Hill Solar Park

Thank you for your letter dated 12 December 2017 providing Kent County Council (KCC) with the opportunity to inform the Secretary of State on the information to be included in the Environmental Statement (ES) relating to the proposed Cleve Hill Solar Park.

The County Council has reviewed the Scoping Report and for ease of reference, the following comments are structured under the chapter headings used in the report.

3 The Legislative and Planning Framework

The Scoping Report briefly refers to the adopted Kent Minerals and Waste Local Plan (2013 – 30) (KMWLP) but there is no reference to any other relevant KCC policies and plans. KCC requests that the applicant reviews the KCC plans and policies which are relevant to this development including but limited to:

- Local Transport Plan 4: Delivering Growth without Gridlock;
- KMWLP;
- KMWLP Supplementary Planning Document;
- Swale Surface Water Management Plan;
- KCC Local Flood Risk Management Strategy;
- Drainage and Planning Policy Statement;
- Countryside and Coastal Access Improvement Plan;
- Kent Downs AONB Management Plan;
- Kent Landscape Assessment;
- Vision for Kent 2012-2022;
- Kent Design Guide; and
- Renewable Energy For Kent;

5 Landscape and Visual Impact Assessment

Heritage Conservation

The Scoping Report states that the setting of heritage assets within 1km of the site boundary will be assessed. Whilst this is likely to be sufficient, the bounds of this assessment should be reviewed following the completion of the Zone of Theoretical Visibility (ZTV) for the Landscape and Visual Impact Assessment (LVIA), as additional features may have a visual relationship.

The impacts on the scheduled medieval salterns to the east, Conservation Areas in Faversham and Goodnestone, and heritage assets on the Isle of Sheppey were raised by KCC to be included in the assessment following a meeting with the applicant. The County Council has agreed to review the impacts with the applicant's heritage consultants following the production of the ZTV.

KCC supports the intention for the LVIA to be completed in conjunction with the Cultural Heritage Assessment, as stated in paragraph 197 (pg. 31). It will be important for the study to include an explanation of the impacts on the historic landscape of the area.

Public Rights of Way (PRoW)

The Scoping Report has incorporated the consideration of the potential impacts of the development on the PRoW network, which provides significant opportunities for outdoor recreation and active travel. The applicant will need to consider the potential effects of the development on the PRoW network and its users through the assessment of noise, air quality, drainage and visual impacts.

In addition to the construction and operational phases of the proposal, KCC advises that consideration is given to the impacts on the PRoW network during the pre-construction/early design stage, as the process of collecting the data may cause disruption to PRoW users.

The impact of the proposal on quiet rural lanes should be considered in conjunction with the PRoW network, as these roads provide important connections for equestrians and cyclists travelling within PRoW network. The proposal could potentially deter public use of the PRoW network if these road links are designated as haulage roads and if the vehicular traffic substantially increases along the lanes. Site access routes should avoid use of the PRoW network, but if this is unavoidable, efforts should be made to ensure the surface will be maintained and restored to a condition as good as, or better than, the current standard.

In order to monitor path use before, during and after the construction phase of the proposal, it is requested that people counters are installed on the PRoWs at key gateway locations. Data obtained from these counters can then be used to assess the impact of the Solar Park. It is recommended that electronic people counter

sensors are installed (instead of manual surveys) as these counters will be able to operate 24 hours a day and will capture sporadic path users.

Design of the Solar Park

KCC requests that any PRow extinguishments and long term severance of routes should be avoided to prevent the fragmentation of the PRow network. The Indicative Development Layout (Appendix A, Figure 2) suggests the intention is to retain the PRows along their recorded alignments through the development site. If the applicant is unable to accommodate the PRows along their definitive alignments, an application to permanently divert the routes will need to be submitted.

The report suggests that for security and safety reasons, fencing will be installed along the PRow where the routes pass between the solar panel modules. As this will alter the character of the paths, it is requested that the PRows are allocated at least 5m wide green corridors through the site, irrespective of any current path widths. Consideration should also be given to the future surface and maintenance of these routes, to ensure they do not become obstructed by vegetation.

It is understood that transformers and electrical infrastructure would need to be installed within the Solar Park, but the placement of cables across PRows should be avoided. It is likely the initial excavation work (and future maintenance works during the operational phase of the project) would cause disruption for path users and would require mitigation.

PRow Network Development

The proposed development would provide an opportunity to improve the PRow network and develop new links for active travel and outdoor recreation. The creation of new paths and upgrading of existing routes would be a positive outcome and would help to compensate and/or mitigate any disruption caused by the construction of the solar park and any potential negative effects on the PRow network resulting from the delivery of the Solar Park.

The applicant should be aware of the County Council's Rights of Way Improvement Plan (CCAIP) which aims to improve public access to the countryside and coast. The Cleve Hill Solar Park provides an opportunity to help enable the delivery of this plan, as new off-road routes could be created within the development site and surrounding area. KCC would like to work with the applicant to explore the potential to create new walking, cycling and equestrian paths that provide safe alternatives to existing on-road routes (e.g. National Cycle Network Route 1).

Temporary PRow Closures

It is understood that temporary path closures may be required so that construction work can be completed safely, although efforts should be made to minimise path closures and retain access along popular routes. Where temporary closures are required, convenient diversion routes should be provided to reduce disruption to path users. Suitable information boards explaining temporary access restrictions should be considered for paths that will be closed for long periods.

Coastal Access

The County Council is currently working in partnership with Natural England to establish the England Coast Path in this region. This is a new national trail walking route that will eventually circumnavigate the entire English coastline. It is likely the coastal access rights will be in effect at some stage during this project and the applicant should therefore contact Natural England to consider the impacts of the Solar Park on the England Coast Path.

Overall, the Scoping Report has acknowledged the PRowS impacted and started to identify potential impacts on the network. KCC would welcome further engagement with the applicant to review these impacts and to consider PRow network improvements which could be delivered through the proposal.

6&7 Ecology & Ornithology

A range of surveys have been undertaken across the site and a good understanding of its ecological interest has been demonstrated. The results of the surveys and detailed mitigation strategies will need to be submitted as part of the DCO application to enable the determining authority to fully assess the impact associated with the proposed development.

KCC recommends that the 'mitigation hierarchy' described in British Standard BS 42020:2013 is followed when designing the mitigation strategies, which involves the following process:

- Avoidance – avoiding adverse effects through good design;
- Mitigation – where it is unavoidable, mitigation measures should be employed to minimise adverse effects;
- Compensation – where residual effects remain after mitigation it may be necessary to provide compensation to offset any harm; and
- Enhancement – planning decisions often present the opportunity to deliver benefits for biodiversity, which can also be explored alongside the above measures to resolve potential adverse effects.

The measures for avoidance, mitigation, compensation and enhancement should be proportionate to the predicted degree of risk to biodiversity and to the nature and scale of the proposed development (BS 42020:2013, section 5.5).

The site has been identified as being a functionally linked habitat for the adjacent designated sites. As detailed within the Scoping Report, a Habitat Regulations Assessment (in line with The Conservation of Habitats and Species Regulations 2017) will have to be carried out to assess whether the proposed development will have a 'Likely Significant Effect' on the adjacent designated sites.

8 Hydrology, Hydrogeology Flood Risk and Ground Conditions

The general positioning of the photovoltaic solar panels in rows means that rainfall will flow off the panels and onto the ground between the rows. This concentration of

water flow can create channelised flows, which can then erode the soil and allow a greater volume to enter watercourses, or flow to adjacent areas at a greater rate than would otherwise occur in greenfield conditions. As the site area discharges to tidal waters, it is possible that attenuation may not be required. However, from an environmental perspective, the water quality of the discharge is a major concern as well as any potential channel obstructions.

As the Lead Local Flood Authority, KCC would normally be consulted during the planning process on surface water drainage matters. The KCC Drainage and Planning Policy Statement (June 2015)¹ provides information on how KCC considers Drainage Assessments and sets out the requirements and policies for surface water management.

The Scoping Report states that a Flood Risk Assessment (FRA) will be undertaken. However, the scope of the FRA is focused on issues relating to flood risk, and does not include the surface water drainage within the site for lesser events and any possible impacts of local surface water flooding that may occur in the locality and impact adjacent properties or highways. The scope of the FRA will need to be extended to include these matters.

It is stated that the land ditches will be addressed as part of the ES. As these ditches are the key component for provision of drainage within the marsh area, they should be assessed in relation to the drainage function they provide and KCC requests that these are included in the FRA.

The site area is within the catchment of the Lower Medway Internal Drainage Board (IDB). Consultation with the Lower Medway IDB will therefore be required for any works within ordinary watercourses within this area.

With respect to Magnitude Criteria Table 8.2 (pg. 60), a “major” magnitude of change should include any severe impacts on surface water quality caused by erosion and not relate solely to impacts on groundwater. KCC requests that this is made clearer in all the statements relating to water quality.

The FRA Methodology (section 8.4.6, pg. 62) provides a summary of the elements within the FRA. KCC will require a Drainage Strategy that forms part of the FRA with clear definition of any culverts, extent of impermeable surfaces and mitigation provided to control surface flow from the area of solar panels. As the Environment Agency climate change allowance is a range from 20% to 40%, KCC will also require a sensitivity check for the higher allowance of 40%.

9 Cultural Heritage and Archaeology

An initial Desk-Based Assessment (DBA) has been provided which demonstrates a good overview of the archaeology and heritage assets in the proposed development area. As stated in paragraph 343 (pg. 63), there are potential remains of Second World War anti-invasion defences and anti-air raid decoy site(s). The duck decoy

¹ http://www.kent.gov.uk/data/assets/pdf_file/0003/49665/Drainage-and-Planning-policy-statement.pdf

pond is an earlier feature related to the exploitation of the former marshes, and wild-fowling in general, is a particular feature in the area. The networks of drainage ditches are an example of the landscape of marshland reclamation and are themselves heritage assets. Earlier archaeology may include evidence of the marshland reclamation, such as mounds associated with salt working from medieval and earlier times. Early archaeological remains, including evidence of prehistoric activity and occupation, may be found buried at various depths within the alluvial deposits that cover most of the site or in more shallower areas where the development site is elevated.

KCC acknowledges that the initial DBA will be enhanced through further consultation and survey works to inform the ES. KCC and Historic England have met with the heritage consultants to agree the focus of the further enhancement of the DBA and potential survey works, which are summarised below:

- To consult with the local Forgotten Front Line project that will likely have more detailed information and knowledge of the Second World War landscapes and historic wild fowling activity on this area of marshland;
- To undertake archaeological monitoring of the geotechnical test pits that are proposed to better understand the depth of potential buried earlier remains and inform any further survey works needed. The location of geotechnical test pits should be reviewed to accommodate the needs of the archaeological assessment; and
- To undertake a review of any available LiDAR data to determine if there are earthwork remains of heritage assets present. The decoy pond is a particular feature that should be reviewed. The assessment should detail what the impact of the development will be, including the nature and density of support structures, landscape features such as swales, formation depths of access road and extent and depth of cable runs i.e. the density of support structures, their depth, and the anticipated location of swales and cable trenching.

11 Access and Traffic

A Highway Condition Assessment should be completed prior to construction and on completion of construction for the entire access route shown in Figure 12 (Appendix A). KCC would also request that the Transport Assessment not only covers the construction period, but also provides details of the expected levels of movement for the operational phase. As indicated, a Construction Management Plan would need to be agreed by the County Council as the Local Highway Authority.

13 Miscellaneous

As the Minerals and Waste Planning Authority, the County Council is responsible for ensuring that mineral resources are not needlessly sterilised by other forms of development. This ensures that a steady and adequate supply of minerals is maintained into the future to facilitate sustainable development. This safeguarding approach is supported by the National Planning Policy Framework (NPPF) and the Kent Minerals and Waste Local Plan 2013-30 (KMWLP). Policy CSM 5 Land-won Minerals Safeguarding of the KMWLP sets out Mineral Safeguarding Areas (MSA).

The proposed Solar Park site is within an MSA (as shown in appendix 1) with the safeguarded economic minerals being Sub-Alluvial River Terrace Deposits and Brickearth (Faversham - Sittingbourne Area).

The Scoping Report does not appear to acknowledge the presence of these safeguarded minerals nor does it make reference to any of the relevant mineral safeguarding policies of the KMWLP. KCC requires the applicant to address the mineral safeguarding policy considerations in a Mineral Assessment. In doing so, the applicant should consider Policy DM 7 Safeguarding Mineral Resources of the KMWLP which sets out a number of potential exemptions from the presumption to safeguard the minerals.

KCC expects the Minerals Assessment to make reference to empirical geological data (in the form of objective borehole and/or trial trench investigations) and opportunities for prior extraction should be explored and evidenced. Where relevant, engagement with the minerals industry is encouraged to correctly ascertain the economics and practicality for any prior safeguarded mineral extraction. Further guidance on mineral safeguarding and Minerals Assessments can be found in the KMWLP Safeguarding Supplementary Planning Document².

Should you require any further information regarding the above, please contact a member of the Minerals and Waste Planning Policy Team at mwlp@kent.gov.uk or on 03000 422370.

KCC would welcome further opportunities to engage throughout the development and progress of the DCO. If you require further information or clarification on any matter in this letter, then please do not hesitate to contact me.

Yours sincerely,



Katie Stewart

Director for Environment, Planning and Enforcement

Encs:

- [Appendix 1: KMWLP Swale District Mineral Safeguarding Areas](#)

² https://www.kent.gov.uk/_data/assets/pdf_file/0019/69310/Supplementary-Planning-Documents-SPD-on-Minerals-and-Waste-Safeguarding.pdf.