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Date: 22 November 2022
Our ref: 64711/01/AGR/RDo/26004034v1
Your ref:

Dear Michelle

Elton Solar Farm, Nottinghamshire - Application for Variation of Condition 16 of Permission Ref: 14/01739/FUL

We are pleased to submit on behalf of our client, Lightsource Property Investment Management (LPIM) LLP as General Partner and Trustee for Lightsource UK Property Investments 1 LP (Lightsource bp), an application under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 16 of the above planning permission (As Amended). The application seeks approval to maintain the solar park in operation beyond the date currently permitted.

Background

Planning permission for the solar park was first granted on 13 February 2015 (ref. 14/01739/FUL) for development described as:

“10MW solar farm with associated infrastructure with the purpose of generating renewable energy for a period of 25 years”

In April 2022, Lichfields wrote to the Council, putting forward an approach that is considered reasonable for seeking an extension to the operational period of the implemented solar farm. In summary that approach comprises:

- 1 Submit S96a application to amend the description of development, to remove the time element referred to therein (ref. 22/02041/NMA) and then;
- 2 Submit a S73 application to change the operational period of condition 16 attached to permission 14/01739/FUL (this application).

The Council subsequently confirmed via email in August 2022, that the above approach is acceptable.

As such, a S.96a application was submitted, (ref. 22/02041/NMA) amending the description of development of permission 14/01739/FUL to read:

Celebrating
60
years

“10MW solar farm with associated infrastructure”

The application was approved on 1 November 2022.

The Current Application

This S73 application is seeking to vary condition 16 of the permission (ref. 14/01739/FUL) to allow the solar installation to operate for a total of up to 40 years following completion of construction of the development, namely up to 29 March 2056.

It is important to note, this application is not seeking to make any physical changes to design, layout or scale of the solar farm or amend any proposed mitigation required as part of the permissions outlined above.

Application Submission

This application has been submitted via the Planning Portal (reference: PP-11681999) and comprises the following:

- 1 Planning Application Forms and Certificates;
- 2 Covering Letter (this document); and
- 3 Notice letter(s).

A payment for the requisite planning application fee of £234.00 has been made to the Planning Portal quoting the above reference number.

Proposed Variation of Condition

This application is seeking to vary the wording of condition 16 of planning permission 14/01739/FUL, extending the operational life of the solar farm from 25 years to 40 years. It is proposed that the following wording changes are made to condition 16 (additions shown in bold and deletions shown as a strikethrough):

“The development hereby permitted shall cease operation on or before shall expire on 29th March 2056 or on the cessation of electricity generation for a continuous period of 6 months, of the site, whichever is the sooner. Within 6 months of the operation ceasing, expiry of the planning permission or cessation of electricity generation all infrastructure permitted by this permission shall be removed from the site and the site shall be restored to its former condition and in accordance with the details to be submitted to and approved by the Borough Council. A minimum of 6 months of the expiry of the planning permission.

Reason: To protect the amenities of the area and to comply with policy GP2 (Design and Amenity Criteria) of the Rushcliffe Borough non Statutory Replacement Local Plan.”

The proposed variation will enable an additional 15 years of renewable energy generation from the operational solar farm, facilitating the efficient use of existing resources. At the point of 25 years of operation (currently permitted), the implemented planting will be well established and provide the required screening of the solar farm from public views. The management of the solar farm will be

continuous for the full operational period to ensure the planting and improved habitats for local ecology and biodiversity are maintained.

The support from local and national policy related to this proposal is detailed below. The following extended benefits are expected to be realised from an additional 15 years of renewable energy exportation at Elton Solar Farm:

- 1 Reuse of existing renewable energy resource to meet local and national renewable energy targets;
- 2 Continued use of fully functioning solar panels with an export of up to 10MW per annum; and
- 3 Continued management of biodiversity enhancements and native planting, which may otherwise diminish over time.

A common misconception is solar installations fail to operate efficiently after their performance warranty which typically guarantees a minimum level of performance for around 30 years lapses. These warranties are typically conservative in years covered and typically ensure at least 80% of ‘as new’ power output after the set number of years, however it is crucial to note that panels will continue to generate electricity at a gradual degrading rate or performance and can be expected to operate efficiently for many years beyond the end of the performance warranty. It is common practice for the operational lifetime of solar panels to be well beyond the equipment’s performance warranty through regular maintenance, operational monitoring and appropriate component refurbishment or replacement if faulty.

In this regard, it would be wasteful to replace or decommission items outside of warranty that are nevertheless still operationally functional. It should be noted that panels will not be replaced in a piecemeal approach overtime as other equipment within the solar installation will also be subject to performance degradation and it will only be through proactive monitoring and maintenance that the site will achieve a technically and economically feasible operational period of 40 years.

As the original permitted solar PV development did not comprise EIA development, it is not considered necessary to submit a screening request for this application, as no changes are proposed to the solar PV development as part of this application.

Consideration of Proposed Variation

The planning policy framework for the determination of this application is provided by national planning guidance, together with the development plan covering the application site.

National Planning Policy

Paragraph 20 of the National Planning Policy Framework (‘NPPF’), July 2021, sets out that strategic policies should set out an overall strategy for the pattern, scale and design quality of development and made sufficient provision for a range of development supporting infrastructure including energy (paragraph 20(b)).

Paragraph 152 states the planning system should support the transition to a low carbon future in a changing climate, through shaping places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience, and of most important to this application,

encourage the reuse of existing resources. As per this paragraph, the planning system should support renewable and low carbon energy.

Paragraph 158 of the NPPF sets out when determining an application, Local Planning Authorities ('LPAs') should not require applicants to demonstrate the overall need for renewable or low carbon energy and should recognise that small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. It continues to direct LPAs to approve planning applications for renewable energy development if the impacts are, or can be, made acceptable.

Overall, there is national planning policy support for renewable energy developments, where the impacts are considered acceptable, and it is highlighted that small scale projects and the reuse of existing resources are encouraged to be supported. This national policy support is not predicated on a requirement that the energy developments are time limited. The approval of the original application and subsequent amendments highlights that impacts from the solar farm have been considered an acceptable, sustainable development.

Local Planning Policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

For the purposes of this application, the Development Plan comprises the Rushcliffe Local Plan Part 1: Core Strategy and the Local Plan Part 2: Land and Planning Policies. The Rushcliffe Local Plan Part 1: Core Strategy was adopted in December 2014 and is a long-term plan to regenerate the Borough by establishing the strategic approach to new development and identifying the main strategic allocations in the Borough. In support of the Core Strategy, the Local Plan Part 2: Land and Planning Policies was adopted in October 2019 and identifies non-strategic allocations and designations and sets out more detailed policies for use in determining planning applications.

Core Strategy Policy 1 (Presumption in Favour of Sustainable Development) states "When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area."

Policy 2 (Climate Change) reflects national planning policies, supporting development proposals that comprise renewable and low-carbon energy including solar systems.

Land and Planning Policy 16: (Renewable Energy) proposes that proposals for renewable energy schemes will be granted planning permission where they are acceptable in terms of form and siting.

Emerging Planning Policy

Broxtowe Borough, Gedling Borough, Nottingham City and Rushcliffe Borough Councils are developing the Greater Nottingham Strategic Plan which sets out the policies to help guide future development up to 2038. It is anticipated that the Local Plan will be adopted before the end of 2022.

Relevant Material Considerations

The online Planning Practice Guidance (“PPG”) outlines the particular factors that a LPA will need to consider when determining planning applications for ground mounted solar farms (Paragraph 013 Reference ID: 5-013-20150327), and it follows that these factors that these factors are material considerations in such cases.

Of these factors identified in the PPG, the following are considered to be relevant to the proposed amendment to the condition which limits the operational life of the solar farm up to 2056:

- 1 That solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
- 2 The proposal’s visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety; and
- 3 The potential to mitigate landscape and visual impacts through, for example, screening with native hedges.

The first factor refers to the undesirability of solar arrays and equipment in place when they are not in operational use. This is an important distinction to make as there is no suggestion in PPG that, in order to make solar farm developments acceptable in planning terms, they should be time restricted. The proposed extension to the operational period would still ensure its decommissioning and suitable restoration, albeit over an extended time period. The second and third factors were dealt with in the original application, and the retention of the same conditions as per the original planning permission, will ensure the continued mitigation to the site and surrounding areas.

The PPG provides guidance in relation to the imposition of planning conditions (Paragraph 003 Reference ID: 21a-003-20190723), which aligns with paragraph 56 of the Framework. It clarifies that planning conditions should only be imposed where they meet all of the following six tests:

- 1 Necessary;
- 2 Relevant to planning;
- 3 Relevant to the development to be permitted;
- 4 Enforceable;
- 5 Precise; and
- 6 Reasonable in all other respects.

In consideration of the above, we are of the view that condition no.16 is relevant and necessary to planning only in so far as ensuring that, at the end of the operational life of the solar park, the site is decommissioned and restored, in order to protect the landscape character and visual amenity beyond that time. It is not, necessary for the solar park to cease operation by a specific date in order to make it acceptable when considered against planning policy and material planning considerations.

Nevertheless, for consistency, we propose to retain, within the wording of the condition, reference to a date by which the solar farm is to cease operation.

Rushcliffe Borough Council have made a commitment to work towards becoming carbon neutral by 2030 for its own operations. The Council is also committed to supporting local residents and businesses reduce their own carbon footprint. In 2020 they released their Council Carbon Management Plan which details various actions to be taken towards their neutrality goal, with timescales and estimated CO2 savings.

In addition to the above, there is clear Government support for renewable energy development as set out in the following documents.

Energy White Paper ‘Powering our Net Zero Future’ (December 2020)

The Energy White Paper sets out how “the UK will clean up its energy system and reach net zero emissions by 2050”. The White Paper builds on the Prime Minister’s Ten Point Plan for a Green Industrial Revolution; putting in place a strategy for the wider energy system that includes a focus on clean energy technologies such as renewables, nuclear and hydrogen. This Paper states “Onshore wind and solar will be key building blocks of the future generation mix, along with offshore wind. We will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net zero emissions in all demand scenarios.”

The White Paper is further supported by the Government’s National Infrastructure Strategy (November 2020) which describes how the Government will put the UK on the path to meeting its net zero emissions targets by 2050.

Again, this highlights the importance of the continued use of this site for renewable energy generation.

National Grid ESO ‘Future Energy Scenarios’ (July 2020)

National Grid’s Future Energy Scenarios [FES] Report 2020 looks at the investment required in energy infrastructure, the policy decisions and impacts in how we consume energy that need to be considered over the next 30 years to meet the net zero target. It sets out a number of future scenarios that explore how societal change and the rate of decarbonisation will lead to various possible pathways with regards to energy supply. The key insights in respect of solar development and renewables are as follows:

- There is strong policy support for the continued growth of wind and solar development to see an increase in growth of renewable generation;

- Solar capacity projections have increased significantly since the 2019 FES report; and

- Renewed government support for some renewable technologies (including solar) has driven the expectation of higher growth in renewable generation to a level which will be necessary to meet net zero.

There is, therefore, an expectation that solar development will continue to play a central part in meeting the net zero objective and extending the life of the existing solar farm will allow the site to continue to contribute to renewable energy generation.

Relevant Precedents and Recent Examples

There have been a number of examples where extensions to time limits on renewable energy permissions have been accepted. Recent appeal decisions against South Lakeland District Council (Appeal Reference: APP/M0933/W/18/3204360) and Blaenau Gwent County Borough Council (Appeal Ref: APP/X6910/A/20/325788) considered applications where time extensions for renewable schemes were refused by the Council and allowed at appeal.

In these cases, the Inspectors weighed up whether extending the time limits of the development outweighed any harm. In both instances, the energy and climate change benefits weighed significantly, and with appropriate decommissioning in place any impacts would be fully reversed and would outweigh the limited landscape and visual harm.

Summary

This application seeks to vary condition 16 of planning permission 14/01739/FUL to extend the time limiting date to up to 29th March 2056. For the reasons set out above, we are of the firm view that the time limiting part of condition 16 is not necessary to make the development acceptable in planning terms, nevertheless we include it in the proposed rewording of condition 16 for consistency.

Post 2041, there is no planned development that would materially change the sensitivity of the site and the surrounding area nor has there been any material change in any relevant adopted local planning policy in the period since the original permission was granted. The proposed amendment does not alter the design of the previously approved permissions and there are clear benefits in respect of energy and climate change, which outweigh any potential adverse impacts. The proposed amendment would not give rise to any additional impacts, above that assessed within the previous application and deemed acceptable. As such, there is clear continued support, and need, for renewable development in this area and for extending the life of the operation of the solar farm.

We trust that submission provides the Council with sufficient information to validate and determine the application. However, should you require any further information, please do not hesitate to contact me or my colleague Rachel Dodd.

Yours sincerely

