

RECORD OF URGENT DECISION

Date: **29.04.24**

Lead Officer: Simon Betts, Planner (Major Projects) + [44\(1636\)655369](tel:441636655369)
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Part D, Section 6 of the Council’s Constitution provides that the Head of Paid Service (or in their absence a nominated deputy) shall have delegated authority to take urgent decisions following consultation with the Monitoring Officer and the Section 151 Officer (or their deputies). In respect of Executive Functions the Head of Paid Service (or their nominated deputy) will consult with the Leader of the Council (or in their absence the Deputy Leader or in their absence a Portfolio Holder), and in respect of non-Executive functions the Head of Paid Service (or their nominated deputy) will consult with the Chairman of the Council (or in their absence the Vice-Chairman of the Council or in their absence the Chairman of the relevant Committee).

If the matter is likely to be a key decision and has not been advertised for a minimum of 28 clear days on the Council’s website, the decision can still be taken if a) it is impracticable to defer the decision until it has been possible for 28 clear days’ notice to be given; b) the Monitoring Officer has informed the Chairman of the Policy & Performance Improvement Committee.

Note – this urgent decision record will be reported to the next available meeting of the Full Council.

Decision Record Summary	
Nature of Decision	Open and Non-Key
Decision Title	‘One Earth’ Solar Farm (OESF) – Response to Statutory Consultation on Statement of Community Consultation (SOCC).
Summary of Decision	The formal response of the Council to applicant’s consultation on how the community should be consulted on the OESF project, in accordance with the provisions of the Planning Act 2008.
Decision Taken	That the Council will issue a formal response to the SOCC consultation, no later than the 3 May 2024, in the form attached as the Appendix to this report, to comply with the statutory timescales as set out in Section 47(3) of the Planning Act 2008.

<p>Decision Taker and Consultation</p>	<p>Decision was taken by the Head of Paid Service, in consultation with the following parties:</p> <ul style="list-style-type: none"> i. the Monitoring Officer and the Section 151 Officer (or their deputies); and ii. in respect of non-Executive functions, the Chair of the Council (or in their absence the Vice-Chair of the Council or their absence the Chair of the relevant Committee). iii. The Leader of the Council’s largest opposition group iv. The Chair and Vice Chair of Planning Committee <p>The decision has also been sent for information to the following parties:</p> <ul style="list-style-type: none"> v. The Portfolio Holder for Sustainable Economic Development. vi. All other members of the Planning Committee (other than the Chair and Vice Chair who were consulted as above)
<p>Members Consulted</p>	<p>All of the following members were consulted on the 30.04.24.</p> <p><u>Planning Committee</u> Councillor Andy Freeman (Chairman). Councillor David Moore (Vice- Chairman).</p> <p><u>Full Council</u> Councillor Celia Brooks (Chair). Councillor Jean Hall (Vice-Chair).</p> <p>Councillor Rhona Holloway (Leader of the Opposition).</p> <p>Councillor Keith Melton (Portfolio Holder for Climate Change)</p>
<p>Reason for Urgency</p>	<p>This decision and its urgency, is as a result of a statutory Timescale as defined in Section 47 of the Planning Act 2008. It is necessary to ensure the Council is able to respond on the proposed approach to consultation by the Applicant within the prescribed timescale for this Nationally Significant Infrastructure Project.</p>

1.0 Background

1.1 There is currently a report being drafted about the OSEF scheme and how to respond to the various future consultations that the Council will be party to as a statutory consultee on this project. In the interim, it is necessary to take an urgent decision to be able to respond to the current 28-day statutory Consultation. The OSEF is a Nationally Significant Infrastructure Project (NSIP) and the legal framework for the consenting of such projects is defined under the terms of the Planning Act 2008. In accordance with Section 47(1) of the Act, an applicant is required to *‘prepare a statement setting out*

how the applicant proposes to consult, about the proposed application, people living in the vicinity of the land.'

- 1.2 Further to this and as set out in Section 47(2) of the Act '*before preparing the statement, the applicant must consult each local authority that is within section 43(1) about what is to be in the statement.'*
- 1.3 This decision and the current consultation are under the provision of Section 47(2) of the Act. The 28-day period for a response, is set out under Section 47(3) of the Act, which dictates the urgent nature of the decision. A Project overview, including previous engagement on this project is summarised below.

Project overview

- 1.4 One Earth Solar Farm is being brought forward by two companies, PS Renewables and Ørsted ('the Developers'). The project website can be found here: [Home - One Earth Solar Farm](#).
- 1.5 The OESF comprises the construction and installation of solar photovoltaic panels, Battery Energy Storage Systems (BESS) and associated grid connection infrastructure which would allow for the generation of an anticipated 740 megawatts (MW) of electricity across approximately 1,500 hectares (ha) in Lincolnshire and Nottinghamshire.

Progress to date

- 1.6 The Developers carried out non-statutory public engagement between 27th September – 8th November 2023 which comprised of several in person and virtual consultation events as well as site visits to local properties. They also submitted an Environmental Impact Assessment (EIA) [Scoping Report](#) to the Planning Inspectorate (PINS) for consideration in December 2023. Before responding to the Scoping Opinion, PINS consulted several consultation bodies¹ which included Newark and Sherwood District Council.
- 1.7 The Lead Officer responded to the Scoping Opinion on behalf of NSDC and this response can be found in full on pages 170-193 of PINS' Adopted Scoping Opinion here: [EN010159-000009-EN010159 - One Earth Solar - Scoping Opinion 2017 EIA Regs.pdf \(planninginspectorate.gov.uk\)](#)

2.0 Options Considered and Reasons for the Decision

- 2.1 The need to draft a suitable response to the consultation (to which this decision relates) and subsequently engage with and seek approval, to allow a suitable response to be issued (within a fixed 28-day period) presented a significant challenge. This urgent decision is necessary in this instance, to ensure that the Council are able to provide a formal response within the statutory period. If a response is not provided within the set timeframe, the applicant, has no duty to consider the content of the Council's response

¹ in accordance with Regulation 10(6) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

and may choose to disregard our comments. This decision will ensure our comments are submitted in time and ensure that the applicant must take the Council's views into account.

- 2.2 As mentioned above (see paragraph 1.1) a separate report is currently being drafted, which will provide more details on the OSEF project, other similar NSIPs, the Planning Act 2008 and officer proposals for future responses to subsequent consultations and engagement on these projects. What is proposed to follow from this, is an agreed approach, which will seek to avoid further urgent decisions being necessary for subsequent stages of this and similar projects.
- 2.3 For the avoidance of doubt, this decision does not relate to the substantive application for the OSEF project and/or the merits of this scheme. It is simply a response on how the applicant proposes to consult with the community. There will be a number of further stages (with the next being the applicant's statutory consultation on the project) where the Council will be able to scrutinise the merits of the application, leading up to the submission of the application by the Applicant to the Planning Inspectorate and in the post submission Examination stage of the project.

3.0 Implications

- 3.1 In writing this report and in putting forward recommendations, officers have considered the following implications: Data Protection; Digital & Cyber Security; Equality & Diversity; Financial; Human Resources; Human Rights; Legal; Safeguarding & Sustainability and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.
- 3.2 This decision, does not link into a statutory function of the Council as a decision maker and therefore, there are not considered to be any significant implications. The role of the Council on this project, is that of a statutory consultee, rather than a decision maker, Nonetheless, the response of the Council, as a result of this decision, will ensure that we are able to maintain a position of influence on behalf of and in the interests of the local community.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

None

APPENDIX

Harriet Swale – DWD
69 Carter Lane
London
EC4V 5EQ

Sent via email to:

Harriet.Swale@dwd-ltd.co.uk

Telephone: 01636 650000

Email: planning@nsdc.info

Your Ref: EN010159

Our Ref: 23/02003/CONSUL

Date: 3/04/24

Dear Harriet,

Planning Act 2008 (as amended) – Section 47(2) – response to consultation on the Statement of Community Consultation (SOCC)

Application by One Earth Solar Farm Ltd (the Applicant) for an Order granting Development Consent for the One Earth Solar Farm (the Proposed Development)

SOCC Consultation

Thank you for your consultation request under Section 47(2) of the Planning Act 2008 (PA2008) in relation to the SOCC, which was received by the Council on the 5th of April 2024. The original request sought comments by the 2nd of April 2024, although as a point of clarity, the Council would confirm that in accordance with Section 47(3) of the PA2008, the 28-day period begins on the day after the day of receipt, meaning the end of the 28-day period in fact falls on the 4th of May 2024.

Newark & Sherwood District Council (NSDC), as a statutory consultee and host authority, wishes to make the following comments regarding the approach to community consultation as set out within the SOCC. For ease of reference, we present our observations below, following the structure of the SOCC document.

The comments provided have had regard to the following key legislation and/or guidance:

- *The Planning Act 2008, with specific regard to the provisions of Section 47 of the Act.*
- *Planning Act 2008: Guidance on the Pre-application Process (March 2015).*
- *Nationally Significant Infrastructure Projects – Advice Note Two: The Role of Local Authorities in the Development Consent Process.*

In responding to the SOCC, we have focussed on the applicant's proposed approach to community consultation, but make other general observations, where we consider they are beneficial points to raise, for the applicant's consideration. In making comments on the approach to community consultation, we have had regard to the Statement of Community Involvement produced by NSDC and currently subject to an update consultation: [Statement of Community Involvement | Newark & Sherwood District Council \(newark-sherwooddc.gov.uk\)](#)

In addition to the comments made below on the main SOCC document, we have also made comments on the community groups document, which is enclosed with this correspondence, under separate cover.

Reference/ Pages	Description	NSDC's Comments
Pg. 2-5.	Introduction and About Us, including Components of a Solar Farm.	NSDC have no comments to make on this section, which comprises a factual presentation and overview of the PA2008, the Applicant, and the scheme.
Pg. 6-7	The Planning Process	NSDC welcome the inclusion of the flow charts on both the DCO process and consultation activities, including a timeline. We consider which will assist the community in review of the SOCC, upon the point of publication. We note under the heading of 'Scoping' a hyperlink is provided to a copy of the Scoping Opinion on the PINS website, which makes an assumption that an electronic version of the SOCC is being read. We would recommend that the full web address be provided in the document at this point. Whilst we note that the EIA Scoping Opinion is a document produced and published by PINS, we would further recommend the applicant consider whether a hard copy of this document should also be made available for review during the statutory consultation period, alongside other hard copies of documents, that will be provided for review in the Community Access Points (See Page 10 of the SOCC).
Pg 8-9	Our Approach to Community Consultation/What are we consulting on?	Paragraph 1, page 8, refers to ' <i>We have developed the approach set out in this document taking into account what has worked well in previous rounds of consultation.</i> ' For clarity, we would recommend reference is made to the single previous round of non-statutory consultation at this point. Under the heading of 'Feedback from Local Authorities' firstly, in terms of the period of consultation, we note that reference is made to the incorrect consultation period for the SOCC document. As noted above, the end of the statutory consultation period is the 4 May 2024 and not the 2 May 2024. We also have concerns with the following comments in the same paragraph which states: ' <i>Our strategy has been updated to include their feedback (insert details here). XX confirmed that they supported this</i>

		<p><i>approach.</i> NSDC consider this to be a pre-emptive comment and it is particularly concerning that an assumed reference to support is made which prejudices the outcome of the consultation on the SOCC itself. NSDC considers it would have been more appropriate to omit this reference or simply refer to the fact that the comments of the Local Authorities would be taken into account following the conclusion of the statutory consultation period on the SOCC and prior to its publication and commencement of the statutory consultation. NSDC considers that this pre-emptive approach undermines the statutory duty of the applicant to 'have regard' to the response to the consultation, under Section 47(5) of the Planning Act 2008.</p>
Pg. 10-11	Who are we consulting?	<p>NSDC note and welcome the presentation of a Consultation Zone that includes the boundary of the scheme and the further inclusion of additional addresses in the proposed Zone 1 consultation. However, for the avoidance of doubt, it is recommended that all named settlements within Zone 1 that are to be consulted are either identified within the map or are listed for clarity. It would appear to NSDC that all of the settlements within the district boundary at this location to include North Clifton, South Clifton, Thorney, Spalford, Wigsley and Harby would be directly consulted. If that is the case, we are supportive of the proposed Consultation Zone 1.</p> <p>Under the Heading of <i>Zone 2: 'Additional members of the community, groups, and elected officials'</i> it is stated that <i>'We have identified organisations and community groups that serve the broader community, including organisations that support seldom heard groups.'</i> Firstly, we have provided specific comments on the community groups to be consulted, as provided under separate cover. However, there is no reference to how the applicant will endeavour to engage with these groups and support their ability to feed back as part of the consultation. NSDC seeks reassurance on the measures that will be deployed to positively engage with seldom heard groups, as part of the consultation process. This needs to extend beyond mere identification of the groups.</p> <p>In respect of the actions listed on page 11, we are broadly supportive of the approach, but would make the following comments, some of which we have provided previously, when undertaking an informal review of the SOCC:</p>

		<ul style="list-style-type: none"> • A copy of the consultation leaflet and poster to be displayed, should be appended to the final version of the SOCC and in the case of posters, confirmation of where they will be displayed. • A copy of the public notices should also be appended to the SOCC. • NSDC should be provided with a copy of any press notices issued and the media outlets that they have been provided to. • Finally, we would ask what consideration has been given to the role of social media in supporting consultation and as a supplement to the project website. This may also help with regard to the approach to engaging with hard-to-reach groups.
Pg. 12-13	<p>Providing Information About One Earth</p>	<p>In respect of ‘in person’ events, we welcome the inclusion of an additional event to be held at South Clifton Coronation Hall, following the proposal of a single event only during the informal consultation stage. Whilst noting that South Clifton Hall is an appropriate venue for a consultation, NSDC would encourage consideration for whether St Helen’s Church in Thorney, could also support an additional community consultation event, noting it is currently also listed as a Community Access Point, facilitating access to hard copies of the SOCC, project booklet and questionnaire. If deemed a suitable venue, it would provide more convenient access to those members of the community that reside to the eastern side of the proposed development and have a greater distance to travel to access an ‘in person’ consultation event.</p> <p>In addition to the above and irrespective of whether the applicant chooses to add any additional events, NSDC consider that the current planned timings of the events are not sufficiently flexible to support maximum attendance. The event planned for Wednesday the 12th of June is proposed as 2-6pm. This is considered too small a time window in general terms. It excludes the ability for people in employment to attend over lunchtime and is considered to finish too early, to allow those people who wish to attend after work, particularly if they do not work in the locality and have to travel home and/or to the venue. To address this point, we would suggest the event run for a minimum of 12 noon – 8pm. Similarly, whilst being on a weekend, which in itself offers more flexibility, NSDC consider that the hours of opening for the 29th of June event should be increased and operate for a minimum of 8 hours.</p> <p>Finally, given the level of organisation required is more limited and it is convenient for all parties (that have access to the internet) we would recommend a minimum of at</p>

		<p>least one further webinar event. In our view one webinar at the beginning of the consultation period, one at the midway point and one further and final one at the end of the consultation period would complement the planned in-person events.</p> <p>NSDC consider it imperative that the planned consultation is suitably proportionate to the size and scale of the proposed development, as an NSIP, that is located within a rural part of the district, with significant potential impacts. As noted in NSDC’s Statement of Community Involvement, (which is currently the subject of its own consultation on planned updates Draft-Statement-of-Community-Involvement-for-consultation.pdf (newark-sherwooddc.gov.uk)) at paragraph 3.7 ‘Some applications, particularly for larger scale or controversial developments, have the potential to affect whole communities rather than just residents of neighbouring properties.’ This paragraph goes on to state that: ‘large scale ground mounted solar photovoltaic farms can also be controversial and the Council will expect developers to show evidence of meaningful community consultation.’</p> <p>Further to this, the table under paragraph 3.8 sets out the consultation that would typically be requested by the District Council. In relation to Large Scale Ground Mounted Solar Photovoltaic Farms, it is stated that:</p> <p><i>‘The developer should show that they have consulted with representatives of the Parish Councils or Meetings of all affected parishes, as well as residents. The Council will expect to see evidence that people were fully informed about the proposal and given adequate time to respond to the consultation. The developer should show how account has been taken of views expressed.’</i></p> <p>NSDC consider that the proposed suggested revisions to the SOCC as referred to above are necessary to ensure that local communities are engaged with via a robust set of measures that ensures they have the maximum opportunity to engage in this process. It is important that a full cross section of the community have the ability to respond to the process, so the applicant can subsequently take those comments into account, as required by Section 49 of the Planning Act 2008.</p>
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		<p>Turning to the 'Information Materials' we note that reference is made to (amongst other things) maps to be produced and made available on the project website. We would encourage use of an interactive mapping tool that enables interested parties to search on a micro scale of their area of interest, that provides information on both the proposals and constraints. Given the scale of development, we consider that tools such as this are important in understanding the impacts of the project and therefore support meaningful engagement.</p> <p>Finally, in respect of Communication Channels, we would encourage the applicant to consider the use of social media. In accordance with the Council's SCI, we actively deploy social media channels, with regard to consultation on the local plan and other strategic proposals. We consider it useful in engaging with different parts of the community, including 'hard to reach groups.'</p>
Pg. 14-15	<p>Receiving Feedback & After the Statutory Consultation</p>	<p>In respect of Receiving Feedback, NSDC considers that it would be useful in this section to link back into the Communication Channels with greater explanation on:</p> <ul style="list-style-type: none"> • How feedback will be recorded via the freephone number. • How feedback will be recorded verbally in person and via the planned webinars and in respect of the latter, whether those webinars will be recorded and made available to all parties, including (as relevant) the period of time for which they will be made available. <p>Finally, in respect of 'After the Statutory Consultation' we consider it appropriate to make clear that the applicant has a Statutory Duty under Section 49 of the Planning Act 2008 to have regard to the response to the consultation, as a point of clarity and consider this could sensibly be added where reference is made to the Consultation Report.</p>

Please consider the comments made above and enclosed with this correspondence to constitute Newark & Sherwood District Council's formal consultation response under Section 47(3) of the Planning Act 2008.

Yours sincerely,

Simon Betts

Simon Betts MRTPI
Planner, (Major Projects) Planning Development Business Unit
On behalf of Newark & Sherwood District Council

Enc: Comments on OESF Community Groups