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18th October 2016

By Email Only : [keith.welford@decc.gsi.gov.uk](mailto:keith.welford@decc.gsi.gov.uk)

Dear Mr Welford,

## **Heckington Fen Onshore Wind Farm – Application to Vary Existing Consent**

Following discussions with the Department of Business, Energy & Industrial Strategy (BEIS) (formerly the Department of Energy and Climate Change), Ecotricity is invited by BEIS (by email dated 21<sup>st</sup> July 2016) to submit a response on the consultation comments received to date on our application under Section 36C to vary the existing Electricity Act consent for Heckington Fen Wind Farm (the Variation Application).

For ease, we have split our response into the following sections:

- Our response to the Wind Turbine Impact Assessment Appraisal written by Dr John Yelland, dated 6<sup>th</sup> June 2016 and received by Ecotricity on 9<sup>th</sup> June 2016.
- Our response to identified matters/concerns **prior** to consultation of 19<sup>th</sup> January, as requested by DECC (now BEIS) in a letter dated 19<sup>th</sup> January 2016 (See **Appendix 1**).
- Our response to identified matters/concerns **following** consultation of 19<sup>th</sup> January by DECC (now BEIS), and as requested by BEIS in their email dated 21<sup>st</sup> July 2016 (see **Appendix 2**).

### Response to Wind Turbine Noise Impact Assessment Appraisal

1. **Appendix 3: Noise Statement** is appended to this letter and provides a detailed response to Dr Yelland's 'Wind Turbine Noise Impact Assessment Appraisal' dated 6<sup>th</sup> June 2016.

### Response to identified matters/concerns prior to consultation of 19<sup>th</sup> January 2016

2. We respond to the specific concerns raised by Lincolnshire County Council and local people as directed by DECC (now BEIS) in their letter dated 19<sup>th</sup> January 2016 as follows:

***The proposed increase in turbine rotor diameter (blade length) which implies a 30% increase in swept area and which would, in the view of Lincolnshire County Council and some local people:***

- a. ***Cause a greater landscape and visual impact***

3. An assessment of the landscape and visual effects of the proposed minor amendments to the existing consented scheme was provided as part of the Environmental Statement submitted with the Variation Application.
4. This revised assessment concludes, at paragraph 5.147, that the residual landscape and visual effects would remain as described in the original Environmental Statement. Paragraph 5.148 summarises that: *“the proposed amendments, in particular the increased rotor diameter and lower blade sweep, would be perceptible from receptors in proximity, however this is not considered to change the overall effects report in the original ES”*.
5. No objections over the amendments have been raised from Natural England or North Kesteven District Council, the Local Planning Authority. It is noted that, in a letter to the DECC dated 11 June 2015 (**Appendix 4**), North Kesteven District Council Planning Sub-Committee members considered the impact of the proposed minor amendments to the existing consented scheme and stated:

*“Members noted that the overall height of the turbines would remain 125 metres to blade tip, however, the swept path of the blades would increase and this would lead to a change in the visual impact of the turbines. This would result in some additional harm, the Inspector having himself commented that the development would result in moderate to minor adverse impact on the local landscape character, but it was recognised in the debate that any additional harm would not, in all likelihood, lead to a different conclusion when set against the Inspector’s report in 2012.”*

6. Paragraph 5.95 of the revised LVIA assessment similarly concludes that: *“the level of effect on the character of the host landscape would remain as reported in the ES, namely **Minor to Moderate**.”*

***b. Invalidate any previous noise assessment***

7. An assessment of the potential noise effects of the proposed minor amendments to the existing consented scheme was provided as part of the Environmental Statement submitted with the Variation Application. This concluded at paragraph 9.33 that: *“The predicted operational noise limits, with appropriate mitigation applied, are within the ETSU-R-97 criteria at all noise sensitive receptors and for all wind conditions and, as such, residual operational noise impacts are acceptable according to current UK planning policy and are therefore **not significant** in EIA terms.”*
8. The Local Authority’s Environmental Health Officer raised no objections to the revised assessment subject to the mitigation measures outlined at paragraph 9.28 of Chapter 9 of the ES (submitted with the Variation Application) being followed should the Siemens SWT-101 candidate turbine be used to construct the wind farm. The proposed wind turbines would remain fully compliant with the noise conditions on the existing planning consent.

***c. Cause a significant increase in risk to radar***

9. As there will be no increase in the overall tip height of the proposed turbines or changes to their locations, there will be no increase in risk to radar. As required by condition, radar mitigation will be required irrespective of blade length. We have consulted with the Ministry of Defence (MoD) who have stated no objection to the variation of the wording proposed.

Furthermore, in their letter dated 20<sup>th</sup> May 2015 to DECC, the MoD go on to state: *“In respect of the variation proposed to Condition 5, it should be noted the MOD has commenced discussions with Ecotricity (Next Generation) Limited regarding radar mitigation and it is understood that all parties are in agreement regarding the requirement for mitigation. It is on this basis that the MOD has no objection to the proposed variation to Condition 5.”* See **Appendix 5: DIO Response 200515.**

10. Paragraph 10.71 of the Environmental Statement for the Variation Application concludes that: *“There are predicted to be no aviation impacts from the development once mitigation is implemented and as a result of the proposed variations to the consent.”*

***d. The proposed increase in the size of the sub-station and the proposed change to its location***

11. Paragraph 3.3 of the Environmental Statement for the Variation Application sets out the reason for amending the proposed substation. Due to the requirements of Western Power Distribution (WPD), a 132kV onsite substation is required to enable the grid connection to the existing Bicker Fen substation 7km to the south of the development site. Due to WPD’s requirements, and the increase in footprint, it is proposed that the substation is moved away from the A17 and residential properties to minimise the visibility of the sub-station from these receptors. The new location of the substation offers existing woodland screening and the potential for further screening as proposed. The potential effects of the amended substation are considered in the appropriate specific assessments (landscape & visual, noise, cultural heritage, ecology and flood risk) within the Environmental Statement for the Variation Application.
12. At paragraph 5.85 and 5.95 of the Environmental Statement (accompanying the Variation Application) it is considered that, with reference to the amended substation, the landscape fabric and landscape character would remain as reported in the original Environmental Statement. Furthermore, paragraph 5.145 describes additional mitigation measures in respect of the proposed substation, although paragraph 5.146 states that: *“these measures would not necessarily alter the significance of residual landscape and visual effects within the design life of the wind park”*.
13. At paragraph 6.31 the Cultural Heritage assessment states that: *“the potential for archaeological effects will not be increased by the proposed variation”*. Similarly, paragraph 6.34 states that with reference to the setting of heritage assets: *“no likelihood of a change (increase) in effect upon heritage-significance has been found in any given case”*. The assessment concludes at paragraph 6.41 stating: *“After avoidance (through micro-siting) or appropriate preservation by record of any archaeological remains encountered during construction or other groundworks, it is expected that there will be no planning-significant residual direct or indirect impacts. The proposed variation to the Application Development would cause no material harm to the cultural heritage.”*
14. North Kesteven District Council’s Conservation Officer commented (in the Planning Officer’s Committee Report) that *‘the relatively minor changes to the scheme will have no harmful impact on any heritage assets therefore I have no objection’*. Historic England (in a letter to DECC dated 22 May 2015) stated that: *“Consistent with our response on the original*

*application (our letter of 11 Oct 2011 attached), and our reading of the additional impacts set out in the variation documentation, I can confirm we have no new comments or advice to offer in respect of the proposed variation.”*

15. In a response to North Kesteven District Council on the variation of consent application dated 14 May 2015, Heritage Lincolnshire also raised no objection.
16. At paragraph 7.78 of the Environmental Statement, the ecological assessment summarises that: *“Following analysis of available survey work and assessment of the minor changes proposed, it is considered that there is no evidence to suggest that the proposed changes in the turbine size, layout of access tracks, substation and associated underground cabling, micro-siting buffers and temporary construction compound will result in any significant change in the effect on any known protected species or ecological features of value at the national, county or local level as compared with the original permitted scheme.”*
17. Neither Natural England nor North Kesteven District Council raised any objection or concerns in relation to ecological or ornithological effects associated with the proposed variations.
18. At paragraph 10.12 of the Environmental Statement for the Variation Application, the hydrological assessment concludes that: *“taking into account the proposed mitigation measures, no significant additional environmental impacts have been identified during the course of this review”*. Similarly paragraph 10.14 states that the revised Flood Risk Assessment submitted with the Variation Application concludes that: *“the revised plans do not introduce any significant change that would impact overland flow conveyance through the site.”*
19. No consultee has objected to the Variation Application on hydrological grounds associated with the amended substation.

***The potential for ground works (including the substation ) to be left as stranded kit if construction was allowed to proceed before there was agreement on radar mitigation and the mitigation was not subsequently forthcoming.***

20. We acknowledge that conceptually there is potential risk of components of the development associated with the wind park scheme being left as stranded kit should development have commenced and a radar mitigation solution not be forthcoming. The requirement for a mitigation scheme to be approved prior to the erection of a wind turbine should still provide the necessary protection whilst allowing a degree of flexibility on the construction timetable. For clarification, it is Ecotricity’s intention that only the existing onsite agricultural tracks would be upgraded prior to having an agreement with the Ministry of Defence over the Radar Mitigation Scheme. Commercially, it would be counterintuitive to proceed with major construction works such as developing the turbine foundations or building the substation prior to agreeing the Radar Mitigation Scheme and discharging Condition 5. Commencing some essential ground works ahead of agreeing the Radar Mitigation Scheme enables timeframes for completion to be accelerated.

***The proposed change allowing the development (other than the construction of a turbine) to proceed before approval of an agreement on radar mitigation (rather than any development being unable to proceed before approval of an agreement on radar mitigation)***

21. We believe that this is addressed in the same manner as the question immediately above concerning the potential for stranded kit to be left in situ. We have agreed with the appropriate organisation – Ministry of Defence – who has no objection or concerns with amending the condition.
22. Paragraph 10.71 of the Environmental Statement for the Variation Application concludes that: *“There are predicted to be no aviation impacts from the development once mitigation is implemented and, as a result, of the proposed variations to the consent.”*

***The Variation Application being for changes to the Development that are, in the view of some consultees, of such significance that they should be subject to a public inquiry, a new application or refused outright.***

23. We invite the SoS to conclude that our response to the particular concerns addressed above supports the SoS’s initial acceptance of the Variation Application and decision to proceed to publication (see **Appendix 6: Application Acceptance Letter**). In particular, we note the references in Regulation 4(8) of the 2013 Regulations. Whether a public inquiry should be held into the Variation Application is a discretionary matter for the Secretary of State having regard to the requirements of Regulation 8. We invite the SoS to conclude that all identified concerns have been adequately addressed and that there are no other material considerations militating towards the holding of a second public inquiry and/or refusal of the application.
24. Aside from Lincolnshire County Council, none of the technical statutory consultees have raised an objection and the Variation Application did not identify and significant environmental effects as a result of the proposed variations. As such there are no matters whatsoever that have not been robustly tested at the Public Inquiry for the original submission.

**Response to identified matters/concerns following consultation of 19th January 2016**

25. Many of the comments made by interested third parties following DECC’s (now BEIS) invitation for further representations dated 19<sup>th</sup> January 2016 (see **Appendix 1**), have been addressed in the previous two sections. Where new issues or comments have been made that have not yet been addressed in this response, these are indicated in the relevant sections below.
26. Ecotricity is unclear as to whether BEIS have sent the applicant all the third party representations received after 19<sup>th</sup> January 2016. However we have received letters from North Kesteven District Council, a number of Local Parish Councils, a number of local residents and a number of statutory consultee organisations (see **Appendix 7** for a list of those letters received to date). Therefore this response considers only those representations provided to Ecotricity by BEIS. Should further concerns be raised it is anticipated that Ecotricity will

address these in a final response as indicated by BEIS in their email dated 21<sup>st</sup> July 2016 (see **Appendix 2**).

#### *Local Residents*

27. A sample of resident responses dated between 7<sup>th</sup> February and 7<sup>th</sup> March 2016 has been received by Ecotricity from BEIS. All these letters are based on a template letter which appear identical other than the respondent's name, address and years spent within the local area (although in several cases no details are provided).
28. The concerns of the letter can be summarised as:
  - a. Concerns over increasing the blade rotor diameter from 90m to up to 103m resulting in the potential for low frequency noise and amplified modulation (para. 3-5 of template letter). This concern is addressed in **Appendix 4: Noise Review**.
  - b. Concerns over amending Condition 5 regarding the radar mitigation scheme (para. 6 & 7 of template letter). These concerns are addressed in paragraphs 20-22 above.
  - c. Concerns over the consultation process in respect of Section 36 applications (para. 9 & 10 of template letter). The quote provided within the template letter is a direct quote from the Heckington Parish Council consultation response to the initial application, rather than a comment from the Planning Officer. Ecotricity's meeting notes from the 7<sup>th</sup> September 2009 meeting (referred to in the template letter) describe how Andrew Muir (Ecotricity Project Manager) explained, in answering a question put forward by Councillor Roberts, that it was the developer's intention to follow the IPC methodology in submitting a s36 application which involved a Statement of Community Involvement, and that the local community would still have the opportunity to comment on the application as would the District Council. We have seen no other third party notes relating to this meeting. To confirm, Ecotricity has followed the consultation requirements set out in the relevant EIA/Section 36 Regulations<sup>1</sup> for both the original application and the Variation Application.

#### *Local Parish Councils*

29. Similar to the resident's template letter, responses from five surrounding Parish Councils have been received by Ecotricity from BEIS. Four of these responses appear to be based on a template letter with similar concerns raised in each.
30. The concerns of the letter can be summarised as:
  - a. Concerns over increasing the blade rotor diameter from 90m to up to 103m resulting in the potential for low frequency noise and amplified modulation (para. 3-5 of template letter). This concern is addressed in **Appendix 3: Noise Statement**.
  - b. Concerns over amending Condition 5 regarding the radar mitigation scheme (para. 6 & 7 of template letter). These concerns are addressed in paragraphs 20-22 above.

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<sup>1</sup> The Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000, The Electricity (Applications for Consent) Regulations 1990, and The Electricity Generating Station (Variation of Consent) (England and Wales) Regulations 2013.

- c. Concerns regarding the consultation and publicity of the Variation Application. As above, Ecotricity complied with its statutory obligations regarding consultation and publicity. In addition, consultation was subsequently undertaken by North Kesteven District Council (including consulting parishes within its District e.g. Heckington Fen Parish Council, Great Hale Parish Council and South Kyme Parish Council<sup>2</sup>).
- 31. South Kyme Parish Council's response letter dated 31<sup>st</sup> January 2016 raises the following concerns regarding (in their view 'unnecessary') construction works prior to radar mitigation scheme approval:
  - a. Construction and vibration noise affecting local properties.
  - b. Significant disruption on the A17.
  - c. Additional heavy traffic through local villages.
- 32. The original Environmental Statement and Public Inquiry found no unacceptable construction traffic or noise issues. The SoS has already stipulated planning conditions to control these matters. Construction activities are also assessed, where relevant, within the chapters of the Variation of Consent Environmental Statement.
- 33. South Kyme also raised the following concerns regarding the proposed increase to the blade diameter:
  - a. **Increased noise and vibration resulting from cavitation:** Cavitation is normally relevant for underwater propellers, where bubbles form in the water if the speed reaches a certain point. In this case the application to wind turbines is unclear. An assessment of noise and vibration is considered and assessed within the Variation of Application Environmental Statement (see Chapter 9).
  - b. **Increased impact on migratory birds:** This is considered and assessed within the Variation Application Environmental Statement (see Chapter 8).
  - c. **Further adverse visual impact on the landscape:** This is considered and assessed within the Variation Application Environmental Statement (see Chapter 5).
  - d. **Changes to the radar profile:** No objection has been received from the Ministry of Defence in relation to the Variation Application (see para. 21 & 22 above and **Appendix 5**). The same radar mitigation is expected to be required irrespective of blade length.
  - e. **Proposed changes should be subject to new technical and environmental impact statements:** This is provided by the Variation Application Environmental Statement, submitted with the Variation Application, and is available for public viewing at [www.ecotricity.co.uk/heckington-fen](http://www.ecotricity.co.uk/heckington-fen)

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<sup>2</sup> These Parish Councils are listed in the Council's Committee Report of 2 June 2015 so that Ecotricity assumes they were consulted. The report further confirms that neither Heckington Fen PC nor Great Hale PC provided comments to the Council as part of their consultation.

### *Statutory Consultees*

34. Responses from the following consultees have been received by Ecotricity from DECC (now BEIS) following their 19<sup>th</sup> January 2016 letter inviting further comments:
  - a. NATS Safeguarding: **no objection**.
  - b. Civil Aviation Authority: **no objection**.
  - c. Natural England: **no objection**.
  - d. Lincolnshire County Council: views on the proposed variation remains unchanged as from 23<sup>rd</sup> April 2015 response. Concerns relating to the Variation Application as stated in Lincolnshire County Council's letter of 23<sup>rd</sup> April 2015 are addressed within Section 2 of this letter.

### *North Kesteven District Council*

35. Following DECC's letter of 19<sup>th</sup> January 2016, North Kesteven District Council provided a further response, dated 10<sup>th</sup> February 2016.
36. The Council accept that, although they expressed reservations on the visual impact on the local landscape, they raised no objection and so did not expect Ecotricity to seek to address any issues directly with the Council.
37. The Council did refer to the proposed revisions to Condition 5 and highlighted the need to include provision to restore the land should the Radar Mitigation Scheme be incapable of delivery. As this concern was raised in their original submission (11 June 2015) they state *"As a matter of fact, we have not been contacted by the applicant pursuant to these concerns and how they might revise the condition or otherwise to address the points we raised."*
38. For clarity, prior to the letter of 19 January 2016, Ecotricity had not been provided with an opportunity to formally respond to these concerns. Ecotricity's proposals to address these concerns is set out in paragraph 20 above and includes, as also suggested by the Council, that there be a commitment to restore the land should the Radar Mitigation Scheme not be successful.
39. Also to note, the intention to seek amendment of condition 5 was discussed with the Council in pre-application discussions and, at that point, the Council raised no particular concern regarding this variation. Notwithstanding, Ecotricity has taken the Council's (and third parties') concerns on board and proposed the above amendment in order to provide comfort.

In conclusion, taking into consideration the responses set out in this letter and in consideration of the information previously supplied as part of the Variation Application, Ecotricity invites the SoS to approve the Variation Application.

Yours sincerely

A handwritten signature in black ink, appearing to read 'JB', with a long horizontal stroke extending to the right.

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Enc: Appendix 1: DECC to Ecotricity letter 190116  
Appendix 2: BEIS to Ecotricity Email 210716  
Appendix 3: Noise Statement  
Appendix 4: NKDC Response 110615  
Appendix 5: DIO Response 200516  
Appendix 6: Application Acceptance Letter  
Appendix 7: List of Representations from 19 Jan Consultation