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**TOWN AND COUNTRY PLANNING ACT 1990**

**HEARING PROCEDURE**

**APPEAL BY**

**Pathfinder Clean Energy UK Dev Ltd at Land east of Guanockgate Road, Nr. Sutton St**

**Edmund, Lincolnshire, PE13 4PY**

**Response to Environmental Statement**

South Holland District Council  
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## **Summary of Core Issues**

South Holland District Council raises concerns regarding Chapter 6 of the Environmental Statement (Agricultural Circumstances) in relation to Best and Most Versatile (BMV) agricultural land.

The principal issue is whether Chapter 6 complies with the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), in particular Regulations 4(2) and 18(3), which require a case-specific assessment of likely significant environmental effects and a reasoned environmental conclusion.

The Council considers that Chapter 6 does not consistently demonstrate how the evidence presented has been translated into the significance judgements required by those Regulations.

### **Key Issues**

#### **• Departure from the EIA methodology**

Chapter 4 establishes an EIA methodology based on sensitivity, magnitude, duration, extent and reversibility, with significance determined through professional judgement. The Council agrees with this approach.

However, Chapter 6 introduces a fixed numerical threshold, stating that:

*"a medium magnitude impact occurs when 20 hectares or more of land of BMV quality is lost... This equates with the threshold for consultation with Natural England"* (paragraph 1.2.30).

The Council considers that this places significant reliance on a consultation threshold, rather than clearly demonstrating the case-specific environmental judgement required by Regulation 4(2) that Chapter 4 seeks to pursue.

#### **• Duration of impact**

Chapter 6 concludes that the temporary nature of the development results in a low magnitude effect. However, the development would remove BMV land from arable production for approximately 40 years, and the assessment does not clearly explain how that duration has been reflected in the significance judgement, as required by Regulation 18(3).

#### **• Cumulative assessment**

The Environmental Statement contains information on cumulative land take, soils and agricultural productivity, including estimates of food production. However, it does not clearly explain how that evidence has informed the conclusion that cumulative effects are not significant.

In particular, the assessment does not provide a clear reasoned judgement on the cumulative effects on productive agricultural capacity, the functional availability of BMV land, or how the various strands of evidence have been weighed in reaching the overall conclusion.

## Summary

The Council is therefore not satisfied that Chapter 6 provides a sufficiently reasoned assessment of the likely significant effects on Best and Most Versatile agricultural land in accordance with Regulations 4(2) and 18(3) of the EIA Regulations.

### 1. Scope of this representation

South Holland District Council has reviewed the Environmental Statement (ES), in particular Chapter 6 (Agricultural Circumstances), insofar as it relates to Best and Most Versatile (BMV) agricultural land and cumulative agricultural land effects.

This response is provided in the context of the EIA Scoping Opinion issued by the Council under Regulation 15 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, which confirms that the Environmental Statement must focus on those matters likely to give rise to significant environmental effects.

The Scoping Opinion identifies that the principal environmental issues in this case is:

“the cumulative loss of best and most versatile agricultural land”

It further identifies the need to consider:

“the implications of taking this land out of arable production”

The Council agrees that these matters form the central scope of the ES.

### 2. Statutory EIA framework

The Environmental Statement is required to comply with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as consolidated 2026 edition).

Under **Part 5, Regulation 18(1)**:

“the developer must ensure that an environmental statement is prepared and submitted to the relevant planning authority.”

Regulation 18(3) requires the ES to include:

“the information... reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment.”

In addition, **Part 1, Regulation 4(2)** requires that effects are:

“identified, described and assessed in an appropriate manner, in light of each individual case”

This establishes a clear requirement for **case-specific environmental judgement**, not fixed thresholds or rule-based significance triggers.

### 3. Relevant ES methodology (Chapter 4)

The ES establishes a general EIA methodology in Chapter 4, which sets out that effects are assessed using:

- sensitivity
- magnitude
- duration
- extent
- reversibility

and that significance is derived through professional judgement using a structured matrix approach (ES Chapter 4, p.7–8) .

Significance is therefore intended to be determined through **case-specific application of environmental criteria**, not fixed numerical thresholds.

#### **4. Departure in Chapter 6 (Agricultural Circumstances)**

Chapter 6 departs from the methodology established in Chapter 4 in a fundamental respect.

At paragraph 1.2.30, Chapter 6 states:

*"A medium magnitude impact occurs when 20 hectares or more of land of BMV quality is lost... This equates with the threshold for consultation with Natural England."* (p.10)

In the Council's view, this introduces a fixed numerical threshold into what Chapter 4 describes as a judgement-based assessment of magnitude and significance.

The Council recognises that consultation thresholds may provide a useful point of reference. However, they should not replace the case-specific environmental judgement required by Regulation 4(2), which requires effects to be assessed "in light of each individual case".

The Council is therefore concerned that the assessment places significant reliance on a consultation threshold, rather than clearly demonstrating how the sensitivity of the resource, the magnitude of change, duration, extent and reversibility have been weighed in reaching the final judgement on significance, as envisaged by Chapter 4 and Regulation 18(3).

#### **5. Key issue: reversibility and 40-year duration**

ES chapter 6 relies on paragraph 1.2.31, which states that temporary and reversible effects are treated as low magnitude in line with ISEP guidance. The Council recognises that this reflects a principle within that guidance.

However, in this case it is applied as a blanket rule and is not supported by case-specific reasoning about duration. In particular, the assessment does not explain how the 40-year period of agricultural land use has been factored into the judgement that the effect remains low magnitude simply on the basis of reversibility.

The ISEP guidance also makes clear that temporary development can still result in permanent environmental effects where soil disturbance or land use change leads to lasting impacts. This

demonstrates that “temporary” is not, in itself, a sufficient reason to conclude that effects are not significant, and that case-specific reasoning is required.

Reversibility is therefore a relevant consideration, but it is not determinative. Under the EIA Regulations, the assessment must explain how the conclusion has been reached in the specific circumstances of the development, including its duration and the way in which soils are managed and restored over time.

This is particularly important because the Council’s Scoping Opinion explicitly required “...(the) Environmental Statement should address not only agricultural land classification, but also the handling, management and protection of soils. This should include consideration of soil stripping and storage during construction, soil condition and management during the operational phase, and the potential for restoration of soil function and productivity following decommissioning. The Council considers that these matters are integral to understanding the likely significant environmental effects associated with the use of agricultural land in this case.”. These matters are therefore integral to understanding how temporary land use change operates in practice over the lifetime of the development.

Despite this, Chapter 6 does not clearly demonstrate how soil management during the operational period, or restoration following decommissioning, has been taken into account in reaching the conclusion that all reversible effects are of low magnitude.

The Council’s concern is therefore not that reversibility has been ignored, but that it has been treated as sufficient on its own without the supporting reasoning required by Regulation 18(3) of the EIA Regulations. That Regulation requires a reasoned conclusion on likely significant environmental effects, which must be transparent, case-specific, and clearly explained.

In the absence of that reasoning, the assessment does not demonstrate how the extended period of agricultural land use change, together with the soil management and restoration considerations identified at scoping stage, has been properly factored into the significance judgement.

As a result, the conclusion that all reversible effects are of low magnitude is not adequately justified, because it does not explain how duration, soil management, and restoration pathways have informed the EIA reasoning process in this case.

In simple terms, the assessment relies on the label “reversible”, without showing the reasoning required to explain why 40 years of agricultural land use change is not significant in EIA terms.

## **6. Key issue: cumulative effects assessment**

The Environmental Statement includes a cumulative assessment of agricultural land effects, considering land quality, soils, farm businesses and food production alongside the cumulative area of Best and Most Versatile (BMV) land affected.

The Council does not dispute that this information has been provided. The issue is whether the information is translated into a reasoned assessment of likely significant cumulative environmental effects, as required by Regulation 18(3) of the EIA Regulations.

The assessment relies heavily on the amount of land affected, expressed in hectares, and on comparisons with the overall croppable area of Lincolnshire and Cambridgeshire before concluding that the cumulative effects are negligible and not significant.

The Environmental Statement at paragraph 1.6.8 also introduces an assessment of food production by estimating the equivalent wheat tonnage associated with the cumulative land take. **This demonstrates that agricultural productivity is recognised as a relevant consideration in the assessment.**

However, whilst agricultural productivity is introduced as part of the assessment, it is not clearly carried through into the overall significance judgement. The assessment does not explain how the estimated reduction in productive output, together with the cumulative use of BMV land, has informed the conclusion that cumulative effects are negligible.

Similarly, although the assessment considers soils and concludes that good soil management would mean effects are temporary, it does not explain how this conclusion has been reached when considered alongside the duration of development and the cumulative use of BMV land across the wider area.

The Council's concern is therefore not that the Environmental Statement omits relevant information, but that it does not clearly explain how that information has been weighed in reaching its overall conclusion.

In particular, the assessment does not provide a clear reasoned judgement on:

- the cumulative effect on productive agricultural capacity;
- the cumulative effect of multiple developments on the functional availability of BMV agricultural land;
- how the estimated food production figures have informed the significance judgement; or
- how the combined effects of land quality, soils and agricultural productivity have been balanced in concluding that cumulative effects are negligible.

As a result, the cumulative assessment contains a range of quantitative information and qualitative commentary, but it does not clearly demonstrate the reasoning that links that evidence to the final conclusion on significance, this is evidence in the short conclusion set out in paragraph 1.6.10 of the ES.

Accordingly, the Council is not satisfied that the cumulative assessment provides the transparent and reasoned conclusion required by Regulation 18(3) of the EIA Regulations.

## **7. Overall position**

The Council considers that Chapter 6 does not apply a consistent Environmental Impact Assessment methodology when compared with Chapter 4 and does not provide a fully reasoned assessment of the effects on Best and Most Versatile (BMV) agricultural land.

In particular:

- Chapter 4 adopts a case-specific, professional judgement approach to determining significance.

- Chapter 6 instead introduces fixed hectare thresholds derived from consultation triggers rather than environmental significance.
- The significance of the 40-year duration of the development is not clearly reflected within the assessment of effects.
- Whilst cumulative information is presented, the Environmental Statement does not clearly explain how that evidence has informed the ultimate significance judgements.

For these reasons, the Council is not satisfied that Chapter 6 provides the transparent, consistent and reasoned assessment required by Regulation 18(3) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 in relation to the effects on Best and Most Versatile agricultural land.

These shortcomings go directly to the weight that can properly be afforded to the appellant's assessment of agricultural land effects. In the Council's view, the Environmental Statement has not demonstrated, through a robust and reasoned assessment, that the likely significant effects on the agricultural land resource are less than those identified by the Council, nor has it displaced the concerns which underpin the Council's Statement of Case and the reason for refusal.

## **8. Conclusion**

Having reviewed the Environmental Statement against both the statutory requirements of the EIA Regulations and the matters identified within the Council's Scoping Opinion, the Council considers that Chapter 6 does not provide a sufficiently reasoned assessment of the likely significant effects on Best and Most Versatile agricultural land.

Whilst the Environmental Statement contains a considerable amount of information relating to agricultural land quality, soils and cumulative effects, it does not consistently demonstrate how that evidence has been evaluated to arrive at the significance judgements required by the EIA Regulations. The assessment departs from the methodology established within Chapter 4, relies upon procedural consultation thresholds in place of case-specific environmental judgement, and does not adequately explain how matters such as the duration of development and cumulative effects have been reflected in the final assessment of significance.

Accordingly, the Council maintains that Chapter 6 does not provide the consistent, case-specific and reasoned assessment required by Regulations 4(2) and 18(3) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

These deficiencies reinforce, rather than undermine, the planning judgement reached by the Council when determining the application. The Environmental Statement has not demonstrated that the Council's concerns regarding the loss and long-term use of a substantial area of Best and Most Versatile agricultural land were misplaced, nor has it shown that the environmental effects of the proposal have been assessed in a manner capable of supporting a different planning conclusion. Accordingly, the Council maintains that the reason for refusal relating to Best and Most Versatile agricultural land remains sound and that nothing within Chapter 6 of the Environmental Statement demonstrates that a different decision should have been reached.