



**Corporate Policy and
Resources**

**Thursday 11th November
2021**

Subject: The resourcing of Nationally Significant Infrastructure Projects

Report by:	Assistant Director of Planning and Regeneration
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Purpose / Summary:	To set out the early resourcing position for the management of Nationally Significant Infrastructure Projects (NSIP) through the Development Consent Order process.

RECOMMENDATION(S):

1. Corporate Policy and Resources Committee approve the allocation and spend of up to £50,000 from the General Fund Balance, to deliver the necessary resourcing requirements of the current Nationally Significant Infrastructure Projects as a bridging resource whilst Planning Performance Agreements are signed to resource the Development Consent Order process.

IMPLICATIONS

Legal: Legal Services Lincolnshire have been appointed to work on this project and a draft Planning Performance Agreement (PPA) for each development is being worked up urgently.

(N.B.) Where there are legal implications the report **MUST** be seen by the MO

Financial : FIN/119/22/TJB

The resourcing to support the NSIP is likely to be required in advance of any funding provision. It is therefore proposed that the General Fund working balance be utilised as bridging funding of upto £50,000 for this purpose and any funding received will be transferred into the General Fund Balance.

It is considered that this amount will be adequate to cashflow these costs prior to the funds being confirmed within the PPA.

Staffing : The Planning Performance Agreement will include funding to WLDC to provide additional resource to be used for additional capacity to ensure a timely and effective service during the Development Consent Order process.

(N.B.) Where there are staffing implications the report **MUST** have a HR Ref

Equality and Diversity including Human Rights : In the fullness of time the assessment of these proposals will consider the needs of different groups within our communities.

NB: Please explain how you have considered the policy's impact on different groups (for example: young people, elderly, ethnic minorities, LGBT community, rural residents, disabled, others).

Data Protection Implications : The Technical Administration role will be responsible for meeting the Council's data protection requirements. This will include logging and redacting all appropriate public responses to the proposals prior to publication. The advice and guidance of the Data Protection Officer will be sought throughout the process.

Climate Related Risks and Opportunities: The principle of the three Nationally Significant Infrastructure Projects is the development of large scale solar farms for the generation of renewable energy. The very nature of the potential production capacity at well over 49.9 mw per projects makes the development proposal an NSIP.

The Secretary of State for Business, Energy and Industrial Strategy will take the final decision on the Development Consent Order. West Lindsey District Council as Host Authority will be responsible for setting out the risks, opportunities and impacts of the applications.

Section 17 Crime and Disorder Considerations: None

Health Implications:

Any health-related impacts and benefits will be considered as part of the Development Consent Order process.

Title and Location of any Background Papers used in the preparation of this report :

Wherever possible please provide a hyperlink to the background paper/s
If a document is confidential and not for public viewing it should not be listed.

Risk Assessment :

Each of the developers proposing the projects have commenced discussions with the authority regarding the development of an appropriate Planning Performance Agreement (PPA). This is the mechanism through which the local authority can secure resources to support the work required.

There is a risk that spend could be made from the allocation proposed within this paper and then the PPA is not agreed or the development does not progress.

It is considered that this risk is low due to the fact that the developers have progressed to a point where they have option agreements in place with land owners and the National Grid access secured subject to development consent being granted.

To mitigate the risk of expending the bridging funds prior to signing of the PPA, this work is being progressed as a matter of urgency.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1 Introduction

- 1.1 The Council have recently been made aware of three Nationally Significant Infrastructure Projects where West Lindsey District Council will perform the role of host authority in the Development Consent Order process.
- 1.2 The Planning Act 2008 introduced the Development Consent Order process to streamline decision making process for nationally significant major infrastructure projects with the aim of making the process fair and faster for communities and applicants alike.
- 1.3 Instead of making an application for planning permission to the Local Planning Authority under the Town & Country Planning Act, the applicant instead applies for a Development Consent Order (DCO) directly to the Government. The application will be considered by the Government's Planning Inspectorate, who will make a recommendation to the relevant Secretary of State who then makes the final decision. So for a renewable energy scheme of over 50MW, this would be determined by the Secretary of State for Business, Energy and Industrial Strategy.
- 1.4 There are six stages of the National Infrastructure Planning process. These are:
 1. **Pre-application:** Before submitting an application, potential applicants have a statutory duty to carry out consultation on their proposals.
 2. **Acceptance:** When the applicant submits an application for development consent the Planning Inspectorate, on behalf of the Secretary of State, must decide whether or not the application meets the standard required to be accepted for examination.
 3. **Pre-examination:** This stage allows Interested Parties (including members of the public) to register and make a representation to the Planning Inspectorate on the proposals.
 4. **Examination:** The Planning Inspectorate has up to six months to carry out the examination. The Planning Inspectorate will consider all important and relevant matters with questions posed and answered through a hearing or series of hearings.
 5. **Recommendation and Decision:** Within 3 months of the examination closing, The Planning Inspectorate prepares a report on the application for consideration by the relevant Secretary of State who then decides whether to grant or refuse development consent.
 6. **Post Decision:** Once a decision has been issued by the Secretary of State there is a six week period where this can be challenged.
- 1.5 West Lindsey District Council is a host authority for the three current NSIP proposals for solar farm development. The role of host authority is set out in the Planning Act 2008. Participation is not obligatory but is strongly advised by the Planning Inspectorate. The local authority has the opportunity to provide an important local perspective at the pre-application stage, in addition to the views expressed directly to the developer by local residents, groups and businesses. The Local

Authority will also take part in, and make representations at the Inquiry. Local authorities will also become responsible for discharging many of the requirements (akin to planning conditions) if development consent is granted. Local authorities are also likely to have a role in monitoring and enforcing many of the DCO provisions and requirements.

2. Planning Performance Agreement

- 2.1 As Development Consent Orders are considered directly by the Planning Inspectorate the Local Planning Authority does not receive a planning fee.

For each of the NSIP projects the Developer has recognised that the scope and nature of it's proposals, and that by being an NSIP, it places additional demand for resources upon WLDC. The Developers are willing to provide some financial support to WLDC to enable the local authority to participate fully in the Development Consent Order process.

- 2.2 We have instructed Legal Services Lincolnshire to begin the preparation of the Planning Performance Agreements (PPA) for each of the NSIP proposals.

- 2.3 The purpose of the Planning Performance Agreement is to provide a project management framework for the parties to work together in handling the DCO process. A PPA may also provide a basis for any voluntary contributions which the applicant has offered to pay to assist with the abnormal costs associated with such developments. We expect that the PPA will:

- Facilitate WLDC in securing appropriate internal and external resources to ensure that we effectively and efficiently undertake the activities required as part of the NSIP process;
- Enable WLDC to engage with the Developers in a way that meets the necessary timetable requirements as set out in the PPA
- Provide a clear and transparent mechanism to enable the developer to provide financial support as is required by WLDC
- Identify the project teams for both WLDC and the Developer
- Agree measurable performance indicators for both parties

- 2.4 For each of the proposals we are awaiting detailed project timetables however each developer have indicated that the formal pre application consultation is planned for early 2022. It is therefore anticipated that work on the applications will be required imminently.

3. Resource Requirements

3.1 As host authority WLDC will be required to work on the following elements of the DCO process:

- Statement of Community Consultation response
- Draft preliminary Environmental Impact Report response
- Planning Performance Agreement
- S106 Planning Obligations
- Environmental Statement ongoing dialogue
- Adequacy of Consultation Response
- Local Impact report and Development Consent Order including draft requirements
- Statement of Common Ground
- Examination Participation including written representation submissions
- Discharge of requirements and monitoring

3.2 In order to support the DCO process WLDC will need to provide officer capacity early in the process, both in respect of at least one suitably qualified and experienced Planning Officer, together with technical administration support. There will also be capacity required from our legal team. It will be necessary to seek funds from the Developers to cover this work.

3.3 We also envisage that external technical specialists in the following subjects, as a minimum, will be required.

- Environmental Impact Assessment and Regulatory Overview
- Land and visual impact assessment
- Geology, hydrology and hydrogeology
- Ecology and ornithology
- Traffic and Transport
- Noise
- Culture and heritage
- Socio economics
- Air quality and climate
- Glint, glare and aviation
- Agricultural land impacts

3.4 Officers from across Central Lincolnshire, together with colleagues from Boston and Bassetlaw, where other similar NSIP proposals are coming forward, have come together to work collaboratively on securing the necessary technical specialisms for this work.

3.5 It is unprecedented for WLDC to have received three NSIP proposals in quick succession. Although timescales for the proposals are beginning to emerge, and high level details of the proposals have been made public, the process has not yet formally commenced.

- 3.6 Due to the scale and nature of the proposals it is likely to take some time to agree the necessary Planning Performance Agreements and access the financial support that will be required.
- 3.7 It is therefore deemed necessary to put in place an NSIP resource which will allow WLDC to make the necessary officer arrangements, fund the services of Legal Services Lincolnshire and commence the procurement of the technical specialists.
- 3.8 It is expected that these costs are reclaimed from the respective developers once the PPA is in place. Hence this is sought as a resource to bridge the gap between now and the signing of the PPAs.
- 3.9 The level of resource that will be required across the three NSIPs in this bridging period is not clear and will be determined by the length of time it will take to agree the PPAs. The developer timescales will also impact on when the resources will be required. It is therefore suggested that an NSIP project bridging resource of £50,000 is made available and will be subject to regular review through the budget monitoring process.

4. Recommendation

- 4.1 Corporate Policy and Resources Committee approve the allocation and spend of up to £50,000 from the General Fund Balance, to deliver the necessary resourcing requirements of the current Nationally Significant Infrastructure Projects as a bridging resource whilst Planning Performance Agreements are signed to resource the Development Consent Order process.