

6 February 2015

Our Ref: 4038\_P0199\_01

Keith Welford  
Kings B  
National Infrastructure Consents  
2<sup>nd</sup> Floor  
c/o 3 Whitehall Place  
London  
SW1A 2AW

Dear Sirs,

**S. 36C of the Electricity Act 1989 and S. 90(2ZA) of the Town and Country Planning Act 1990.**  
**Application to vary S. 36 consent and deemed permission for the Heckington Fen Wind Park,**  
**Heckington Fen, near East Heckington.**

Pursuant to section 36C of the Electricity Act 1989 (**the 1989 Act**) and section 90(2ZA) of the Town and Country Planning Act 1990 (**the 1990 Act**), Ecotricity (Next Generation) Ltd (**the applicant**), is seeking a variation of consent granted under section 36 of the 1989 Act (**the existing consent**), and a variation of the accompanying section 90 direction for deemed planning permission (**the existing deemed permission**).

The existing consent is for a wind energy development comprising the erection of up to twenty two wind turbines, each with a maximum overall height of up to 125m together with access tracks, crane pad areas, electricity sub-station, temporary construction compound and amended vehicular access on agricultural land.

In accordance with section 36C(1) of the 1989 Act, the applicant is the person for the time being entitled to the benefit of the section 36 consent and therefore may make the application to the Department of Energy and Climate Change (**DECC**) for the consent to be varied.

The application is made in accordance with the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 (**'the 2013 Regulations'**).

In accordance with regulations 3(2)(a) and 3(2)(b) of the 2013 Regulations, copies of the existing consent and existing deemed permission form part of the application documentation.

## Relevant Plans

Pursuant to Regulation 3(1)(b) and Regulation 3(3)(a) of the 2013 Regulations, the location of the development to be granted by the varied consent and varied deemed permission (together known as '**the proposed development**') is located at Six Hundred Farm, Six Hundred Drove, East Heckington, Lincolnshire (the '**development site**'), as shown edged blue in the enclosed Location Plan (ref: 4038\_0491\_01).

Figure 3.1 and Figure 3.4 are not referred to in the existing consent, but form part of the variation proposed to Condition 1 detailed below. Figure 3.4 also forms part of the variation proposed to paragraph 8(1) of the existing deemed permission. Therefore, both plans are attached to this Application Letter (both also feature in the Variation of Consent Environmental Statement).

## Variations proposed to the existing consent

The application is to vary the existing consent as follows:

- Amend the onsite access track along two sections within the Development Site and an allowance for micro-siting as set out in Figure 3.1;
- Relocate and increase the footprint of the onsite substation and provide underground cabling corridor from the turbines to the onsite substation as set out in Figure 3.1;
- Relocate the temporary construction compound to an area of existing hardstanding;
- Provide temporary auxiliary crane pad areas;
- Amend the turbine rotor diameter from 90m to a maximum rotor diameter of up to 103m and allow a 10 metre radius micro-siting allowance around each turbine location where onsite constraints allow, as set out in Figure 3.1;
- Amend the wording of Condition 1 to substitute the words "*figure 3.1 and figure 3.4*" for the words "*drawing number 4038\_A0085\_03*";
- Amend the wording of Condition 5 to read:  
*'No construction of a wind turbine shall commence unless and until a Radar Mitigation Scheme has been submitted to and approved in writing by the Secretary of State, having consulted with the Ministry of Defence and NATS (En Route) plc, to address the impact of the wind farm upon air safety';* and
- Amend the wording of Condition 7 to remove the words "*shown on Figure 4.1*" at the end of the second sentence.

In accordance with Regulation 3(1)(d)(i) of the 2013 Regulations, a draft of the above proposed variations to be made to the existing consent have been included as part of the application documentation (**the varied consent**).

## Variations to the existing deemed permission

The application is to vary the existing deemed permission as follows:

- In paragraph 8(1), amend the definition of “Environmental Statement” to read: “means the document entitled ‘Heckington Fen Wind Park Environmental Statement’ dated 20 July 2011 and supplemented by a document titled ‘Heckington Fen Wind Park Further Environmental Information Landscape Clarification’ submitted on 9 December 2011, together with the document entitled ‘Heckington Fen Wind Park Variation of Consent Environmental Statement’ dated [February 2015].”; and
- In paragraph 8(1), amend the definition of “Site” to substitute the words “on Figure 3.4: Site Edge Red” for the words “on drawing number 4038\_A0085\_03”.

In accordance with Regulation 3(3)(c)(i) of the 2013 Regulations, a draft of the proposed direction has been included as part of the application documentation (**the varied deemed permission**).

## Reasons for variations to the proposed development (Reg. 3(1)(c)(i) and Reg. 3(3)(b)(i) of the 2013 Regulations)

The proposed variations set out above are necessary for a range of reasons:

- the onsite access track is proposed to be varied along two sections for the purpose of utilising existing agricultural tracks, to reduce the amount of permanent arable land loss and to minimise disruption of current agricultural practices on the land. An allowance for micro-siting is also proposed to ensure some flexibility in agreeing bye-law consent with Black Sluice Internal Drainage Board for access tracks close to drains, to allow some flexibility for ground conditions and to allow for underground cabling alongside the access tracks;
- the onsite substation is to be increased in size due to the necessity for an onsite 132kV substation rather than a 33kV control building as discussed with Western Power Distribution. Due to the increase in size it is proposed that the substation is moved away from the A17 and residential properties to minimise the visual impact of the substation. As the land to the north of the development site is lower than the south, a compromise between reducing the visual impact of the substation by moving it away from sensitive receptors and ensuring that the substation can be sufficiently protected from potential flooding has been made. The new location of the substation offers existing woodland screening and the potential for further screening as is proposed. Underground cabling from the turbines to the relocated onsite substation is also proposed;
- the temporary construction compound is to be relocated to an area of existing hardstanding to reduce the temporary loss of agricultural land and to take advantage of the existing woodland screening afforded by the new location;
- temporary auxiliary crane pad areas are also proposed due to the potential that the chosen turbine model may require a secondary crane to assist with the turbine construction;

- the turbine rotor diameter is proposed to be increased from 90m to a maximum rotor diameter of up to 103m to maximise the renewable energy generation from the proposed development without increasing the overall tip height, number of turbines or locations of turbines. A 10 metre radius micro-siting allowance around each turbine location where onsite constraints allow, is also proposed to allow for minor alterations in the final constructed turbine location due to particular ground conditions that may be encountered during the construction phase;
- the wording of Condition 1 is to be amended to refer to revised plans reflecting the proposed variations set out above;
- the wording of Condition 5 is proposed to be amended to allow the discharge of this condition prior to the installation of the turbines, as opposed to the requirement for its discharge prior to commencement of the development. As the scheme is required to mitigate the potential impacts of the turbines on the Watchman Primary Surveillance Radars at RAF Coningsby , RAF Waddington and the air traffic control operations of the MOD, plus the Primary Radar Installations at Claxby and the air traffic management operations operated by NATS (En Route) plc, the requirement for the scheme to be agreed prior to the erection of the turbines should still provide the necessary protection, while still allowing the proposed development to be commenced;
- Condition 7 is proposed to be amended to allow flexibility on the number of ‘remaining turbines’ referred to in this paragraph; allowing for a reduced number of turbines requiring 25 candela omni-directional aviation lighting or infrared aviation lighting, should the 18 or 19 turbine schemes be taken forward.
- the definition of the “Environmental Statement” within paragraph 8(1) of the deemed permission is to be amended to reflect the Variation of Consent Environmental Statement provided as part of this application; and
- the definition of “Site” is to be amended to refer to the revised red line plan as a result of the proposed variations.

**Third party views on the proposed development** (Reg. 3(1)(c)(ii) and Reg. 3(3)(b)(ii) of the 2013 Regulations)

As several of the proposed variations may result in different environmental effects and/or involve development outside of the red line boundary, the applicant has notified and consulted with the landowner, plus the following statutory consultees; the Environment Agency, Black Sluice Internal Drainage Board, Natural England, RSPB, North Kesteven District Council, Boston Borough Council, JRC, English Heritage, Lincolnshire Heritage Trust, Lincolnshire County Council Historic Environment Team, the MOD, Western Power Distribution and the DECC.

A detailed analysis of the pre-application consultations undertaken by the applicant with the statutory consultees, plus details of how these responses have been taken into account, is provided in Chapter 4 of the Variation of Consent Environmental Statement.

**Requirement for an Environmental Statement** (Reg. 3(4) of the 2013 Regulations and Regulation 4 of the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000)

The original consent was subject to an environmental impact assessment, the detail of which was set out in the original Environmental Statement dated 20 July 2011, and Further Environmental Information Landscape Clarification, dated December 2011. A copy of these documents form part of the application documents. Where the proposed variations fall outside of the existing red line of the original consent and/or may result in different environmental effects not included in the original ES, these have been assessed and included in the Variation of Consent Environmental Statement, provided as part of this application.

Save for the above additional assessments provided in the Variation of Consent ES, Ecotricity confirms that the original Environmental Statement is still up to date. Where any policy, guidance or the baseline has changed, this is described and reassessed in the specific technical assessment as appropriate.

### **Planning and Energy Policy**

Chapter 3 of the Variation of Consent Environmental Statement sets out an update of the current planning and Energy policy landscape relevant to this application.

Following the submission of the original application for s.36 consent and deemed permission, but prior to the determination of the application by the Secretary of State, the Government issued the Overarching National Policy Statement for Energy (NPS EN-1) and the National Policy Statement for Renewable Energy (NPS EN-3). These documents provide the primary policy basis for consideration of Nationally Significant Infrastructure (pursuant to the Planning Act 2008 (**2008 Act**)).

As the Heck Fen Wind Farm would be considered a Nationally Significant Infrastructure Project if an application had been submitted after the 2008 Act came into force, these NPSs were also the primary policy consideration when the application was previously determined in 2013. The Inspector confirmed this in paragraph 12 of his report on the original consent (forming part of the application documentation – see Appendix 1.1 to the Variation of Consent ES).

In addition to the NPSs, the National Planning Policy Framework also came into force after the application had been submitted but prior to its determination.

The development plan relevant to the application has altered since the original application as the Regional Spatial Strategy for the East Midlands was revoked in 2013. This has resulted in the North Kesteven Adopted Local Plan 2007 being the development plan for the area. The Central Lincolnshire Local Plan is the emerging plan for the area but is at too early a stage to be given weight.

Since the original s.36 consent was approved, the only update in policy has been the issuing by the Government of the Planning Practice Guidance on Renewable and Low Carbon Energy. This guidance replaced the companion guidance to PPS22 and provides details of particular planning considerations to be taken into account when determining onshore wind developments including,

for instance, landscape, noise, cultural heritage and residential amenity. This guidance will be a material consideration in the determination of the proposed development.

At paragraph 14 of the Inspector's original Report, the hierarchy of planning policy considerations was confirmed to begin with the National Planning Statements (EN-1 and EN3), followed by the National Planning Policy Framework (NPPF), then the development plan and other material considerations. Ecotricity suggests that this hierarchy has not changed.

Details of the above policies, the current development plan (which has also not altered), and energy policies are set out in more detail in Chapter 2 of the Variation of Consent ES and in the original Planning Statement.

The Variation of Consent ES assesses those topics where there may be likely additional or different effects. Those topics where no additional or different effects are likely to occur have been scoped out the assessment. For those topics, there is no change from the original consent in relation to their compliance with planning and energy policies. For those topics where effects, additional or different, may occur due to the proposed variations, additional assessments were undertaken. Topics assessed were:

- Landscape and Visual
- Cultural Heritage
- Ecology
- Ornithology
- Noise
- Hydrology (including an updated Flood Risk Assessment)
- Transport and Access
- Aviation
- Shadow Flicker

A summary of the potential additional or different effects in relation to each topic are set out in the Non Technical Summary.

The Variation of Consent ES concludes that there will be no change as to the significance of effects; either because any changes are minimal or because mitigation can be provided.

The most recent energy policies issued after the determination of the original consent continue to support the drive for renewable energy in order to reduce green house gas emissions. The scheme continues to support this imperative of addressing climate change and the need to achieve a secure and reliable supply of electricity. Moreover, should the rotor blade diameter be increased, it would generate approximately 13% - 24% more electricity from the wind park than the original scheme.

There has been no change in relevant planning policy, save for the launch of the Planning Practice Guidance on Renewable and Low Carbon Energy (PPG); a further material consideration in the determination of this application. Although it is recent guidance, the considerations set out in the PPG have either already been assessed in the original application or form part of the considerations

in the current application, and the applicant suggests the proposed development is in accordance with this PPG.

As the variations proposed do not result in likely significant environmental impacts different to those previously assessed, the conclusions reached by the Inspector in his original report, and the determination by the Secretary of State of the original consent, continue to be relevant and consent should therefore be granted for the proposed development.

If granted, the proposed development should be as set out in the draft s.36 consent and draft s.90 deemed permission enclosed as part of the application.

Yours faithfully,

**Jamie Baldwin**  
**Project Manager**

**Enc:**

1. Location Plan (4038\_T0491\_01)
2. Figure 3.1: For Approval Site Layout Zones (4038\_T0452\_02)
3. Figure 3.4: Site Edged Red (4038\_T0462\_01)
4. Appendix A: S36 & S90 Consent Amendments (4038\_P0197\_01)
5. Heckington Fen Wind Park Variation of Consent Environmental Statement (February 2015) – Chapters & Figures
6. Heckington Fen Wind Park Variation of Consent Environmental Statement (February 2015) – Appendices
7. Heckington Fen Wind Park Variation of Consent Environmental Statement (February 2015) – Non-Technical Summary
8. Heckington Fen Wind Park Environmental Statement (July 2011) – Chapters
9. Heckington Fen Wind Park Environmental Statement (July 2011) – Figures
10. Heckington Fen Wind Park Environmental Statement (July 2011) – Appendices (Part A)
11. Heckington Fen Wind Park Environmental Statement (July 2011) – Appendices (Part B)
12. Heckington Fen Wind Park Environmental Statement (July 2011) – Planning Statement
13. Heckington Fen Wind Park Environmental Statement (July 2011) – Non Technical Summary
14. Heckington Fen Wind Park – Further Environmental Information: Landscape Clarification (December 2011)