



SPR EA1N and EA2 PROJECTS

DEADLINE 12 – COMMENTS ON APPLICANTS AND NGET RESPONSES TO DDCO COMMENTARIES – OPERATIONAL LAND

Interested Party: SASES **PINS Refs:** 20024106 & 20024110

Date: 28 June 2021 **Issue:** 1

1. In REP11-081, the Applicants responded to the suggested changes to the dDCOs in respect of operational land (OL). There are two issues:
 - a. The uncertain extent of OL created by the dDCOs;
 - b. The potential wide extent of permitted development rights which arise on such OL.
2. At ISH17, SASES explained the continuing problems with the proposed approach to the identification of OL including the discretion given to the promoter to identify its extent. Those submissions are not repeated here: see REP11-175.
3. The Applicants (and NGET, REP11-117) are wrong to suggest that, since OL is “defined by law”, the dDCOs should be silent on the issue. The Applicants seek, on behalf of themselves and NGET, to compulsorily acquire substantial areas of land for future use in connection with electricity undertakers. The terms on which future development of that land can occur are of great significance, and go to the heart of a number of environmental issues which have arisen during the examinations. The fact that OL has a legal definition does not prevent a DCO from deeming a certain extent of land to be OL for the purposes of the order in question. The dDCOs expressly seek to engage the OL definition through defining the orders as specific planning permissions (Article 33). The way in which the OL legal regime applies is therefore regulated by the dDCOs and it is open to the Secretary of State to define the way in which that regime applies.
4. Given the significant effects of development in this location, the flexibility sought in the dDCOs in terms of the location and siting of infrastructure, and the broad legal definition of OL, there is a compelling case for the extent of OL to be defined. The submission of a plan would go some way to achieving that, but OL should be limited to compound areas. This would ensure that, for example, areas of landscaping or parking could not be developed for the purposes of the undertakings, and nor could substantial expansion of the substation sites (and in particular the NG substation) without planning applications being submitted.
5. SASES supports the continued request of ESC to remove permitted development rights (REP11-109 and 11-111) and endorses its submissions. Such a requirement is reasonable and necessary given the potential effects of expansion of electricity infrastructure in this location. The proposed approach does not affect the ability of NGET or the windfarm undertakers to maintain and upgrade their equipment, but would prevent its substantial expansion without proper scrutiny through the planning process.