



CLEVE HILL SOLAR PARK

WRITTEN SUMMARIES OF ORAL SUBMISSIONS COMPULSORY ACQUISITION HEARING 2

September 2019
Revision A

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CLEVE HILL
SOLAR PARK

**WRITTEN SUMMARY OF CLEVE HILL SOLAR PARK LIMITED'S ("THE APPLICANT")
ORAL CASE PUT AT COMPULSORY ACQUISITION HEARING 2 ON 12 SEPTEMBER 2019**

1. INTRODUCTORY REMARKS

- 1.1 A Compulsory Acquisition Hearing ("**CAH**") was held at 10:00am on 12 September 2019 at the at Hempstead House Hotel, London Road, Bapchild, Sittingbourne, ME9 9PP.
- 1.2 The CAH took the form of running through items listed in the agenda published by the Examining Authority ("**ExA**") on 30 August 2019 (the "**Agenda**"). The format of this note follows that of the Agenda. The Applicant's substantive oral submissions commenced at item 3 of the Agenda, therefore this note does not cover items 1 and 2 which was procedural and administrative in nature.

2. AGENDA ITEM 1 – INTRODUCTION OF THE PARTICIPATING PARTIES

- 2.1 The ExA: - David Rose (Lead Panel Member), Andrew Mahon and Helen Cassini.
- 2.2 The Applicant:
- 2.2.1 **SPEAKING ON BEHALF OF THE APPLICANT:** - Claire Brodrick and Gareth Phillips (Pinsent Masons LLP).
- 2.2.2 Present from the Applicant: - Hugh Brennan and Simon McCarthy.
- 2.2.3 The Applicant's legal advisor:- Peter Cole (Pinsent Masons LLP).
- 2.2.4 The Applicant's consultants:
- (a) Mike Bird (Arcus Consultancy Services) and
- (b) Ian Cuncliffe (Gately Hamer)
- 2.3 CPRE Kent – Vicky Ellis
- 2.4 GREAT – Lut Stewart

- 2.5 Swale Borough Council – Graham Thomas

3. AGENDA ITEM 3 – SUMMARY OF DCO PROVISIONS

- 3.1 **Any relevant changes since the first Compulsory Acquisition Hearing to the Articles that engage Compulsory Acquisition or Temporary Possession powers;**
- 3.2 Claire Brodrick for the Applicant confirmed that no such changes had been made.
- 3.3 **Any updates to the list of intended Protective Provisions; and**
- 3.4 Ms Brodrick advised that an update had been provided at the Issue Specific Hearing 5 (DCO), but summarised that in relation to London Array Limited ('LAL') and Blue Transmission London Array Limited ('BTLAL'), discussions are progressing. Ms Brodrick confirmed that there was no intention to include bespoke Protective Provisions, but discussions were taking place on a crossing agreement.
- 3.5 In relation to National Grid, Ms Brodrick noted that changes to the Protective Provisions had been agreed with National Grid and would be included in the version of the draft DCO submitted for Deadline 5.

- 3.6 **Any other matters relating to the Articles that do not arise later in the Agenda.**
- 3.7 N/A.
4. **AGENDA ITEM 4 – STATUTORY CONDITIONS AND GENERAL PRINCIPLES**
- 4.1 **The Applicant to confirm whether the Book of Reference is up to date and complete;**
- 4.2 Ms Brodrick confirmed that a new version of the Book of Reference was submitted at Deadline 4 (REP4-005) with an explanation for the changes also provided (REP4-049). She advised that the changes were due to ongoing diligent enquiries, for example where further information had been obtained for unknown slithers of land such as ditches.
- 4.3 **The Applicant to demonstrate that in respect of all land for which Compulsory Acquisition powers are sought the application complies with one or more of the conditions set out in PA 2008 s123;**
- 4.4 Ms Brodrick confirmed that the Applicant had complied with s.123(2) in that the application includes a request for compulsory acquisition powers.
- 4.5 **The Applicant to set out further how the purposes for which the compulsory acquisition powers are sought comply with section 122(2) of the Planning Act 2008;**
- 4.6 Ms Brodrick noted that the Applicant had set out in detail in the first Compulsory Acquisition Hearing how the compulsory acquisition powers sought comply with s.122(2). She advised that details were set out in the written summary of the submissions made at the Compulsory Acquisition Hearing (REP3-013).
- 4.7 **Applicant to explain whether further consideration has been given to all reasonable alternatives to compulsory acquisition and temporary possession;**
- 4.8 Ms Brodrick advised that the consideration given to alternatives was set out in detail in the first Compulsory Acquisition Hearing, and details of this are set out in the aforementioned written summary (REP3-013). She confirmed that the Applicant had explored all reasonable alternatives and would provide an update at agenda item 5 on the status of voluntary agreements.
- 4.9 **The Applicant to demonstrate whether the rights to be acquired, including those for temporary possession are necessary and proportionate; and**
- 4.10 Ms Brodrick stated that the rights were to be acquired, including those for temporary possession, were necessary and proportionate and referred to the reasons provided at the first Compulsory Acquisition Hearing(as set out in the written summary (REP3-013)).
- 4.11 **The Applicant to demonstrate further whether, in accordance with PA 2008 s122(3), there is a compelling case in the public interest for the proposed Compulsory Acquisition, both in relation to the need in the public interest for the project to be carried out and in respect of the private loss to those affected.**
- 4.12 Ms Brodrick advised that in the first Compulsory Acquisition hearing the Applicant had set out why it believes there is a compelling case in the public interest and details are set out in the written summary (REP3-013). She noted that need for the project had been discussed in detail in other issue specific hearings.
- 4.13 In response to an ExA question, Mr Phillips advised that in relation to the access route, there were three landowner affected parties – LAL, BTLAL, and the Attwoods.

He reported that negotiations were going well, and the Applicant expected progress during course of the following week to make a decision on which route to use, with the possibility of this decision by Deadline 5. Mr Phillips confirmed that the Applicant would update the ExA at Deadline 5 anyway, even if not to make decision, but to say when it will be. Mr Phillips stated that the Applicant had agreed heads of terms with the parties, so there were no outstanding issues, just the drafting of the necessary agreements to be done.

5. **AGENDA ITEM 5 – REVIEW OF THE COMPULSORY ACQUISITION SCHEDULE, CHANGES TO FUNDING, PROGRESS WITH PROTECTIVE PROVISIONS, AND ASSOCIATED MATTERS.**

5.1 Ms Brodrick confirmed that an update on negotiations had been submitted at Deadline 4 (REP4-042) for all landowners. She outlined the updates since Deadline 4: –

5.1.1 In respect of Badlesmere Limited (plots 1/06, 1/09, 1/10 and 4/01), heads of terms had been agreed, with the Applicant hoping for a formal agreement by the close of the Examination;

5.1.2 Regarding the Faversham Oyster Fishery Company (plots 1/02, 2/06, 2/07, 2/09, 2/10, 2/11, 2/13, 2/15, 2/17, 2/19, 2/21, 2/23, 2/24, 2/25, 2/27, 3/01, 3/01A and 3/01B), the Applicant expected engrossments to be circulated shortly and for these to be signed prior to end of the Examination;

5.1.3 Heads of terms had been agreed with The Crown Estate (plots 1/02, 2/05, 2/06, 2/08, 2/10, 2/12, 2/14, 2/16, 2/18, 2/20, 2/22, 2/24, 2/26, 2/28, 3/01, 3/01A and 3/01B), which the Applicant hoped would be sufficiently advanced by the end of the Examination.

6. **AGENDA ITEM 6. CROWN LAND AND INTERESTS**

6.1 Ms Brodrick confirmed that heads of terms had been agreed in respect of the property agreement (as mentioned under agenda item 5). In relation to the s135 consent, the Applicant was awaiting a draft deed of undertaking from the Crown Estate. She advised that it was hoped to have this consent by the end of the Examination.

7. **AGENDA ITEM 7. REPRESENTATION FROM LONDON ARRAY LIMITED**

7.1 Mr Phillips confirmed progress in respect of agreements with LAL and BTLAL, and the expectation to conclude these shortly. At this stage, he stated, if all parties were aligned there would be no need for protective provisions for BTLAL, who reserved the right for these if agreement were not capable of conclusion. Mr Phillips stated that parties had agreed a longstop of 30 September 2019 to decide if sufficient progress had been made or if protective provisions were needed. Mr Phillips advised that he was confident this would not be required.

8. **AGENDA ITEM 8. REPRESENTATION FROM NATIONAL GRID PLC**

8.1 Ms Brodrick advised that agreement had been reached with National Grid and the Applicant therefore expected National Grid to withdraw its objection prior to the end of the Examination.

9. **AGENDA ITEM 9. ANY OTHER REPRESENTATIONS FROM AFFECTED PERSONS**

9.1 N/A

10. **AGENDA ITEM 10. ANY OTHER REQUESTS TO SPEAK**

10.1 None.

11. **AGENDA ITEM 11. UPDATES AND ADMINISTRATIVE MATTERS**

11.1 None.

12. **AGENDA ITEM 12. ANY OTHER BUSINESS**

12.1 N/A