



Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects

Written Summary of the Applicant's Oral Submissions
at Compulsory Acquisition Hearing 1

Revision A

Deadline 3

May 2023

Document Reference: 16.12

Title:	
Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects Examination submission Written Summary of the Applicant's Oral Submissions at Compulsory Acquisition Hearing 1	
PINS document no.: 16.12	
Document no.: C282-BS-Z-GA-00020	
Date:	Classification
May 2023	Final
Prepared by:	
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Approved by:	Date:
Ebru Gee, Equinor	May 2023

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1 Introduction

1. This document presents a written summary of Equinor New Energy Limited's (the Applicant) oral case at the Compulsory Acquisition Hearing 1 (**Table 1**), which took place at 10:00am, 29th March 2023 at Fishmongers Recital Hall, Gresham School, Cromer Road, Holt, NR25 6EA.

Table 1 Written summary of the Applicant's oral submission at Compulsory Acquisition Hearing 1

	Agenda item	Applicant Response
Applicant's strategic case for Compulsory Acquisition and Temporary Possession		
3.i	Purposes for which the Compulsory Acquisition and Temporary Possession powers are sought, in line with s122(2) of the Planning Act 2008	<p>A. The Applicant confirmed that the Statement of Reasons (Revision D) [document reference 4.3] sets out compliance with these requirements. The Order Land comprises only that which is required for the development itself or is required to facilitate that development. No replacement land given as exchange for the Order Land is required to be included within the draft development consent order (Revision F) [document reference 3.1] (draft DCO) and so the third limb of s122(2) does not apply. In relation to the first two limbs, a description of the land required for the projects is included in section 7.1 of the Statement of Reasons and a description of how that land will be used by reference to the proposed development is included in section 8. Further details, including reference to the different aspects of the development (such as the substation, landfall and onshore cable corridor) and specific plot numbers for each aspect, is included in section 11.2. This should be read alongside the Land Plans (Revision D) [AS-048] the Works Plans (onshore) (Revision D) [AS-050] and the Environmental Statement (ES) Chapter 4 -Project Description (Revision B) [document reference 6.1.4], all of which come together to demonstrate why the land that has been included within the Book of Reference (Revision E) [document reference 4.1] is required for the delivery of the development. The Applicant therefore submits that it has satisfied the tests set out in section 122(2) of the Planning Act 2008.</p> <p>B. The Applicant confirmed that at this stage it is not possible to identify exactly where within the joint Order Limits each project's cable will be laid. The precise location of the cables will be determined by the pre-construction surveys and investigations and the cable corridor width therefore provides room for micro-siting during detailed design. Given that the precise location of cables will be determined post-consent and a decision on the appropriate construction scenario will also be made post consent, the draft</p>

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		<p>DCO (Revision F) [document reference 3.1] provides both Scira Extension Limited (SEL) and Dudgeon Extension Limited (DEL) with consent to construct, operate and maintain their cable circuit in any part of the onshore cable corridor and similarly to exercise powers of compulsory acquisition across the full width and length of the onshore cable corridor.</p> <p>C. The Applicant confirmed that the difficulty with depicting two cable corridors within the Land Plans is that it is not known where within the corridor each project would lay their cable. There is precedent of just having one wide corridor rather than having one centreline. The precise location of the cables will be confirmed post consent. The Applicant confirmed it would further consider whether cable routes could be more clearly indicated on the land plans but that it was unlikely.</p> <p>D. The Applicant confirmed that having two projects in one DCO application will inevitably create uncertainties which are further detailed in the Scenarios Statement [APP-314]. It is always, however, the case with a linear development like this that there is an element of flexibility to lay the cables within a wider corridor. The land eventually taken for that corridor would only ever be that which is needed.</p> <p>E. The Applicant confirmed that the case for compulsory acquisition is made out for both projects within that corridor. There is always a balance between providing certainty for landowners and retaining flexibility for the development. The Applicant confirmed it discussed this point with the Planning Inspectorate at the pre-application stage.</p> <p>F. The Applicant believes landowners are well aware of the position regarding the two projects within a single corridor.</p> <p>G. The Applicant also confirmed its intention is at this stage to build both projects.</p> <p>H. The Applicant confirmed compensation will be payable where compulsory acquisition is used. This means there is a commercial incentive to take the least amount of land possible.</p>

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		<ul style="list-style-type: none"> I. The Applicant confirmed that if compulsory acquisition is used for one project there is a chance the same land will be used for the second and there is therefore a limit in terms of how different the impacts on landowners will be depending on the scenario chosen. J. The Applicant confirmed that if the second project does not proceed and compulsory acquisition rights are not used within the time limit (Schedule 2, paragraph 1 of the draft DCO (Revision F) [document reference 3.1]), they will fall away and that will give landowners greater certainty.
3.ii	Consideration given to all reasonable alternatives to Compulsory Acquisition and Temporary Possession	<ul style="list-style-type: none"> A. The Applicant confirmed that during the development of the design of the projects at the pre-application phase and during site selection, impacts on affected landowners were considered as part of this process. During direct discussions with landowners and their land agents, boundary proposals have been put forward by some of those potentially affected by the proposed onshore development area and the Applicant has been able to incorporate a number of those suggestions into the onshore elements of the Order Limits and has sought to do so wherever feasible. B. The Applicant confirmed that as set out in the Statement of Reasons (Revision D) [document reference 4.3] (paragraphs 110 – 115) the Applicant has sought to minimise the use of compulsory acquisition powers wherever possible, for example by including only temporary possession or rights where permanent acquisition is not thought to be justified, and through the considerable effort that has been and is being put into negotiations for voluntary acquisitions with affected parties. The onshore substation site is the only location of freehold acquisition. Further, by seeking to utilise a single cable corridor Sheringham Shoal Offshore Wind Farm Extension Project (SEP) and Dudgeon Offshore Wind Farm Extension Project (DEP) will be reducing the overall land required for development thereby reducing the number of persons affected. C. The Applicant explained that the Land Interest Group (LIG) is a group of ten land agents representing 70 landowners out of 81,

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		<p>which is 84% of the route on this project. The Applicant was advised early on that LIG would form to manage this development having previously dealt with other developments in the region. The Applicant first met part of LIG on 29th January 2020 where they shared their experiences on those developments. Over the last 3 years, the Applicant has negotiated and agreed various forms of licence agreement for non-intrusive and intrusive survey access with landowners represented by LIG and those who are not represented by LIG. Applicant's position is that there have been clear benefits of working with LIG as it has helped to ensure consistency and fairness across the board. Another example of where this has worked was during the heads of terms (HoTs) negotiations. As appointed land agents Dalcour Maclaren and the Applicant have met with LIG several times face to face as well as over Teams and whilst negotiating the acquisition of rights through land naturally has moments of disagreement, excellent progress has been made together and the joined-up approach has been key to the number of agreed HoTs for the cable corridor. The HoTs negotiated, as with the licences, were then sent to all landowners including those not represented by LIG so that everybody received the benefit of the negotiations held. A key benefit that LIG have brought is the appointment of a single firm of solicitors with whom a base option agreement is being negotiated. It is hoped that once this is an agreed position, the process of exchanging and completing documents will be shortened considerably. To date 86% of have signed HoTs for permanent and temporary rights with the Applicant.</p>
3.iii	Summary of reasons why the Compulsory Acquisition and Temporary Possession rights to be acquired, are necessary and proportionate	<p>A. The Applicant confirmed the compulsory acquisition and temporary possession powers are necessary in order to ensure that the projects can be delivered. This has been set out in the Statement of Reasons (Revision D) [document reference 4.3]. The use of compulsory acquisition powers is a necessary back-up in the event that voluntary agreement with landowners cannot be reached. Whilst the Applicant is making very good progress with</p>

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		<p>negotiations, there is no guarantee that all of the land and rights required for the project will be capable of being acquired on a voluntary basis. The compulsory acquisition powers are therefore necessary in order to ensure that the projects can be delivered in a timely manner.</p> <p>B. The Applicant has sought to limit the compulsory acquisition and temporary possession powers to minimise interference with landowners through a proportionate approach to the use of the powers. For example, permanent freehold acquisition is only being sought where absolutely necessary, and equally, rights are only being sought where temporary possession would not be appropriate e.g. the permanent easement for the cables. The land and rights included within the Book of Reference (Revision E) [document reference 4.1] is only that which is necessary to deliver the project. It is therefore submitted that the compulsory acquisition temporary possession powers being sought are also proportionate.</p> <p>C. The Applicant confirmed there is no legal mechanism or precedent which the Applicant is aware of which allows for compulsory acquisition powers to permit acquisition of right or land for a limited term only.</p>
3.iv	<p>Having regard to section 122(3) of the Planning Act 2008, whether there is a compelling case in the public interest for the Compulsory Acquisition in relation to:</p> <ol style="list-style-type: none"> a. the need in the public interest for the project to be carried out; and b. the private loss to those affected by compulsory acquisition 	<p>A. The Applicant confirmed that the starting point for justification is that this development is a nationally significant infrastructure project. There is a need established within the suite of National Policy Statements (NPSs). There is a clear public interest for bringing the development forward. The need for the projects is set out in further detail in the Statement of Reasons (Revision D) [document reference 4.3] and the Planning Statement [AS-031].</p> <p>B. The Applicant confirmed the NPS is clear that a variety of different renewable sources is required to meet the targets for energy supply and production. Further information is set out from paragraph 96 onwards of the Planning Statement [AS-031].</p>
Human rights		

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4.i	Regard given to Articles 8 and 6 of the European Convention on Human Rights and Article 1 of the First Protocol, highlighting any specific cases where interference of Human Rights needs to be brought to Examining Authority mining Authority's attention	<p>A. The Applicant confirmed there is nothing which needs to be brought to the attention of the Examining Authority.</p> <p>B. Article 1 of the First Protocol to the European Convention on Human Rights protects the right to peaceful enjoyment of possessions. The Applicant has already summarised (during agenda item 3.iv) the public interest in the development coming forward and it is established that the acquisition of those interests is authorised under the relevant statutory provisions.</p> <p>C. Article 6 of the Convention protects the right to a fair and public hearing. All affected parties have had and continue to have the opportunity to make representations to the Examining Authority and to appear at the compulsory acquisition hearing and so the Applicant would submit that there is no infringement of this Article.</p> <p>D. Article 8 of the Convention protects the right to respect for private and family life, home and correspondence. The Compulsory Acquisition Guidance makes it clear that this Article would only apply in the case of an acquisition of a dwelling. The Applicant is not proposing to acquire any land or rights which encompass private residential dwellings or gardens and so it is submitted that this Article would not apply.</p>
4.ii	The weighing of any potential infringement of European Convention on Human Rights against the potential public benefits if the Order is made	
Equality Act		
5.i	Regard given to s4 – s12 and s20 of the Equality Act 2010, highlighting any specific cases where the Applicant has made reasonable adjustments in line with s20 of the Equality Act 2010	<p>A. The Applicant noted that sections 4 – 12 of the Equality Act 2010 list out the various protected characteristics. Section 20 does not apply to the Applicant in the context of this application as it refers to certain circumstances which are set out in the remainder of the Equality Act 2010 and which do not apply to the Applicant. Schedule 2 applies to service providers and those exercising public function; Schedule 4 relates to premises; Schedule 8 applies to work/employment; Schedule 13 applies to education; and Schedule 15 – applies to associations. Therefore, none of these applies to the Applicant in the context of this application.</p>

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		<p>B. The Applicant has sought to conduct the application so as not to exclude any groups with protected characteristics from participating. For example, the Applicant has hosted virtual events and exhibitions for those that may not be able to get to events in person, offered to provide documents in different formats, held events at accessible and convenient venues, and ensured that all website material passes certain accessibility checks. During the pre-application stage and consultation on the development, the Applicant sought to engage with harder to reach groups, which can often overlap with those who have protected characteristics. The full list of hard-to-reach groups are listed in Section 5 of the Consultation Report [APP-029]. This included, for example, groups representing those with disabilities, the elderly and young people.</p>
Equality Act		
6.i	Any updates to the Funding Statement	<p>A. The Applicant confirmed it was not aware of any updates needing to be made to the Funding Statement (Revision B) [document reference 4.2]. The non-material change which proposes removal of some land from the Order Limits as a result of removing the connection into the Anglian Water foul sewer would result in a negligible change to the property cost estimate and so has not been updated. An addendum to the Funding Statement will be submitted with the material change request, as required under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010, although it is not anticipated that there will be any material changes to the property cost estimate as a result of this change. [Post hearing note: see Addendum to the Funding Statement [AS-060]].</p> <p>B. The Applicant confirmed the reason that the audited accounts for Equinor ASA were included with the Funding Statement is that they are the parent company of Equinor New Energy Limited. Appendix 2 of the Funding Statement (from page 347) includes audited accounts for Equinor New Energy Limited. There are more</p>

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		<p>recent accounts which the Applicant will provide at Deadline 3 (see Appendix B.8 of the Appendix B - Supporting documents to the Applicant's Responses to the Examining Authority's Second Written Questions (Revision A) [document reference 16.2.2]). The Applicant confirmed it could also provide, if the Examining Authority would find it helpful, the accounts of the other shareholders in SEL and DEL. The Applicant confirmed the reason for including the accounts of Equinor ASA and Equinor New Energy Limited was to demonstrate that even with just the Equinor New Energy Limited shareholder there would be adequate funds to cover compulsory acquisition liabilities. Equinor New Energy Limited would look to provide the funding, alongside other shareholders but ultimately would have the resources of Equinor ASA to draw on if necessary. Whether or not that step would be taken would be subject to board approval.</p> <p>C. The Applicant confirmed that Equinor ASA is still majority owned by Norwegian Government and does not expect that to change.</p> <p>D. The Applicant confirmed the Funding Statement is intended to provide sufficient certainty that funds are available for compulsory acquisition, and it believes that is suitably set out in Funding Statement.</p> <p>E. The Applicant confirmed it would be each of the undertakers (as defined in the dDCO (Revision F) [document reference 3.1]) who takes on financial liabilities for the compulsory acquisition.</p> <p>F. The Applicant confirmed article 40 of the draft DCO also includes a requirement to provide a financial guarantee before compulsory acquisition powers can be used.</p> <p>G. The property cost estimate appended to the Funding Statement confirms a range of figures for financial liabilities for compulsory acquisition. The Applicant confirmed a property cost estimate has been prepared for both SEL and DEL on the basis that the projects are built in isolation. In either a sequential or concurrent scenario, the total property costs would be less than if the costs of the two projects being built in isolation were added together. A</p>

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		<p>conservative worst-case scenario has therefore been adopted. There is not expected to be any change to this figure if there are changes to the construction timescales as it is not expected that the passage of time will have a material impact on property costs that is not already accounted for by the inclusion of the contingency within the property cost estimate.</p>
6.ii	<p>Surety and adequacy of funding to enable the Compulsory Acquisition to proceed within the statutory period following, and in the event of the Order being made</p>	<p>A. The Applicant confirmed it is comfortable there is sufficient funding available to meet the compulsory acquisition liabilities, if required.</p>
<p>Related material in examination</p>		
7.i	<p>Check and confirm if all the plots listed in Statutory Undertaker Negotiations document, Open Space Agreement document, plots for Crown consent and Compulsory Acquisition schedule document cover all plots included in the Book of reference and plots for which Compulsory Acquisition and Temporary Possession is sought</p>	<p>A. The Applicant has reviewed the plots set out within the Statutory Undertaker Position Statement (Revision B) [document reference 12.46], Open Space Agreements Updates (Revision B) [document reference 12.48], and Compulsory Acquisition Schedule (Revision B) [document reference 12.5] as well as the plots associated to Crown consents (see Crown Land Plan (Revision D) [document reference 2.4]). In the Statutory Undertaker Position Statement and Open Space Agreements Updates all necessary plots have been included. In respect of Crown plots, these are accurately set out within each of the section 135 consent letters issued to the relevant bodies. In the Compulsory Acquisition Schedule the Applicant confirmed the following:</p> <ul style="list-style-type: none"> a. Negotiations are not ongoing in respect of unregistered plots where no interest has come forward declaring or proving ownership. These plots are therefore not included. The explanatory text at the beginning of the document will be updated to confirm this at Deadline 3. b. Plot 13-016 was missing from the Compulsory Acquisition Schedule. This will be added to the relevant interest. The Applicant confirmed is an interest who has returned signed HoTs.

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		<p>c. Plots 23-024 and 23-025 are missing in error and will be added at Deadline 3. The plots are associated with a construction access. Given the temporary nature and type of use we will seek to agree a voluntary licence agreement formalising the use closer to the time if the plots are directly affected.</p> <p>B. Plot 39-043 is missing in error and will to be added at Deadline 3. It relates to land falling within National Grid's ownership with whom the Applicant is engaging. National Grid have advised that they will provide terms for negotiation to the Applicant in due course and it is hoped that agreement can be reached.</p>
7.ii	<p>Check and confirm if there are any duplicate plot number in the Statutory Undertaker Negotiations document, Open Space Agreement document, plots for Crown consent and CA schedule document, when compared with the BoR; identify those instances and provide reasons</p>	<p>A. The Applicant confirmed in respect of duplicate plots within the Statutory Undertakers Position Statement (Revision B) [document reference 12.46] this document correctly includes a lot of duplicate plots. There are two types of duplication, the first is where multiple utilities run through various individual plots. For example, plot 34-004 being a main road at Ketts Oak has water, gas, electricity and telecommunications apparatus within it. Each of these are operated by separate statutory undertakers and will therefore appear four times within the document. The second is where the same statutory undertaker is listed against a plot twice, firstly in respect of rights granted under section 127 of the Planning Act 2008 and secondly in respect of apparatus under section 138 of the same Act. The Applicant is not aware of any duplications within this document falling outside of these two types.</p> <p>B. The Applicant confirmed in respect of duplicate plots within the Open Space Agreements Updates (Revision B) [document reference 12.48], there are 8 examples of duplicated plots, 01-001, 01-002, 01-003, 01-004, 01-006, 01-009, 01-010 and 23-001. In all cases, negotiations are taking place with the freeholders of the land and the duplications are as a result of leaseholders and those with rights in those Open Space plots being included within this document. The commentary in those leasehold and rights</p>

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		<p>interests confirms that rights in respect of those plots that result in duplicates are captured in negotiations with the freeholder.</p> <p>C. The Applicant confirmed in respect of duplicate plots within the Plots for Crown consent the duplications within Crown consent plots are:</p> <ul style="list-style-type: none"> a. Crown Land / MOD – plots 01-002 and 01-003. There is no error here, the duplication is a result of the MOD's right of way being picked up within the same title over which the Crown Estate enjoys rights. b. DEFRA / Forestry Commission – plots 03-009, 03-010, 03-011, 04-001, 04-002, 04-003, 04-004, 04-011, and 04-013. The DEFRA and Forestry Commission are linked on these plots, DEFRA being the parent department of the Forestry Commission c. MOD – Plots 35-009 and 35-010, similar to some Statutory Undertaker Position Statement duplications are as a result of separate listings for rights and apparatus. <p>D. The Applicant confirmed in respect of duplicate plots within the Compulsory Acquisition Schedule (Revision B) [document reference 12.5], there are a number of plots listed against Norfolk County Council that require removal. Only plot 17-001 is relevant to the voluntary agreement negotiation with all of the others relating to the council's interest in either highways or public footpaths. As set out at the beginning of the document, Category 2 interests and highways plots under which these plots would be categorised are not included in any ongoing voluntary agreement negotiations. The erroneous plots will therefore be removed. Plots 01-002, 01-003 and 13-003 are duplicated in the document as there is an overlapping Land Registry title. Plots 11-008, 12-001, 12-003, 12-004, 12-005, 28-011, 28-012, 28-013, 28-014 and 33-015 are duplicated as they are listed against the tenant interest as well as the freehold interest. These will be removed from the tenant interest. Plot 13-006 is included in error against one interest and so this duplication will be removed. Plots 24-006 and 24-007 are duplicates however this is correct as the two plots are</p>

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		<p>as a result of shared ownership. Margaret Ann Prince-Smith owns several plots in her own name but these two are shared ownership with Elizabeth Ann Earl hence the duplications. Plot 39-040 is duplicated in error against Network Rail.</p> <p>E. The Applicant confirmed that all plots identified as being duplicates in error will be removed at Deadline 3.</p>
7.iii	If the Applicant has identified any bona vacantia plots within the Order limits and how it is intended to proceed with the acquisition of these plots	A. The Applicant confirmed there are no bona vacantia plots.
7.iv	Explore the benefit of providing titles and summaries of categories of new rights in Table 1 of the Book of Reference to improve legibility, including cross-referencing with Table 11-1 of the Statement of Reasons; example of how this might work and be achieved	A. The Applicant has considered the proposed improvements made in the areas suggested. The Applicant confirmed it agrees there would be a benefit in doing so and so the next version of the Book of Reference (Revision E) [document reference 4.1] will show the description of each rights category from Table 11-1 of the Statement of Reasons (Revision D) [document reference 4.3] within Table 1-1. The Applicant will also undertake a review of the descriptions in Table 11-1 of the Statement of Reasons and if there are any amendments required these will be made at Deadline 3.
7.v	Effectively using the Status of Statutory Undertakers Negotiations table to provide updates during the Examination, including progress timescales in relation to the Examination, highlighting the key areas of disagreement (if any), and status key on likelihood of reaching agreement before close of Examination	A. The Applicant confirmed it has reviewed the Statutory Undertaker Position Statement (Revision B) [document reference 12.46] and has considered further information which it intends to include at Deadline 3. This includes a status key similar to what is included in the Compulsory Acquisition Schedule (Revision B) [document reference 12.5]. The key would consist of green where there has not been a relevant representation made and the statutory undertaker can rely on standard provisions, or where they have made relevant representation, but bespoke provisions are agreed. Similarly, where a relevant representation has been made but they are not seeking bespoke protective provisions. Yellow will be where a relevant representation has been submitted but it is not in the form of an objection and where bespoke protective provisions are under negotiation. Amber will be where there has been a relevant representation in the form of

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		<p>an objection with bespoke protective provisions under negotiation. Red (of which there are currently none) is where there is a relevant representation but agreement on bespoke protective provisions may not be reached. The Applicant will also group the statutory undertakers of a similar type together. The Applicant confirmed it is difficult to confirm timescales as the aim is to reach agreement before close of the Examination, but the Applicant understands there does come a point where the Examining Authority would need to know if parties may not reach agreement. [Post hearing note: The amendments have been included in the draft DCO (Revision F) [document reference 3.1].] [Post hearing note: The Applicant's Statutory Undertakers Position Statement (Revision B) [document reference 12.46] has been updated to reflect the changes discussed at the hearing.]</p> <p>B. The Applicant confirmed it would provide an update at Deadline 4 with as much detail as possible.</p>
Update on National Trust land		
8.i	Progress on the objections raised by National Trust, still outstanding	<p>A. The Applicant confirmed in relation to the National Trust that negotiations are ongoing. The Applicant confirmed it is aware that National Trust have confirmed that the land in question is inalienable. Due to the nature of the rights that are being sought, the Applicant's position is that these can be acquired outside of the compulsory acquisition process. It is therefore very much hoped that a voluntary agreement with National Trust can be reached. The Applicant submitted a Statement of Common Ground with the National Trust [REP2-046] at Deadline 2 which set out the timescales we are working towards. The hope is that HoTs will be agreed in spring with a draft option agreed in June and a signed option agreement by close of Examination. The Applicant is not aware of any reasons why that timeline will not be met.</p> <p>B. The Applicant confirmed there is no meaningful expectation to use compulsory acquisition powers to acquire land at the Farne</p>
8.ii	Timetable identifying key milestones towards reaching agreement (in relation to the Examination timetable)	
8.iii	Likelihood and implications of agreement not reached before the close of the Examination	

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		Islands for compensatory measures in relation to ornithology impacts.
Update on negotiations relating to Open Spaces		
9.i	Applicant's case in line with s131 and s132 of the Planning Act 2008	<p>A. The Applicant confirmed that the parts of the Order Land which are open space are:</p> <ul style="list-style-type: none"> a. Parts of the foreshore, beach and public footpath, north of Weybourne Military Camp at landfall (plots 01-001, 01-002, 01-003, 01-004, 01-005, 01-006, 01-007, 01-008, 01-009, 01-010, 01-011, 01-012, 01-013); and b. Parts of a heritage trail known as Marriot's Way (plots 17-001 and 23-001) <p>B. The Applicant confirmed that construction works at the beach and foreshore would be temporary and involve bringing the cables onshore as set out within the Environmental Statement (ES) Chapter 4 Project Description (Revision B) [document reference 6.1.4].</p> <p>C. The Applicant confirmed the beach and foreshore would be closed for one day per circuit when cables are brought onshore, so two days overall.</p>
9.ii	Update on negotiations, including if any replacement land is part of negotiations	<p>A. The Applicant confirmed that replacement land is not part of the negotiations. Option agreements are currently being negotiated with the owners of Open Space land. Other interests (e.g. tenants) listed within the Open Space Agreements Updates (Revision B) [document reference 12.48] are being picked up in the agreements with the owner.</p> <p>B. The Applicant confirmed that negotiations in relation to the foreshore owned by the Crown are being picked up as part of discussions on the offshore agreements.</p>
9.iii	Highlight any objections, if any, that are outstanding	<p>A. The Applicant is not aware of any objections in relation to the proposed use of the Open Space land or the approach to Open Space proposed by the Applicant.</p>

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		<p>B. The Applicant confirmed it would be using horizontal directional drilling (HDD) to drill under the Marriots' Way so that public right of way would not be closed.</p>
<p>9.iv</p>	<p>Timetable identifying key milestones towards reaching agreement (in relation to the Examination timetable)</p>	<p>A. The Applicant confirmed that agreements with the relevant owners are being negotiated. There is no update to the version of the Open Space Agreements Updates (Revision B) [document reference 12.48] submitted at Deadline 1. It is correct that no open space replacement land is required as the statutory test is met in section 132(3) of the Planning Act 2008 on the basis that the interference is temporary and that therefore the open space land when burdened with the rights sought in the draft DCO (Revision F) [document reference 3.1] will be no less advantageous to the public than it was before. The Applicant noted this approach has been accepted on other DCOs such as Hornsea Project Three which largely affected the same areas of Open Space land.</p>
<p>9.v</p>	<p>Likelihood and implications of agreement not reached before the close of the Examination</p>	<p>A. The Applicant confirmed that, provided the Examining Authority and the Secretary of State agree that the test in section 132(3) of the Planning Act 2008 is met, Open Space land could be compulsorily acquired.</p>
<p>9.vi</p>	<p>Effectively using the Open Space Agreement Updates table to provide updates during the Examination, including progress timescales in relation to the Examination, highlighting the key areas of disagreement (if any), and status key on likelihood of reaching agreement before close of Examination</p>	<p>A. The Applicant confirmed it was not aware of any implications of not reaching agreement in relation to Open Space land, aside from where that is held by a Crown body.</p>
<p>Consent for the inclusion of the Crown land</p>		
<p>10.i</p>	<p>Update on getting consent for the inclusion of the Crown land</p>	<p>A. The Applicant confirmed that the section 135 Planning Act 2008 consent from Defra and Forestry Commission was included at Appendix B.5 to REP1-039.</p> <p>B. The Applicant confirmed that for the Crown Estate, the Applicant is in contact with the Crown Estate's lawyers, has provided them with an undertaking for costs and all of the additional information that they have requested and is currently awaiting a response.</p>

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		<p>The Applicant has no reason to think that the consent will not be forthcoming by the close of Examination.</p> <p>C. The MOD have confirmed the letter has been passed to the local Land Management Team for review. Multiple chasers have been sent to the MOD, most recently on 27th March 2023. The Applicant is requesting a direct contact and the Applicant is doing all it can.</p> <p>D. The Secretary of State for Transport have delegated the section 135 consent to National Highways and the Applicant is seeking confirmation of contact details for the relevant individual there.</p>
10.ii	Timetable identifying key milestones towards reaching agreement (in relation to the Examination timetable)	<p>A. If consent is not forthcoming within the Examination, it can still be obtained during the determination period. At this moment, the Applicant has no reason to anticipate that the consents will not be forthcoming and will update the Examining Authority in due course.</p>
10.iii	Likelihood and implications of agreement not reached before the close of the Examination	
Affected Persons' site-specific Representations		
11	<p>The Examining Authority will give an opportunity to Affected Persons listed here and any others, to make an oral representation in addition to any submissions that are already in examination. It is not essential to make an oral representation if you feel that the matters that you wish to raise have been covered in your submission(s) so far.</p> <p>Whether or not an oral representation at Compulsory Acquisition Hearing 1 is made, you can continue to provide written submissions at relevant Deadlines and oral representations at subsequent Hearings (if they are held). The Examining Authority Mining Authority will invite the Applicant to respond to each representation individually in this agenda item, in addition to the general update in Agenda item 12.</p> <ul style="list-style-type: none"> i. Affected Persons represented by Bidwells ii. Affected Persons represented by Savills iii. Affected Persons represented by Brown & Co iv. National farmers Union and Land Interest Group v. Norfolk Parishes Movement for an Offshore Transmission Network 	<p>A. In response to points raised by Mr Bond of Bidwells on behalf of LIG, the Applicant confirmed that the HoTs are not legally binding and were caveated but that did not prevent them from being signed. The Applicant was keen to progress to the next stage of the process and acknowledged that any points that were caveated are subject to ongoing discussion during the negotiation of the option agreements.</p> <p>B. The Applicant confirmed that good progress is being made on the option agreement negotiations. The Applicant has received comments from the solicitors acting for LIG and has responded to those comments. From the Applicant's perspective it is confident that agreement will be reached.</p> <p>C. The Applicant confirmed that when signed option agreements are in place, there will be a binding position. That process is entirely normal. Compared to other projects the Applicant is making better progress with negotiations at this stage in the Examination. The Applicant confirmed it will submit the Compulsory Acquisition</p>

	Agenda item	Applicant Response
	<p>vi. Any other Affected Persons (allowed at the discretion of the Examining Authority mining Authority)</p>	<p>Schedule (Revision B) [document reference 12.5] with updates at Deadline 3.</p> <p>D. The Applicant confirmed that the solicitors acting for LIG have made amendments to the option around the point on occupiers and the Applicant has provided comments in the latest version returned and is broadly happy with those amendments.</p> <p>E. In response to points raised by Mr Warnett of Ardent on behalf of Mr Hay-Smith in relation to some of the provisions of the option agreement, the Applicant confirmed that it is seeking to protect the ability to develop under the option agreements with similar rights as are in the draft DCO (Revision F) [document reference 3.1] and if there are specific concerns with that drafting, further discussions can be had with Mr Warnett and his client. Whilst the DCO would give the Applicant the ability to deliver the project, it is common for voluntary agreements to include additional items over and above those included within the DCO to reflect the negotiated status of those documents and that the Applicant is likely to be compensating the affected landowner in excess of the compensation that the affected party would be entitled to if the Applicant relied upon compulsory acquisition powers. The Applicant confirmed that it has made reasonable endeavours to negotiate with all affected parties and that the points raised by Mr Warnett did not indicate that such reasonable endeavours had not been made. The Applicant and Mr Warnett agreed to provide a joint position statement at Deadline 3 to update the Examining Authority on the status of negotiations (see response to Q2.8.2.3 of The Applicant's Responses to the Examining Authority's Second Written Questions [document reference 16.2]).</p> <p>F. The Applicant confirmed in response to a comment from Ms Kenny of Savills on behalf of LIG that the Diocese of Norwich may be in a position where its tenant's consent is required to grant easements and it is standard practice for freehold owners to be responsible for obtaining consent from tenants. The Applicant offered for the negotiations with the Diocese of Norwich to proceed straight to negotiation of the option agreement if that</p>

Agenda item		Applicant Response
		<p>would be of greater assistance. The Applicant also confirmed that it would consider whether any specific actions could be undertaken to progress negotiations with the Diocese of Norwich in light of the requirement to obtain consent from the tenants.</p> <p>G. The Applicant explained that it has been working on the assumption that freehold owners would prefer to seek consent from their tenant(s) directly but the Applicant is willing to consider its current approach in order to move things forward with negotiations. The Applicant pointed out that, if it were to negotiate directly with tenants, as well as freehold owners, there would likely be implications for the terms of the agreements with freehold owners which have been offered on the basis that the freehold owner would obtain consent from any relevant tenants.</p> <p>H. The Applicant confirmed that the Compulsory Acquisition Schedule would be updated to make it more clear where plots will be subject to temporary possession only, and where plots will be subject to compulsory acquisition of rights or permanent freehold acquisition.</p> <p>I. The Applicant confirmed in response to comments by Mr Bond of Bidwells that access over the B1172 is a construction and early works access. The location of this access has been chosen in order to avoid traversing both a cycle route and a road where they are immediately adjacent as this gives rise to highway safety concerns. The Applicant confirmed it would provide further information and a plan at Deadline 3 to further clarify the position. [Post-hearing note: please see response to Q2.23.5.3 in The Applicant's Responses to the Examining Authority's Second Written Questions [document reference 16.2]]</p>
Applicant's update on the Compulsory Acquisition Schedule		
12.i	Progress on negotiations, highlighting outstanding objections	<p>A. The Applicant confirmed that the current position as to the status of negotiations for acquisition of rights by voluntary agreement is included within the Compulsory Acquisition Schedule (Revision B) [document reference 12.5]. This document was</p>
12.ii	Effectively using the Compulsory Acquisition Schedule to provide updates during the Examination, including input from Affected Persons	

	Agenda item	Applicant Response				
		<p>submitted at Deadline 1, replacing what was “Appendix 2 – Summary of Landowner Negotiations” within the Statement of Reasons (Revision D) [document reference 4.3] originally submitted. Going forwards, for the avoidance of doubt, the updates to the negotiations will be provided within the Compulsory Acquisition Schedule and not within Appendix 2 of the Statement of Reasons. The current position has not changed substantially since submission of the Compulsory Acquisition Schedule at Deadline 1 [REP1-040].</p> <p>B. The Applicant confirmed the following:</p> <table border="1" data-bbox="1191 660 2074 1187"> <thead> <tr> <th data-bbox="1191 660 1487 692">Land ref:</th> <th data-bbox="1487 660 2074 692">Update</th> </tr> </thead> <tbody> <tr> <td data-bbox="1191 692 1487 1187">123242 169800</td> <td data-bbox="1487 692 2074 1187"> <p>No formal response was received from these landowners following issue of the HOTs in May 2022. Offers of meetings to discuss the terms were made to their appointed land agent at the time, but this was never accepted and was rejected by one of the landowners.</p> <p>A meeting took place on 16th March 2023 with the newly appointed land agent of the landowners which was productive and the Applicant will continue to engage with the land agent on these, hopeful that a voluntary agreement can be reached.</p> </td> </tr> </tbody> </table>	Land ref:	Update	123242 169800	<p>No formal response was received from these landowners following issue of the HOTs in May 2022. Offers of meetings to discuss the terms were made to their appointed land agent at the time, but this was never accepted and was rejected by one of the landowners.</p> <p>A meeting took place on 16th March 2023 with the newly appointed land agent of the landowners which was productive and the Applicant will continue to engage with the land agent on these, hopeful that a voluntary agreement can be reached.</p>
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	Agenda item	Applicant Response	
		120708	As per the Compulsory Acquisition Schedule, it has been agreed with the Landowner's representative that given the proposed temporary use of the plot and the small area in question, it was preferable for both parties to agree a temporary licence for the rights prior to them being required much closer to any date of entry.
		120503	This relates to the non-material change request submitted at Deadline 2. This landowner would have been affected by the connection into the foul water sewer at the substation site. As soil infiltration has been confirmed as the surface water drainage solution, negotiations with this landowner have not taken place and are now not expected to have to take place subject to the non-material change request being accepted.

	Agenda item	Applicant Response	
		120893	<p>This landowner has confirmed that they are unwilling to agree the HoTs. At the time the Applicant first issued HoTs, there was good engagement with the landowner's professional representative in an endeavour to reach agreement, but no progress was made. The Applicant is chasing the professional representative for confirmation as to landowner's position on HoTs. However, it is unlikely therefore that the Applicant will reach a voluntary agreement with this landowner at this stage. The Applicant will remain open to engaging with the professional representative and or the landowner should they change their position. The Applicant explained that it understands the main reason for the affected party not wishing to enter into negotiations is due to the location of a HDD underneath some of their amenity land.</p>
		127013	<p>This landowner has communicated that they are not prepared to enter into a voluntary agreement at this stage. The affected area extends to 0.13 acres on the edge of their property which perhaps explains their reluctance to do so. The Applicant will continue to engage with the landowner and enter into negotiations should they change their position.</p>

	Agenda item	Applicant Response	
		125316	<p>The landowner's professional representative has suggested that the commercial terms offered are unacceptable due to the land use. The Applicant has requested evidence of the land use and met on site with the landowner in July 2022. However, the Applicant is yet to receive anything further. The Applicant is continuing to chase a response from the landowner's professional representative but there remains the possibility that agreement may not be reached with this landowner. The Applicant will remain open to discussion with the professional representative and or the landowner should they change their position.</p>
		<p>C. With regards to the substation site, the Applicant has been engaging positively with the landowners' professional representatives since summer 2021 and negotiations are at an advanced stage. Based on current active negotiations with the landowner's representative, the Applicant is confident it will reach agreement in the near future.</p> <p>D. With regards to temporary working areas, the Applicant is trying to agree a base set of heads of terms to be issued to all the relevant landowners. The Applicant considers good progress is being made on those negotiations.</p> <p>E. In response to a concern raised by Mr Hay-Smith regarding removal of trees and hedgerows, the Applicant confirmed that there is a commitment through the Landscape Management Plan (LMP) to provide for replacement of trees. The LMP is secured by</p>	

	Agenda item	Applicant Response
		<p>Requirement 11 of the draft DCO (Revision F) [document reference 3.1]. The Applicant is under an obligation to re-provide trees on a ratio of 1:1 and the Applicant will also provide replacement hedgerows along the same line of where they are removed.</p>
<p>Representations from Statutory Undertakers</p>		
<p>13</p>	<p>The Examining Authority will give an opportunity to Statutory Undertakers should any present wish to make an oral representation in addition to any submissions that are already in Examination. It is not essential to make an oral representation if you feel that the matters that you wish to raise have been covered in your submission(s) so far.</p> <p>Whether or not an oral representation at Compulsory Acquisition Hearing 1 is made, you can continue to provide written submissions at relevant Deadlines and oral representations at subsequent Hearings (if they are held). The Examining Authority will invite the Applicant to respond to each representation individually in this agenda item, in addition to the update in Agenda item 14.</p>	<p>This item was directed at statutory undertakers.</p>
<p>Applicant's update on negotiations with Statutory Undertakers</p>		
<p>14.i</p>	<p>The Examining Authority is seeking an update from the Applicant on negotiations with statutory bodies including: detailed responses to specific matters raised by statutory bodies;</p>	<p>A. The Applicant confirmed a key update from the first iteration of the Statutory Undertaker Position Statement (Revision B) [document reference 12.46] is that protective provisions for the benefit of Norfolk Boreas and Norfolk Vanguard have been agreed with Vattenfall Wind Power Limited. Further, the Applicant is now in agreement with the Lead Local Flood Authority (LLFA) that there will be protective provisions for them which will be included in the draft DCO (Revision F) [document reference 3.1] at Deadline 3.</p> <p>B. The Applicant confirmed that otherwise, discussions are progressing and the Applicant does not anticipate there being any barriers to agreement. The majority of wording in the protective provisions is in agreed form and the Applicant is down to a few</p>
<p>14.ii</p>	<p>The Examining Authority is seeking an update from the Applicant on negotiations with statutory bodies including: highlight areas of disagreement and a timetable identifying key milestones towards reaching agreement (in relation to the Examination timetable); and</p>	

	Agenda item	Applicant Response
		<p>outstanding points with statutory undertakers. It would not, however, be helpful at this stage to highlight those points and could potentially be counterproductive to those ongoing discussions.</p> <p>C. The Applicant confirmed with regard to the Norfolk Heritage Railway, as it is not part of the operational land of Network Rail it falls outside of the protective provisions. The Applicant confirmed that HoTs have been agreed with North Norfolk Railway Plc and an option agreement has been issued for negotiation.</p> <p>D. The Applicant confirmed in relation to Perenco that no protective provisions negotiations had so far progressed as the Applicant is still trying to understand Perenco's position. The Applicant is actively engaging with Perenco to fully understand their concerns.</p> <p>E. The Applicant confirmed with regards to Anglian Water that their latest version of protective provisions are the ones which are being negotiated by the parties.</p> <p>F. The Applicant commented on the notion of 'standard' protective provisions for statutory undertakers. The reality is that the protective provisions do have to be negotiated because they have to be fair and balanced and where fair and balanced protective provisions are put forward, they can be agreed more quickly. Sometimes there are also side agreements that vary or supplement the protective provisions so what one sees on the face of a DCO isn't always reflective of the true legal position.</p>
14.iii	<p>The Examining Authority is seeking an update from the Applicant on negotiations with statutory bodies including: outline the likelihood and implications of not reaching an agreement before the close of the examination.</p>	<p>A. The Applicant confirmed that in the event an agreement is not reached on a set of protective provisions, the Applicant would include its preferred version in the draft DCO and it would be for the statutory undertaker to separately submit its preferred version. The Secretary of State would then be required to make a choice as to which provisions were most suitable or include a blend of the two versions. The Applicant is doing everything it can to avoid this situation but is aware that this has happened on other DCO applications.</p>

	Agenda item	Applicant Response
14.iv	Alongside the wider update on all statutory bodies, the Examining Authority seeks specific updates on negotiations with the following parties: Orsted Hornsea Power Three Limited, in particular details relating to the interfaces during construction of the Proposed Development and Compulsory Acquisition of plots	This agenda item was not discussed.
14.v	Alongside the wider update on all statutory bodies, the Examining Authority seeks specific updates on negotiations with the following parties: Frontier Power Limited, in particular relating to the nature of crossing agreement to offer protection for Frontier Power assets	<p>A. The Applicant confirmed that Frontier Power are listed as Blue Transmission in the Statutory Undertaker Position Statement (Revision B) [document reference 12.46]and this will be updated at Deadline 3 [Post hearing note: please see updates to the Applicant's Statutory Undertaker's Position Statement (Revision B) [document Reference 12.46]]. The Applicant confirmed that Frontier Power are an electricity undertaker under the Electricity Act 1989.</p> <p>B. The Applicant confirmed it is discussing a Crossing Agreement with Frontier Power and Frontier Power has said it will confirm to the Examination that it does not therefore require protective provisions within the draft DCO.</p>
14.vi	Alongside the wider update on all statutory bodies, the Examining Authority seeks specific updates on negotiations with the following parties: National Grid Electricity Transmission	This agenda item was not discussed.
14.vii	Alongside the wider update on all statutory bodies, the Examining Authority seeks specific updates on negotiations with the following parties: National Highways and the objection raised to the Compulsory Acquisition of plots forming part of the Strategic Road Network	<p>A. The Applicant confirmed with regards to National Highways that when the DCO application was submitted the Applicant had not reached a point where there was clarity on whether protective provisions were required. National Highways did provide confirmation that it expected protective provisions to be included in the draft DCO (Revision F) [document reference 3.1]. However, this was received too late for the Applicant to include in the draft DCO submitted with the application. The parties have been in negotiations since. The Applicant is aware that National Highways have submitted a form of protective provisions along with their written representation [REP1-132]. The Applicant is considering those now with National Highways. The Applicant confirmed that protective provisions will cover relevant protections</p>

	Agenda item	Applicant Response
		<p>for National Highways in terms of HDD crossings. Other elements will be covered by a co-operation agreement outside of the DCO process, especially around interaction with National Highways A47 North Tuddenham to Easton and A47-A11 Thickethorn Junction schemes project and SEP and DEP. The Applicant is waiting on National Highways for further information on these points. [Post-hearing note: please see Draft Statement of Common Ground with National Highways (Revision B) [document reference 12.22] and The Applicant's Statutory Undertakers Position Statement (Revision B) [document reference 12.46] for further updates.]</p>
<p>Update on the Applicant's intended change request</p>		
<p>15.i</p>	<p>The need and nature of the intended change request</p>	<p>A. The onshore cable corridor for the SEP and DEP passes through a development site known as the Food Enterprise Park ("FEP"), which is located immediately south of the A47. The site is being developed in phases and a Local Development Order ("LDO") was adopted for Phase 1 (a 46 acre site in BDC) in 2017. The SEP and DEP cable corridor bisects the Phase 2 site. Whilst an LDO is not yet in place, it is understood, following recent discussions with the landowner and SNDC that this will be submitted during 2023. The landowner has shared plans with the Applicant (which were not available when the Application was being prepared) which indicate that there is a potential conflict between the Phase 2 FEP development and the current proposed location of the SEP and DEP cable corridor. The Applicant therefore intends to request a change to the Order Limits in this location in order to include a wider cable corridor which will allow for greater flexibility when micro-siting the cable route in order to accommodate coexistence with the FEP Phase 2 development. Because this change would include the addition of further land to the Order limits, it is the Applicant's view that this change is more likely to be regarded as material. The Applicant has received letters of support for the change from some affected parties, including FEP itself, and these</p>

	Agenda item	Applicant Response
		<p>will be submitted with the change request. In terms of timing, it is proposed to submit the change request week commencing 10 April 2023, although the Applicant is working towards submitting this as soon as possible.</p>
15.ii	Associated steps and timescales related to Compulsory Acquisition Regulations	<p>A. The Applicant confirmed that as part of the material change, because additional land would be added to the Order Limits over which compulsory acquisition powers would be sought, the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 are engaged. The Applicant is also proposing to comply with the steps for consultation on supplemental environmental information set out in the Infrastructure Planning (EIA) Regulations 2017, although it is noted that this is not a statutory requirement.</p> <p>B. The Applicant is reliant upon the Examining Authority making its procedural decisions sooner than the maximum time allowed for within the Regulations, in order to ensure that the change can be properly examined within the remaining time available. In particular, the timings at the start of the process are especially constrained in order to fit in the full consultation period required on the change and to give adequate notice to affected parties of any hearing (assuming that the existing scheduled hearings are used in June). This is dependent upon the Examining Authority accepting the change request within less than seven days but the Applicant would submit that one of the main points for the Examining Authority to consider at that stage is whether the change is so substantial that it would constitute a materially different project to that which has been applied for. The changes simply allow a discrete widening of a small part of the onshore cable corridor and would not result in such a situation. So long as the Examining Authority is satisfied with this, then the other remaining aspect is whether sufficient time exists within the examination to properly examine the change and, based on the timetable outlined, the Applicant would submit that there is.</p>

	Agenda item	Applicant Response
		<p>C. The Applicant set out the steps that would be required under the relevant legislation in relation to the change request, which will be set out in full when the change request is submitted.</p> <p>D. In relation to carrying out the supplemental environmental information consultation after the change request is accepted, the Applicant notes that this has been accepted in other DCO examinations and would also suggest that following this approach is likely to be less confusing for stakeholders and more likely to elicit feedback. Whilst a formal non-statutory consultation is not being carried out prior to submitting the request, the Applicant has been engaging with those affected by the change in the run up to its submission, particularly the FEP landowner. The Applicant noted that consultation under the Infrastructure Planning (EIA) Regulations 2017 is not a statutory requirement, and this is confirmed in Advice Note 16. However, the Applicant intends to publish and consult on supplementary environmental information to present its conclusions that there are no new or materially different environmental effects as a result of the change.</p> <p>E. The Applicant understands an opportunity must be given to affected parties to request any additional hearings. If there are no objections then there is presumably no need for a CA hearing. However, if one is required the hearings in the week of the 19th of June could be used.</p> <p>F. The Applicant confirmed it considered additional deadlines in relation to the change request would likely be required.</p> <p>G. The Applicant confirmed there are additional parties which would be affected by this change. These are largely option holders of land within the FEP and the Applicant understands they have no objection to the change given it is largely for their benefit – to avoid impacts of SEP and DEP on the commerciality of that site.</p> <p>H. The Applicant confirmed it does not anticipate any issues in being able to provide any of the documents required by the Advice Note 16 Guidance, with the exception of the consultation report and consultation responses, which would follow after the end of the consultation period.</p>

	Agenda item	Applicant Response
		<ul style="list-style-type: none"> I. The Applicant confirmed it would submit an updated draft DCO (Revision F) [document reference 3.1] with the required changes shown in an updated Schedule of Changes (Revision F) [document reference 3.1.2], but there would be no need to update the Explanatory Memorandum (Revision E) [document reference 3.2] for the material change. J. The Applicant confirmed that, going forward, it would submit two track change versions of the draft DCO. One will show changes from the last version of the draft DCO submitted. The other will show all the changes made compared with the application version of the draft DCO.
Draft DCO		
16.i	Discussion on the term of Compulsory Acquisition (in perpetuity as opposed to 99 years), including, including precedence of different types of terms, and the term of the rights granted by the Crown	<ul style="list-style-type: none"> A. The Applicant confirmed it does not think there has ever been a DCO or compulsory purchase order granted that has included a limit on the term of rights being acquired. The precedent is overwhelmingly in favour of acquisition of rights in perpetuity. In light of this it is reasonable for the draft DCO (Revision F) [document reference 3.1] to take rights in perpetuity and this position is not controversial. B. The Applicant pointed to a lack of detail in the comments made by the National Farmers Union (NFU) as although there may have been a limited term agreed in voluntary agreements, there is no further context provided for that limited term. The Applicant has not seen the documentation to understand their true legal effect, for example whether that 99-year term can be extended or if it is subject to preconditions or caveats. C. The Applicant confirmed it would further expand on this position in writing at Deadline 3 [Post-hearing note: please see response to Q2.8.2.1(b) in The Applicant's Responses to the Examining Authority's Second Written Questions [document reference 16.2]].

	Agenda item	Applicant Response
16.ii	<p>Justification for the need for the provision in Article 16(1) “The undertaker may for the purposes of this Order enter on any land within the Order limits or which may be affected by the authorised project”; if any landowners outside the order limits might be affected by this provision; the extent of the land over which this provision would be exercisable; list landowners affected by the provision in Article 16(1), and what consultation, if any has taken place to advise those landowners</p>	<p>A. The Applicant confirmed Article 16 of the draft DCO (Revision F) [document reference 3.1] was intended to capture land outside of the Order limits. This drafting is very well preceded in other granted DCOs. This also reflects other equivalent powers, for example under section 172 of the Housing and Planning Act 2016 and the ability of an Electricity Undertaker to enter on and survey land under section 10 and Schedule 4 of the Electricity Act 1989. From a practical perspective there is sometimes the need to undertake surveys outside the Order limits, for example some species surveys or there are also sometimes situations where access to undertake surveys is required to be taken alongside the redline boundary where due to the stage of construction works access within the redline is not available. The alternative to this article would be to widen the redline boundary but that would not be proportionate. Having that provision increases flexibility for the undertakers in a more proportionate way. If the undertaker acted outside of what is considered to be proportionate when using these powers then that could be challenged.</p> <p>B. The Applicant noted that changes had already been made to the drafting of Article 16 (see draft DCO (Revision C) [REP1-003]) at the request of interested parties to provide further information on the types of surveys to be undertaken.</p> <p>C. With regards to concerns raised that the provision would blight land, the Applicant highlighted that these powers already exist for various other bodes [through existing legislative provisions] so what is being sought through Article 16 is really no different to the status quo. The Applicant also confirmed these powers would only allow for temporary use of affected land and there are provisions for compensation included in the Article.</p> <p>D. The Applicant confirmed it would consider whether drafting within the A428 Black Cat to Caxton Gibbet Development Consent Order 2022 relating to ‘land adjacent to’ is relevant. [Post-hearing note: please see response to Q2.11.3.3 in The Applicant’s Responses to the Examining Authority’s Second Written Questions [document reference 16.2]]</p>

	Agenda item	Applicant Response
		<p>E. The Applicant highlighted that this point and the same arguments have been considered repeatedly by the Secretary of State, having due regard to the planning balance in the context of a Nationally Significant Infrastructure Project, and the Secretary of State has favoured the wording put forward by the Applicant in Article 16 in many previously consented DCOs.</p>
16.iii	<p>Further and robust justification (notwithstanding precedence of other made Orders) that the provision of Article 20 that would allow the undertakers to impose undefined new rights on any plot, which has not been the subject of consultation on that basis, is necessary, fair and lawful; alternative wording to restrict the widely drawn powers</p>	<p>A. The Applicant has considered further the drafting of Article 26(8) of the draft DCO (Revision F) [document reference 3.1] alongside Article 20(1) and 20(2). At deadline 3, the Applicant will amend Article 26(8) to remove limbs (a) and (b) as they are not necessary given the undertaker will not need additional rights over plots which are listed in Schedule 9 of the draft DCO. These amendments are in line with other more recent Orders for other types of projects and would make clear that the Applicant will not seek to exercise compulsory acquisition powers over land which has been identified for temporary possession only. [Post hearing note: The amendments have been included in the draft DCO (Revision F) [Document reference 3.1].]</p>
16.iv	<p>Further and robust justification (notwithstanding precedence of other made Orders) that the interaction between Articles 26(8)(a) and Article 20(1) and 20(2) would allow the creation of permanent rights under over land which is intended for Temporary Possession only, and which has not been the subject of consultation on that basis, is necessary, fair and lawful; alternative wording to restrict the widely drawn powers</p>	<p>B. The Applicant has also further considered the drafting of Article 20(3) and for clarity will add a cross reference to the rights described in the Book of Reference (Revision E) [document reference 4.1] to clarify what the relevant rights being taken are. [Post hearing note: The amendments have been included in the draft DCO (Revision F) [Document reference 3.1].]</p>
16.v	<p>Implications to the construction programme and viability of the Proposed Development if the notice period in Article 26 were increased</p>	<p>A. The Applicant confirmed it would amend the notice period to 28 days in Article 26 at Deadline 3. [Post hearing note: The amendments have been included in the draft DCO (Revision F) [Document reference 3.1].]</p>