

# **Rampion 2 Wind Farm Category 8: Examination Documents Applicant's Post-hearing Submission - Compulsory Acquisition Hearing 1**

**Date: June 2024**

Application Reference: 8.69

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## Document revisions

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# Executive Summary

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The second round of Issue Specific Hearings (ISH2) and a Compulsory Acquisition Hearing (CAH1) were undertaken in May 2024. This document is to provide a summary of the Oral Submissions made at Compulsory Acquisition Hearing 1 held on 17 and 21 May 2024.

# 1. Introduction

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## 1.1 Overview of the Proposed Development

- 1.1.1 Rampion Extension Development Limited (hereafter referred to as 'RED') (the 'Applicant') is developing the Rampion 2 Offshore Wind Farm Project ('Rampion 2') located adjacent to the existing Rampion Offshore Wind Farm Project ('Rampion 1') in the English Channel.
- 1.1.2 Rampion 2 will be located between 13km and 26km from the Sussex Coast in the English Channel and the offshore array area will occupy an area of approximately 160km<sup>2</sup>. A detailed description of the Proposed Development is set out in **Chapter 4: The Proposed Development, Volume 2** of the Environmental Statement (ES) [APP-045], submitted with the Development Consent Order (DCO) Application.

## 1.2 Purpose of this document

- 1.2.1 This document is prepared by the Applicant to provide a post submission hearing summary of the oral submission made at Compulsory Acquisition Hearing 1 held on 17 and 21 May 2024.

## 2. Compulsory Acquisition Hearing 1

**Table 2-1 Post submission hearing summary – Applicant’s summary of Oral submissions at Compulsory Acquisition Hearing 1**

Ref	Agenda Item	Applicant’s summary Oral submissions at Compulsory Acquisition Hearing 1
<b>Agenda Item 2: The Applicant’s Case for Compulsory Acquisition (CA) and Temporary Possession (TP)</b>		
2a	The Applicant was asked to confirm that the application includes a request for CA in accordance with s123(2) of the PA2008.	The Applicant confirmed that the request was contained in the <b>Application Forms [APP-002]</b> and that the section 56 notices served after the Application was accepted for examination also expressly set out that the application included a request for Compulsory Acquisition <b>[OD-001]</b> .
2b	The Applicant to set out briefly whether and how the purposes for which the CA powers are sought comply with s122(2) of the PA2008.	The Applicant confirmed that all of the land and rights sought (including the powers to temporarily possess land) are in relation to land which is required for the development to which the development consent relates (s122(2)(a) PA2008) or is required to facilitate or is incidental to the development (s122(2)(b) PA2008).
2c	The Applicant to explain briefly whether and how consideration has been given to all reasonable alternatives to CA and Temporary Possession (TP).	<p>The Applicant has given extensive consideration to reasonable alternatives to CA and TP. Section 8 of the <b>Statement of Reasons [APP-021]</b> and <b>Chapter 3: Alternatives, Volume 2</b> of the Environmental Statement <b>[APP-044]</b>.</p> <p>The consideration of alternatives at each stage of the process has been thorough and rigorous and has been a continuous and iterative one. As alternatives and refinements have been proposed by affected parties (both through consultation and engagement) the Applicant has given reasonable consideration to such proposals and has, where appropriate, made changes to the design and route to enable alternatives to be included or further agreed positions reached with landowners.</p> <p>Where alternatives proposed by landowners have been demonstrated not to be workable alternatives, the Applicant has sought to provide further alternatives for consideration with a view to reaching an agreed position with landowners. While it has not always been possible to accommodate alternative proposals, the Applicant has given genuine consideration to alternatives and sought to refine or revise the acquisition requirements accordingly and have provided reasons where it has not been possible to accommodate proposals.</p> <p>A range of appraisal methods have been used, chosen based on the levels of risk, scale and complexity involved in the potential change. However, two common approaches were used (constraints mapping and Black, Red, Amber, Green (BRAG) appraisal).</p> <p>The BRAG appraisal of each site was undertaken using a multi-disciplinary analysis to consider engineering, environment, landowner matters and cost following a rating system of Black, Red, Amber and Green. This included consideration of data collected by the Applicant and information provided via consultation and landowner engagement.</p> <p>The outcomes of the BRAG analysis were reviewed by the project team and informed a balanced decision to settle a location and a route that could deliver the project and its associated benefits.</p> <p>The Applicant also set out in some detail at Deadline 3 (response LR.13) in the <b>Deadline 3 Submission – 8.51 Applicant's Response to Examining Authority's Written Questions [REP3-051]</b> how the Applicant has considered suggestions and requests made by affected parties to reduce or mitigate the impact of the Proposed Development on their interests.</p> <p>Appended to that response at Table 1 of Appendix B LR: Changes further to Affected Persons Representations is a list of key changes made by the Applicant further to feedback from affected persons during the Applicant’s consultation and engagement exercises. The Applicant applied the appraisal process set out above on a consistent basis. The results of the appraisals were</p>

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2d	The Applicant to explain briefly whether and how the land and rights proposed to be acquired, including those for TP, are necessary and proportionate.	<p>reported back to the Affected Person by a variety of means, including by telephone call, email, presentation at a meeting or by letter, dependent on the communication arrangements with the particular Affected Person at the relevant time.</p> <p>In summary, the Applicant has given consideration to approximately 90 alternatives (changes to onshore cable route, access or construction methods e.g. horizontal directional drilling (HDD)) which have been proposed by landowners (or the Applicant in response to comments/alternatives proposed by the landowners) during the evolution of the project, some of which have resulted in changes being made where reasonable and appropriate to do so.</p> <p>Of those which have not been taken forward, the Applicant is not aware of any which would have amounted to reasonable deliverable alternatives which would avoid the need for compulsory acquisition or temporary possession powers.</p> <p>The Applicant's land assembly strategy has been, and continues to be, to agree voluntary arrangements and to seek to limit and reduce the extent of compulsory acquisition and temporary possession powers required.</p> <p>The Applicant has taken a proportionate approach to the identification of the land and rights required, and this strategy is evident from the varying categories of powers sought over the Order Land.</p> <p>All of the Order Land which is subject to the powers of compulsory acquisition is required for, or is required to facilitate, the development for which development consent is sought. Appendix 1 to the <a href="#">Statement of Reasons [PEPD-012]</a> provides a plot-by-plot explanation of the works for which the land is required.</p> <p>As is standard practice, the Applicant seeks flexibility through the assessment of parameters and the adoption of limits of deviation. Consequently, it may not be necessary to acquire interests in or rights over all of the land within the Order Limits, but such land remains necessary for the Proposed Development due to the need to provide sufficient flexibility to ensure that the Proposed Development can be delivered.</p> <p>The proportionality of any interference is ensured by the Applicant's approach to the powers sought, which minimise the extent of permanent acquisition. Freehold acquisition has been kept to an absolute minimum.</p> <p>Temporary possession only powers are sought for works and the use of land which are solely required during the construction of the Proposed Development.</p> <p>The Applicant's stated intention to use temporary possession powers for the installation of the cable, followed by permanent powers for the cable easement over a lesser area wherever practicable, will also enable the Applicant to exercise the powers (if confirmed) in a proportionate manner.</p> <p>The scale and complexity of the project is such that compulsory acquisition cannot be avoided, although the Applicant has minimised the interference through its routing and siting. Mitigation measures set out in plans such as the <a href="#">Outline Code of Construction Practice [REP3-025]</a> and the <a href="#">Commitments Register [REP3-049]</a> will also reduce the impact of the Proposed Development on land retained by Landowners.</p> <p>The Applicant will continue to seek to avoid the exercise of compulsory acquisition powers by pursuing voluntary agreements with the landowners.</p>
2e	The Applicant to set out briefly whether, having regard to s122(3) of the PA2008, there is a compelling case in the public interest for the land to	The Applicant sets out in paragraph 11.2.15 of the <a href="#">Statement of Reasons (SOR) [APP-021]</a> and (SOR paragraphs 11.1.9 – 11.1.11) why it considers that the requirement contained in s122(3) of the PA2008 (that there is a compelling case in the public interest for the land to be acquired compulsorily) has been met.

Ref	Agenda Item	Applicant's summary Oral submissions at Compulsory Acquisition Hearing 1
	be acquired compulsorily and the public benefit would outweigh the private loss.	<p>The Statement of Reasons sets out the Applicant's case in relation to the powers sought including how the statutory tests and the Compulsory Acquisition Guidance with regards to the factors that inform the compelling case in the public interest are considered to be met. In summary:</p> <ul style="list-style-type: none"> <li>- As set out in <b>Chapter 3: Alternatives, Volume 2</b> of the Environmental Statement <b>[APP-044]</b>, the Applicant has considered all reasonable alternatives to compulsory acquisition (in accordance with paragraph 8 of the CA Guidance).</li> <li>- The proposed interference with private rights is for a legitimate purpose and accords with relevant national and local planning policy, as explained in the <b>Planning Statement [APP-036]</b> which sets out at section 4.2 that there is a compelling public need for the project and that it will: <ul style="list-style-type: none"> <li>o help meet the urgent need for new renewable energy infrastructure in the UK including offshore wind which has been identified as a Critical National Priority in NPS EN-1 and NPS EN-3, meeting increasing energy demand, providing enhanced energy security and supporting UK Government priorities in relation to economic development (Section 4.2 of the <b>Planning Statement [APP-036]</b> provides details of the need for the Proposed Development and of the overwhelming positive benefits that will be generated by the (Paragraphs 13-14 of the CA Guidance)); and</li> <li>o deliver additional renewable energy capacity, supporting the achievement of the UK Government's climate change commitments and carbon reduction objectives.</li> </ul> </li> </ul> <p>The Applicant has a clear idea of how it intends to use the land (paragraph 9 of the CA Guidance).</p> <p>Subject to the making of the dDCO, there are no known impediments to the delivery of the Proposed Development (as required by paragraph 19 of the Compulsory Acquisition Guidance).</p> <p>Section 13.1 of the Statement of Reasons sets out how Article 1 of the First Protocol to the ECHR and Articles 6 and 8 of the ECHR have been considered. This, together with other parts of the Application, sets out how the benefits which will be realised by the Proposed Development will outweigh the private loss that would be suffered by those whose land and/or interests are to be subject to compulsory acquisition (paragraph 13 of the CA Guidance).</p> <p>In the <b>Funding Statement [APP-025]</b>, an explanation has been provided as to how it is expected that the construction of the Proposed Development and the acquisition of the land or rights over the land will be funded, as well as compensation arising from the exercise of powers of compulsory acquisition (as required by paragraphs 17 and 18 of the CA Guidance).</p> <p>The Applicant has, and will continue to, negotiate with relevant landowners to acquire the land and rights in land necessary for the Proposed Development, as explained in the Statement of Reasons and the <b>Land Rights Tracker [REP3-010]</b> (in compliance with paragraphs 24-26 of the CA Guidance).</p> <p>In this respect, the Applicant has appointed Carter Jonas to provide advice in respect of the acquisition of land and rights needed to deliver the Proposed Development. It was confirmed that the Applicant is in active, positive negotiations with 60% of the affected parties and their agents on the heads of terms for agreement with parties.</p> <p>The Applicant has agreed the principle of the cable route and is working towards resolving site specific issues and confirmed that where there are issues arising these are being addressed on a case-by-case basis associated with the form of terms and associated legal documentation specific to their land holding.</p> <p>There are positive expectations associated with the consideration for the cable easement and associated access, and negotiations are ongoing.</p>



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		<p>Positive progress has and continues to be made with Affected Parties notwithstanding that these have not converted into voluntary agreements yet.</p> <p>The <b>Land Rights Tracker [REP3-010]</b> sets out information relating to progress on voluntary agreements, a number of which are close to being signed or signed however, not all Affected Parties have shown a willingness to engage. The Applicant will continue to seek to advance these discussions.</p>
	<p>The ExA noted that the number of agreed and signed heads of terms was of particular concern. Progress is expected to be seen in the next iteration of the Land Rights Tracker.</p>	<p>The Applicant confirmed that negotiations are ongoing and that it is pushing hard to agree key terms and confirmed that the updated number of Key Terms signed or agreed is now 8, and the number of agreements completed is now 3.</p> <p>The Applicant noted that the <b>Land Rights Tracker [REP3-010]</b> was voluntarily updated at Deadline 3.</p>
2f	<p>The Applicant to set out briefly the evidence provided in the Application, that the public sector equality duty, section 149 of the Equalities Act 2010, in relation to the powers of CA sought, has been met.</p>	<p>The public sector equality duty (PSED) is set out in Section 149 of the Equality Act 2010 and came into force in April 2011.</p> <p>The PSED in the context of the proposed Order applies to the Secretary of State for Energy Security and Net Zero who will determine the application for the Order.</p> <p>The PSED does not place a duty upon the Applicant or the Secretary of State to wholly eliminate effects that the order may have upon persons with protected characteristics, nor oblige the Applicant or the Secretary of State to take particular steps or make amendments to the draft Order to meet specific requirements.</p> <p>In the context of the Order, the PSED requires the Secretary of State (as the public decision-making authority) to consider as part of the decision-making process whether if the Order were made it would be likely to have a differential impact on any person(s) with a relevant protected characteristic. In doing so the Secretary of State should consider whether any action could be taken to lessen or mitigate any such impact; and whether the public benefits of the Order outweigh the impact.</p> <p>The identification of differential impacts on a person with a relevant protected characteristic, or on a group of persons who share a protected characteristic would not preclude the Secretary of State from making the Order.</p> <p>The Applicant directed the Examining Authority to the relevant material before the Examination.</p> <p>The Applicant has had regard to the PSED and has carried out an Equality Act Impact Assessment (<b>Appendix 28.3: Equalities Impact Assessment, Volume 4</b> of the Environmental Statement) <b>[APP-221]</b>. The assessment concludes that no adverse equality effects are expected as a result of the construction, operation and maintenance, or decommissioning phases of the Proposed Development.</p> <p>The Applicant confirmed that it is not aware that any person has challenged the conclusions of that Equalities Impact Assessment.</p> <p>The Applicant's <b>Statement of Reasons [APP-021]</b>, section 13.2 provides further explanation of how the Applicant has had regard to the PSED throughout the evolution of the process. Paragraph 13.2.5 explains that the position will be continually monitored and should any persons be identified who may be adversely impacted by the Proposed Development, the Applicant will seek to identify and implement appropriate assistance measures if reasonably required so as to mitigate so far as practicable any identified activity that may have an adverse impact on these persons, persons who share a relevant protected characteristic as defined in the Equality Act 2010, or upon persons who do not share such relevant protected characteristic. The Applicant confirmed that this is the approach which it has taken to date and that it will continue to do so.</p> <p><b>Chapter 3: Alternatives, Volume 2</b> of the Environmental Statement (ES) <b>[APP-044]</b> describes how engagement has led to the consideration of alternatives or a change in the project design. This assessment included reviews of land ownership, land use,</p>

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2g	The Applicant to set out briefly which draft DCO Articles engage CA and TP powers.	<p>consideration of special category land implications and any known Equality Act 2010 protected characteristics, feedback from engagement with landowners and feedback from consultation, in addition to analysis of information collected from EIA surveys, identification of technical construction challenges and other engineering considerations.</p> <p>One of the factors included in the BRAG assessment for the Applicant to consider when reviewing alternatives was whether there were any parties with known Equality Act 2010 characteristics affected by the proposals at the relevant time.</p> <p>One affected party has expressly raised the PSED in their representations, most latterly in a confidential submission <b>[REP3-138]</b>. The Applicant will respond to this in a confidential submission at Deadline 4, however the Applicant would note that it has had regard to the PSED when considering route requests made by that party, and in considering appropriate mitigation measures.</p> <p>The Compulsory Acquisition powers are contained in <b>Part 5 of the draft Order [REP3-003]</b>.</p> <p><b>Article 23 – Compulsory acquisition of land</b></p> <ul style="list-style-type: none"> <li>• This is the primary compulsory purchase power which permits the Applicant to acquire compulsorily so much of the Order Land as is required for the authorised project or to facilitate or is incidental to it.</li> <li>• Other articles expressly limit the scope of those compulsory acquisition powers in certain circumstances.</li> <li>• The land parcels which are not subject to a limited power of acquisition are shown edged red and shaded pink on the <b>Land Plans Onshore [PEPD-003]</b>. This is land over which full compulsory acquisition powers are sought pursuant to Article 23 in respect of freehold land ownership (and all other interests in that land).</li> </ul> <p><b>Article 25 – Compulsory acquisition of rights and the imposition of restrictive covenants</b></p> <ul style="list-style-type: none"> <li>• This article permits the Applicant to acquire compulsorily existing rights in land, and to create new rights and impose restrictive covenants. This power will engage the majority of the Order Land, which is shaded blue on the <b>Land Plans Onshore [PEPD-003]</b>. Article 25(2) expressly limits the power of CA to the creation of new rights and imposition of restriction of new covenants for the purposes which are identified in Schedule 7 to the <b>Draft Development Consent Order [REP3-003]</b>.</li> <li>• In relation to the land shown edged red and shaded blue on the Land Plans Onshore, Article 25(2) expressly limits the Article 23 compulsory acquisition powers to the compulsory acquisition of new rights and the imposition of restrictive covenants. This land is identified in Schedule 7 to the <b>Draft Development Consent Order [REP3-003]</b> and this Applicant is not permitted to acquire all interests in this land.</li> <li>• The descriptions of the proposed rights and/or restrictive covenants to be acquired have been grouped into named 'packages' which are found in Schedule 7 to the <b>Draft Development Consent Order [REP3-003]</b>. More than one package of rights may be sought over the same land parcel, for example where land is required both for Cable Rights and the Cable Restrictive Covenant.</li> </ul> <p><b>Article 33 – Temporary Use of Land for Carrying the Authorised Project</b></p> <ul style="list-style-type: none"> <li>• This article permits the Applicant to enter upon and take temporary possession of land in connection with the construction of the authorised project. There are two limbs to the powers:</li> </ul>

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	<p>The Applicant to summarise briefly any other provisions in the draft DCO relating to CA and TP.</p>	<ul style="list-style-type: none"> <li>○ Article 33(1)(a)(i) – land over which only temporary use is permitted is shown edged red and shaded green on the Land Plans. This land is identified in Schedule 9 to the <a href="#">Draft Development Consent Order [REP3-003]</a>, and the purposes for which temporary possession may be taken of the relevant land are described in column 3 to Schedule 9. The compulsory acquisition of the freehold of this land is not permitted, nor can the Applicant acquire new rights or restrictive covenants over the green land (as clarified by the Applicant in response 55 of the <a href="#">Deadline 1 Submission – 8.25 Applicant's Response to Action Points Arising from Issue Specific Hearing 1 [REP1-018]</a>).</li> <li>○ Article 33(1)(a)(ii) - provides a power for the Applicant to temporarily possess any of the other Order land for the purposes of carrying out the authorised project, provided that permanent compulsory acquisition powers have not already been exercised over the land in question. This is the power which the Applicant intends to rely upon where practicable to seek to minimise the extent of permanent acquisition over land, by taking temporary possession first over the wider construction corridor (typically 40m) before acquiring the permanent rights over a lesser area (typically 20m) once the final permanent land requirements are known. This enables the Applicant to take a proportionate approach to permanent acquisition so as to only compulsorily acquire the minimum amount of permanent land and rights/restrictions over land required to construct, operate and maintain the Proposed Development.</li> <li>● 28 days' written notice of intended entry must be given before entering onto land pursuant to this power, consistent with The Awel y Môr Offshore Wind Farm Order 2023, The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024, and The Hornsea Four Offshore Wind Farm Order 2023.</li> <li>● Before giving up temporary possession of the land the Applicant is required pursuant to Article 33(6) to remove temporary works and restore the land to the reasonable satisfaction of the owner.</li> <li>● Compensation is payable to the owners and occupiers of land of which temporary possession is taken for any loss or damage arising from the exercise of the powers (Article 33(7)).</li> <li>● <b>Article 34</b> (Temporary use of land for the purposes of maintaining the authorised project) provides a power for the Applicant to take temporary possession of any of the Order Land for the purposes of maintaining the authorised project during a prescribed maintenance period. 28 days' advance notice must be provided and compensation for loss or damage arising from the exercise of the power must also be paid.</li> </ul>
		<ul style="list-style-type: none"> <li>● <b>Article 24</b> (Time limit for exercise of authority to acquire land compulsorily or to take land temporarily) – this prescribes the period within which CA powers and TP powers must be exercised or else the powers will expire. The Applicant is seeking a period of 7 years for the exercise of the powers.</li> <li>● <b>Article 26</b> (Private rights over land) ensures that the construction and operation of the Proposed Development is not impeded by any existing private rights within the Order Land. <ul style="list-style-type: none"> <li>○ Unless the Applicant directs otherwise, private rights will be extinguished over land which the Applicant acquires permanently (whether by agreement or compulsion), i.e., in relation only to the two plots of Pink freehold land.</li> <li>● In relation to land over which it is proposed to acquire new rights and/or restrictive covenants (i.e., Blue Land), private rights will only be extinguished under Article 26 to the extent that their continuance would be inconsistent with the exercise of the new right or compliance with the restrictive covenants.</li> <li>● Private rights will be suspended over land where the Applicant exercises powers to temporarily use land under Articles 33 and 34 for so long as the Applicant remains in lawful possession.</li> </ul> </li> </ul>

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2i	<p>The Applicant to explain in detail (with the use of a specific plot example and reference to draft DCO Articles and Requirements), how, starting with the Order Limits the Proposed Development is constructed with permanent compulsory acquisition powers only being exercised over the minimum land required.</p>	<ul style="list-style-type: none"> <li>• Article 26 provides for a mechanism for the Applicant to direct that existing private rights shall continue if the Applicant decides that the powers of compulsory purchase of land, new rights and restrictions, or the temporary use of land, can be exercised without interruption, making extinguishment or suspension unnecessary.</li> <li>• <b>Article 27 (power to override easements and other rights)</b> <ul style="list-style-type: none"> <li>○ Article 27 applies where an authorised activity takes place within the Order Limits and permits the overriding of private rights that might otherwise impede that activity. For example, if the construction works interfere with a restrictive covenant that would prevent the land being used for the works, the ability of the beneficiary of that right of to exercise that right is overridden during the construction works.</li> <li>○ Private rights are not extinguished under Article 27, they are overridden. Compensation is payable.</li> <li>○ The land edged in red and shaded yellow on the <a href="#">Land Plans Onshore [PEPD-003]</a> is not proposed to be compulsorily acquired but is subject only to the powers to interfere with private rights in Articles 26 and 27.</li> </ul> </li> <li>• <b>Article 31 (acquisition of subsoil or airspace only)</b> – permits the undertaker to acquire land or rights in relation to subsoil and airspace only.</li> <li>• <b>Article 32 (rights under or over streets)</b> permits the Applicant to enter airspace or subsoil under streets.</li> <li>• <b>Article 35 (incorporation of the mining code)</b> permits the Applicant to exercise controls over the working of mines and minerals in the Order Land.</li> <li>• <b>Article 36 (Statutory Undertakers)</b> authorises the Applicant to acquire land and new rights in land belonging to statutory undertakers within the Order Land. It further provides for the extinguishment of rights and the removal or relocation of apparatus belonging to statutory undertakers over or within the Order Land. The exercise of this power is subject to the protective provisions set out in Schedule 10 to the <a href="#">Draft Development Consent Order [REP3-003]</a>.</li> <li>• <b>Article 37 (apparatus and rights of statutory undertakers in stopped up streets)</b> makes provision for utility apparatus and the payment of costs to statutory utilities where the Applicant temporarily closes streets.</li> <li>• <b>Article 38 (recovery of costs of new connections)</b> makes provision for the payment of costs to utility undertakers where a new connection is required to private premises.</li> <li>• <b>Article 39 (special category land)</b> authorises the discharge of rights, trusts and incidents over special category land insofar as their continuance would be inconsistent with the exercise of the relevant order powers.</li> </ul> <p>The Applicant explained that the approach to settling the Order Limits and the land acquisition strategy (both voluntary and compulsory acquisition) has been carefully co-ordinated so as to minimise the extent of land required, whether permanently or temporarily.</p> <p>The Order Limits, and the limits of the Onshore Works shown on the <a href="#">Onshore Works Plans [PEPD-005]</a>, set the envelope within which the authorised works described in Schedule 1 to the DCO may be constructed. The Order Land, shown on the <a href="#">Land Plans Onshore [PEPD-003]</a> identifies the extent of the land area over which the necessary corresponding land or rights over land may be acquired for those works.</p>

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		<p>Adopting the example of Work No. 9 (onshore connection works), for which the majority of the land rights along the cable corridor are required:</p> <ul style="list-style-type: none"> <li>- taking the stretch of the cable corridor seen on Sheet 20 of the <a href="#">Onshore Works Plan [PEPD-005]</a>, this land is shaded orange for work 9;</li> <li>- and taking plot 20/8 on the corresponding sheet 20 of the <a href="#">Land Plans Onshore [PEPD-003]</a>, it can be seen that this parcel is coloured blue which means it is subject to the acquisition of rights by the creation of new rights or the imposition of restrictive covenants.</li> <li>- Article 25 and Schedule 7 to the Order confirm that specifically, in respect of Plot 20/8 a package of Cable Rights and a Cable Restrictive Covenant are sought over this land.</li> </ul>
	<p>The ExA sought further clarification as to the process by which the Order Limits themselves were initially fixed.</p>	<p>The Applicant clarified that it requires flexibility as to where the works are able to be carried out so as to deal with obstacles and crossings. Through the process of consultation and engagement and the environmental assessment exercise the Applicant has arrived at the Order Limit red line boundary. In this particular location, the proposed DCO Order Limits are approximately 60-80m wide and Work No 9 could be carried out anywhere within that boundary.</p> <p>The Applicant requires flexibility in terms of the Onshore Construction Corridor, it is seeking to ensure it has the necessary land area required to deal with obstacles and through the process of consultation and initial surveys it has arrived at the red line Order Limits.</p>
	<p>The ExA sought further clarification as to what dictates where the order limits are wider</p>	<p>The width of the proposed DCO Order Limits enables the Applicant to respond to matters and detail which would only become apparent at the stage of carrying out detailed surveys and ground investigations e.g. crossing of services where we are investigating and discussing with APs the methods available for safely crossing those services. This then translates into the works limits which then informs the land requirement.</p>
	<p>The ExA requested the Applicant to set out the factors which influenced the required widths.</p>	<p>The Applicant clarified that during the phase of determining the route options and optioneering of the route of the development, it has taken into consideration the types of construction methods which would have to be applied so as to facilitate the construction of the cable corridor and how regard has to be had to the available information from public sources with regards to potential ground investigations and to identify the risks in terms of completing the construction within the proposed DCO boundaries.</p> <p>Where required the boundaries of the Order must allow for additional width to enable the Applicant to respond to matters and details that will only become apparent following the detailed surveys and ground investigations and the detailed design that may influence the method selection that is applied in these areas. The Applicant also noted that the crossing of third-party services is a relevant factor and that the Applicant is working with third parties to establish methods appropriate for these crossings, for which flexibility is also required.</p>
		<p>The Applicant confirmed that the cable construction corridor will be typically 40m for open-cut sections of the cable construction corridor, as explained in the Environmental Statement as described in paragraph 4.5.8 of <a href="#">Chapter 4: The Proposed Development, Volume 2</a> of the Environmental Statement <a href="#">[APP-045]</a> and illustrated in Figure 4-19. The construction corridor is anticipated to comprise the cable trenches, the haul road, and subsoil and topsoil storage.</p> <p>Plot 20/8 is expected to be subject to the typical 40m construction corridor for which open-cut methods of construction will be used.</p> <p>Paragraph 4.5.8 of <a href="#">Chapter 4: The Proposed Development, Volume 2</a> of the ES <a href="#">[APP-045]</a> and LR1.9 in the <a href="#">Applicant's Response to Examining Authority's First Written Questions (ExQ1) [REP3-051]</a> also explains the instances where the onshore construction corridor is required to be wider than the standard 40m due to the wider spacing requirements of the cables and need for obstacle avoidance.</p>

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		<p>This does not apply to Plot 20/8, but an example of a land parcel where a trenchless crossing has been identified on the Crossing Schedule comprising Appendix A to the <a href="#">Outline Code of Construction Practice (CoCP) [REP3-025]</a> for a trenchless crossing, and for which the Order limits could be approximately 180m wide is plot 27/28. Requirement 6 (Cable Parameters) in Part 3 of Schedule 1 to the Order requires that trenchless technology be used to install the cable circuits in the locations identified in the Crossing Schedule, which will form part of the CoCP which is to be approved pursuant to Requirement 22 of the Order.</p>
	<p>The ExA requested further clarification as to how the Applicant would arrive at the final 20m easement location.</p>	<p>The Contractor would install the cable ducts within the 40m working corridor. The location of the cable ducts within the 40m corridor requires flexibility during construction to facilitate previously unidentified constraints such as obstacles in the ground and previously unidentified services.</p>
		<p>In respect of Post-Consent Refinement and approval of the location of the construction corridor within the proposed DCO Order Limits, the Applicant confirmed that if and when the Order is made, the Applicant will then carry out a detailed scheme of site investigation work along the cable route, alongside further environmental surveys such as archaeological surveys required by the <a href="#">Outline Onshore Written Scheme of Investigation [REP3-035]</a>. These surveys and investigations would be carried out over the extent of the land within the proposed DCO Order Limits, relying on the powers to survey and investigate the land onshore in Article 19 of the Order if necessary.</p> <p>The information gathered from such surveys will then be collated into a further constraints and features dataset which will inform the onshore cable construction corridor design and provide more certainty as to the location of the corridor. The mitigation hierarchy will be followed to finalise micro-siting decisions and reduce the impacts of the final design as much as possible.</p> <p>The Applicant will therefore narrow down the area of land over which it will be needed to exercise construction rights. Affected parties will be kept apprised of the process as it progresses.</p>
	<p>The ExA sought clarification as to how landowners would be kept informed</p>	<p>The Applicant confirmed that it will keep APs apprised throughout the process and <a href="#">Outline Code of Construction Practice [REP3-025]</a> contains commitments relating to the Agricultural Liaison Officer(s) (ALO) whose role will involve detailed engagement with Affected Parties.</p>
		<p>Once a Contract for Difference (CfD) has been secured, and as the project approaches the construction phase, work will progress on the Outline management plans, in particular the stage specific Codes of Construction Practice (CoCPs) and (of particular relevance) the Construction Method statements. The stage-specific CoCPs (Requirement 22) (and construction method statements – Requirement 23) for works other than onshore site preparation works will include the cable routing and descriptions of any required works outside the standard working corridor width of 40m.</p> <p>This detailed design will take into account any commitments made in the DCO itself, or in other management plans, and any commitments given in voluntary land agreements which have been entered into with affected parties. In preparing the Construction Method Statement, the project will comply with the Agricultural Liaison section of the <a href="#">Outline Code of Construction Practice [REP3-025]</a> (paragraph 2.6).</p> <p>The stage specific <a href="#">Outline Construction Method Statement [APP-255]</a>, which is required to be approved by the relevant planning authority for the relevant stage of the works pursuant to Requirement 23(f) of the <a href="#">Draft Development Consent Order [REP3-003]</a>, will include the final location and width of the cable corridor for the relevant stage. A plan will be included in this document showing the working corridor and any wider areas required for trenchless crossings, together with the associated trenchless crossing compounds.</p> <p>In respect of the Construction Phase: Temporary possession powers, the Applicant clarified that by virtue of the power sought in Article 33(1)(a)(ii), the Applicant may (prior to acquiring permanent rights or imposing such restrictive covenants) take possession of any of the Blue Land and Pink Land on the Land Plans Onshore and construct any works on that land as are mentioned in Part 1 of Schedule 1 (authorised development) and Part 2 of Schedule 1 (ancillary works) on that land.</p>

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		<p>This enables the Applicant to take possession of the construction corridor and carry out the necessary works.</p> <p>Once the Onshore Construction Method Statement for the relevant stage of the works affecting Plot 20/8 is approved, it is intended that the Applicant would rely upon these powers to take temporary possession of a 40m construction corridor within Plot 20/8 to carry out work 9 on this land.</p>
	<p>The ExA sought confirmation that this would be the reduced 40m area.</p>	<p>The Applicant confirmed that this was correct and that the final layout and spatial extent of the laid cables within the 40m corridor will be determined during detailed design. Flexibility within the 40m construction corridor is however still required due to the potential for obstacles and ground conditions that are only revealed during the construction works. The use of temporary possession powers will therefore enable the Applicant to get underway with the construction works under temporary possession powers, while it is still ascertaining and refining the scope of the requirement for the acquisition of permanent rights and/or the imposition of permanent restrictive covenants.</p> <p>In this way, the Applicant can ensure that permanent compulsory acquisition powers are only exercised over the minimum land required.</p> <p>An Agricultural Liaison Officer(s) (ALO) will be employed to assist in the day-to-day liaison between landowners, farmers and occupiers, and the client and contractor for the duration of the project construction phase. Part of the role of the ALO will be to:</p> <ul style="list-style-type: none"> <li>– liaise with stakeholders to agree temporary, and permanent accommodation works to include fencing requirements, gates, crossing points, crossing surfacing, water supplies, stock relocation and access to severed land parcels and report and oversee repairs required as a consequence of damage caused by Contractor(s);</li> <li>– engage with stakeholders to convey project plans, timelines, and potential impacts on property related issues and agricultural activities to identify and develop mitigation measures through mutually beneficial solutions to minimise disruption;</li> <li>– engage with landowners on construction traffic routeing and general construction matters;</li> <li>– attend relevant project progress meetings; and</li> <li>– work with stakeholders to enable the construction project to be conducted in a manner that respects and accommodates the needs of the agricultural and landowner community while meeting project objectives and DCO Requirement.</li> </ul>
	<p>The ExA noted that it would like to see a commitment to the ALO role being extended to all areas of land affected by CA.</p>	<p>The Applicant confirmed that the <a href="#">Outline Code of Construction Practice [REP3-025]</a> sets out the role of the Agricultural Liaison Officer(s) (ALO) and sets out the commitments to liaise with Affected Parties throughout the construction phase including in relation to agreeing the temporary and permanent works such a fencing requirements, crossing points and surfacing, water supply etc.</p> <p>The ALO would be appointed by the principal contractor and would seek to provide a direct contact for the Affected Parties. In particular, Section 5.7.10 (relating to private means of access) applies in respect of giving notice of proposed means of access.</p>

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	<p>The ExA suggests that the name of the ALO indicates that it is less wide than it in fact appears to be and requested that the name be amended.</p>	<p>The Applicant confirmed that this could be amended and clarified that the provisions in the CoCP make clear how the role is wider and the ALO's responsibilities are clearly included in that document.</p> <p>In respect of the Permanent Acquisition of the Cable Rights and Cable Restrictive Covenant, the Applicant confirmed that once installation of the cable is complete, 'as built' plans will be prepared to show the permanent cable easement which comprises the cable and a protective buffer. This plan will be shared with the landowner and form the basis of the 99-year voluntary deeds of grant for the easement or the compulsory acquisition.</p> <p>A typical permanent corridor easement is likely to be 20m, but this may vary according to local conditions. A wider permanent easement might be required where the cable spacing is wider due to the cable rating requirements or obstacle avoidance reasons. Plot 20/8 is expected to require a standard 20m easement.</p> <p>The acquisition of permanent rights (and the imposition of permanent restrictive covenants, as appropriate) will be required for the final (narrowed down) cable easement. This will ensure protection for the up to 20 cables laid in four ducts with appropriate spacing between cables of up to 5m and a separation buffer from the boundary of the permanent easement.</p> <p>The Applicant intends to exercise its compulsory acquisition powers to acquire the new rights and restrictive covenant pursuant to articles 23 and 25 when that final permanent corridor extent and location are known.</p> <p>The wider construction corridor land which is no longer required once construction has completed, will be reinstated and returned to the landowner, as required by Article 33(5) and Article 33(6) of the draft Order.</p> <p>Reinstatement of land will be carried out in accordance with the outline management plans including the <a href="#">Outline Soils Management Plan [REP3-027]</a> pursuant to Requirement 22 of the <a href="#">Draft Development Consent Order [REP3-003]</a> and the <a href="#">Outline Landscape and Ecology Management Plan [REP3-037]</a> pursuant to Requirement 12 of the <a href="#">Draft Development Consent Order [REP3-003]</a>. At this point the land will have been vacated and reinstated, and a permanent easement for the cable corridor will be in place (either voluntarily or using CA powers).</p>
	<p>The ExA queried how it would be determined what areas of land within a plot would be subject to TP and what areas would be subject to the permanent acquisition of rights, and further how the Applicant would be required to relinquish the right to acquire rights permanently once it is known what area of land such rights are required over.</p>	<p>The Applicant clarified that there was no constraint on the use of temporary possession powers within the plot, but that it must be temporarily possessed only as required for the purposes set out in Article 33. Article 33 requires land to be reinstated and handed back.</p> <p>The Applicant confirmed that there is no obligation to 'relinquish' the power to acquire rights, however, the Applicant noted that the principles set out in the CA guidance and Crichel Down rules, as well as the wording of Article 23 itself only authorises the Applicant to permanently acquire what is necessary for or incidental to the project. As a body exercising CA powers it must go through the process of applying that test before acquiring any permanent rights over land. If the Applicant does ends up surplus land once permanent powers have been exercised, then it will apply the principles of the Crichel Down Rules.</p>



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The ExA will invite submissions from Affected Persons (AP) who wish to raise general matters in relation to the Applicant's case for CA and TP. However, site-specific submissions will be reserved to agenda item 10.

Mr Lightburn [REP1-140] raised a query as to how compulsorily acquired rights would be documented and communicated to directly and indirectly affected persons.

The Applicant clarified that the acquisition of the new rights requires statutory notices to be given to persons with certain types of interests in land to effect the acquisition, but noted there is not always a requirement to serve on people who only have a right of access for example. The Applicant further explained that when the rights have been acquired, they will be registered at the Land Registry who will carry out the necessary changes and notify persons who are directly affected.

### Agenda Item 3: Funding

**3a** The Applicant to briefly summarise, and advise of any updates to, the Funding Statement.

The Applicant confirmed that since the Application was submitted, there have been further updated annual reports for the entities identified in paragraph 2.6 of the [Funding Statement \[APP-025\]](#).

The Applicant will provide an updated [Funding Statement \[APP-025\]](#) with these details at Deadline 4, including the updated appendices.

**3b** The Applicant to outline how the funding is to be secured and the resource implications of both acquiring the land and implementing the project for which the land is required.

The Applicant explained that the Applicant company is an SPV, which will draw down funds from shareholders. In order to secure funds, the Applicant is subject to a 'gate approval process' which is effectively a staged process for the approval/release of funds. The project and proposed expenditure is reviewed and budgeted, and then approved at which point the funds are released for that stage. The Final Investment Decision is the final unconditional decision to invest in the project and compulsorily acquire land and construct the project. The Applicant confirmed that this is a very standard approach for windfarm developments and is the same process undertaken to secure funding in the Rampion 1 project.

**3c** The Applicant to confirm whether adequate funding is likely to be available to enable CA to proceed within the statutory period if the DCO was to be made.

This was confirmed by the Applicant.

### Agenda Item 4: Special Category Land

**4a** The Applicant to explain the application of s131 and s132 of the PA2008 to the draft DCO, particularly in relation to s131(4) and s132(3)

The Applicant confirmed that Section 131 of the Planning Act 2008 is not engaged by the Order because this concerns the compulsory acquisition of land forming part of a common, open space or fuel or field garden allotment. No such land is proposed to be acquired by the Applicant. I.e. none of the land shown pink on the [Land Plans Onshore \[PEPD-003\]](#) comprises special category land.

Section 132 of the Planning Act 2008 is engaged by the Order because the Applicant seeks the compulsory acquisition of new rights and restrictive covenants over land that comprises special category land. This means that the draft Order will be subject to special parliamentary procedure unless the Secretary of State is satisfied that one or more of the exemptions in section 132 apply. For the purposes, the Applicant relies upon the exemption in section 132(3), namely:

*(3) This subsection applies if the order land, when burdened with the order right, will be **no less advantageous than it was before** to the following persons—*

*(a) the persons in whom it is vested,*

*(b) other persons, if any, entitled to rights of common or other rights, and*

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		<p data-bbox="1142 300 1329 333"><i>(c) the public.</i></p> <p data-bbox="1032 369 2748 432">The Order Land contains the following categories of special category land for the purposes of section 131/132 of the Planning Act 2008:</p> <ul data-bbox="1032 474 1299 579" style="list-style-type: none"> <li>– open space</li> <li>– commons</li> <li>– allotments.</li> </ul> <p data-bbox="1032 615 1819 648">Taking the different areas of Special Category Land in turn:</p> <p data-bbox="1032 684 2769 789"><b>1. Common land – Bines Green Common</b> - This land is subject to rights of common namely, rights to graze cattle and/or horses over the land, which are in the Register of Common Land (C.L.21) administered by West Sussex County Council. This is also Open Access Land.</p> <p data-bbox="1032 825 2748 888">Common land over which new rights are proposed to be acquired - <b>Plots 27/10, 27/24, 27/25, 27/26</b>- construction and operational access rights sought over existing private access roads and adjacent verges for work no. 14.</p> <p data-bbox="1032 924 2807 1062">The proposed construction and operational access rights to be acquired over these parcels of common land will be consistent with the existing use of the land as a private road. To the extent that commoners exercise their grazing rights over this land, they can continue to do so and their use of the land, when the land is burdened by the construction and operational access rights, will be no less advantageous than it was beforehand.</p> <p data-bbox="1032 1098 2131 1131"><b>2. Registered open space over which new rights are proposed to be acquired</b></p> <p data-bbox="1032 1167 2798 1230">Allotments and the Washington Recreation Ground – <b>Plots 22/8 and 22/9</b> – owned by Washington Parish Council. Together, they are registered as a Town and Village Green.</p> <p data-bbox="1032 1266 2748 1329">The Applicant seeks the acquisition of Cable Rights and a Cable Restrictive Covenant over the land for the purposes of work no 9. Specifically, a trenchless crossing between A24 and A283 highway. The cables will be installed by trenchless technique.</p> <p data-bbox="1032 1365 2778 1482">This means that existing use of the land can continue both during construction and operation, except in the case of an emergency. The land will not be fenced during construction and there will not be any above ground works that limit the public's use of the land or its physical appearance.</p> <p data-bbox="1032 1518 2748 1581">Accordingly, the Applicant considers that the use of the recreation ground and allotments, when the land is burdened by the Cable rights and restrictive covenant will be no less advantageous than it was beforehand.</p> <p data-bbox="1032 1617 1804 1650"><b>3. Assumed Open Space – Plot 22/7 Jockey's Meadow</b></p> <p data-bbox="1032 1665 2807 1728">Owned by the National Trust who permit its use by members of the public for recreational purposes. The Applicant is therefore treating it as open space even though it is not registered as such.</p> <p data-bbox="1032 1764 2769 1923">The Applicant seeks the acquisition of Cable Rights and a Cable Restrictive Covenant over the land for the purposes of work no 9. The cables will be installed by trenchless technique. This means that existing use of the land can continue both during construction and operation, except in the case of an emergency. The land will not be fenced during construction and there will not be any above ground works that limit the public's use of the land or its physical appearance.</p>

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		<p>Accordingly, the Applicant considers that the use of the meadow for recreational purposes, when the land is burdened by the Cable rights and restrictive covenant, will be no less advantageous than it was beforehand.</p> <p><b>4. Landfall – assumed open space at Climping beach – over which new rights and restrictive covenants are sought</b></p> <p>The beach is not registered as open space but members of the public use the beach for recreational purposes for recreational purposes such as dog walking, horse riding and water sports/coastal activities. Some of the land is privately owned but there is no differentiation in physical terms between the parts of the beach that are owned by individuals. Not all of the beach is accessible at high tide, but the Applicant is taking a precautionary approach and treating this land as open space for the purposes of section 132.</p> <p>The land is required in relation to Works No. 5, 6, and 7. There will be no impact to the public use of the land during construction or operation. The installation works under the beach will be via trenchless techniques. The land will not be fenced during construction and there will not be any above ground works that limit the public's use of the land or its physical appearance.</p> <p><b>Accordingly, the Applicant considers that the test in section 132(3) is met.</b></p> <p>The Applicant confirmed that in addition to the special category land for the purposes of section 132 PA 2008, the Order Land contains land held inalienably by the National Trust.</p> <p><b>National Trust</b></p> <p>By virtue of Section 130 of the PA 2008, an order is subject to SPP, to the extent that it authorises the compulsory acquisition of land held inalienably by the National Trust, if the National Trust makes and maintains an objection to the compulsory acquisition which is not withdrawn before the completion of the examination of the Application.</p> <p>The Applicant seeks the compulsory acquisition of new rights/restrictive covenants over Plot 22/7 – Jockey's Meadow- which is held inalienably by the National Trust. The Applicant is confident of reaching agreement with National Trust before the close of the examination.</p> <p>It should be noted that the Order also includes land owned inalienably by the National Trust which is proposed to be used temporarily. These parcels are shown on the special category land plans albeit the provisions of s130 are not engaged as they are not subject to compulsory acquisition. The land is let to and used by a tenant on a 99-year lease, the Lorica Trust.</p> <p>Furthermore, the National Trust has the benefit of a 'section 8 National Trust Act 1937 covenant', known as the Normanby Covenant. This does not comprise inalienable land and does not engage s130 of the Planning Act 2008.</p> <p>The proposed agreements with the National Trust will address all of the land interests belonging to the National Trust, including the Normanby Covenant. The Applicant is seeking:</p> <ol style="list-style-type: none"> <li>1. a 'deed of release' of the Normanby Covenant, which is an agreed form;</li> <li>2. an option for a deed of easement for Jockey's Meadow, which is largely agreed and with solicitors;</li> <li>3. a tripartite agreement for a lease of the construction access for the land let to the Lorica Trust. Terms have been agreed and this is with solicitors to draft.</li> </ol>

## Agenda Item 5: Crown Land and Interests

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5a	The Applicant to provide an update on any discussions or contact with the Crown Estate Commissioners	<p>The Applicant confirmed that there are two aspects of land owned by the Crown Estate:</p> <p><b>Offshore Crown Land Plan [APP-010]</b></p> <p>Covers the land required for the Proposed Development (the offshore array and the offshore cabling) below the mean low water mark, the majority of which is owned by the Crown Estate, save for Plot 1b/5 which is in private ownership.</p> <ul style="list-style-type: none"> <li>– As set out in the <b>Statement of Reasons [APP-021]</b> at paragraph 12.1.9, the Applicant has entered into two agreements for lease (AfLs) with The Crown Estate in respect of the Extension and Zone 6 seabed areas which together comprise the array area for the Proposed Development.</li> <li>– An additional AFL for transmission assets is required. The Applicant and the Crown Estate Commissioners are making good progress in negotiating the agreement for lease for the transmission assets. Draft documents are well progressed and are nearly in agreed form. The Applicant will be providing the Commissioners with the necessary information and documentation to address the remaining matters shortly. The Applicant is confident that the agreement will be completed by the end of the examination and will inform the examining authority when the agreement has been entered into.</li> </ul> <p><b>Onshore Crown Land Plan [PEPD-008]</b></p> <ul style="list-style-type: none"> <li>– The only <b>Crown Land</b>, as opposed to a Crown Interest in Land is at the foreshore and intertidal area which is required for work 6 and is owned by the Crown Estate. New rights and Restrictive Covenants are sought over these land parcels. The Applicant hopes that these interests can also be incorporated into the agreements currently being negotiated in relation to the transmission assets.</li> </ul> <p>It remains the Applicant's view that these agreements will be entered into before the end of the Examination period.</p> <p>Section 135(1) of the Planning Act 2008 is engaged because the proposed compulsory acquisition seeks powers to acquire the new rights over the interests in those parcels which are held otherwise than by or behalf of the Crown. There are also other third-party interests in that Crown Land including a lease to the District Council.</p> <p>The Applicant also updated on a number of other parties to which section 135(2) applies:</p> <p><b>The Official Solicitor and Public Trustee (OSPT)</b> has confirmed that these interests are not held by the Crown and s135 consent is not therefore required on behalf of the OSPT. The Onshore Crown Land Plan does not currently require amendment because these parcels are also subject to a DEFRA Crown interest. However, the Book of Reference and Statement of Reasons will require updating at the appropriate time.</p> <p><b>Forestry Commission (FC)</b> are investigating whether the restrictive covenant may be historic and no longer apply. The Applicant has been advised that the matter has been referred to the team that arranges for the release of old Dedication Schemes. The Applicant is now awaiting confirmation.</p> <p><b>The Department for Environmental, Food and Rural Affairs (DEFRA)</b> - There has been very recent engagement with DEFRA's property team who have confirmed that these interests are no longer held by them but that they may have transferred to other parties. Plots 7/30, 7/31 and 7/32 as well as Plot 8/1 all appear connected to the Forestry Commission. The Applicant will raise this with the Forestry Commission as part of its ongoing s135(1) engagement with them.</p>

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		<p>In respect of Plot 33/18, this is highway verge along the A272 and the restriction relates to transport and road infrastructure legislation. It is anticipated that the matter may need to be addressed to the Department of Transport. The Applicant will therefore progress enquiries with the DfT to establish the position.</p> <p>The <b>Onshore Crown Land Plan [PEPD-008]</b> does not currently require amendment because these parcels may still comprise Crown interests. However, the Book of Reference and Statement of Reasons will require updating at the appropriate time when the position has been settled.</p>
<b>Agenda Item 6: Statutory Undertakers</b>		
<b>6a</b>	<p>The ExA sought an update on protective provisions, in particular in respect of Network Rail.</p> <p>The ExA sought a position update in respect of the protective provisions being agreed with NGET</p>	<p>The Applicant clarified that the position has moved forward including with Network Rail and issues are narrowing, and that there are just a number of final details being settled between parties.</p> <p>The Applicant confirmed that discussions are ongoing with National Grid Electricity Transmission Plc (NGET) for a number of types of agreement which will relate to the existing National Grid Bolney substation extension. The Applicant is also engaging with NGET to secure the interface agreement which is required to enable the Applicant to connect into the substation. It is noted that some of the works for that connection could be undertaken by NGET and therefore various agreements are required, including an easement which is to be agreed in respect of the cable which will cross the NGET land.</p> <p>The Applicant noted that although the land required for the substation is outside the fence line of the substation and is not currently operational land, the Applicant accepts that s127(6) of the PA2008 is triggered because the Applicant seeks new rights and restrictive covenants over land owned by NGET for the purposes of its undertaking and NGET has made a representation which has not been withdrawn. The Applicant is seeking to agree a suite of documents to ensure that there is no serious detriment to NGET.</p>
	<p>The ExA sought a position update in respect of the protective provisions being agreed with National Highways</p>	<p>The Applicant confirmed that engagement with National Highways is ongoing and noted that there have been emails as recently as the day before the CAH1 which it needs to consider and properly respond to shortly.</p> <p>The Applicant acknowledged that s127(6) is engaged in respect of National Highways as the Applicant seeks new rights (easement) over highway land to enable horizontal directional drilling (HDD) under highway operational land. Protective provisions will require the Applicant to comply with National Highways' technical requirements and ensure that there is no serious detriment to National Highways' undertaking.</p>
<b>6b</b>	<p>The Applicant to set out any representations which it considers have triggered s127 of the PA2008.</p>	<p>The Applicant confirmed that the following statutory undertakers have made a representation and own land which is proposed to be acquired or over which new rights/restrictive covenants are proposed to be acquired.</p> <ul style="list-style-type: none"> <li>– Network Rail Infrastructure Limited / Network Rail</li> <li>– Tc Rampion Ofco Limited</li> <li>– National Highways</li> <li>– National Grid Electricity Transmission Plc</li> </ul> <p>The <b>Land Rights Tracker [REP3-008]</b> sets out the current status of negotiations with those parties in respect of land rights sought and/or the negotiation of protective provisions.</p>
<b>6c</b>	<p>The Applicant to set out, if agreement is not reached with all Statutory Undertakers, how the relevant tests for the exercise of powers pursuant to s127 and s138 of the PA2008 could be met.</p>	<p>The Applicant confirmed that the nature of the rights being sought would not cause serious detriment to the statutory undertakers, for example in respect of Network Rail's operational land the Applicant proposes using horizontal directional drilling (HDD) to pass under the railway so Network Rail will not be affected, and the applicant will comply with Network Rail's safety and technical standards.</p>

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		<p>In respect of National Grid Electricity Transmission Plc's existing assets being crossed by cables, the Protective Provisions will protect these.</p> <p>The other party with whom s127 is engaged is Rampion OFTO which operates the Rampion 1 windfarm and owns land near the existing National Grid Bolney substation. The Applicant is in negotiations regarding the protective measures required and is confident that Rampion OFTO's apparatus can be crossed without affecting said apparatus.</p> <p>If Protective Provisions are not agreed, then the Applicant will acknowledge the relevant Statutory Undertaker's proposed form of Protective Provisions and set out what can and cannot be agreed.</p> <p>The Applicant agreed to submit any such confirmation at Deadline 5 with a further submission at Deadline 6 to update the position as required.</p>
	<b>Agenda Item 9: Restrictive Covenants</b>	
9a	Discussion on the specific powers sought in Part 5 of the draft DCO in respect to restrictive covenants.	<p>The Applicant confirmed:</p> <ul style="list-style-type: none"> <li>- that restrictive covenants are required for the cable corridor (for which there are a number of slightly different restrictive covenants), environmental mitigation and landscaping. Restrictive covenants are not required over land which is needed for 'access' only reasons.</li> <li>- That there are no other restrictive covenants which could be imposed at a later stage. The Applicant can acquire less than that which it has powers for but it cannot increase the rights/covenants and it cannot include a different purpose other than as prescribed in schedule 7. Any rights acquired and restrictive covenants imposed compulsorily must adhere to or be lesser than the powers set out in the order.</li> <li>- If agreement cannot be reached, the rights acquired and restrictive covenants imposed would be bespoke to each plot and based upon the actual requirements of the Applicant in respect of the relevant plot and would be acquired by either the General Vesting Declaration or Notice to Treat/Notice of Entry formal legal processes.</li> </ul>
	The ExA sought further clarification as to the operation of Article 33 in that it appears that the intention is to temporarily possess plots 22/28, 33/14, and 33/16, but the power to acquire rights over these plots is reserved.	<p>The Applicant confirmed that these three parcels alone appear in both the new rights schedule and temporary possession schedule – these are the only three plots to which this applies. This is because the temporary possession purpose is very different from the permanent rights package purposes that are sought over these plots. This differs from the rest of the Order where the temporary possession purposes are the same as the rights purposes. These plots are expressly listed out so as to provide clarity to the relevant parties.</p> <p>The Applicant confirmed that this would enable the Applicant to take temporary possession of the land for the purposes set out in Schedule 9 as well as (prior to) acquiring new rights and imposing restrictive covenants set out in Schedule 7 over these plots (for different purposes), and that this approach has been used in other orders previously (and moreover that the Secretary of State is able to grant such powers).</p> <p>The Applicant clarified that temporary possession cannot be taken after permanent acquisition has taken place (in respect of any specific area of land) and therefore the exercise of temporary possession powers would always occur prior to the exercise of permanent powers.</p>

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		<p>The Applicant acknowledged that it could drafted in a number of ways and agreed to amend the drafting to remove these plots from Schedule 9 (being land over which express temporary possession powers can be exercised) and the associated carve-out in Article 33 of the <a href="#">Draft Development Consent Order [REP3-003]</a>, which allows for rights to be acquired over these three plots being an exception to the prohibition on acquiring rights/imposing restrictive covenants over the plots listed in Schedule 9. Instead, the Applicant will include the purposes for which temporary possession of these plots are required in the general temporary possession power at Article 33(1)(a)(ii).</p>
	<p>The ExA asked the Applicant to consider whether there ought to be an obligation in the Order which requires the Applicant to relinquish powers of compulsory acquisition / temporary possession over land which is no longer required.</p>	<p>The Applicant agreed to consider the approach and provide wording for consideration.</p>
<p><b>Agenda Item 10: Site Specific Representations from Affected Persons</b></p>		
10a	<p>Affected Persons (APs) who indicate they wish to speak at the CAH will be asked to briefly set out any outstanding concerns in relation to CA / TP for the land in which they have an interest that have not been addressed by the Applicant.</p>	<p>Mr Baird raised concerns regarding: a lack of negotiation with the Applicant; the prohibition on tree planting on affected land; the impact on Mr Baird's proposed development; and the severance of land.</p> <p>The Applicant confirmed that Carter Jonas have been in correspondence with Mr Baird's agent a number of times, two teams calls and three site meetings. The Applicant acknowledged that Carter Jonas may not yet have responded on all points and agreed to do so before the end of the week.</p> <p>The Applicant confirmed that it had been made aware of the Littlehampton Economic Growth Area (LEGA) West Bank proposed development and that it has moved the cable route to enable this to proceed. That has been formally recorded in the statutory consultation (referred to as modified route #2) and moved 50m to the west. In this way, the Applicant explained that it has mitigated the impact on the development, and that it is not prejudiced from coming forward as a result.</p> <p>The Applicant acknowledged that Littlehampton Economic Growth Area (LEGA) allocation does overlap with proposed DCO Order Limits, however no Planning Application has been granted yet, and the only allocation is a slightly out of date masterplan allocating the land as recreational open space, and no housing allocation or planning application which conflicts with the Proposed Development at this stage.</p> <p>The Applicant also confirmed that the Engineering team is striving to clarify the construction/assets to be installed as soon as possible. The Applicant acknowledged that it has taken longer than it would have hoped and agreed to respond to Mr Baird's question as soon as possible. Regarding access tracks, the landowner will be able to repair the access tracks – Schedule 7/Article 24(b)(1) and (2) does not require consent of Applicant where no manholes are to be covered, subject to that requirement the landowner can lay tracks, and relaying/repairing also does not require consent. The Applicant has taken and will take existing tracks into consideration in the design to ensure no conflict. Regarding tree planting the Applicant has previously explained the reasoning for not planting woodland trees over cables to Mr Baird in a meeting and noted that this is an established practice. The Applicant confirmed that it would provide more detail to Mr Baird in writing.</p> <p>The Applicant clarified that the cable easement width is generally 20m (with some minor deviation) and you would seek that over that easement corridor no trees are planted. The Applicant explained that there are two main reasons for this requirement, being the physical risk of damage to cables (because they are not armoured), and the long-term risk of degradation. There is also an indirect risk due to root growth near the transmission cables which is due to the thermal properties which means that the Applicant needs to ensure control over the heat dispersal capacity of the cables. There is no buffer zone preventing the planting of trees outside of the easement itself.</p>

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		<p>The Applicant explained that drainage is something which would be picked up at detailed design stage. At that point, surveys would be carried out to take into consideration the existing drainage position and the characteristics of the land, and a drainage management plan would be developed so as to ensure that there are no negative effects (during or following construction), all of which is based upon established practices. <a href="#">Commitments Register [REP3-049]</a> sets out the position at commitment C-28.</p> <p>The Applicant also clarified that various options have been considered by the Applicant for the amendment of the cable route as well as alternative compound locations. A site to north was rejected because of designated archaeology and flood risk reasons, and this has been communicated to Mr Baird including in relation to his development aspirations. Those discussions included the Weald to Waves project and how the habitats protected within that project are compatible with the Applicant's proposals.</p>
	<p>Mr Kittle raised concerns regarding: vagueness of proposals; lack of detail in mapping; extent of land affected; impact on farmland (grazing area); deviation of South Downs Way and the impact this will have on the AP's business.</p>	<p>The Applicant confirmed that the requirement for underground investigations is a precursor to the detailed design of the cable route, and that it has confirmed the same in responses to Mr Kittle previously. The Applicant confirmed that a call was held with Mr Kittle on 30 April (involving the Applicant's civil engineering team) in which it set out the rationales to the approach being taken. The Applicant confirmed that it is in the process of pulling together the information necessary to provide clarity to Mr Kittle regarding the activities likely to be carried out over his land and the Applicant will provide this as soon as possible.</p> <p>The Applicant confirmed that it was aware of and appreciated the sensitivities of this particular area and is employing mitigations such as trenchless crossings. Further information will be provided shortly which will give Mr Kittle an idea of the impact and potential loss of grazing but confirmed that it cannot fix the area over which the horizontal directional drilling (HDD) will take place within the red line boundary until the construction stage when any such measures would be included in the construction method statement for discharge by the local authority.</p>
	<p>The ExA noted that it was concerned regarding the land-take at this site and sought clarification as to the extent of the order land required for each option – raised at last hearing.</p>	<p>The Applicant confirmed that it was seeking to identify the possible trenchless crossing options but the precise locations where the trenchless crossing alignment will be constructed inevitably depends on the actual obstacles within the land. The alignment across obstacles is not constrained within the application so as to retain flexibility to seek the alignment with most favourable ground conditions.</p>
	<p>The ExA sought confirmation as to whether the crossing plans are therefore incorrect if the exact locations are not yet known and raised queries relating to the Applicant's ability to fix the route; the range within which the route can be located; and whether the line of the HDD was therefore fixed.</p>	<p>The Applicant confirmed that the plans are correct, but that the alignments are shown indicatively but leaves sufficient flexibility that should the detailed design indicate that a deviation in the alignment is required then that approach could be taken. The Applicant confirmed that it has not carried out the detailed ground investigations due to the costs associated with doing so but noted also that the appointed EPCI contractor will carry out these investigations and detailed design once consent has been obtained.</p> <p>The Applicant explained that the dotted lines on the crossing plan (labelled limits of deviation on crossing schedule) are the limits within which the Applicant can site its trenchless crossing compounds (where the drill rig/entry pit will be located). There are also alternative trenchless crossing compounds for many of the compounds but these must be constrained to the limit of deviation because these parameters formed the basis of the environmental assessment.</p> <p>The Applicant confirmed that the direction of the trenchless crossing was not fixed because the exit location for the trenchless crossing is not constrained by the limits of deviation, only the entry pit. The Applicant clarified that there are restricted angles and preferred alignments for the crossings but there is and must be flexibility in the limits of deviation for the entry pits (purple lines on the crossing plan), but that the exits are not constrained by the limits of deviation. The Applicant explained that the blue and green squares give an idea of areas required for horizontal directional drilling (HDD) compounds and that they can move within the purple lines. This therefore illustrates a best case as to how the Applicant expects the HDD to be constructed but confirmed that flexibility is essential because of potential drilling issues caused by geotechnical factors (type of rock etc).</p> <p>The Applicant agreed to provide a note explaining why the areas cannot be further limited at this stage.</p>



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	<p>The ExA queried why, as shown on plan 19 (Onshore Land Plans), the western part of the main blue area is so large.</p>	<p>The Applicant explained that the additional space would be required to ensure the ability to install the ducts into the drillholes depending on the construction method of the trenchless crossing. The Applicant agreed to confirm this in writing.</p>
	<p>The ExA queried how long it would take before affected parties were informed as to the actual extent of land-take required.</p>	<p>The Applicant conformed that ground investigations are expected to take place in 2025-26 which would provide more clarity and that the adopted final design would thereafter be confirmed by the contractor. Stage specific Construction Method Statements would be produced in draft further to the detailed cable design informed by the ground investigations but the Applicant confirmed that it would seek to provide affected parties with information on an informal basis as it comes in, as part of an iterative process. The Applicant pointed out that even though the proposed DCO Order Limits are wide, the actual fenced areas will be limited to the compounds and haul roads and the Applicant is seeking to provide information to Mr Kittle as soon as possible about that.</p>
		<p>The Applicant confirmed that what is required in terms of cable distancing for HDD will be different to what is required for areas with trenched construction as burying the cable deeper means the Applicant needs to consider a wider set of engineering aspects to determine the crossing design, including the spacing between drills and construction costs.</p>
	<p>Victoria Hutton representing Mr Goring (Wiston Estate) raised issues relating to extent of the proposed acquisition and the lack of engagement with the Applicant. The affected party contended that the existence of materially less harmful options means that there will be no compelling case in the public interest for the compulsory acquisition. The affected party referred to issues relating to the impact on minerals in the land and the potential sterilisation of the same. The Affected Party contended that the Applicant has not given adequate consideration to alternative routes.</p>	<p>The Applicant referred to the test in the context of compulsory acquisition for the consideration of alternatives (paragraph 8 of the CA Guidance) which is that the Applicant must satisfy the Secretary of State that all reasonable alternatives, including modifications to the scheme, have been 'explored', not that the Applicant must select the least harmful option or avoid harm as suggested by the affected party.</p> <p>The Applicant clarified that paragraph 25 of the CA Guidance also acknowledges that for long linear projects it is appropriate to include compulsory acquisition powers in the DCO where it is not possible to agree acquisition of required land rights.</p> <p>The Applicant confirmed that the point relating to the potential sterilisation of minerals has already been assessed and queried whether the ExA would wish to go back over this point at this the hearing or focus on the compulsory acquisition powers (it did not).</p> <p>The Applicant confirmed that there is no policy allocation, no planning permission, and no current proposals to access the minerals in the relevant land.</p> <p>The Applicant noted that the question of appropriate alternatives has already principally been addressed by Applicant in previous responses to the Affected Party but clarified that the 'Ninfield option' was ruled out on the basis of previous feasibility studies for Rampion 1 which included crossing the Pevensey Levels Site of Special Scientific Interest (SSSI) between the settlements of Bexhill and Pevensey Bay and bring the works in close proximity to the Dungeness SPA. These constraints can be seen in Figure 1 of <a href="#">Deadline 1 Submission – 8.25.1 Applicant's Post Hearing Submission – Issue Specific Hearing 1 Appendix 1 – Further information for Action Point 3 – Fawley and Dungeness [REP1-019]</a> alongside the Inshore Traffic Zone for which the applicant provided further information on this constraint in response to <b>Written Question AL1.2</b>.</p> <p>The Applicant confirmed that Ninfield was also not a site put forward by the National Grid Connection Infrastructure Options Notice process which was run in parallel to determine the grid connection location and described in the alternatives chapter.</p> <p>The Applicant explained that this option has been compared, but produces significant additional costs of offshore cabling, which is more expensive than onshore cabling.</p>
	<p>Mr Kilham raised issues relating to a lack of negotiation with him in his capacity as a tenant farmer.</p>	<p>The Applicant confirmed that it had consulted with Mr Kilham via the statutory process. Site meetings were held in September 2021 to discuss site-specific issues which it has taken on board. The Applicant acknowledged that there will be temporary possession of some of the land that Mr Kilham currently farms, but the process which has been followed to date has been to liaise with landowners first in respect of the cable route as they are the party with the ability to grant the necessary land rights to the Applicant for the project to be carried out. The Applicant requires further details of the tenancy structure to better understand Mr Kilham's position. Draft tenant</p>

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		<p>consent documents have been sent to the landowner and comments have been received (May 2024). The Applicant confirmed that reasonable and appropriate professional (including legal) fees will be paid in respect of the requests for tenant consent. The Applicant confirmed that it is willing to meet with Mr Kilham and that previous meetings have been arranged (May 2023) which Mr Kilham ultimately did not attend.</p> <p>The Applicant confirmed that it is keen to move forwards with the tenant consent agreements.</p> <p>The Applicant clarified that there has been one meeting with Mr Kilham in August 2021, one on site in September 2021, a wider estate meeting in April 2022 which Mr Kilham attended, a consultation event in November 2022 and the Applicant offered a further meeting in May 2023 but Mr Kilham did not attend.</p>
	<p>Mr Dickson and his representatives raised issues relating to: severance; the impact on Mr Dickson's farming operations; failures to consider alternatives; and a lack of meaningful consultation.</p> <p>The ExA also queried why the proposed alternative (viewed on the site inspection) has been discounted by the Applicant.</p> <p>The ExA queried whether Mr Dickson had been made aware of the length of time that the trenching would be taking place over his land.</p>	<p>The Applicant confirmed that it has considered and discounted about five different options in respect of cable routing and construction methods on this land but at the October 2022 consultation stage Mr Dickson was seeking horizontal directional drilling (HDD) of the whole of the site. The Applicant provided reasons why this was not a suitable option, Mr Dickson was notified in April 2023 that the Northern route was not feasible, relating to the necessary ancient woodland buffer and the fact that the proposed alternative would require crossing the existing tree belt. The alternative cable routing would also be longer and the Applicant is required to minimise cost to the end consumer.</p> <p>The Applicant also confirmed that discussions to date have been around the length of the project as a whole, and Mr Dickson has expressed that he does not want crossing points on the farm. While the Applicant has tried to further those discussions in the context of the general programme and when concerns have been raised about crossing points, at the moment the Applicant acknowledges that it has only communicated the general project timescale.</p> <p>The Applicant confirmed that with regards to crossing the access to the farm building, this would be undertaken so as to provide a Site internal diversion so that there would not be a restriction to the access to the property as the road would be temporarily diverted. Regarding trenching across access the access track, this would be a matter of weeks to construct the trench, place the ducts and backfill the trench and reinstating the surface. In terms of any wider severance of the farm, crossing points would be in place for livestock and machinery (including with a stockperson if so required) to transfer from one side to the other. This has been communicated to Mr Dickson.</p> <p>The Applicant confirmed that with an open cut construction of approximately 800m with some HDD, a likely timeframe of 3 to 6 months overall could be expected. Mitigations are proposed to be put in place to ensure land use is as undisturbed as possible. The Applicant confirmed that it has communicated that there will likely be a three-year period for all works to be carried out and remedial works thereafter and that there is potential for impact on the land up to the date of commissioning (which would be within the three-year period that has been communicated).</p> <p>The Applicant agreed to provide a note on the impact of the Project on Mr Dickson's land.</p> <p>The Applicant confirmed that in respect of the movement of the cable route to the North, this was discussed in the October 2022 consultation, and this was not taken forward for the reasons set out including the impact upon a belt of mature Category A trees which would take decades to replace, there are also multiple traffic movements from the dairy which would have an impact.</p> <p>The Applicant confirmed that funding has already been addressed (see above) and an update will be provided at Deadline 4 but reiterated that the Applicant does not anticipate there to be an issue with the funding of the project. In respect of the Grid Upgrades, the Applicant noted that one of the upgrades referred to in the upgrade at Bolney which forms part of the DCO Application, and the other two are part of Great Grid Upgrade project (there are about 30 projects in total which are reliant upon that upgrade project). The Applicant confirmed that it does not consider this to be a risk to the project.</p>

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		<p>In respect of negotiations, the Applicant further confirmed that it has met with Mr Dickson some 7 times from June 2021-April 2024 and has written to him a number of times, seeking to explain the reasoning behind various accommodation works and construction methods.</p>
	<p>Green Properties raised issues relating to: the width of the Order limits; the impact on the 'Queen's Green Canopy' (QGC) planting scheme; failures to consider alternatives; and a lack of meaningful consultation.</p>	<p>The Applicant confirmed that the required width is driven by the horizontal directional drilling (HDD) alignment. It acknowledged that the exit pit is proposed to be in the first field however, as a mitigation measure the Applicant has been discussing the exit pit being located in the second field to avoid the QGC planting. The principal need for the 100m width at this location is primarily a result of the substation technical layout – what is required here relates to the electricity substation which is necessary for the conversion process. The Applicant noted that the internal site layout will need to take into account the location of HDDs under Kent Street and the substation layout itself which is subject to final detailed design and the market (cost and availability) of equipment at the relevant point in time as the Applicant is required to pursue optimisation opportunities. Additional considerations relate to environmental features – ponds, vegetation features including at the corridor to the East. In the eastern edge of the corridor consideration must also be given to the existing overhead cables and relevant stand-off distances for the construction of the project for health and safety reasons.</p> <p>The Applicant further noted that a number of alternatives have been considered: in 2011 – plans were submitted by Mr Dickson suggesting connection into routes to the south of Bolney Substation. These were rejected due to their significant engineering challenges and impacts on other land uses. The Applicant had further communications with Mr Dickson who was requesting the Applicant utilise a route which it had consulted on previously and considered but rejected due to amenity issues on properties and engineering issues.</p> <p>The Applicant then reviewed around 7 further options of its own to try to avoid the site of the proposed QGC planting. Further options were proposed and the Applicant issued a compromise that was possible but Mr Dickson was not interested in progressing this. The Applicant has only recently been sent a plan of the planting and has met with Mr Dickson and his agent on site to look at this area and give further consideration to this. The Applicant has considered the requests to locate the cable to the south but this would have significantly impacted the efficiency of the substation layout, increased environmental impact and increased costs of construction of the substation.</p> <p>The Applicant noted that having considered the route options in light of the QGC area it has offered to extend the trenchless crossing to avoid this. This has been offered in writing but the Applicant has not received a response.</p>
	<p>Mr Dickson's agent queried why an option was presented to Mr Dickson in May 2023 which showed a route alignment which was never viable.</p>	<p>The Applicant clarified that since that time the Applicant has carried out further substation design and mitigation design around the substation (environmental and flooding impact mitigation) and this design process is what indicated to the Applicant that the relevant route was not viable.</p>
	<p>Alex Dillistone representing Mr and Mrs Fischel raised issues relating to: the consideration of alternatives and the lack of engagement – including points relating to the Applicant's position regarding the payment of affected parties' legal fees.</p>	<p>The Applicant noted that the landowner has a land agent instructed in relation to this matter, as does the Applicant, and that the entirely ordinary course of events is that the land agents take part in detailed engagement on the terms of any offer, in respect of the plans and on the key terms. Solicitors are normally engaged only when there has been sufficient progress to turn to the detailed drafting to give effect to those key terms. The Applicant refutes the suggestion that the lack of engagement by solicitors in this process was a failure on the part of the Applicant.</p> <p>The Applicant also refuted the suggestion that the fact that engagement had stepped up since the submission of the application, and since the commencement of the examination, again, does not indicate any failure or lack of engagement on the part of the Applicant prior to submitting the application. The Applicant noted that it is often the ordinary course of events that following an application having been submitted, and when the parties are exchanging submissions, and sending submissions into the examination, that issue start to crystallise and that parties do naturally step up their negotiations as they are preparing for further engagement and narrowing down the points that are to be addressed at examination. The mere fact that there has been a lot of recent engagement does not suggest in any way or evidence in any way any failure on the part of the Applicant prior to that.</p>

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		<p>The Applicant confirmed that it continues to seek engagement and that the position in reality is very different to that which is suggested by Ms Dillistone. The Applicant referred to <a href="#">Deadline 1 Submission – 8.24 Applicant's Response to Relevant Representations [REP1-017] [REP1-017]</a> and correspondence between the Affected Party and the Applicant. The consultations and engagement with the Fischels has been substantial and has shown cooperation with the affected party.</p> <p>The Applicant confirmed that the consultations and engagement with the Fischels have been substantial – showing constructive cooperation. The Applicant has addressed their concerns about the original route, researching three alternative options and taking forward the most suitable route to DCO Application submission.</p> <p>Following four meetings in 2021, the Fischels expressed concerns about the environmental sensitivities of the original route. The Applicant took this away and researched the options put forward by the Fischels.</p> <p>Subsequently, the route was amended and consulted upon to take a route further to the east of the farm, away from such constraints.</p> <p>The Applicant has addressed the Fischels' concerns about the original route, considering a total of three alternative options and taking forward the most suitable route as part of the DCO Application which avoided the principal areas of concern:</p> <ul style="list-style-type: none"> <li>• avoided rewilded area to the west of the land thereby reducing amenity and environmental impacts;</li> <li>• avoids ponds and most watercourses;</li> <li>• includes a trenchless crossing under Calcot Wood;</li> <li>• minimises impact on mature boundary oak tree lines/ field boundaries against Spithandle Lane;</li> <li>• Trenchless crossing proposed at SW corner;</li> <li>• Trenchless crossing under watercourse in NE corner; and</li> <li>• The landowner has already confirmed they welcome this change both at the OFHI and within their representations.</li> </ul> <p>Other alternatives have also been looked at in this location, as detailed within the correspondence from July 2022 and October 2023. The Applicant is subject to a statutory duty pursuant to the Electricity Act 1989 to develop an 'economic and efficient' electricity network scheme.</p> <p>The Applicant confirmed that it did investigate a route suggested by the Fischels (known as Option A), being a route exiting the farm on the eastern boundary, much further south, to cross the B2135, before heading north. Rather than tracking north and staying within the farm, before exiting at the north east corner.</p> <p>Option A was rejected – with Option B was taken forwards as the most suitable route (See Appendix 18 within <a href="#">Deadline 1 Submission – 8.24 Applicant's Response to Relevant Representations [REP1-017]</a>).</p> <p>The Applicant briefly explained the affected party's fourth proposal - Option D At the April 2024 site meeting, the Fischels put forward another proposed route, to be called Option D, which is a variation of Option A, just slightly further to the north.</p> <p>The Applicant noted that this option is likely to be subject to similar constraints to Option A (including 2 additional trenchless crossings). These proposals also go outside of the Fischels land (a field that is currently pasture land not actively in agricultural use) onto other peoples' land, which is, for example, used for equestrian paddocks.</p> <p>The Applicant briefly summarised the position as follows:</p> <ul style="list-style-type: none"> <li>• 2 options (Option A and Option C) were rejected in favour of Option B (the current route),</li> <li>• Option A – route exiting the land has been assessed and rejected. Option D suggested in April would have the same outcome.</li> </ul>

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		<ul style="list-style-type: none"> <li>• Significant engagement has taken place with the Fischels, including 7 site meetings – 1 which was refused by their agent in June 23.</li> <li>• and a suitable cable route forwards to alleviate their concerns.</li> </ul> <p>[The Applicant explained that where, in some areas, there are wider order limits, if the Applicant were to reduce the area or if that flexibility of the order limits was to be reduced in that area that this may result in a situation where the Applicant could end up at a point closer to construction where there are potentially impacts flagged by site surveys at construction design stage that would pose a problem for the construction or result in additional costs and would effectively impede the Applicant from implementing the optimal construction design.</p> <p>The Applicant responded to and refuted the assertion that the specific need for flexibility at the Fischels' land has not been properly communicated and referred to <a href="#">Deadline 2 Submission – 8.51 Category 8: Examination Documents – Applicant's Response to Affected Parties' Written Representations [REP2-028]</a> specifically reference numbers 2.1 and 3.4 which clarify these points in detail.</p> <p>The Applicant clarified the consequences of the removal of the Fischels' land, as suggested by Ms Dillistone, from the compulsory acquisition powers in the Order and noted that if this land was to be removed from the rights packages the Project would not be deliverable.</p> <p>Addressing the width of the Order limits, the Applicant clarified that any reduction in the widths would result in a position where there are very likely to be impacts found at the survey and design stage which would impede the optimal construction design. The Applicant referred to the trenchless crossing at TC-21 by way of example and confirmed that the Applicant has sought appropriate flexibility to construct the trenchless crossing in that location.</p> <p>The Applicant clarified that its technical team has taken the topographical matters relevant to the TC-21 trenchless crossing into consideration and has evaluated that in detail, noting that it considered not only the proposal that was made but also undertook a further optioneering exercise of variations of that proposal which is still ongoing.</p> <p>The Applicant responded to Ms Dillistone's remark that Rampion 1 export cables easement was only seven metres wide, being narrower than that required for the proposed development and explained that the Rampion 1 Offshore Wind Farm has a 400 megawatt capacity and has two export cable circuits in operation and that the Rampion 2 scheme seeks to maximise the opportunity for renewable energy generation and is proposing to construct up to four export cable circuits to export the electricity from the offshore wind farm to the onshore substation and therefore a wider corridor is required.</p> <p>The Applicant confirmed that it has recently offered a commitment to the Fischels to locate the cable as far south as practicable taking into account environmental and engineering requirements. This offer was made at a site visit meeting on 3 April, and subsequently confirmed in writing on 8 May 2024. As explained at the meeting further investigations, such as site investigations and detailed cable design work is required before the Applicant can determine the cable route. The Applicant confirmed its intention to meet this commitment as far as possible. The Applicant referred to emails exchanged during April and May 2024 in which the Applicant has requested responses to the commercial terms put forward to the Fischels several times but noted that it has not received any response on those commercial terms from the land agent.</p> <p>The Applicant clarified that it has not refused to engage on legal points and further noted that at the meeting in April 2024, the parties went through the option precedent documents and has also asked the Fischels to highlight the key legal points which are of concern and the Applicant has confirmed that it is willing to provide a legal costs undertaking to deal with those matters.</p> <p>In relation to the temporary effects on the fields and access to those split field parcels, the Applicant confirmed that this has been discussed and in line with the code of construction practice, the Applicant will discuss access arrangements with the Fischels in accordance with the Agriculture Liaison Officer (ALO) provisions to put mitigations in place.</p>

Ref	Agenda Item	Applicant's summary Oral submissions at Compulsory Acquisition Hearing 1
	Mrs Griffiths raised issues relating to: the impacts on their farming and holiday accommodation businesses; lack of engagement;	<p>The Applicant referred to Appendix 16 of <a href="#">Deadline 1 Submission – 8.24 Applicant's Response to Relevant Representations [REP1-017]</a>, being a letter to the Griffiths (p6) and set out how the route was amended. The Applicant confirmed that there has been an alternative route considered in this location. Following initial meetings held early on in the project, it became clear that there were some challenges with the original route. The first of these being that the Griffiths were planning to build a slurry pit, which was within the cable route, which is a vital piece of their farming infrastructure. The Applicant also noted that there would have been issues with the proximity of the cable route to the gas main.</p> <p>The Applicant acknowledged the anxiety that large-scale projects can cause and confirmed that it will endeavour to communicate with landowners going forward including through the Agriculture Liaison Officer (ALO) and communications plan.</p> <p>The Applicant also further clarified that during the course of the design iterations, it was established that a construction access would be required (to come in from [Bines Green (B2135)]) for light construction vehicles. The Applicant understood that of the three options proposed, the landowner had a preference for the construction access option which was taken forward for construction.</p>
	Mr Worsley raised issues relating to: the impact upon his farming business; the extent of the order limits; and the lack of negotiations.	<p>The Applicant clarified that the trees referred to by Mr Worsley are neither ancient woodland nor veteran trees as referred to in the relevant National Policy Statement.</p> <p>The Applicant reiterated that it is in detailed engagement with National Grid regarding the design of the existing National Grid Bolney substation extension and the proposed DCO Order Limits are required to be set as they are due to the number of services that are in proximity to the substation and uncertainty from early-stage development proposals. The Applicant is required to comply with the requirements of the grid operator, and also of the operator of the distribution network, UKPN, which poses a technical challenge which although it is not insurmountable, does need a coordinated approach, and to take all of the facts into consideration to arrive at a likely onshore cable corridor into the extension bay of the substation.</p> <p>The Applicant clarified that while there are a number of existing services in place which are known to the Applicant, some of these will require re-location (and the relocation position is not yet known in all cases). The Applicant is working with the relevant parties to clarify the position – indicative corridors have been provided by National Grid, but this is still at optioneering stage. The Applicant has confirmed that it is about to commence an independent exercise to undertake an indicative concept design for the cable north of the extension area to include the Ancleggan land.</p> <p>The Applicant also confirmed that there are additional factors relating to the red line which relate to the Ancleggan land (see further below).</p> <p>The Applicant explained that it has been in discussions with Mr. Worsley since it first contacted him in November 2020, and that he was consulted on the project in 2021. The Applicant clarified that it has been engaging with him on two fronts, one as the freehold owner of the land and then secondly as the director of Ancleggan Limited (which is the legal entity that there was an option in place with over the land). It was noted that Mr Worsley is not therefore in a position to progress the voluntary agreement with regards to land within the order limits set out as they are. The Applicant has confirmed it will cover the relevant professional fees when it is appropriate to enter into as voluntary agreement with Mr Worsley</p>
	The ExA asked the Applicant to summarise its approach to professional fees in general.	<p>The Applicant clarified that as negotiations have progressed, agents have been asked to engage with the Applicant and the Applicant has agreed to pay reasonable professional fees. Agents have been asked to update the Applicant as to the levels of fees within agreed estimates and update the Applicant when such estimates are reached or close to being reached so that new estimates can be put in place.</p> <p>The Applicant clarified that fees are not conditional on agreement being reached and are paid on an ongoing basis subject to such fees being reasonable and properly incurred in compliance with the RICS code of practice. The Applicant clarified that the payments are not related to whether the affected party agrees with the Applicant, but rather the level of constructive discussions and</p>

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		<p>engagement (which properly relate to time incurred). The Applicant clarified that the estimates have been arrived at based on the level of detail required in the Key Terms and appropriate hourly rates requested by agents. The figures are set so as to enable the Applicant to keep fees under review as the project progresses.</p> <p>The Applicant clarified that estimates have been increased in a number of cases where the specific details and complexity of the relevant case require this. The Applicant is operating in this way to avoid unexpected payment requests which can cause delays. The Applicant is seeking visibility by requesting evidence of fees incurred in the usual way.</p> <p>By way of example, the Applicant confirmed that it has reviewed and paid the reasonable agents fees incurred to date in relation to the Wiston Estate recently.</p> <p>The Applicant confirmed that in respect of tenant farmers (access licences), fees are being paid in relation to these but these are currently being negotiated with the landowners at this stage.</p> <p><b>[Post hearing note: the Applicant's agents will write again to landowners to clarify its position on the payment of professional fees. A copy of the letter which is to be issued week commencing 3/6/ 24 can be found at Appendix 1].</b></p>
	<p>Michael Campbell representing Ancleggan Limited raised issues relating to: the impact of the project on the battery storage scheme proposals.</p>	<p>The Applicant referred to Appendix 12 of <a href="#">Deadline 1 Submission – 8.24 Applicant's Response to Relevant Representations [REP1-017]</a> and explained that several years ago there was a grid stabilisation scheme on nearby land, which reached screening opinion stage but noted that no progress has been made since then but those early-stage discussions (which did impact on the early-stage routing design of the cables). It was explained that the Ancleggan planning application has been pending determination by the Local Planning Authority for 14 months and at present the Applicant therefore does not have any certainty as to the actual development opportunities. The Applicant clarified that until it knows more about the Grid Stabilisation Project it cannot afford to run the risk of moving boundaries on the basis of an application by Ancleggan which has not yet received a decision from the Local Planning Authority as the Grid Stabilisation Scheme could be revived at any point and the Applicant could potentially be left with an undeliverable project on the basis of a change made to accommodate the Ancleggan development proposals which equally could be refused at any time by the Local Planning Authority.</p> <p>The Applicant will be carrying out another exercise to refine the route shortly and is looking to provide additional clarity regarding an indicative design in the next period (3-6 months).</p>
	<p>DLA Piper representing NGET raised issues relating to the impact of the acquisition on its operational land and disputed the permanent acquisition of land adjacent to the substation.</p>	<p>The Applicant clarified that NGET is expected to construct the Bolney extension, but at present there is nothing formally in place between the parties to address this.</p> <p>The Applicant clarified that these discussions are being progressed with NGET but at present it does not have the land rights that it requires and has no certainty that these rights required for the extension or the access and cable connection will be agreed. The parties are seeking to agree a suite of agreements and the Applicant is currently engaging with NGET positively on a number of points.</p> <p>The Applicant also clarified that the area of the plots adjacent to the substation are required for a construction compound in front of the substation and that it is considering the potential options to minimise the area required. In respect of the land required for the connection into the substation, the Applicant referred to constraints as a result of existing and proposed third-party connections into the substation which will impact upon the final design and which partly account for the currently required size of these plots.</p> <p>The Applicant clarified that the need for the land to be permanently acquired (even if NGET is constructing the extension) results from the fact that there are currently no rights granted by NGET in relation to the connections and while there is no agreement in place for NGET to carry out the construction of the connection on behalf of the Applicant, the Applicant has no choice but to include in the Order the ability to acquire the rights required to construct the connection on that land.</p>

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		<p>The Applicant confirmed that the parties are in continued negotiations for a number of agreements to enable the parties to agree the connection process and rights voluntarily.</p>
	<p>National Highways raised issues relating to the inclusion of its land within the Order limits on the basis that various highways agreements (NRSWA) could be entered into instead of acquiring rights over National Highways' land.</p>	<p>The Applicant clarified that NRSWA is not applicable as the Applicant is not carrying out 'street works' in relation to the strategic road network but is in fact tunnelling underneath the street using HDD in order to avoid the highway (as opposed to laying apparatus within the street as is permitted by NRSWA). The Applicant noted that NRSWA does not give the Applicant any land rights or protections for its apparatus, and the Applicant requires a proprietary interest in the land which can be transferred to the offshore transmission operator in due course.</p> <p>The Applicant clarified that there are two interfaces being progressed in parallel in respect of the relevant areas of land. The Applicant has submitted designs in relation to the undertaking of a trenchless crossing underneath the strategic road network. A statement of intent was put forward on the 22 April 2024 and the Applicant has received feedback on that on the 15 May 2024. The Applicant noted that it welcomed the positive interaction it has had with National Highways to date and that it will progress further discussions as a matter of urgency.</p> <p>The Applicant clarified in respect of ongoing negotiations that it has been actively seeking to have discussions with the property team at National Highways. The Applicant confirmed that initially, heads of terms were sent out in respect to one plot within the proposed DCO Order Limits, which is owned by National Highways, but which is outside of the boundary of adopted highway. Since then, there has subsequent correspondence including a summary of all the plots that are within the proposed DCO Order Limits having been sent to National Highways. The Applicant acknowledged that future discussions will need a joined-up approach with the engineering team and National Highways' internal legal team.</p>
	<p><b>Agenda Item 11: Site Specific Issues for the Applicant</b></p>	
11a	<p>The ExA will ask the Applicant to justify the need for and/ or size of several individual plots.</p>	<p>The Applicant agreed to provide a note justifying the need for the size and inclusion of a number of plots to be submitted at Deadline 4.</p>





**Appendix 1**



