



# Longfield Solar Farm

Compulsory Acquisition Information [PINS Ref: EN010118]

Statement of Reasons

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Longfield Solar Energy Farm Ltd

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# 1. Executive Summary

## 1.1 Purpose and Structure of this Statement of Reasons

- 1.1.1 This Statement of Reasons relates to the Application for a development consent order made by the Applicant to the SoS under the Planning Act 2008 for powers to construct, operate (including maintenance) and decommission the Scheme.
- 1.1.2 This Statement explains why it is necessary, proportionate and justifiable for the Application to seek powers of compulsory acquisition, and why there is a compelling case in the public interest for the Applicant to be granted these powers.
- 1.1.3 The matters addressed in this Statement are summarised in this section. References to numbered sections or paragraphs are to sections or paragraphs of this Statement. Terms used in this Executive Summary are defined in the main body of this Statement of Reasons.

## 1.2 Description of the Scheme (Section 2)

- 1.2.1 The Scheme will comprise the construction, operation and maintenance, and decommissioning of a solar photovoltaic (PV) electricity generating facility with a total capacity exceeding 50 megawatts (MW), an energy storage facility and an export/import connection to the National Grid, via an extension of the existing Bulls Lodge Substation. The Scheme will be located within the 'Order limits' (as described below) and is the subject of the Application.
- 1.2.2 The Order limits comprises 453 ha and includes the following key components. The Scheme is also described in Schedule 1 of the draft DCO [EN010118/APP/3.1], where it is referred to as the "authorised development", and is divided into works packages. The works numbers for those packages are identified below and referred to throughout this chapter. Note that there is an overlap of Work Numbers in some locations and so the sum of the Order limits is not the total of these areas:
- Work No. 1: Solar Photovoltaic Generating Station up to 275.26ha, known as 'The Solar Farm Site' for ease of reference throughout this Statement;
  - Work No 2: Battery Energy Storage System (BESS) up to 5.2ha
  - Work No 3: Longfield Substation: up to 1.66ha;
  - Work No 4: Grid Connection Route including access tracks (Work No 4A) and temporary construction laydown areas (Work No. 4B): up to 22.90ha;
  - Work No. 5: Bulls Lodge Substation Extension including electricity switching station (Work No. 5A up to 4.62ha) and temporary overhead line alterations (Work No. 5B up to 3.72);
  - Work No 6: works (up to 370.09ha) including

- electrical cables including electrical cables connecting to Work No. 1 to Work No. 3;
  - fencing, gates, boundary treatment and other means of enclosure;
  - works for the provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing;
  - landscaping and biodiversity mitigation and enhancement measures including planting;
  - improvement, maintenance and use of existing private tracks; and
  - laying down of internal access tracks, ramps, means of access, footpaths, permissive paths, cycle routes and roads, including the laying and construction of drainage infrastructure, signage and information boards;
  - temporary footpath diversions;
  - earthworks;
  - SuDs Ponds, runoff outfalls, general drainage and irrigation infrastructure and improvements or extensions to existing drainage and irrigation systems;
  - up to 10 secondary temporary construction compounds, both within the permanent work area and outside the permanent work area;
  - works to divert and underground existing electrical overhead lines.
- Work No 7: Temporary construction and decommissioning compounds (Work No. 7A, up to 6.9ha), secondary temporary construction compounds within the Solar Farm Site (part of Work No. 6), and temporary construction laydown for the Bulls Lodge Substation Extension (Work No. 7B, up to 7.21ha);
  - Work No 8: Ancillary Buildings, being office, warehouse and plant storage building: up to 0.61ha;
  - Work No. 9: Works to facilitate site access to the Solar Farm Site and the Bulls Lodge Substation Extension up to 5.11ha; and
  - Work No. 10: Habitat Management Areas: a minimum of 55.8ha.

1.2.3 It is anticipated that construction will commence no earlier than the first quarter of 2024 and be completed within 24 months.

### **1.3 Description of the Order Limits (Section 4)**

1.3.1 The land within the Order limits totals 453ha and is located approximately 6 kilometres (km) north west of Chelmsford north of the A12 between Boreham and Hatfield Peveral, in the county of Essex.

1.3.2 The Order limits comprise primarily of agricultural fields with a small area of land identified as being part of the Mineral Consultation Area adjacent to the existing Bulls Lodge Substation.

#### 1.4 Source and Scope of Powers Sought in the DCO (Section 5)

1.4.1 Section 120 of the PA 2008 provides that an order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development, which includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement.

1.4.2 The powers sought with the Application of the DCO are:

- all interests in land, including freehold (Article 19 in the DCO) – shown edged red and shaded pink on the Land Plans;
- all interests in land, including freehold in respect of subsoil only (Article 19 in the DCO) – shown edged red, shaded pink and hatched red on the Land Plans;
- permanent acquisition of new rights (Article 21 in the DCO) - shown edged red and shaded blue on the Land Plans;
- temporary use of land to permit construction or maintenance where the Applicant has not yet exercised powers of compulsory acquisition (Articles 28 and 29 in the DCO) and extinguishment and/or suspension of rights (Article 22 in the DCO) and overriding of easements and other rights (Article 25 in the DCO) – shown edged red on the Land Plans;
- new rights excluding subsoil (Article 21 in the DCO) - shown edged red and shaded brown on the Land Plans;
- temporary use only of land to permit construction (Article 28 in the DCO) – shown edged red and shaded green on the Land plans

1.4.3 The Applicant considers that in the absence of these powers, the Order land may not be assembled, uncertainty will continue to prevail, and its objectives and Government policy objectives would not be achieved.

1.4.4 The Applicant has been seeking to acquire the relevant freehold interests, new rights and temporary use of land by private treaty, in order to ensure implementation of the Scheme. The Applicant has reached voluntary agreement with the freehold owner of the large majority of the Order land, being the Solar Farm Site. For the Grid Connection Route and land required for the Bulls Lodge Substation Extension and Site Access Works, it has not yet been possible to acquire all interests by agreement. Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land, the rights and other interests in, on and over the land, the temporary use of land, as well as secure the removal of matters affecting the Order land that may impede the Scheme, wherever possible. This approach of seeking powers of compulsory acquisition in the Application for the DCO and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the CA Guidance.

1.4.5 This Statement (alongside the Schedule of Negotiations and Powers Sought [EN010118/APP/4.4]) sets out the position in relation to the negotiations undertaken to date with affected owners. In summary, at the time of writing, agreements have been entered into for the majority of the land within the Order land and terms have been issued for the remainder of the rights required.

## **1.5 Purpose of the Powers (Section 6)**

1.5.1 The meaningful and timely contributions offered by the Scheme to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, will be critical on the path to Net Zero. Without the Scheme, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.

1.5.2 In the absence of powers of compulsory acquisition, it might not be possible to assemble all of the land within the Order land, uncertainty will continue to prevail and the Applicant considers that its objectives and those of Government policy would not be achieved.

## **1.6 Justification for the Compulsory Acquisition Powers (Section 7)**

1.6.1 Under section 122 of the PA 2008, compulsory acquisition powers may only be granted if the SoS is satisfied that the land is required for the Scheme (or is required to facilitate it or is incidental to it), and if there is a compelling case in the public interest for inclusion of the powers.

1.6.2 The CA Guidance related to procedures for the compulsory acquisition of land (DCLG, September 2013) also states that: there must be a clear idea how the land to be acquired is to be used and it must be no more than is reasonably required; there must be compelling evidence that the public benefits would outweigh the private loss from the acquisition; all reasonable alternatives to compulsory acquisition should have been explored; there are reasonable prospects of the required funds for the acquisition being available; and that the purposes for which the land is sought are legitimate and sufficient to justify interfering with the human rights of affected people.

1.6.3 This Statement sets out the factors that the Applicant considers demonstrate that the conditions in section 122 of the PA 2008, and the considerations set out in the CA Guidance, are satisfied (with the exception of the availability of funding, which is demonstrated in the Funding Statement [EN010118/APP/4.2]).

## **1.7 Human Rights (Section 8)**

1.7.1 The DCO has the potential to infringe the human rights of persons who own property or have rights in the land proposed to be acquired pursuant to the DCO.

1.7.2 The Applicant considers that there would be very significant public benefit arising from the making of the DCO, a benefit that can only be realised if compulsory acquisition powers are granted. The purpose for which the land is sought (to build and operate the Scheme) is legitimate and proportionate.

## **1.8 Special Considerations (Section 9)**

- 1.8.1 There is no special category land within the Order limits.
- 1.8.2 There is apparatus of statutory undertakers within the Order limits. The Applicant has included protective provisions within the Order and is seeking to agree these with each statutory undertaker whose apparatus would be affected by the Scheme.

## **1.9 Related Applications and Consents (Section 10)**

- 1.9.1 The Applicant requires various other consents, as well as a DCO, in order to build and operate the Scheme. The Applicant is not aware of any reason why these and other consents required would not be granted and therefore does not consider that they represent an impediment to the Scheme proceeding.

## **1.10 Further Information (Section 11)**

- 1.10.1 Owners and occupiers of property affected by the Scheme who wish to discuss matters of compensation should contact Toby Feirn of Gateley Hamer (Tel – 0121 212 7897, email – toby.feirn@gateleyhamer.com).
- 1.10.2 Provision is made by statute for compensation for the compulsory acquisition of land. Helpful information is given in the series of booklets published by the Department for Communities and Local Government entitled "Compulsory Purchase and Compensation". Copies of these booklets are obtainable, free of charge, from: <https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>.

# **2. Introduction**

- 2.1.1 This Statement of Reasons has been prepared by Longfield Solar Energy Farm Limited (the Applicant). It forms part of the application (the Application) for a development consent order (DCO) that has been submitted to the Secretary of State for Business, Energy and Industrial Strategy (the SoS) under section 37 of the Planning Act 2008 (PA 2008). Terms used in this Statement of Reasons are defined in Chapter 0 of the Environmental Statement [EN010118/APP/6.1].

## **2.2 The Proposed Development**

- 2.2.1 Longfield Solar Farm (the Scheme) is a proposed solar farm with energy storage which will generate and store renewable electricity for export to the National Grid.
- 2.2.2 The Scheme will comprise the construction, operation and maintenance, and decommissioning of a solar photovoltaic (PV) electricity generating facility with a total capacity exceeding 50 megawatts (MW), an energy storage facility and an export/import connection to the National Grid, via an extension of the existing Bulls Lodge Substation. The Scheme will be located within the 'Order limits' (as described below) and is the subject of the Application.

- 2.2.3 The Scheme qualifies as a Nationally Significant Infrastructure Scheme (NSIP) and will require a DCO to be granted from the SoS, due to its generating capacity exceeding 50 MW.
- 2.2.4 Full details of the Scheme, including the proposed construction methods and phasing, can be found in Chapter 2 of the Environmental Statement [EN010118/APP/6.1.2] accompanying the Application.

### **2.3 The Applicant**

- 2.3.1 The Applicant (company number 11618210) is registered in England and Wales. The majority shareholder of the Applicant, with 51% ownership, is EDF Energy Renewables Limited (“EDFR”), a company registered in England and Wales under company number 06456689. The other shareholder of the Applicant, with 49% ownership, is Padero Solar Limited (“Padero”). This is also a company registered in England and Wales under company number 07850218. Both companies have an extensive background in the development of renewable energy parks in the UK and abroad.
- 2.3.2 EDFR (and the wider EDF group) has established itself as one of the UK and Ireland’s leading renewable energy companies, specialising in wind power, solar and battery storage technology. With over 25 years of experience in delivering renewable projects in over 20 countries. They develop, build, operate and maintain renewable technologies throughout their lifetime. In the UK they provide new low carbon energy through 36 wind farms and one of the UK’s largest battery storage units (together totalling more than 1GW). In development, they also have rooftop solar and grid scale solar energy generation projects.
- 2.3.3 Padero is a highly experienced solar park developer, constructor and operator. Across the UK, Padero has built and operates 25 solar parks (totalling 200 MW of generation capacity) and has delivered over 390MWs of renewable energy. Padero Solar is part of a group of three companies, including PS Renewables. PS Renewables are responsible for numerous solar projects including Eveley Solar Farm (Hampshire) and PSH Operations, an operations and maintenance business managing over 1.3GWs of Solar Farm assets in the UK.
- 2.3.4 Further details about the Applicant can be found in the Funding Statement [EN010118/APP/4.2].

### **2.4 The Purpose and Structure of this Document**

- 2.4.1 This Statement has been produced pursuant to Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (the APFP Regulations) and the Department of Communities and Local Government guidance 'Planning At 2008: Guidance related to procedures for the compulsory acquisition of land' (September 2013) (the Guidance).
- 2.4.2 This Statement is required because the DCO sought for the Scheme would authorise the compulsory acquisition of land or interests in land.
- 2.4.3 This Statement explains why it is necessary to acquire land, acquire and/or create rights and impose restrictions over land, override, suspend or



extinguish rights over land and to temporarily use land for the purposes of the Scheme, if necessary, by compulsion. It also explains the reasons for the inclusion of compulsory acquisition and related powers in the draft DCO and sets out why there is a clear and compelling case in the public interest, in accordance with section 122 of the PA 2008, for the DCO to include such powers.

2.4.4 The structure of this Statement is set out below and also addresses each of the requirements of the Guidance:

- An introduction to the Applicant is contained in section 2.3;
- A description of the Scheme is set out in section 3;
- A description of the Order limits, its location, and present use is contained in section 4;
- The legislation relied on and scope of powers sought are set out in section 5;
- The purpose of the powers including the need for the Scheme and policy support is set out in section 6;
- A statement of the justification for compulsory acquisition including reference to funding is included in section 7;
- How regard has been given to the provisions of Articles 1 and 8 of the First Protocol to the European Convention on Human Rights is included in section 8;
- Any special considerations affecting the Order limits including Special Category Land is included in section 9;
- Details of the other consents needed before the Scheme can be implemented are included in section 10;
- Any other information which would be of interest to someone affected by the Scheme, such as, telephone number and email address where further information on these matters can be obtained, is included in section 11;

## 2.5 Useful documents

2.5.1 This Statement is one of a number of documents accompanying the Application submitted to the SoS. It should be read in conjunction with the rest of the documents comprising the Application, particularly the following –

- Land Plans [EN010118/APP/2.1];
- Works Plans [EN010118/APP/2.2];
- Draft Development Consent Order [EN010118/APP/3.1];
- Draft Exploratory Memorandum [EN010118/APP/3.2];
- Consents and Agreements Position Statement [EN010118/APP/3.3];
- A Funding Statement [EN010118/APP/4.2];
- Book of Reference [EN010118/APP/4.3];

- Schedule of Negotiations and Powers Sought [EN010118/APP/4.4];
- Statement of Need [EN010118/APP/7.1]; and
- Planning Statement [EN010118/APP/7.2]

## 3. Description of the Scheme

- 3.1.1 Longfield Solar Farm (the Scheme) is a proposed solar farm with energy storage which will generate and store renewable electricity for export to the National Grid. The Scheme will comprise the construction, operation and maintenance, and decommissioning of a solar photovoltaic (PV) electricity generating facility with a total capacity exceeding 50 megawatts (MW), an energy storage facility and an export/import connection to the National Grid, via an extension of the existing Bulls Lodge Substation. The Scheme will be located within the 'Order limits' (as described below) and is the subject of the Application.
- 3.1.2 The Scheme qualifies as a Nationally Significant Infrastructure Scheme (NSIP) and will require a DCO to be granted from the SoS, due to its generating capacity exceeding 50 MW.
- 3.1.3 The Order limits comprises a total area of 453 ha and includes the following key components. The Scheme is also described in Schedule 1 of the draft DCO [EN010118/APP/3.1] where it is defined as the "authorised development" and is divided into works packages alongside the corresponding works numbers:
- The Solar Farm Site (Work No. 1)*
- 3.1.4 PV Panels convert sunlight into electrical current (as direct current, DC). Individual PV Panels are currently typically up to 2.5m long and up to 1.4m wide and consist of a series of photovoltaic cells beneath a layer of toughened and anti-reflective and would be mounted on a metal assembly of PV Mounting Structures, called "PV Tables". The PV Tables include metal rails (usually made of aluminium) to directly support the PV Panels; those rails will be supported by larger metal frames (usually made of galvanised steel), which are fixed on top of metal piles. The piles are also typically made of galvanised steel and are driven into the ground to a depth of up to 2m.
- 3.1.5 In the Solar PV Array Works Area, inverters, transformers and switchgear form the Balance of Solar System (BoSS) are required to manage the electricity generated by the PV Panels.
- 3.1.6 Inverters are required to convert the DC electricity collected by the PV Panels into alternating current (AC), which allows the electricity generated to be exported to the National Grid. Inverters are sized to match the output from the PV Panels.
- 3.1.7 Transformers are required to step up the voltage of the AC electricity generated by the inverters across the Order limits before it reaches the Longfield Substation.

- 3.1.8 Switchgear is the combination of electrical disconnect switches, fuses or circuit breakers used to control, protect and isolate electrical equipment. Switchgear is used both to de-energise equipment to allow work to be done and to clear faults downstream.

#### ***The Battery Energy Storage System Compound (Work Nos. 2A and 2B)***

- 3.1.9 The Scheme will include a Battery Energy Storage System (BESS), Work No. 2 in the DCO, located within the BESS Compound. The BESS is designed, as its main and primary function, to provide peak generation electric energy time-shifting and grid balancing services. It will do this by capturing electricity generated from the PV Panels and storing it in the batteries in order to dispatch to the electricity grid when it is most required. As a supplementary and secondary service, it may also import surplus energy from the National Grid and provide other ancillary and energy time-shifting services to help National Grid Electricity Transmission (NGET) manage the increasing penetration of (variable) renewable generation on the transmission network.
- 3.1.10 The BESS Compound will be located in two fenced compounds either side of the Longfield Substation.

#### ***Longfield Substation (Work No. 3)***

- 3.1.11 The Longfield Substation will be comprised of transformers and switchgear. It will be connected to the PV Arrays and BESS via the Low Voltage Distribution Cables in order to collect electricity (at 33kV) from those components of the Scheme. The Longfield Substation will convert the electricity to 400kV for onward transmission to the Bulls Lodge Substation Extension via the Grid Connection Cables.
- 3.1.12 The Longfield Substation, Work No. 3 in the DCO, will be located in a fenced compound of 1.7ha, 20m to the north of Toppinghoehall Wood. It will be connected via electrical cables to the PV Arrays, the BESS Compound, and the Bulls Lodge Substation Extension.

#### ***Grid Connection Route (Work No. 4A)***

- 3.1.13 The electricity generated by the Scheme will be exported to the National Grid via the Grid Connection Route (Work No. 4A), via a connection between the Longfield Substation and the Bulls Lodge Substation Extension. This connection will also facilitate the import of electricity to be stored within the BESS.
- 3.1.14 A single 400 kV cable circuit consisting of three cables will run underground from Longfield Substation north of Toppinghoehall Wood, to the Bulls Lodge Substation Extension approximately 1.9km to the southwest.
- 3.1.15 During cable installation a construction corridor will be designated. This will contain the works and provide separation from other land users. The construction corridor will be up to 20m wide and temporary fencing will be erected to form the construction corridor boundaries. Access for construction equipment will be via a combination of existing access routes and temporary roadways where necessary.

- 3.1.16 The cable corridor will be reduced after construction – typically to a width extending 5 metres both directions outwards from the centre line of the trench. The corridor is needed to allow access for any inspection of jointing pits, and to ensure the route is maintained free of trees or any new structures.

#### ***Bulls Lodge Substation Extension (Work No. 5)***

- 3.1.17 The Scheme includes the extension of the existing substation (Bulls Lodge Substation Extension), Work No. 5A, to provide the electrical connection point to the National Grid to facilitate the import and export of electricity to and from the Solar Farm Site. Work No. 5B comprises temporary overhead line alterations, including two temporary pylons, and realignment of the existing 400kV overhead line.
- 3.1.18 The existing Bulls Lodge Substation is located on land to the northeast of the A12 Boreham Interchange at the Bulls Lodge Substation Site.
- 3.1.19 The Bulls Lodge Substation Extension is located on land directly to the west of the existing Bulls Lodge Substation as set out in the Works Plans corresponding with Work Area No 5.

#### ***Ancillary Infrastructure (Work No. 6)***

- 3.1.20 The Ancillary Infrastructure set out in Work No. 6, may occur throughout the Solar Farm Site (including within the Solar PV Array Works Area, BESS Compound, Longfield Substation) and will include electrical cables, boundary treatment, means of access including permissive paths, security infrastructure, landscaping and biodiversity measures, earthworks, drainage and overhead line diversion, drainage, utility and communications connections, and site preparation works.

#### ***Temporary construction compounds (Work Nos. 4B, 6, 7A and 7B)***

- 3.1.21 Temporary construction laydowns for the Grid Connection Route, Solar Farm Site, and the Bulls Lodge Substation will comprise areas of hardstanding, car parking, site and welfare offices including utility connections, storage areas, security infrastructure and storage for waste and skips.

#### ***Office, warehouse and plant storage building (Work No. 8)***

- 3.1.22 An operational maintenance building, Work No. 8, comprising offices, a warehouse and space for plant storage will be located adjacent to the main site access track at approximate national grid reference TL 753 131.

#### ***Works to facilitate Access Routes and Site Entrance (Work No. 9)***

##### **Access to the Solar Farm Site**

- 3.1.23 All parts of the Scheme, other than the Bulls Lodge Substation Extension, and the western section of the Grid Connection Route will be accessed from a single Site Entrance from Waltham Road at approximate NGR TL746127.
- 3.1.24 A new bell mouth access with visibility splays in both directions will be created from Waltham Road at the commencement of the construction phase with a tarmac surface as far as the gated entrance to the Solar Farm Site.

- 3.1.25 Highway improvements will be required to support construction HGVs travelling on the local highway network to / from the proposed site access on Waltham Road. These improvements are expected to comprise relatively minor verge clearance, hedge cutting or carriageway widening, to achieve a minimum carriageway width of 6.0m (as agreed with ECC Highways) along Wheelers Hill, Cranham Road, and Waltham Road (i.e. the agreed construction vehicle route).

#### Access to Bulls Lodge Substation

- 3.1.26 The only elements of the Scheme which will not be accessed via the main site entrance referred to in the previous section are the Bulls Lodge Substation Extension, and the western section of the Grid Connection Route.
- 3.1.27 The existing access road to the Bulls Lodge Substation Extension is an unadopted private road from General's Lane. Part of this route is likely to become adopted prior to the construction of the Scheme, however, as there is some uncertainty as to when that will occur, the DCO also seeks rights over this private road to use it for access. The private road is of suitable specification for construction and operational traffic without modification.
- 3.1.28 A new bell mouth access will be constructed from the private road with appropriate visibility splays to provide access for construction and operation to the Bulls Lodge Substation Extension (as set out under Work No. 5A).

#### **Areas of Habitat Management (Work No. 10)**

- 3.1.29 Dedicated biodiversity enhancement areas have been designed in order to maximise the opportunity for biodiversity enhancement within the Scheme. The design will include woodland restoration, rewilding scrub, floodplain grasslands, enhanced waterscapes, a biodiversity research area and a pollinator greenway.

### **3.2 Proposed Timing of Construction**

- 3.2.1 The construction of the Scheme is expected to take place over 24 months with the potential for some phases of construction to run in parallel, i.e., enabling works does not need to be complete in all areas of the construction site before solar farm construction commences in another part of the site.
- 3.2.2 The construction phase is expected to commence no earlier than the first quarter of 2024 and be completed no earlier than the first quarter of 2026. During the construction phase, several temporary construction compounds will be required as well as temporary roadways to facilitate access to all land within the Order limits, as set out above.
- 3.2.3 It is not intended that the Scheme will be built in phases, with the exception of the BESS. The BESS may be constructed in two phases (being Work No. 2A and 2B), with the first part built alongside the solar PV, and a second phase after five years of operation.
- 3.2.4 Full details of the Scheme, including the proposed construction methods and phasing, can be found in the Outline Construction Environmental Management Plan (OCEMP) [EN010118/APP/7.10] accompanying the Application.

### 3.3 Flexibility

- 3.3.1 The Applicant has undertaken extensive studies and assessments in order to obtain as much certainty as possible, however, a number of elements of detailed design for the Scheme cannot be confirmed until the tendering process for the design and construction of the Scheme has been completed. For example, due to the rapid pace of technological development in the solar photovoltaic (PV) and energy storage industry, the Scheme could utilise technology which does not currently exist and therefore sufficient flexibility needs to be incorporated into the Application.
- 3.3.2 To address this, a 'Rochdale Envelope' approach is used, this is set out in more detail in Chapter 2 of the Environmental Statement [EN010118/APP/6.1.2]. This involves assessing the maximum (and where relevant, the minimum) parameters for the Scheme where flexibility needs to be retained. The principles and justification for this approach are set out in section 5.2 of Chapter 5: Environmental Impact Assessment Methodology of this ES, and the maximum (and minimum) parameters assessed as part of the Rochdale Envelope form the Design Principles set out in the Outline Design Principles attached to the Design Statement [EN010118/APP/7.3]. The DCO includes a requirement that detailed design of the Scheme must be in accordance with the Design Principles.
- 3.3.3 This flexibility is essential to ensure the successful delivery of the Scheme.

## 4. Description of the Order limits

- 4.1.1 The land within the Order limits required to construct, operate and maintain the Scheme is shown on the Location Plan [EN010118/APP/2.5] and totals 453 ha which is located within the administrative areas of Braintree District Council and Chelmsford City Council. The Order limits is located approximately 6 kilometres (km) north west of Chelmsford north of the A12 between Boreham and Hatfield Peveral, in the county of Essex.
- 4.1.2 The land within the Order limits is not covered by any statutory landscape designations (i.e. National Parks, or Areas of Outstanding Natural Beauty (AONB)).
- 4.1.3 The landscape features within the Order limits consist of agricultural fields mainly under arable production, with some small parcels of pasture, interspersed with individual trees, hedgerows, tree belts (linear) small woodland blocks and farm access tracks. The hedgerows within the Order limits range between lengths of dense tall vegetation (shrub and tree species) and thin lines of vegetation with sporadic trees present, although the former is a dominant feature. The arable fields are of small to moderate size, some of which are of irregular shape.
- 4.1.4 The existing Bulls Lodge 400kV National Grid substation lies within the south western part of the Order limits, to the west of Brick House Farm and approximately 400m to the north of the A12 carriageway. The extension to the Bulls Lodge Substation is to be on agricultural land which is identified as being in part of the Mineral Consultation Area.

- 4.1.5 The Site Access Works are included within the Order limits and comprise the existing road and highway network. These are Wheelers Hill and Cranham Road, to the west of the Solar Farm Site, and Generals Lane to the south of the Bulls Lodge Substation Site.

## 5. Source and Scope of Powers Sought in the DCO

- 5.1.1 The draft DCO [EN010118/APP/3.1] contains powers to enable the acquisition of land, new rights over land and the imposition of restrictions that are required to construct, operate and maintain the Scheme. Where the necessary land and rights over land cannot be acquired by agreement with the requisite landowners and occupiers, the draft DCO enables the acquisition of land and rights. These powers in the draft DCO relate to the Order land only, which is all the land within the Order limits, with the exception of some small areas which are shown white on the Land Plans and Works Plans and which may be needed only to carry out minor ancillary works set out in the final paragraph of Schedule 1 of the draft DCO, to facilitate the carrying out of the “authorised development”.
- 5.1.2 The Applicant has entered into a voluntary option agreement with the freehold owner of the large majority of the Order land, being the Solar Farm Site. For the Grid Connection Route and land required for the Bulls Lodge Substation Extension and Site Access Works, the Applicant has issued heads of terms for the land or rights required, however, it has not yet been possible to acquire interests by agreement. The Applicant will continue to endeavour to purchase the land, the rights and other interests by agreement wherever possible. This approach of making the application for powers of compulsory acquisition in the Application and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the Guidance.
- 5.1.3 Notwithstanding where agreement has been reached, it is necessary for the Applicant to be granted the compulsory acquisition powers included in the DCO so as to protect against a scenario whereby the freeholder owners of the land within the Order land (where agreement has been reached) do not grant a lease of the land in accordance with the terms of the completed option agreements. The Applicant also needs powers to extinguish and/or suspend rights and override easements and other rights in the Order land to the extent that they would conflict with the Scheme.
- 5.1.4 There are a number of interests identified in the Book of Reference [EN010118/APP/4.3] where it has not been possible to identify ownership. The statement “Unknown” is given in the Book of Reference when diligent enquiry has been carried out and it has still not been possible to obtain information. The Applicant has carried out searches and enquiries with the Land Registry, site visits and notices have been and will be erected on site to seek to identify unknown landowners or persons with an interest in the land.

## 5.2 Enabling Powers

5.2.1 Section 120(3) of the PA 2008 provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development. These include (amongst others):

- the acquisition of land, compulsorily or by agreement (paragraph 1);
- the creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement (paragraph 2);
- the abrogation or modification of agreements relating to land (paragraph 3); and
- the payment of compensation (paragraph 36).

5.2.2 Section 122 of the PA 2008 provides that a DCO may only include provision authorising the compulsory acquisition of land if the SoS is satisfied that the land is:

- required for the development to which the DCO relates;
- required to facilitate or is incidental to that development; or
- replacement land for commons, open spaces, etc.

5.2.3 Further, it is also necessary for the SoS to be satisfied, in relation to the Application, that there is a compelling case in the public interest for the land to be acquired compulsorily. This is required by Section 122(3) of the PA 2008.

5.2.4 This Statement provides the information that will enable the SoS to comply with sections 120 and 122 of the PA 2008.

## 5.3 Permanent Acquisition

5.3.1 The areas of the Order land over which compulsory acquisition powers are sought in respect of all interests (including freehold) are shown edged red and shaded pink on the Land Plans [EN010118/APP/2.1]. This land is described in more detail in the Book of Reference [EN010118/APP/4.3].

5.3.2 In summary, the areas in which freehold acquisition is sought are for part of Work Nos. 1, 2, 3, 5, 6, 7, 8 and 10 and relate to where The Solar Farm Site and Bulls Lodge Substation Extension would be located (some of this land also falls within parts of Work Nos. 4 and 9). The Applicant has only included powers to compulsorily acquire the freehold interest in land where other powers (such as to acquire new rights or take temporary possession) would not be sufficient or appropriate to enable the construction, operation or maintenance of the Scheme. Article 19 of the DCO is relied upon in respect of this land.

5.3.3 The areas of the Order land over which compulsory acquisition powers are sought in respect of all interests (including freehold) of the subsoil only are shown edged red, shaded pink and hatched red on the Land Plans [EN010118/APP/2.1]. This land is described in more detail in the Book of Reference [EN010118/APP/4.3].



- 5.3.4 The area in which freehold acquisition of the subsoil is sought is part of Work No. 9 – Site Access Works.

## 5.4 Temporary Use

- 5.4.1 There will be situations where it will not be necessary for the Applicant to permanently acquire rights and interests, but instead be authorised to temporarily possess and use land. The land over which rights of temporary possession only are sought is shown edged red and shaded green on the Land Plans [EN010118/APP/2.1]. The Applicant is also seeking temporary use powers over all other land within the Order land, in order to allow it to take temporary possession ahead of acquiring land or rights permanently (see further explanation below). The land over which these rights are sought is shown edged red and shaded pink, blue and brown on the Land Plans [EN010118/APP/2.1]. This land is described in more detail in the Book of Reference [EN010118/APP/4.3].
- 5.4.2 The reason for seeking temporary use powers over land shaded pink, blue or brown is that it allows the Applicant to enter on to land for particular purposes (including site preparation works) in advance of any vesting of the relevant land/rights. This enables the Applicant to only compulsorily acquire the minimum amount of land and rights over land required to construct, operate and maintain the Scheme, because, for example, the Applicant could exercise the temporary possession powers to undertake site investigation works to inform and minimise the land within the Grid Connection Route over which permanent rights are needed.
- 5.4.3 Articles 28 and 29 of the DCO are relied upon in respect of all land within the Order land. Article 29 allows temporary possession of land for the purposes of maintaining the Scheme. As noted above, Article 28 permits temporary use in two ways in connection with the construction of the Scheme:
- 5.4.4 Firstly, the land identified in Schedule 11 to the Order may only be temporarily possessed (i.e. the Applicant cannot acquire the land nor new rights over it), and possession can only be taken for the purposes set out in that Schedule for the particular plot. In summary, these are the areas required for the temporary construction laydown areas including temporary laydown in relation to the construction of Bulls Lodge Substation Extension and the Grid Connection Route, and Site Access Works (Work No. 4B, 5B, 7B, 9). These areas are shown edged red and shaded green on the Land Plans [EN010118/APP/2.1]; and
- 5.4.5 Secondly, Article 28 permits the Applicant to take temporary possession of any other part of the Order land where it has not yet exercised powers of compulsory acquisition - this will allow the Applicant (for instance) to initially take temporary possession of the whole width of corridors required for the Grid Connection Route, for the purposes of laying the high voltage electrical cables connecting the Solar Farm Site to the Bulls Lodge Substation Extension (Work No. 4A). Once the Applicant has carried out detailed surveys and installed the relevant apparatus (such as pipes or cable), the Applicant can then acquire new rights (pursuant to the powers set out above) within only a narrower strip in which permanent rights are required, within the wider construction corridor. This phased approach to occupation and acquisition allows the

permanent rights corridor to be defined after construction, and to be only that which is necessary for the operation, maintenance and protection of the apparatus. Such an approach has precedent amongst other DCOs including the Eggborough Gas Fired Generating Station Order 2018 and the Drax Power (Generating Stations) Order 2019.

5.4.6 The Schedule of Negotiations and Powers Sought [EN010118/APP/4.4] sets out the latest position in relation to negotiation of voluntary agreements with landowners. As part of these negotiations landowners have been made aware that the DCO will seek temporary possession rights over all of their land included within the Order land.

5.4.7 Under Article 29, the Applicant is entitled to occupy the land for as long as necessary to carry out the relevant maintenance works. The Applicant must give the landowner and any occupier not less than 28 days' notice and on completion of the maintenance works must remove all temporary works and restore the land to the satisfaction of the landowner.

## 5.5 Other Rights and Powers

5.5.1 The land over which compulsory acquisition powers are sought for rights and the creation of new rights (including imposing restrictive covenants) is shown edged red and shaded blue on the Land Plans [EN010118/APP/2.1]. This land is described in more detail in the Book of Reference [EN010118/APP/4.3]. In summary, these are the areas required for Work No. 4, required for the construction and maintenance of works to lay high voltage electrical cables, Work No. 5, required to facilitate the Bulls Lodge Substation Extension and grid connection, Work No. 6A, required for installation of high voltage electrical cables, and part of Work No. 9 to facilitate access to Work Nos. 1 to 8 and 10. Article 21 of the DCO is relied upon in respect of new rights. The new rights are set out in Schedule 9 to the DCO and include access rights, cable rights and substation connection rights.

5.5.2 Compulsory acquisition powers are also sought for rights and the creation of new rights (including imposing restrictive covenants) in land shown edged red and shaded brown on the Land Plans [EN010118/APP/2.1]. The rights sought over this land are the same as for the land shaded blue and described above, however, the subsoil in this land is excluded from the exercise of the powers. This land is described in more detail in the Book of Reference [EN010118/APP/4.3]. Article 21 of the DCO is also relied upon in respect of new rights over this land. The new rights are set out in Schedule 9 to the DCO and make clear that the subsoil is excluded. These are the areas required for Work No. 9 where Site Access Works are required to existing roads or highways, but the works do not go into the subsoil.

5.5.3 In addition, the Applicant has included powers to ensure that easements and other private rights identified as affecting the land are extinguished or suspended, so as to facilitate the construction and operation of the Scheme without hindrance. Furthermore, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be extinguished in order to facilitate the construction and operation of the Scheme. Articles 22 and 25 of the DCO are relied upon in respect of this land and apply in relation to land in which compulsory acquisition or temporary

possession are proposed (that is, land shaded pink, blue, brown or green on the Land Plans). With respect to land shaded green, in respect of which temporary possession only is sought, Article 22(3) makes clear that any private rights or restrictive covenants are only suspended for the period in which the Applicant is in lawful possession of the land (i.e. they would only be suspended temporarily).

5.5.4 The Order contains the following additional powers which may constitute an interference with land and/or rights over land and as such are captured in Part 3 of the Book of Reference **[EN010118/APP/4.3]**:

- Article 15 – Discharge of water;
- Article 17 – Protective works to buildings;
- Article 18 - Authority to survey and investigate the land; and
- Article 37 – Felling or lopping of trees and removal of hedgerows.

## 6. Purpose of the Powers

### 6.1 The need for the Scheme

6.1.1 The Statement of Need **[EN010118/APP/7.1]** sets out the need for the Scheme. A summary of the need for the Scheme is set out below.

6.1.2 Decarbonisation is a UK legal requirement and is of global significance. It cannot be allowed to fail, and urgent actions are required in the UK and abroad, to keep decarbonisation on track to limit global warming;

- Solar generation is an important element of the delivery plan for the urgent decarbonisation of the GB electricity sector. This is important not only to reduce power-related emissions, but also to provide a timely next step contribution to a future generation portfolio which is capable of supporting the decarbonisation of transport and heat sectors, through electrification;
- As part of a diverse generation mix, solar generation contributes to improve the stability of capacity utilisations among renewable generators and when developed alongside other renewable technologies, will help to smooth out seasonal variations in generation in line with anticipated seasonal levels of demand. By being connected at the transmission system level, large-scale solar generation can and will play an important role in the resilience of the GB electricity system from an adequacy and system operation perspective;
- Internationally, and importantly for GB in this regard, is the ongoing trend of solar generation assets becoming bigger and cheaper, each subsequent project providing a real-life demonstration that size and scale works for solar in GB, and providing decarbonisation benefits and commercial benefits to consumers in the process. Other conventional low-carbon generation (e.g. tidal, nuclear or conventional carbon with Carbon Capture Usage and Storage) remain important contributors to

achieving the 2050 Net Zero obligation, but their contributions in the important 2020s will be very low;

- The cost of solar generation is already super-competitive against the cost of other forms of conventional and low-carbon generation, both in GB and more widely; and
- Single large-scale solar schemes deliver more quickly and at a lower unit cost than multiple independent schemes which make up the same total capacity, bringing forward carbon reduction and economic benefits in line with government policy.

6.1.3 These general benefits of solar generation in GB also apply specifically to the Scheme:

- The Scheme is a substantial infrastructure asset, capable of delivering large amounts of low-carbon electricity. The Scheme, along with other solar schemes, is of critical importance on the path to Net Zero, especially given the context of the Climate Change Committee's recent identification of the need for urgent action to increase the pace of decarbonisation in the GB electricity sector, and government's adoption of their recommendations for the Sixth Carbon Budget (2033 – 2037);
- The connection to the National Electricity Transmission System (NETS) at the Bulls Lodge Substation means that it will play its part in helping National Grid manage the national electricity system. This includes participating in mandatory balancing markets (to help balance supply and demand on a minute-by-minute basis and provide essential ancillary services) as well as providing visibility to the GB power market of its expected generation. This means that the low marginal cost solar power it will produce, can be forecast and priced into future contracts for power delivery by all market participants, thus allowing all consumers to benefit from the market price reducing effect of low-marginal cost solar generation;
- The Scheme provides an efficient opportunity to integrate BESS with large-scale solar generation. BESS are an essential technology for high-RES electricity systems, such as that which the NETS is anticipated to become during the critical 2020s, as the power generation sector seeks to achieve rapid decarbonisation in support of wider decarbonisation on the path to Net Zero. BESS play essential roles in the provision of those services necessary to keep power flowing to all consumers, as well as integration measures which help balance supply and demand, thereby reducing the need for carbon-intensive back-up generation; and
- Maximising the capacity of generation in the proposed Essex area, is to the benefit of all GB consumers, and the solar industry generally.

6.1.4 The Scheme will deliver large amounts of low-carbon power before many other large-scale solar projects (which are behind the Scheme in the development process, but which are also needed). The Scheme will also deliver power ahead of other potential technologies (which may have longer construction timeframes or have potentially not yet been proven at scale) which will support decarbonisation only in future years and only if they are brought forwards.

6.1.5 In summary: the meaningful and timely contributions offered by the Scheme to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, will be critical on the path to Net Zero. Without the Scheme, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.

6.1.6 This Scheme is a leading GB large-scale solar scheme, and is an essential stepping-stone towards the future of efficient decarbonisation through the deployment of large-scale, technologically and geographically diverse low-carbon generation schemes. This Scheme addresses all important aspects of existing and emerging government policy.

## 6.2 National policy support (NPS)

6.2.1 A more detailed explanation of the legislative and policy context of the Scheme is set out in Section 5 of the Planning Statement [EN010118/APP/7.2]. This includes the Applicant's reasoning for both the applicable existing and draft Energy NPSs being important and relevant matters in the SoS's decision.

6.2.2 Section 105(2) of the PA 2008 provides the basis for deciding the DCO application, given it is envisaged that as at the time of acceptance no technology specific NPS has effect. As a result, the SoS must have regard to the provisions set out in section 105 of the PA 2008. This includes any matters which the SoS deems to be both important and relevant to their decision. The Applicant considers that the following NPSs are all important and relevant to the SoS's decision:

- Overarching National Policy Statement for Energy (EN-1) (NPS EN-1),
- National Policy Statement for Renewable Energy (EN-3) (NPS EN-3), and
- National Policy Statement for Electricity Networks Infrastructure (EN-5) (NPS EN-5).

6.2.3 In addition, the Applicant also expects the Draft NPSs listed below to be important and relevant to the SoS's decision:

- Draft Overarching National Policy Statement for Energy (EN-1) (Draft NPS EN-1),
- Draft National Policy Statement for Renewable Energy (EN-3) (Draft NPS EN-3), and
- Draft National Policy Statement for Electricity Networks Infrastructure (EN-5) (Draft NPS EN-5).

6.2.4 The Energy NPSs, Draft Energy NPSs, and other national energy policy set out the government's aims to provide secure and affordable energy supplies whilst decarbonising the energy system. This is in order to enable the UK to achieve its legally binding commitment to reduce carbon emissions and achieve net zero carbon emissions by 2050; as well as provide a resilient and low cost energy network for the future. The government recognises that the need to deliver these aims and commitments is immediate and therefore

renewable energy NSIPs, including large scale solar projects, need to be delivered urgently.

- 6.2.5 The Scheme will deliver these policy aims, providing a significant amount of low carbon electricity over its lifetime; and providing resilience, security and affordability of supplies due to its large scale and proposed integration of BESS. It will therefore be a critical part of the national portfolio of renewable energy generation that is required to decarbonise its energy supply quickly whilst providing security and affordability to the energy supply. It is clear that there is a compelling case for the need for the Scheme and that it will deliver national economic and social benefits in line with the government's wider objectives of delivering sustainable development.
- 6.2.6 The Scheme will also deliver other more localised economic, social and environmental benefits. These relate to biodiversity net gain, a network of permissive paths to compliment PRow during the operational phase of the Scheme, and employment during the construction phase. With regard to biodiversity, the Scheme is expected to deliver an exemplary project with a biodiversity net gain of approximately 79%.
- 6.2.7 The analysis of planning policy compliance in the Planning Statement demonstrates that the need for the Scheme is supported by planning policy and other national energy and environmental policy and that the Scheme addresses relevant national and local planning policies through its design, avoiding and minimising adverse impacts where possible.
- 6.2.8 With the mitigation proposed, the Environmental Statement demonstrates that the Scheme will not have any significant adverse effects in relation to designated landscapes, biodiversity sites or protected species or habitats; flood risk and water quality; noise and vibration; transport and access; air quality; or health. It is, however, acknowledged that Scheme will result in residual significant adverse effects upon landscape and visual receptors and the setting of a heritage asset. All these effects will only occur while the Scheme is under construction, operational or being decommissioned and will disappear when the Scheme is decommissioned.
- 6.2.9 With regard to landscape and visual amenity the Applicant has carefully designed the Scheme to ensure landscape and visual impacts are minimised through sensitive siting of the largest Scheme components in the most well screened areas of the Site and a green infrastructure led landscape and ecological design. In terms of the planning balance, the fact that these effects are localised; will be reversed following decommissioning at the end of the Scheme's operational life; and that NPS EN-1 and Draft NPS EN-1 acknowledge that adverse effects are likely, given the scale of energy NSIPs, the national benefits of the Scheme outweigh these localised effects.
- 6.2.10 No heritage assets would be directly affected by the Scheme. There will be a significant adverse effect on the setting of the Grade I listed Ringers Farmhouse, during the Scheme's lifetime. This impact will not result in substantial harm and the effect will be removed when the Scheme is decommissioned. The careful design of the Scheme has minimised the harm to the setting of the asset and avoided significant effects on, or substantial harm to, other designated assets in the area. The reversible loss of

significance to the setting of Ringers Farm (which equates to less than substantial harm) and the reversible losses of significance to the setting of other listed buildings which do not comprise significant effects in EIA terms (and also equate to less than substantial harm) are considered to be justified and outweighed by the benefits of the Scheme.

- 6.2.11 The majority of the site is not BMV land. In respect of the inclusion of some BMV agricultural land within the Order Limits, the Applicant has explained that this is justified by other sustainability considerations, including the need to maximise the amount of low carbon electricity generated by the Scheme and the particular opportunities and constraints offered by some of the areas of BMV land. The impacts on BMV land have been minimised by the nature of the Scheme and its design. The land within the Order Limits is of comparable quality to other land in the vicinity of the 400 kV NETS power line between Braintree and Rayleigh. The use of any other land in this area for a comparably sized scheme would result in a similar impact on agricultural land. The benefits of the Scheme outweigh the reversible loss of the agricultural use of the BMV land, particularly noting that Draft NPS EN-3 states that land type should not be the predominating factor in determining the suitability of a site for solar development.
- 6.2.12 With respect to the Mineral Consultation Area, the **Mineral Infrastructure Impact Assessment [EN010118/APP/7.8]** identifies at paragraph 4.1.3 that the permanent land take from Bulls Lodge Quarry has the potential to sterilise a small volume of mineral (approximately  $18,000 m^3$ ) that is consented for extraction. The Bulls Lodge Substation Extension is required to enable the Scheme to connect to the NETS. It needs to be located adjacent to the existing Bulls Lodge Substation. By extending to the north west of the existing substation, the extension maximises use of National Grid land outside of Bulls Lodge Quarry and thereby minimises the need to acquire third party land. Extending to the east would utilise a much larger area of quarry land, and land to the south of the existing substation is constrained by a watercourse.
- 6.2.13 The safe construction of the Bulls Lodge Substation Extension requires clearance to the existing electricity infrastructure to be maintained. The existing 400kV overhead line runs to the east of the proposed substation extension and the existing 132kV overhead line runs to the west of the proposed substation extension. In order to connect the Scheme to the transmission network, the western 400kV circuit will need to be connected to the Bulls Lodge Substation Extension via two new gantries. The locations of the new gantries within the extension are determined by the physical arrangement of the existing overhead line towers 4VB061A and 4VB061B, identified on **Figure 2-35** of the **ES [EN010118/APP/6.3]**. The need to divert these overhead lines, coupled with the area needed for the equipment that would comprise the Bulls Lodge Substation Extension, and the orientation of the existing Bulls Lodge Substation mean that the incursion into the quarry land cannot be certain to be avoided. Alternative design options considered by NGET would have required the use of more quarry land than is proposed by this application. The Scheme has therefore minimised the amount of consented mineral reserve that would be sterilised as a result of the Bulls Lodge Substation Extension as far as is possible at the current design stage.

- 6.2.14 The Applicant has addressed the relevant policy with respect to the impact of the Scheme on minerals in the Planning Statement, and in respect of the Mineral Consultation Area at Bulls Lodge, it concludes that the benefits of the Scheme overwhelmingly outweigh the sterilisation of a small quantity of consented sand and gravel. This is particularly the case noting that the sterilised reserve represents only a very small proportion of the consented reserve and an even smaller proportion of the mineral supply in Essex, and that the requirement for a 7 year land bank of sand and gravel is currently exceeded in Greater Essex.
- 6.2.15 As described in Section 6 of the Planning Statement, whilst it has not been possible to avoid all impacts these have been minimised, where possible, through careful and sensitive design and detailed mitigation strategies. When considered against the NPS and NPPF, the Scheme accords with relevant policies, and with regard to specific policy tests, the national and local benefits of the Scheme are considered on balance to outweigh its adverse impacts. The Scheme is also considered to be broadly consistent with relevant local planning policy, and accords with the relevant criteria of CLP Policy DM19 and draft BLPS2 Policy LPP 76, which concern renewable and low carbon energy schemes. Therefore, it is considered that development consent for the Scheme should be granted.
- 6.2.16 To ensure that the Scheme can be built, operated and maintained, and so that the Government's policy in relation to the timely provision of new generating capacity is met within a reasonable timescale, the Applicant requires the acquisition of a number of property interests in third party ownership, and has therefore applied for the grant of powers to facilitate acquisition and/or creation of new rights and interests, and to extinguish rights over land.
- 6.2.17 In the absence of powers of compulsory acquisition, it might not be possible to assemble all of the land within the Order limits, uncertainty will continue to prevail and the Applicant considers that its objectives and those of Government policy would not be achieved.

## 7. Justification for the Compulsory Acquisition Powers

### 7.1 The matters to which the SoS must have regard

- 7.1.1 As noted above, under section 122 of the PA 2008, a DCO which includes compulsory acquisition powers may be granted only if the conditions in sections 122(2) and 122(3) are met. The conditions to be met are that:
- the land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development (section 122(2)) (see section 7.2 below); and
  - there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the DCO (section 122(3)). The SoS must be persuaded that the public benefits from the compulsory acquisition will



outweigh the private loss suffered by those whose land is to be acquired (see Sections 7.3 and 7.4 below).

- 7.1.2 In respect of the section 122(2) condition, the 'Guidance related to procedures for the compulsory acquisition of land' (at paragraph 11 of the CA Guidance) states that applicants should be able to demonstrate to the satisfaction of the SoS that the land in question is needed for the development for which consent is sought. The CA Guidance goes on to say that the SoS will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.
- 7.1.3 In respect of the section 122(3) condition, the CA Guidance (at paragraph 13) states that the SoS will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. At paragraph 14, the CA Guidance states that in determining where the balance of public interest lies, the SoS will weigh up the public benefits that a scheme will bring against any private loss to those affected by compulsory acquisition.
- 7.1.4 Further, paragraphs 8 to 10 of the CA Guidance also set out a number of general considerations that the applicant must demonstrate to the satisfaction of the SoS when justifying an order authorising compulsory acquisition. These are as follows:
- that all reasonable alternatives to compulsory acquisition (including modifications to the Scheme) have been explored - see section 7.5 below in relation to how the Applicant has given regard to alternatives to compulsory acquisition;
  - that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate - see the remainder of this section, and Section 7.4 below;
  - that the Applicant has a clear idea of how they intend to use the land which it is proposed to acquire - Section 3 above describes the Scheme, and Section 5 alongside The Schedule of Negotiations and Powers Sought [EN010118/APP/4.4] describes the nature of the interest sought and the purposes for which areas are to be acquired or used;
  - that there is a reasonable prospect of the requisite funds for the acquisition becoming available – see section 7.7 below in addition to the Funding Statement [EN010118/APP/4.2]; and
  - that the purposes for which compulsory acquisition of land powers are included in the DCO are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected - see Section 8 below.
- 7.1.5 This Statement sets out the factors that the Applicant considers demonstrate that the conditions in section 122 of the PA 2008, and the considerations set out in the CA Guidance, are satisfied.

## 7.2 Use and quantum of the Order limits

- 7.2.1 At paragraph 11, the Guidance states that there must be no doubt in the decision maker's mind as to the purposes to which the land to be acquired is to be put. It should be demonstrated that the land is needed for the authorised Scheme and that it is no more than is reasonably required for that Scheme. Any land that is incidental to or is required to facilitate the development should also be limited to that which is no more than reasonably necessary and it should be made clear to the decision maker that this is the case.
- 7.2.2 In designing the Scheme and determining the land to be subject to compulsory acquisition and temporary possession powers, as demonstrated in section 7.5 – 7.7 below, the Applicant has considered alternatives and modifications to the Scheme to minimise the potential land take.
- 7.2.3 Section 3 sets out the proposed development and a summary of the Scheme for which rights in the Order land are required. The Schedule of Negotiations and Powers Sought [EN010118/APP/4.4] summarises the purpose for which rights in the Order land are sought.
- 7.2.4 The proposed interference with the rights of those with an interest in the land is for a legitimate purpose because the Applicant requires the land for the development of the Scheme and can satisfy the conditions set out in section 122(2) of the PA 2008. The land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development.
- 7.2.5 The scope of the powers of compulsory acquisition proposed in respect of the land within the Order land goes no further than is needed. All the land included within the Order land is needed to achieve the identified purpose of delivering the Scheme. The Schedule of Negotiations and Powers Sought [EN010118/APP/4.4] shows the powers being applied over each plot and the requirement for each plot of land demonstrating the assessment that has been carried out on each plot. Steps have been taken to ensure that the interference with the rights of those with an interest in the affected land is no more than is necessary to deliver the benefits associated with the Scheme.

## 7.3 Public Benefits

- 7.3.1 Section 6.1 sets out the need for the Scheme which would ensure meaningful and timely contributions to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, which is critical on the path to Net Zero. Without the Scheme, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.
- 7.3.2 In addition to meeting the urgent national need for secure and affordable low carbon energy infrastructure, the Scheme will deliver other benefits, many of which have been maximised and will be delivered as a result of the Scheme's careful design. These include:
- A biodiversity net gain of 79%.

- A network of permissive paths that will be retained during the operational phase of the Scheme, improving connectivity across the site Order limits.
- Employment during the construction phase. It is expected that creating an average of 380 jobs will be created during the construction period. During the operational phase, 8 full time staff would be employed on the site.
- A local skills and employment plan to be prepared prior to the commencement of construction. This will set out measures that the Applicant will implement in order to advertise and promote employment opportunities associated with the Scheme in construction and operation locally.
- The Applicant will also make a skills and education contribution. This will assist and encourage local people to access apprenticeships and training.
- Further information in relation to these project benefits can be found in the Planning Statement [EN010118/APP/7.2].

#### 7.4 Impacts and Private Loss

- 7.4.1 In order to deliver the benefits of the Scheme set out above, the Applicant requires the use of compulsory acquisition powers. This will result in a private loss by those persons whose land or interests in land is compulsorily acquired. Appropriate compensation would be available to those entitled to claim it under the relevant provisions of the national Compensation Code thereby minimising the private loss.
- 7.4.2 Compensation is payable for the compulsory acquisition of land or rights and for loss or damage caused by the exercise of any power of temporary use of land. Any dispute in respect of the compensation payable is to be determined by the Lands Chamber of the Upper Tribunal.
- 7.4.3 With respect to the permanent land take from Bulls Lodge Quarry which has the potential to sterilise a small volume of mineral (approximately 18,000 m<sup>3</sup>) that is consented for extraction, it is noted that the sterilised reserve represents only a very small proportion of the consented reserve and would not impact on the viability of the remainder of the consented reserve or significantly reduce the mineral supply in Essex. The benefits of the Scheme overwhelmingly outweigh the sterilisation of this small quantity of consented sand and gravel.
- 7.4.4 As shown in the Schedule of Negotiation and Powers Sought [EN010118/APP/4.4], the Applicant has taken pro-active steps to engage with these persons through formal consultation and informal engagement to understand the direct and indirect impacts on them. This has helped to shape the proposals and, where possible enabled changes to designs to minimise the private loss.
- 7.4.5 All relevant environmental, social and economic benefits and adverse impacts have been assessed and are reported on in the Application documents, most notably the Environmental Statement.

- 7.4.6 Whilst the Scheme as a whole would, in common with any national infrastructure project, result in some adverse effects to the environment and local community, it is considered that these (considered individually or collectively) would not outweigh the important nationally significant benefits of contributing towards the urgent national need for secure and affordable low carbon energy infrastructure.
- 7.4.7 The Scheme is a NSIP and the public benefits associated with the Scheme are set out in section 7.3 above. The Applicant considers that there is a compelling case in the public interest for the power to compulsorily acquire land and rights over land (together with the imposition of restrictions) to be included in the Order. Compensation is payable to all affected landowners and occupiers.
- 7.4.8 There is also a compelling case in the public interest for the power to extinguish, suspend or interfere with private rights to the extent necessary to deliver the Scheme. The extent of the Order limits is no more than is reasonably necessary for the construction, operation and maintenance of the Scheme and therefore any interference with private rights is proportionate and necessary. Compensation is payable to anyone whose rights are extinguished, suspended or interfered with.

## **7.5 Alternatives to Compulsory Acquisition**

- 7.5.1 The Applicant has considered all reasonable alternatives to compulsory acquisition: negotiated agreements, alternative sites and modifications to the Scheme have been considered prior to making the Application. The Applicant has clearly demonstrated that it has sought alternatives to compulsory acquisition, by successfully securing a voluntary option for a lease over the main Solar Farm Site. This, therefore, reduces the need for compulsory acquisition over land where no such agreement has been reached.
- 7.5.2 The Applicant's use of compulsory acquisition powers is intended to be proportionate. Where practicable, lesser powers of temporary possession will be used.

### ***Alternatives to the Scheme***

- 7.5.3 The 'no development' scenario as an alternative to the Scheme has not been considered. This is because 'no development' is not considered to be a reasonable alternative to the Scheme as it would not deliver the proposed additional electricity generation capacity which is essential to meet the urgent national need for secure and affordable low carbon energy infrastructure.
- 7.5.4 The location and extent of land and rights has been carefully considered and designed in order to take the minimum amount of land required whilst ensuring that the Scheme continues to meet the project benefits. The rights sought are therefore proportionate and necessary. Table 3-2: Main Design Iterations for the Site within Chapter 3 (Environmental Statement – Alternatives and Design Evolution) [EN010118/APP/6.1.3] evidences a number of reductions to the Order limits following landowner engagement.

- 7.5.5 None of the alternatives or modifications considered for the Scheme would obviate the need for powers of compulsory acquisition powers and temporary possession over the Order land.
- 7.5.6 The Applicant therefore considers that all reasonable alternatives have been considered prior to the making of the Application and such consideration has included reasonable factors at relevant stages, such as consultee comments, technical feasibility, economic factors and the minimisation of environmental and visual impacts and land take.

#### Site Selection for the Solar Farm Site

- 7.5.7 In order to determine the location of a potential solar farm site, there needs to be an available grid connection, and, if possible, a landowner agreeable to their land being used for the development; in the case of delivering a viable solar NSIP, a single contiguous land parcel (or sites in close proximity to one another) exceeding 300ha was sought by the Applicant. A 'smaller development' as an alternative to the Scheme has not been considered further, as NPS EN-1 at paragraph 4.4.3 states that the decision maker: "...should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity (including energy security and climate change benefits) in the same timescale as the proposed development". A smaller scheme would not deliver the same generation capacity or energy security and climate change benefit as the Scheme, and as such would not represent a reasonable alternative. A Statement of Need [EN010118/APP/7.1] is submitted with the Application which addresses the need for the Scheme at the size it is.
- 7.5.8 In order to be deliverable and suitable, a solar farm site also requires good irradiance and site topography, as well as relatively few key environmental and social constraints. The length of the grid connection is also critical, to minimise environmental and social impacts and deliver an economically viable scheme.
- 7.5.9 Therefore, the point of connection of the Scheme to the National Grid was a key criterion, with a target 5km radius from existing National Grid infrastructure.
- 7.5.10 An initial feasibility check was carried out for a study area within 5km of the the Braintree to Rayleigh overhead line to identify the presence/absence of key environmental and social constraints. The search was used to identify contiguous potential developable areas of around or greater than 300ha with the ability to accommodate a NSIP solar scheme, which were not overly constrained by environmental and social aspects. Smaller, multiple sites were not considered further as they would not deliver the same generation capacity or energy security and climate change benefit and are more challenging to deliver without generating additional environmental and social impacts and increased construction costs.
- 7.5.11 This process is described in detail in Chapter 3 Environmental Statement – Alternatives and Design Evolution [EN010118/APP/6.1.3].
- 7.5.12 Having regard to the above environmental constraints and criteria, the land at the Longfield site (part of which is now the Order limits) was identified as being suitable for a solar farm development. Upon speaking to the landowner and

reaching agreement that there was ample capacity within their landholding to accommodate a solar farm, and reaching agreement with the landowner over an option, the Longfield site was taken forward for further assessment.

- 7.5.13 The Longfield site is situated within the optimal 5km of the Bulls Lodge Substation and provides a developable area with the ability to accommodate a large-scale solar scheme. It was deemed a suitable option to move forwards with designing a scheme and looking at an Environmental Impact Assessment (EIA) with a view to preparing an application for a DCO.

#### Alternative to Bulls Lodge Substation Extension

- 7.5.14 At EIA Scoping stage the preferred and expected position of a NGET substation extension at Bulls Lodge Substation was presented, with the option of a new substation in what was at that time the northern part of the Scoping Boundary to the immediate south of Hookley Wood and near Brickhouse Wood, or within the central part of the Scoping Boundary adjacent to Porters Wood / Toppinghoehall Wood. These three options were subject to feedback from stakeholders and National Grid, and technical and environmental feasibility work.
- 7.5.15 The new substations considered at Porters Wood / Toppinghoehall Wood and Hookley Wood and near Brickhouse Wood were disregarded due to the environmental and engineering implications.
- 7.5.16 In terms of considering the precise location for the required NGET substation infrastructure, two locations for a new, separate NGET air insulated switchgear substation to the east and north east of the existing NGET Bulls Lodge Substation were considered. Both locations would, however, have been wholly on land within the Minerals Consultation Area and likely to have increased visual impact. The use of gas insulated switchgear presented the possibility to extend the existing Bulls Lodge substation instead of building a separate new substation and required a much smaller footprint. It therefore minimises the land requirement within the Minerals Consultation Area and any potential visual impact. Accordingly, the decision was taken to use gas insulated switchgear to extend the existing substation as proposed in the application (Work No. 5).
- 7.5.17 In relation specifically to the design and location of the Bulls Lodge Substation Extension within the Mineral Consultation Area, the safe construction of the Bulls Lodge Substation Extension requires clearance to the existing electricity infrastructure to be maintained. The existing 400kV overhead line runs to the east of the proposed substation extension and the existing 132kV overhead line runs to the west of the proposed substation extension. In order to connect the Scheme to the transmission network, the western 400kV circuit will need to be connected to the Bulls Lodge Substation Extension via two new gantries. The locations of the new gantries within the extension are determined by the physical arrangement of the existing overhead line towers 4VB061A and 4VB061B, identified on **Figure 2-35** of the **ES [EN010118/APP/6.3]**. The need to divert these overhead lines, coupled with the area needed for the equipment that would comprise the Bulls Lodge Substation Extension, and the orientation of the existing Bulls Lodge Substation mean that the incursion into the quarry land cannot be certain to be avoided. Alternative design options considered by NGET would have required the use of more quarry land than is proposed

by this application. The Scheme has therefore minimised the amount of consented mineral reserve that would be sterilised as a result of the Bulls Lodge Substation Extension as far as is possible at the current design stage.

#### Alternative Cable Route Corridors

- 7.5.18 Following a decision to proceed with the Bulls Lodge Substation Extension, an optioneering process was undertaken to identify a suitable cable route for the Scheme to connect the Solar Farm Site and Bulls Lodge Substation Extension.
- 7.5.19 A total of 8 routes were identified by the technical design team as requiring further consideration: 6 routes and 2 additional minor variations. These all broadly followed a similar corridor, between the Solar Farm Site travelling in a south-westerly direction to the Bulls Lodge Substation Extension.
- 7.5.20 A key consideration for all routes was minimising ecological and hydrological disturbance, and land use; aiming to minimise the disturbance to the Minerals Consultation Area within which Hanson has permission to extract minerals. In summary:
- Option 1: This option has a higher impact on the Minerals Consultation Area and Hanson's quarry operations than some of the other options.
  - Option 2: This route crosses Boreham Brook and traverses very close to Brickhouse Farm, which would lead to some disturbance and potential nuisance to local residents during construction.
  - Option 3a: Requires permanent access requirements within the Minerals Consultation Area and is technically very challenging, with difficult pulling angles for the cable during construction. It is also a longer route than other options.
  - Option 3b: Similar to 3a, although technically simpler, it is reliant on access to Wallace's Lane and consequently would have led to disruption and potential nuisance effects on residents in this location.
  - Option 4: This route passes close to a railway embankment, although this is not a constraint in itself, and crosses Boreham Brook three times which requires consideration of aquatic and riverine ecology. It passes further from Brickhouse Farm and almost entirely avoids the mineral extraction area.
  - Option 5: This route infringes on the Minerals Consultation Area and passes very close to Brickhouse Farm, as well needing a permanent access through Hanson land.
  - Option 6a and b: These options are technically challenging due to the difficult pull angles and would require permanent infringement on access to a PRoW, which would have a high and long term adverse effect on the local community.
- 7.5.21 Option 4 was taken forward as the Grid Connection Route for the Application. It was considered to offer the best technical solution, minimises impact on the Minerals Consultation Area, and has acceptable environmental and social impacts. Options for open trenching, moling, micro tunnelling and horizontal directional drilling (HDD) were explored for the watercourse crossings, with a

technical preference for open trenching where possible, but a solution chosen to use HDD underground techniques was eventually agreed upon following further ecological survey work.

- 7.5.22 For the type of cable, two alternatives were considered; a single-circuit 400kV cable and a double-circuit 400kV cable. A single circuit cable was chosen to minimise the amount of below ground intrusion and because it offers a more economical solution.
- 7.5.23 The Grid Connection Route is discussed further Chapter 2 of the Environmental Statement [EN010118/APP/6.1.2], i.e. the Grid Connection Route to the existing Bulls Lodge Substation.

#### ***Commercial negotiations with affected parties***

- 7.5.24 Negotiations for the purchase of land, rights and interests are ongoing in respect of the land and new rights required for the Scheme. Nonetheless, it is necessary for the Applicant to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third-party interests or encumbrances affecting such land, rights and interests may be acquired, overridden or extinguished pursuant to the draft DCO, thereby ensuring that the Scheme can be constructed, operated and maintained.

#### **The Solar Farm Site**

- 7.5.25 As shown in Schedule of Negotiations and Powers Sought [EN010118/APP/4.4], the Applicant has successfully negotiated a voluntary option agreement for a leasehold interest to allow for the construction, operation and decommissioning (as applicable) of The Solar Farm Site.

#### **Site Access Works**

- 7.5.26 As shown in Schedule of Negotiations and Powers Sought [EN010118/APP/4.4], the Applicant has successfully negotiated a voluntary option agreement for a leasehold interest to allow for the construction, operation and decommissioning (as applicable) of the land required for the site entrance from Waltham Road (Work No. 9).
- 7.5.27 A number of the highway improvements (Work No. 9) are within the existing highway network.
- 7.5.28 Terms have been issued to secure access over the unadopted section of private road from General's Lane and negotiations are ongoing.

#### **Temporary Construction Compounds**

- 7.5.29 As shown in Schedule of Negotiations and Powers Sought [EN010118/APP/4.4], the Applicant has successfully negotiated a voluntary option agreement for a leasehold interest to allow for the construction, operation and decommissioning (as applicable) of the Solar Farm Site, and that would allow use of that land for the temporary compound for the construction of the Solar Farm Site (Work No. 7A).
- 7.5.30 Freehold owners of the proposed temporary construction compound for the Bulls Lodge Substation Extension (Work No. 7B) and the temporary laydown for the Grid Connect Route (Work No. 4B) have received Heads of Terms seeking to negotiate the rights in land required for the Scheme.



### Grid Connection Route

- 7.5.31 Freehold owners of the proposed cable route (Work No. 4A) have received Heads of Terms seeking to negotiate the rights in land required for the Scheme.

### Bulls Lodge Substation

- 7.5.32 The Applicant currently does not have the necessary property interests to construct, operate and maintain the Grid Connection or the Bulls Lodge Substation Extension.
- 7.5.33 The majority of the land required for the Bulls Lodge Substation Extension is located on land owned and operated by National Grid. Article 33 of the DCO will give the benefit of Work Nos. 5, 7B and 9 (to the extent work number 9 is to facilitate access to work numbers 5 and 7B) to National Grid in order to construct and operate the Bulls Lodge Substation Extension. There is a small area of land permanently for the extension to the substation, outside of National Grid's ownership.
- 7.5.34 Freehold owners of the additional land required to facilitate the Bulls Lodge Substation Extension have received Heads of Terms seeking to acquire the land required for the Scheme. The Applicant will continue to endeavour to purchase the land under a voluntary agreement.

## **7.6 Availability of funds for compensation**

- 7.6.1 The Funding Statement [EN010118/APP/4.2] confirms that the Applicant has the ability to procure the financial resources required for the Scheme, including the cost of acquiring any land and rights and the payment of compensation, as applicable.
- 7.6.2 The Applicant is not aware of any interests within the Order land in respect of which a person may be able to make a blight claim, but in the event this did occur the Applicant has sufficient funds to meet any compensation due.
- 7.6.3 The Applicant therefore considers that the SoS can be satisfied that the requisite funds for payment of compensation will be available at the appropriate time.

## **8. Human Rights**

- 8.1.1 The Human Rights Act 1998 incorporated into UK law the European Convention on Human Rights (the "Convention"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 8.1.2 The following Articles of the Convention are relevant to the SoS's decision as to whether the Order [EN010118/APP/3.1] should be made so as to include powers of compulsory acquisition:
- 8.1.3 **Article 1** of the First Protocol to the Convention - protects the rights to peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest.

- 8.1.4 **Article 6** - entitles those affected by the compulsory acquisition powers sought in the Order to a fair and public hearing.
- 8.1.5 **Article 8** - protects private and family life, home and correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.
- 8.1.6 The SoS, as the decision maker, is under a duty to consider whether the exercise of powers interacts with the rights protected by the Convention.
- 8.1.7 The Order has the potential to infringe the rights of persons who hold interests in land within the Order land under Article 1 of the First Protocol. Such an infringement is authorised by law so long as:
- the statutory procedures for making the Order are followed and there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order; and
  - the interference with the convention right is proportionate.
- 8.1.8 In relation to Article 1, in preparing the Application, the Applicant has considered the potential infringement of the Convention rights in consequence of the inclusion of compulsory acquisition powers within the Order and has sought to minimise the amount of land over which it requires powers of compulsory acquisition. As set out in section 7.3 above and in more detail in the Statement of Need [EN010118/APP/7.1] the Applicant considers that there would be very significant public benefits arising from the grant of the Order. The benefits are only realised if the Order is accompanied by the grant of powers of compulsory acquisition, and the purpose for which the land is sought (to build and operate the Scheme) is legitimate. The Applicant has concluded on balance that the significant public benefits outweigh the effects upon persons who own property within the Order land. For those affected by expropriation or dispossession, compensation is payable in accordance with the statutory compensation code.
- 8.1.9 In relation to Article 8, the Order limits do not include, and the Scheme does not require, the outright acquisition of any residential dwelling-houses. Consequently, as dwelling-houses will not be directly affected, it is not anticipated that the Convention rights protected by Article 8 will be infringed. In the event that such rights were to be infringed, such interference would be justifiable on the basis that it would be lawful and in the public interest.
- 8.1.10 In relation to Article 6, there has been opportunity to make representations regarding the preparation of the Application. In accordance with Part 5 of the PA 2008, the Applicant has consulted with persons set out in the categories contained in Section 44 of the PA 2008, which includes owners, lessees, tenants and occupiers within the Order limits and those with an interest in the Order limits. The Applicant has also consulted with those persons who may be able to make a relevant claim under Section 10 of the Compulsory Purchase Act 1965, Part 1 of the Land Compensation Act 1973 or s152(3) of the PA 2008.
- 8.1.11 Furthermore, representations can also be made in response to any notice given under Section 56 of the PA 2008 for consideration at examination of the

Application by the Examining Authority and in any written representations procedure which the Examining Authority decides to uphold or at any compulsory acquisition hearing held under Section 92 of the PA 2008.

- 8.1.12 Should the Order be made, any person aggrieved may challenge the Order in the High Court if they consider that the grounds for doing so are made out pursuant to Section 118 of the PA 2008.
- 8.1.13 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. In relation to matters of compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), which is an independent judicial body, to determine the compensation payable.
- 8.1.14 For the above reasons, any infringement of the Convention rights of those whose interests are affected by the inclusion in the Order of powers of compulsory acquisition, is proportionate and legitimate and is in accordance with national and European law. For the reasons set out in Sections 7 and 8 of this Statement, the Applicant considers that there is a compelling case in the public interest for the exercise of such powers of compulsory acquisition.
- 8.1.15 The Applicant considers that the Order strikes a fair balance between the public interest in the Scheme going ahead and the interference with the rights that will be affected. The Applicant considers that it would, therefore, be appropriate and proportionate for the SoS to make the Order, including the grant of compulsory acquisition powers.

## 9. Special considerations affecting the Order limits

### 9.1 Special Category Land – Crown Land

- 9.1.1 There is no Crown Land included or affected by the Order limits.

### 9.2 Special Category Land – Open Space

- 9.2.1 There is no open space, common land or fuel or field garden allotments included or affected by the Order limits.

### 9.3 Statutory Undertakers' Land and Apparatus

- 9.3.1 The interests held by each Statutory Undertaker identified by the Applicant as having a right to keep or access apparatus within the Order limits are identified in Part 6 of the Book of Reference [EN010118/APP/4.3].

- 9.3.2 Section 127(2) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of statutory undertakers' land to the extent that matters set out in section 127(3) are satisfied. Those matters are:

- the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or

- if purchased, the land can be replaced by other land belonging to or available for acquisition by the undertakers without serious detriment to the carrying on of the undertaking.

9.3.3 Section 127(5) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of a right over statutory undertaker's land by the creation of a new right over land to the extent that matters set out in section 127(6) are satisfied. Those matters are:

- the right can be purchased without serious detriment to the carrying on of the undertaking; or
- any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of the other land belonging to or available for acquisition by them.

9.3.4 Article 30 of the DCO gives the Applicant the authority to acquire land and rights from Statutory Undertakers, and to extinguish or suspend their rights, and to remove or reposition their apparatus, subject to the provisions of Schedule 15 which contains protective provisions for their benefit. The protective provisions provide adequate protection for Statutory Undertakers' assets. The Applicant therefore considers that the Statutory Undertakers will not suffer serious detriment to the carrying on of the undertaking as a result of the compulsory acquisition powers sought over the Order land being granted. The tests set out in sections 127(3) and 127(6) of the PA 2008 are therefore satisfied.

9.3.5 Various statutory undertakers and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the Order limits. Statutory undertakers and other apparatus owners that are known to have equipment on, in or over the Order limits are included in Part 6 of the Book of Reference [EN010118/APP/4.3]. Section 138 of the PA 2008 applies if a development consent order authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a 'relevant right', or there is 'relevant apparatus' on, under or over the land. The draft DCO includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to statutory undertakers, in connection with the delivery of the Scheme. The exercise of such powers will be carried out in accordance with the protective provisions contained in Schedule 15 to the DCO. The protective provisions are in the process of being agreed with the relevant statutory undertakers and electronic communications apparatus owners, and will accordingly set out constraints on the exercise of the powers in the DCO, with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests, whilst enabling the Scheme (i.e. the development authorised by the DCO) to proceed. The Applicant therefore considers that the test set out in section 138 of the PA 2008 is satisfied.

9.3.6 With respect to the current status of negotiations with each Statutory Undertaker, in summary, the Applicant has been in discussions in relation to protective provisions with UK Power Networks Limited and Eastern Power Networks plc (referred to jointly as "UKPN") since mid-October 2021 and National Grid since July 2021. The protective provisions discussed with UKPN

are at an advanced stage of negotiation. The protective provisions with National Grid are expected to be subject to further negotiation, as part of ongoing detailed discussions in relation to the Scheme and National Grid assets. The undertaker has consulted all remaining statutory undertakers and telecommunications apparatus owners in Part 6 of the Book of Reference [EN010118/APP/4.3] between June and December 2021, with further follow up correspondence in January 2022. Anglian Water has responded to this correspondence on 16 February 2022 to advise it will provide the Applicant with its standard protective provisions, and in the interim, the Applicant has included standard protective provisions in the DCO for the protection of water undertakers. The Applicant will continue to seek agreement as to protective provisions with the other parties contacted, and in any event has included standard protective provisions in the DCO for the protection of electricity, gas, water and sewerage undertakers and for the protection of operators of electronic communications code networks, in order to ensure the assets of those parties receive adequate protection under the Order.

- 9.3.7 There are no other relevant special considerations in respect of the Order limits.

## 10. Related Applications and Consents

- 10.1.1 Other consents are required in order for the Scheme to be constructed and subsequently operate. The key consents are identified below and reference should be made to the Consents and Agreements Position Statement [EN010118/APP/3.3] which sets out the additional consents required and the status and timeframe for each consent. These include:

- Electricity Generation Licence ;
- Water abstraction or impoundment licence;
- Bilateral Connection Agreement with National Grid to connect to the National Electricity Transmission System;
- Permit for Transport of Abnormal Loads;
- Water discharge;
- Section 61 consent; and
- Health and Safety related consents.

- 10.1.2 The Applicant is not aware of any reason why these and other consents required would not be granted and therefore does not consider that they represent an impediment to the Scheme proceeding.

## 11. Further Information

### 11.1 Negotiation of Sale

- 11.1.1 Owners and occupiers of property affected by the Scheme who wish to discuss matters of compensation should contact Toby Feirn of Gateley Hamer (Tel – 0121 212 7897, email – toby.feirn@gateleyhamer.com).

### 11.2 Compensation

- 11.2.1 Provision is made by statute with regard to compensation for the compulsory acquisition of land and the depreciation value of properties. Helpful information is given in the series of booklets published by DCLG entitled "Compulsory Purchase and Compensation" listed below:-

- Booklet No. 1 - Compulsory Purchase Procedure;
- Booklet No. 2 - Compensation to Business Owners and Occupiers;
- Booklet No. 3 - Compensation to Agricultural Owners and Occupiers;
- Booklet No.4 - Compensation for Residential Owners and Occupiers; and
- Booklet No.5 – Reducing the Adverse Effects of Public Development: Mitigation Works.

Copies of these booklets are obtainable, free of charge, from:  
<https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>

## 12. Conclusion

- 12.1.1 This Statement demonstrates that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Scheme meets the requirements of Section 122 of the PA 2008 as well as the considerations in the CA Guidance.
- 12.1.2 A description of the intended use of the land and rights to be acquired compulsorily has been provided.
- 12.1.3 In summary, the compulsory acquisition of the Order land or rights over the Order land (including restrictions), together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is required for the purposes of, to facilitate, or are incidental to, the Scheme and are proportionate and no more than is reasonably necessary.
- 12.1.4 Furthermore, there is a compelling case in the public interest for the land or rights over the land to be compulsorily acquired given the meaningful and timely contributions offered by the Scheme to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life.

- 12.1.5 The Applicant has acquired the necessary land interests in respect of part of the Solar Farm Site and has issued heads of terms to the freehold landowners of the Grid Connection Route, Site Access Works and the land needed in addition to the National Grid owned land for the Bulls Lodge Substation Extension. Powers of compulsory acquisition in respect of the Solar Farm Site are retained as a fall-back position in case the owner does not grant a lease in accordance with the completed option agreement and to ensure that third party private rights across the Solar Farm Site can be extinguished to the extent that it is necessary to do so. For landowners where it has not yet been possible to reach agreement, compulsory acquisition powers are necessary.
- 12.1.6 All reasonable alternatives to compulsory acquisition have been explored. Given the national and local need for the Scheme and the support for it found in policy, as well as the suitability of the Order limits (for the reasons outlined above), compulsory acquisition of the land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights is justified.
- 12.1.7 The proposed interference with the rights of those with an interest in the Order land is for a legitimate purpose, namely the Scheme, and is necessary and proportionate to that purpose. The Applicant considers that the very substantial public benefits to be derived from the proposed compulsory acquisition would decisively outweigh the private loss that would be suffered by those whose land or interests are to be acquired, and therefore justifies interfering with that land or rights.
- 12.1.8 The Applicant has set out clear and specific proposals for how the Solar Farm Site, the Grid Connection Route, Bulls Lodge Substation Site and Site Access Works will be used.
- 12.1.9 An explanation has been provided as to how it is expected that the construction of the Scheme and the acquisition of the land or rights over the land will be funded, as well as compensation in respect of the exercise of powers of compulsory acquisition, which demonstrates that there is a reasonable prospect of the requisite funds being available.
- 12.1.10 Articles 1, 6 and 8 of the First Protocol to the Convention have been considered. The Applicant considers that the very substantial public benefits to be derived from Scheme would outweigh the private loss that would be suffered by those whose land is to be acquired or whose rights would be interfered with.
- 12.1.11 It is therefore submitted that the Order be made and any compulsory acquisition powers and powers of temporary possession sought within the Order be granted.