



# Longfield Solar Farm

Written Summary of Longfield Solar Energy Farm Limited's Oral Submissions At The Compulsory Acquisition Hearing on 28 September 2022

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Longfield Solar Energy Farm Ltd

APFP Regulation 5(2)(q)  
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Infrastructure Planning (Applications: Prescribed Forms and Procedure)  
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# 1. Introductory remarks

- 1.1.1 The Compulsory Acquisition Hearing was held at 10:00am on 28 September 2022 using the virtual platform of Microsoft Teams.
- 1.1.2 The Compulsory Acquisition Hearing took the form of running through the items listed in the agenda published by the Examining Authority ("the ExA") on 16 September 2022 (the "Agenda"). The discussion on compulsory acquisition ("CA") matters predominantly focused on:
  - 1.1.2.1 the case for compulsory acquisition and temporary possession, as set out by the Applicant, and the tests of CA within the Planning Act 2008 ("PA 2008");
  - 1.1.2.2 reasonable alternatives to CA;
  - 1.1.2.3 updates on progress and expectations on negotiations;
  - 1.1.2.4 objections to CA and temporary possession; and
  - 1.1.2.5 statutory undertakers, including updates on protective provisions.

## 2. Agenda Item 1 – Introduction of the participants

### 2.1 The Examining Authority

2.1.1 Rory Cridland.

### 2.2 The Applicant

2.2.1 Speaking on behalf of the Applicant: Richard Griffiths (Partner at Pinsent Masons LLP).

2.2.2 Present from the Applicant: Carly Vince (Chief Planning Officer at EDF Energy) and Matt Bussey (Assistant Project Manager at Pershing Consultants – the Applicant’s project managers for the Application).

2.2.3 The Applicant’s consultants and legal advisors: Alexis Coleman (Senior Associate at Pinsent Masons LLP), Alex Tresadern (Solicitor at Pinsent Masons LLP), Ian Cunliffe (Director and Head of Infrastructure at Gateley Hamer – land referencers and land agents for the Applicant) and Beth Winstone (Senior Associate at Gateley Hamer).

### 2.3 Host Authorities

2.3.1 Julie O’Hara – Senior Planning Policy Officer at Braintree District Council.

2.3.2 Ruth Mabbutt – Planning Lead at Chelmsford City Council.

2.3.3 Rachel Donovan – Lead Planning Officer at Essex County Council.



## 3. Agenda item 2 – Applicant’s introduction and update

### 3.1 Tests of the PA2008

- 3.1.1 Richard Griffiths detailed that under section 122 of the Planning Act 2008, a Development Consent Order (“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:
- 3.1.1.1 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)); and
  - 3.1.1.2 there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the DCO (section 122(3)). The Secretary of State (“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.
- 3.1.2 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.
- 3.1.3 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.

### 3.2 Case for Compulsory Acquisition and how the above tests are met

#### *Solar Farm Site*

- 3.2.1 Richard Griffiths confirmed that the Solar Farm Site is required to deliver the scheme for which the DCO is sought (the “Scheme”). This is where the Nationally Significant Infrastructure Project itself will be located, being the solar PV generating station, plus energy storage, onsite substation and associated development including cabling, access tracks, landscaping and biodiversity mitigation. There is a demonstrated urgent need for renewable energy and for solar at the scale of the Scheme.
- 3.2.2 Mr Griffiths confirmed that the Applicant has entered into a voluntary option agreement with the freehold owner of the Solar Farm Site, which comprises the large majority of the Order land.

3.2.3 Mr Griffiths explained that 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.

### **Cable Route**

3.2.4 Richard Griffiths confirmed that the Applicant seeks temporary possession and permanent rights along the cable route, and has tried to minimise the land over which rights are sought as much as possible. Most recently at Deadline 2, the Applicant has further pulled back the rights required for some plots on the cable route, following further engineering work (**Land Plans [EN010118/AP/2.1(A)]**).

3.2.5 Mr Griffiths explained that the area within the cable route (Work No. 4) is required for the construction and operation and maintenance of the 400kV cable circuit connecting the Longfield Substation on the Solar Farm Site, to the Bulls Lodge Substation Extension. The cable forms part of the Scheme for which consent is sought, and is necessary in order to convey energy generated from the solar PV, to the grid.

3.2.6 Mr Griffiths explained that 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.

3.2.7 Mr Griffiths confirmed that the cable corridor would 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.

3.2.8 Mr Griffiths explained that in order to minimise permanent rights taken over this land, the Applicant proposes using 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, the Applicant can then acquire new rights 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.

### **Road Widening / Access**

- 3.2.9 Richard Griffiths confirmed that rights are sought for highway improvements such as road widening, and also for access (for example on private roads, per Sheet 1 of the **Land Plans [EN010118/APP/2.1(A)]**). These works are needed to facilitate construction and operation of the Scheme for which consent is sought. Wherever possible, the Applicant has limited the extent of the rights required, for example by excluding subsoil interests (shown brown on the land plans, per Sheet 5 of the Land Plans as an example).

### **Bulls Lodge Substation Extension**

- 3.2.10 Richard Griffiths confirmed that the extension to the existing Bulls Lodge Substation is required in order to facilitate the export/import of energy from the generating station to the National Grid, and the extension is part of the Scheme for which consent is sought.
- 3.2.11 Mr Griffiths explained that the Applicant has worked with National Grid on various options for the grid connection, and its location at Bulls Lodge, the technology chosen for the type of substation and its layout, have all been chosen having regard to minimising impacts and the need for third party land. The proposed extension minimises the land requirement, which is confirmed in the **Statement of Common Ground (“SoCG”) with National Grid Electricity Transmission (“NGET”) [EN010118/EX/8.4(A)]**, paragraph 3.2, line 12 of the table which Mr Griffiths quoted as stating that:

*“NGET and Longfield Solar agree that the proposed Bulls Lodge Substation extension reflects current GIS equipment commercial availability and therefore reflects the smallest footprint available currently for the extension”.*

### **Private Loss**

- 3.2.12 Richard Griffiths confirmed that in order to deliver the benefits of the Scheme, 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.
- 3.2.13 With respect to the permanent land take from Bulls Lodge Quarry which has the potential to sterilise a small volume of minerals (approximately 18,000 m<sup>3</sup>) that is consented for extraction, it was noted by Mr Griffiths 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.
- 3.2.14 Mr Griffiths confirmed that the Applicant has taken pro-active steps to engage with affected 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. 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. By way of example, Mr Griffiths directed the Examination to sheet 2 of the **Land Plans [EN010118/APP/2.1(A)]**, plots 2/1B/1 and 2/1B/3 which are proposed to be used for temporary possession only, in order to minimise use of compulsory acquisition powers and private loss, by constraining the area within which the Applicant's cable can be placed. Mr Griffiths explained that these temporary possession plots reflected the area of overlap with the consented extraction area of the quarry in this location, and as a result, the area within which the cable can be installed permanently in this location is constrained between the minerals extraction and the brook, in order to minimise private loss.

- 3.2.15 Mr Griffiths noted that, 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.
- 3.2.16 Mr Griffiths set out the Applicant's position which is 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. 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.

***Summary of how the application demonstrates that all reasonable alternatives to CA (including modifications to the scheme) have been explored***

- 3.2.17 Richard Griffiths confirmed that in designing the Scheme and determining the land to be subject to compulsory acquisition and temporary possession powers, the Applicant has considered alternatives and modifications to the Scheme to minimise the potential land take.
- 3.2.18 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.
- 3.2.19 The Applicant's use of compulsory acquisition powers is intended to be proportionate. Where practicable, lesser powers of temporary possession will be used.

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

- 3.3.1 Richard Griffiths confirmed that 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]** evidences a number of reductions to the Order limits following landowner engagement – the detail is set out in the table, however, overall, at EIA Scoping Stage and non-Statutory Consultation, the site comprised 582ha – and this area was then further refined as a result of further surveys and assessment, design development and consultation feedback. The area of the site was consequently reduced to 474ha by the time of statutory consultation. Following statutory consultation, there was further refinement to the Scheme, to settle on the Order limits that consent is now sought for – an area of 453ha.

- 3.3.2 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.
- 3.3.3 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.
- 3.3.4 Mr Griffiths then proceeded to focus on two areas of the Order limits, the Bulls Lodge Substation Extension and the Cable Route.

#### *Alternative to Bulls Lodge Substation Extension*

- 3.3.5 Richard Griffiths confirmed that at the 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.
- 3.3.6 Mr Griffiths noted that 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.
- 3.3.7 In terms of considering the precise location for the required NGET substation infrastructure, Mr Griffiths explained that 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).



- 3.3.8 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. 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.
- 3.3.9 Post hearing note: Towards the end of the compulsory acquisition hearing, submissions were made on behalf of Essex County Council with respect to the sterilisation of minerals resulting from the Bulls Lodge Substation Extension. Those submissions and the Applicant's response to them are recorded here in this written summary, as they are most relevant to this Agenda Item and the Applicant's submissions in relation to modifications made at Bulls Lodge to minimise use of CA powers and private loss at this location.
- 3.3.10 Rachel Donovan raised a concern on behalf of Essex County that should the DCO be made the extraction of the minerals described above will not be able to take place, setting a precedent for future projects. Ms Donovan also queried how this issue should be resolved, in the absence of confirmation from the landowner, Hanson Aggregates ("Hanson"), that they did not intend to work this land.
- 3.3.11 Richard Griffiths noted that, as demonstrated by the **Compulsory Acquisition Schedule ([EN010118/EX/8.6(B)]** as updated at Deadline 3), the Applicant has consistently attempted to contact Hanson but has received no engagement or response. Mr Griffiths noted that the Applicant had received no response from Hanson to the non-statutory consultation or statutory consultation, and that Hanson had not submitted a relevant representation, written representation or notified the ExA that it wanted to appear at the hearing.
- 3.3.12 In addition, Mr Griffiths confirmed that the Applicant considered various alternative locations for the substation (as set out above), and that the option chosen strikes the best balance between considerations in relation to minerals and other environmental impacts elsewhere.
- 3.3.13 Mr Griffiths also noted that to minimise the Applicant's footprint of the Bulls Lodge Substation Extension, gas-insulating switchgear is being used. The Applicant does not consider that there is any other resolution other than the acceptance that the small quantity of minerals referred to above will be sterilised.

- 3.3.14 Mr Griffiths also confirmed that Hanson would be compensated in the usual way in relation to CA of its land and with respect to the sterilised minerals.
- 3.3.15 The ExA noted that Hanson had acknowledged receipt of a set of Heads of Terms and asked Mr Griffiths if correspondence had proceeded any further than this. Mr Griffiths confirmed that it had not.
- 3.3.16 Ms Donovan accepted that small levels of sterilisation proposed will not create viability issues in relation to the operation of the Bulls Lodge Quarry, but that Essex County Council is seeking confirmation from Hanson that they do not intend to work that land and use the small amount of minerals, and she noted she felt obligated to express this position as it is detailed in Essex County Council's Local Impact Report. Ms Donovan confirmed that the Council was required to take an "in principle objection" given there would be a loss of minerals.
- 3.3.17 Mr Griffiths provided reassurance that the Applicant is continuing to pursue communication with Hanson on this point.
- 3.3.18 Mr Griffiths noted that the CA tests require the ExA and the Secretary of State to balance competing interests, with the Applicant's case having been set out. In response to a question from the ExA, Mr Griffiths confirmed that the sterilisation of minerals would need to be considered and balanced against other considerations, as part of the ExA's recommendation and the Secretary of State's decision, regardless of whether agreement was ultimately reached with Essex County Council and Hanson.
- 3.3.19 The ExA confirmed that further discussion will take place in the Environmental Matters Hearing on 29 September 2022.

#### **Alternative Cable Route Corridors**

- 3.3.20 Richard Griffiths confirmed that 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.
- 3.3.21 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.
- 3.3.22 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.
- 3.3.23 Mr Griffiths offered to summarise all 6 potential options, and The ExA noted that this was not necessary at this point. The ExA later requested that the Applicant provide a plan of the 6 potential cable route options, and the Applicant has provided this at Deadline 3 (appended to this Written Summary submission).
- 3.3.24 Mr Griffiths noted that 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.

### 3.4 Applicant's update on the progress and expectations on negotiations

- 3.4.1 Ian Cunliffe on behalf of the Applicant referred to the **Compulsory Acquisition schedule revision 2.0** submitted at Deadline 2 **[EN010118/EX/8.6(B)]** as reflective of the approach taken by the Applicant in its significant efforts to secure all land and rights required for the project by private treaty agreement, wherever possible, with compulsory acquisition powers to only be used as a last resort.
- 3.4.2 Further progress has been made since the latest version of the **Compulsory Acquisition Schedule [EN010118/EX/8.6(B)]**, and a meeting is being scheduled with the agent of Roberta Mary Rance to continue to progress discussions with a view to agreeing heads of terms. A further update will be provided in the revised Compulsory Acquisition schedule to be submitted at Deadline 3.
- 3.4.3 As set out in the **Compulsory Acquisition Schedule [EN010118/EX/8.6(B)]**, and the **Statement of Reasons [EN010118/APP/4.1]** included with the Application, all of the land interests required for the main Farm Site (Work No. 1) are secured under an Option Agreement.
- 3.4.4 Access to the land for the Grid Connection Route is required temporarily for construction, and once the cable has been installed a permanent easement will be required, although the land will be able to continue to be used as per its existing uses.
- 3.4.5 Mr Cunliffe explained that to ensure that the land and rights required for the project could be secured by private treaty, the Applicant has been engaging with landowners since 2019. Heads of Terms have been issued to all landowners and principal terms have been agreed with three landowners along the Grid Connection Route. Legal agreements are currently being drafted and should be concluded by the close of the Examination. The Applicant is continuing attempts to progress agreements with the remaining two landowners with whom an agreement is required.
- 3.4.6 Mr Cunliffe confirmed that to facilitate agreements the Applicant has provided cost undertakings for professional fees, to ensure landowners could procure their own advisors, and modifications to the scheme designs have been adopted, where possible.
- 3.4.7 Further, specialist surveying advice has been procured in respect of mines and minerals, to inform the financial implications of any sterilisation of minerals associated with the substation extension.
- 3.4.8 Although substantial progress has been made, the Applicant will continue to pursue agreements with the limited number of landowners with whom agreements remain outstanding, and the intention is to continue to advance negotiations to ensure that terms are agreed, wherever possible, prior to the close of examination.



## **4. Agenda item 3 – Objections to compulsory acquisition and temporary possession**

- 4.1.1 The ExA queried whether Roberta Mary Rance had raised an objection.
- 4.1.2 Richard Griffiths confirmed that there was no express objection in her submissions, but that the Applicant has identified her as part of a precautionary approach.
- 4.1.3 The ExA suggested that this should be treated as an objection for the time being, and welcomed the Applicant's approach thus far.

## 5. Agenda item 4 – Statutory undertakers – s127 and 138 Planning Act 2008

- 5.1.1 Richard Griffiths detailed that Article 30 of the **DCO [EN010118/APP/3.1(C)]** 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 Applicant's position is that 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.
- 5.1.2 Similarly, with respect to the tests under Section 138 of the PA 2008, the **DCO [EN010118/APP/3.1(C)]** 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.
- 5.1.3 Mr Griffiths detailed the Statutory Undertakers with whom the Applicant is actively engaged in the negotiation of protective provisions and for whom sections 127 and 138 of the PA 2008 may apply. This information is provided in the table below:

| Statutory Undertaker                        | S/U for the purposes of s127, s138 | Status of Negotiation   |
|---|------------------------------------|---|
| <b>National Grid (DCO, Sch 15, Part 4)</b>  | s127, s138                         | The Applicant responded to National Grid in relation the protective provisions on the 25 August 2022. National Grid has further responded on 21 September 2022, and those comments are being considered by the Applicant. |
| <b>Network Rail (DCO, Sch 15, Part 7)</b>   | s127, s138                         | The Applicant responded to Network Rail in relation to the protective provisions on 25 August 2022. Since then several emails have been exchanged to clarify points on the draft PPs, most recently on 14 September 2022. |
| <b>UK Power Networks Group (Operations)</b> | s127, s138                         | There is one outstanding point to be agreed in the PPs in the DCO. UKPN has responded on this point on 16 September   |

|  |            |   |
|--|------------|---|
| <b>Limited (UKPN) (DCO, Sch 15, Part 3)</b>  |            | and this is being considered by the Applicant.  |
| <b>Environmental Agency (DCO, Sch 15, Part 5)</b>  | s127, s138 | The Applicant responded to the EA with comments on the protective provisions on the 25 August 2022, and the EA has responded with comments on 23 September 2022, which the Applicant is considering. The PPs are close to being agreed.   |
| <b>Essex County Council (DCO, Sch 15, Part 8)</b>  | s127, s138 | The Applicant has agreed protective provisions with Essex County Council in its role as drainage authority. These were included in the dDCO submitted at Deadline 1B. The Applicant and Essex County Council had a call on 26 September 2022, and the Applicant is considering some further minor changes to the timeframes and definitions in the protective provisions, but the principle of the provisions remains agreed. |
| <b>Essex and Suffolk Water (DCO, Sch 15, Part 9)</b>   | s127, s138 | The Applicant provided draft protective provisions to Essex and Suffolk Water on the 2 September 2022 for their consideration. A response is awaited.   |
| <b>(Note, Northumbrian Water Limited trades as Essex and Suffolk Water in the area of the Order Limits.)</b> |            |   |

5.1.4 Mr Griffiths then detailed the Statutory Undertakers for whom sections 127 and 138 of the PA 2008 may apply, with whom the Applicant is seeking to confirm whether they have interests within the Order Limits. This information is provided in the table below, though again the Applicant considers appropriate protection is in place by virtue of the standard protective provisions in Part 1 of Schedule 15 of the draft **DCO [EN010118/APP/3.1(C)]**:

| <b>Statutory Undertaker</b>       | <b>S/U for the purposes of s127, s138</b> | <b>Status of Negotiation</b>  |
|-----------------------------------|---|---|
| <b>ENGIE Gas Limited</b>          | s127, s138                                | No response.<br><br>The protective provisions in Part 1, Schedule 15 of the dDCO would provide suitable protections should any assets be present in the Order Limits. |
| <b>GTC Infrastructure Limited</b> | s127, s138                                | No response.<br><br>The protective provisions in Part 1, Schedule 15 of the dDCO would provide suitable protections should any assets be present in the Order Limits. |

5.1.5 Mr Griffiths then detailed the Statutory Undertakers for whom section 138 of the PA 2008 may apply, with whom the Applicant is seeking to confirm whether they have interests within the Order Limits. This information is provided in the

table below, though the Applicant considers appropriate protection is in place by virtue of the standard protective provisions in Part 2 of Schedule 15 of the dDCO:

| <b>Statutory Undertaker</b>                                | <b>S/U for the purposes of s127, s138</b> | <b>Status of Negotiation</b>  |
|--|---|---|
| <b>British Telecommunications (public limited company)</b> | s138                                      | Applicant seeking to confirm interest - No response.<br><br>The protective provisions in Part 2, Schedule 15 of the dDCO would provide suitable protections should any assets be present in the Order Limits. |
| <b>CityFibre Limited</b>                                   | s138                                      | Applicant seeking to confirm.<br><br>The protective provisions in Part 2, Schedule 15 of the dDCO would provide suitable protections should any assets be present in the Order Limits.                        |
| <b>Edgecast Limited</b>                                    | s138                                      | Applicant seeking to confirm interest - No response.<br><br>The protective provisions in Part 2, Schedule 15 of the dDCO would provide suitable protections should any assets be present in the Order Limits. |
| <b>Gigaclear Limited</b>                                   | s138                                      | Applicant seeking to confirm interest - No response.<br><br>The protective provisions in Part 2, Schedule 15 of the dDCO would provide suitable protections should any assets be present in the Order Limits. |
| <b>Lumen Technologies UK Limited</b>                       | s138                                      | Applicant seeking to confirm interest - No response.<br><br>The protective provisions in Part 2, Schedule 15 of the dDCO would provide suitable protections should any assets be present in the Order Limits. |
| <b>Mobile Broadband Network Limited</b>                    | s138                                      | Applicant seeking to confirm interest - No response.<br><br>The protective provisions in Part 2, Schedule 15 of the dDCO would provide suitable protections should any assets be present in the Order Limits. |
| <b>Utility Assets Limited</b>                              | s138                                      | Applicant seeking to confirm interest - No response.<br><br>The protective provisions in Part 2, Schedule 15 of the dDCO would provide suitable protections should any assets be present in the Order Limits. |

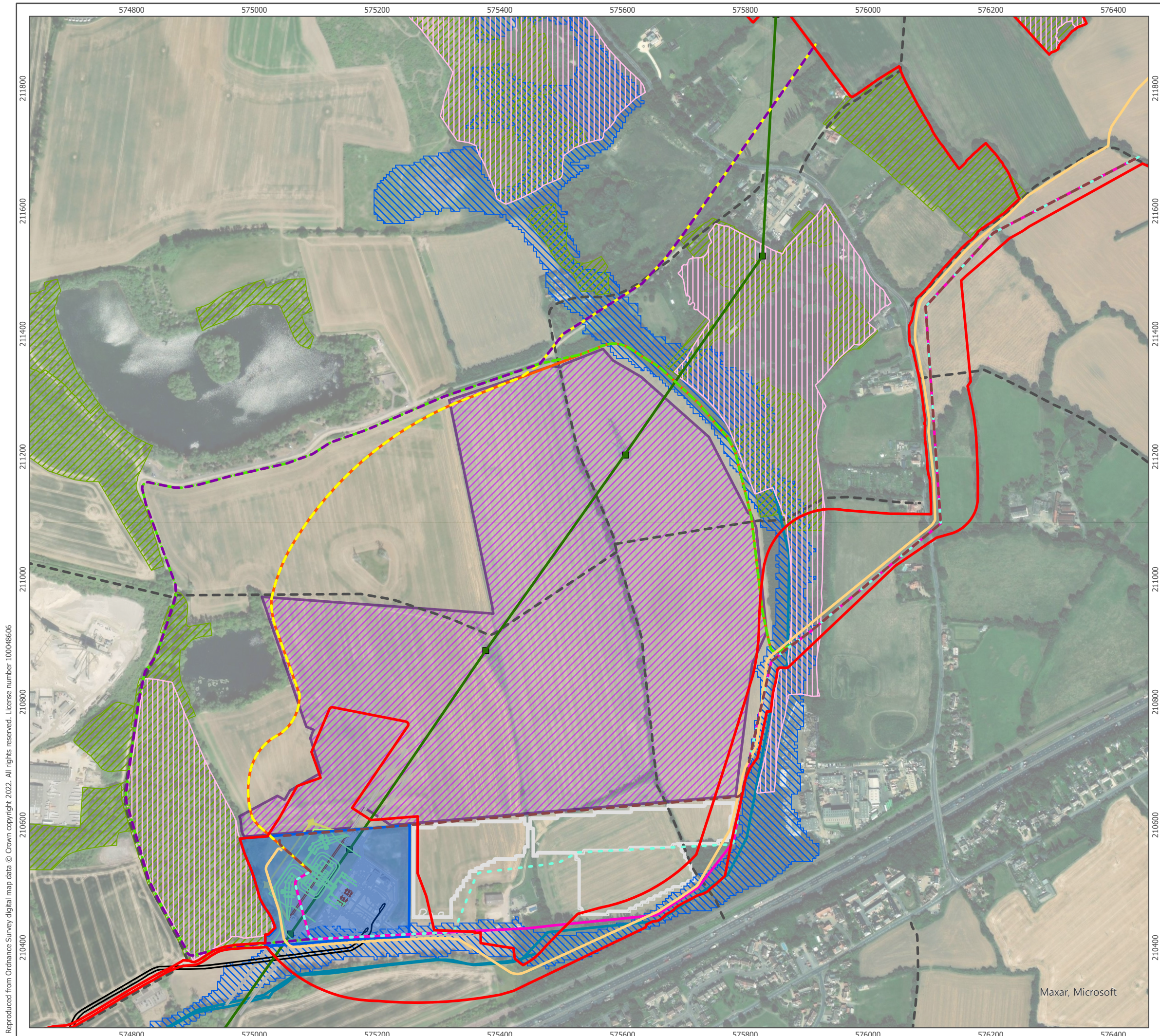
- 5.1.6 The ExA asked whether sections 127 and 138 of the PA 2008 are only triggered in the event of a representation being made by the Statutory Undertaker.
- 5.1.7 Mr Griffiths confirmed that section 127 of the PA 2008 only applies in the event of a representation from a Statutory Undertaker, and section 138 applies regardless. The Applicant is negotiating with the Statutory Undertakers listed above, but where any of them do not respond they remain protected by the protective provisions in Schedule 15 of the dDCO, which contains general protective provisions (in Parts 1 and 2).
- 5.1.8 Mr Griffiths noted that the only objection is from Network Rail and confirmed that the Applicant was in discussions with Network Rail over protective provisions, which are expected to be agreed, leading to the formal withdrawal of Network Rail's objection.
- 5.1.9 The ExA asked for a summary of the position in relation to Vodafone. Mr Griffiths confirmed this would be provided in writing at Deadline 3.
- 5.1.10 Post hearing note: The Applicant confirms that it contacted Vodafone on 26 January 2022 and provided draft protective provisions for their review. The Applicant then received a response from Vodafone on 26 February 2022 noting that Vodafone had assets within the Order Limits. The Applicant contacted Vodafone's representatives on 8 April 2022 asking for comments on the draft protective provisions. The Applicant chased Vodafone's representatives several times and received a response on 4 August 2022 requesting additional information be submitted in the form of a site location plan, which the Applicant provided that same day. The Applicant has not heard from Vodafone's representatives since and sent the latest chaser on 28 September 2022. This update has been included in the updates to the **CA Schedule [EN010118/EX/8.6(B)]** submitted at Deadline 3.

## **6. Agenda item 5 – Consideration of whether updates or revisions to the statement of reasons and book of reference are required, and any implications for the drafting of the DCO**

- 6.1.1 The ExA noted the updates at Deadline 2 and queried whether the Applicant envisages any further updates to either the Statement of Reasons or the Book of Reference.
- 6.1.2 Richard Griffiths responded that this is not envisaged at the present time, but that this will be kept under review.
- 6.1.3 The ExA noted that, in relation to the plots at Work No. 4, there was a reduction in the corresponding land intake and the creation of a new plot due to the removal of land that had created severance issues between plots.
- 6.1.4 The ExA asked why land had been removed in relation to plot 1/1A, in relation to the access from General's Lane.
- 6.1.5 Beth Winstone on behalf of the Applicant noted that the road in question did not exist in its current layout when the Application was submitted. It was previously a privately owned access track. The road layout has now been amended and the ordnance survey has also subsequently been updated. The section of this road required for the project will shortly be adopted and form part of the highway network, so there is no need for it to be part of the Applicant's Order land, as rights of access would not be needed over it once adopted. The Applicant is confident that this adoption will take place before the end of the Examination, but will let the ExA know if this becomes problematic. It was noted that the order limits have not been amended, just that this road has been taken out of the Order land.
- 6.1.6 In response to a question from the ExA, the Applicant confirmed that all changes to the Book of Reference at Deadline 2 are a reduction in Order land, with no new land being included.

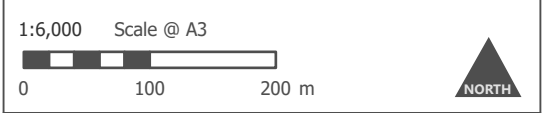
# Appendix A – Cable Route Options





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- Planning Boundary
- NG Land Ownership
- Cable Route Options**
- Cable Route Option 1
- Cable Route Option 2
- Cable Route Option 3a
- Cable Route Option 3b
- Cable Route Option 4
- Cable Route Option 5
- Cable Route Option 6a
- Cable Route Option 6b
- Proposed Infrastructure**
- Proposed Bulls Lodge Extension Infrastructure
- Bulls Lodge Temporary Diversion
- Existing Infrastructure**
- Existing Bulls Lodge Infrastructure
- Bulls Lodge Equipment to Remove
- Underground Cable
- 400kV Overhead Line
- 400kV Pylon Tower
- Key Environmental Constraints**
- Local Wildlife Site
- Woodland
- Flood Zone 3
- Mineral Extraction Area
- Overburden Storage
- Public Rights of Way
- Watercourse



|                 |                   |
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| Checked By: RS  | Date: 30/09/2022  |

**Cable Route Options**

**Longfield Solar Farm**

Maxar, Microsoft