



OAKLANDS FARM SOLAR PARK

Applicant: Oaklands Farm Solar Ltd

Consents and Agreements Position Statement

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(Applications: Prescribed Forms and
Procedure) Regulations 2009**

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CONSENTS AND AGREEMENTS POSITION STATEMENT

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1 INTRODUCTION

1.1 OVERVIEW

- 1.1.1 Oaklands Farm Solar Limited ("the Applicant") is applying to the Secretary of State for Energy Security and Net Zero ("SoS") for a Development Consent Order ("DCO") under Section 37 of the Planning Act 2008 ("PA 2008") for the construction, operation, maintenance and decommissioning of ground mounted solar photovoltaic arrays and an associated Battery Energy Storage System ("BESS") on land west of the village of Rosliston and east of Walton-on-Trent in South Derbyshire.
- 1.1.1 The Oaklands Farm Solar Park comprises a proposed solar farm with an associated Battery Energy Storage System ("the Proposed Development"). The Proposed Development would have a generating capacity of over 50MW and would be situated on 191 hectares of land at Oaklands Farm to the south-east of Walton-on-Trent and to the west of Rosliston in south Derbyshire. The solar park itself, comprising photovoltaic panel arrays, a central electricity substation and Battery Energy Storage System together with access, landscaping and other works would be located on 135 hectares of agricultural land currently in use for arable production and grazing. New high voltage 132kV underground electricity cabling would be installed by The Applicant from the project substation located within the proposed development on Oaklands Farm through land to the north at Fairfield Farm and Park Farm to connect the Proposed Development to the national grid at Drakelow electricity substation, located at the former Drakelow Power Station which sits south of Burton-upon-Trent.
- 1.1.2 This document has been prepared as part of that DCO application ("the Application") and should be read in conjunction with the other documents submitted with the Application.
- 1.1.3 This version (Rev 04) of the document has been as part of the Applicant's updates requested by the Examining Authority for Deadline 8.

1.2 PURPOSE OF THIS DOCUMENT

- 1.2.1 The purpose of this document is to provide information on the additional consents and licences that are or may be required to construct and operate the Scheme.
- 1.2.2 Section 37 of the PA 2008 governs the content of an application for a DCO, including the requirements for the necessary accompanying documents specified in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations).
- 1.2.3 Regulations 5 and 6 of the APFP Regulations provide the statutory requirements for what must accompany a DCO application. Guidance issued by the Department for Communities and Local Government: 'Planning Act 2008: Nationally

significant infrastructure projects – Application Form Guidance' (June 2013) (paragraphs 45 and 46) requires that:

"Where the proposed development will also require other consents, licences, permits, etc, to enable it to be constructed and/or operational, and for which the Secretary of State is not the authorising body under the Planning Act, then the applicant must list and briefly describe these in Box 24. Reference should be made to any that have already been applied for, and a copy enclosed of any that the applicant may already be in the possession of.

The applicant should also, either in Box 24 or elsewhere in one of their application documents, set out whether there are, in principle, any reasons why such consents etc. might not be granted. In providing this information the applicant should reference responses received from the relevant authorising bodies regarding the likelihood of such consents etc. being granted".

- 1.2.4 This document lists those consents which the Applicant currently anticipates could be required. Further consents may be required as the project develops due to unforeseen circumstances and the Applicant will continue to update the Examining Authority as necessary with any such developments.

1.3 DEADLINE 3 AMENDMENTS

1.1.4 The amendments to this document at Deadline 3 were as follows:

1.1.5 Consent or approval for the carrying out of the works required under any relevant byelaws made under the Land Drainage Act 1991. This is disapplied under Article 6(1)(c);

- Reference in Section 1.4 to the Water Resources Act corrected to the Land Drainage Act.
- *'Temporary water impoundment licence under Section 25 of the Water Resources Act 1991 in connection with the laying of cables. This is disapplied under Article 6(1)(d)'* – this text has been removed from Section 1.4 to reflect that disappication no longer being included within the dDCO.
- An update provided in Table 1 on the status of the Badger Licence.

1.4 DEADLINE 4 AMENDMENTS

1.4.1 This document has been amended at Deadline 4 to provide a further update on the status of the Badger Licence (with a draft licence application having been submitted to Natural England on the 10th September 2024) together with the reordering of the introductory section to separate these Deadline updates for clarity.

1.5 DEADLINE 5 AMENDMENTS

1.5.1 The document has been amended at Deadline 5 to provide an update on the status of the Badger Licence, with a Letter of No Impediment having been received from Natural England.

1.6 DEADLINE 6 AMENDMENTS

1.6.1 No changes have been made to this document at Deadline 6.

1.7 DEADLINE 8 AMENDMENTS

1.7.1 This document has been submitted at Deadline 8 in order to record the position at the last scheduled Deadline of the Examination. At Deadline 8 Paragraphs 1.9.3 – 1.9.5 have been updated to reflect the position at Deadline 8 of other parties on the consents incorporated into the dDCO. Paragraph 1.10.3 has been updated to reflect the position of other parties at Deadline 8 on other consents and licences.

1.8 APPROACH TO CONSENTING REQUIREMENTS INCORPORATED WITHIN THE DRAFT DCO

- 1.8.1 Section 33 of the PA 2008 makes it clear that there is no requirement for certain principal conventional consents to be obtained where a DCO is required to authorise a project (as is the case for the Proposed Development).
- 1.8.2 Part 7 of the PA 2008, in particular section 120, makes it clear that the following can be included within a DCO:
- Ancillary matters (including those listed in Part 1 of Schedule 5 to the PA 2008);
 - The application, modification or exclusion of statutory provisions for which the provision may be made in the DCO;
 - Amendment, repeal or revocation of any local legislation, where thought necessary or expedient by the Secretary of State in consequence of or in connection with the DCO; and
 - Incidental, consequential, supplementary, transitional or transitory provisions and savings.
- 1.8.3 Section 150 of the PA 2008 states that a requirement to obtain certain prescribed consents, or authorisations, under the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 can be removed by the DCO with the consenting body's agreement.
- 1.8.4 From the above, it is clear that the intention of the PA 2008 is to encourage as many consents to be 'wrapped up' in a DCO as possible creating a 'one-stop-shop' approach for construction related consents.
- 1.8.5 The Applicant believes that the approach to including consents within a DCO should apply for both those that do, and those that do not, require the agreement of the relevant body under section 150 in order for them to be included in the DCO. The Applicant envisages the approach being as follows:
- The DCO contains an express provision disappling the requirement for the consent in question.
 - In exchange, the DCO includes 'protective provisions' for the benefit of the body concerned.
 - These protective provisions are specifically stated to have effect unless otherwise agreed between the Applicant and the body concerned.
 - Compliance with the provisions is a matter as between the parties and can be enforced accordingly.
 - Either way, the protective provisions provide a means for the body concerned to monitor, enforce compliance and to review the effectiveness of the approval regime enshrined in the protective provisions.

- The mechanism of approval being given under the protective provisions allows the body concerned to approach a project in two stages (i) the DCO application stage, where the principle of the project is accepted by the body concerned and the detail of the protective provision is negotiated and (ii) the subsequent approval stages under the protective provisions which cannot be unreasonably refused but when detailed matters going to construction can be properly considered.

1.8.6 This is a tried and tested approach adopted in numerous local and public (hybrid) Acts, Harbour Act Orders, Transport and Works Act Orders for many decades and which is now firmly established in the case of DCOs.

1.9 CONSENTS INCORPORATED IN THE DRAFT DCO

1.9.1 The principal consent for the Proposed Development will be a DCO. The DCO process enables land acquisition, along with many consents and powers, to be dealt with at the same time. The DCO application may, however, need to be supplemented by other applications because:

- A particular consent cannot be contained in the DCO;
- A consenting authority declines to allow a consent to be contained in the DCO; or
- It is not desirable or it is inappropriate to include a consent within the DCO due to the stage of design development and the level of detail available at the time the DCO is made.

1.9.2 The majority of consents required are included, or addressed, within the draft DCO, as permitted by various provisions of the PA 2008, although discussions in some of these respects are continuing with the principal stakeholders. These fall into the following categories:

- Authorisation of all permanent and temporary works for the Proposed Development which are described as the "authorised development" in Schedule 1 to the draft DCO (equivalent to planning permission). Article 3 is the principal power in this respect.
- Consent to carry out street works. Article 8 of the draft DCO provides this power.
- Consent to alter the layout of streets and to form new, or alter or improve existing, accesses. Article 9 provides this power.
- Consent to temporarily stop up public rights of way. Article 11 of the draft DCO provides this power.
- Traffic regulation matters required during construction that are equivalent to Traffic Regulation Orders made under the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004. Article 13 of the draft DCO provides this power.

- Water activity permit(s) from the Environment Agency under the Environmental Permitting Regulations (England and Wales) 2016 for temporary construction and permanent operational discharges (disapplication of that requirement requires the consent of the relevant body). Article 14 provides this power.
- Compulsory acquisition of land and of rights over land, and the temporary possession of land. Articles 17 to 27 of the draft DCO provide these powers.
- Requirement of licence for felling under Section 9 of the Forestry Act 1967. Article 36 and 37 provide this power.
- Land drainage consent(s) under Section 23 of the Land Drainage Act 1991 for works affecting the flow in ordinary watercourses. This is disapplied under Article 6(1)(a).
- Consent or approval for the carrying out of the works required under any relevant byelaws made under the Land Drainage Act 1991. This is disapplied under Article 6(1)(c);

1.9.3 Some of these consents are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. As a result, under section 150 of the PA 2008, the relevant consenting body must agree to the inclusion of these consents within (i.e. disapplied by) the DCO. Where this applies, this is indicated in the list above.

1.9.4 At Deadline 8 the Applicant has submitted a Statement of Common Ground ("SOCG") with South Derbyshire District Council ("SDDC") and Derbyshire County Council ("DCC") [EN010122/D8/8.1]. As recorded in that SoCG, SDDC and DCC maintain the position at Deadline 8 in respect of Article 37 that SDDC should retain the role of having prior approval regarding works to protected trees and that ancient and veteran trees should be afforded absolute protection. The Applicant maintains the position that that there is established precedent for the wording of Article 37. The ExA has proposed additional wording which provides for the prior approval of SDDC to be sought prior to any works to a veteran or ancient tree, with that wording reflected in the dDCO submitted by the Applicant at Deadline 8.

1.9.5 SDDC then retain concerns regarding the powers provided in the dDCO under Article 11, regarding the ability to temporarily stop up Public Rights of Way. The SoCG records the position of SDDC, DCC and the Applicant on that matter, with the Applicant maintaining the position that the drafting of Article 11 is well precedented and provides adequate controls on the undertaker to provide comfort to SDDC and DCC that any disruption to PRoWs would be minimised so far as possible.

1.9.6 Other than those specific points identified above there have been no specific issues raised with the consents listed in this section being included in the dDCO.

1.10 OTHER CONSENTS AND LICENCES

- 1.10.1 A summary of the additional consents and licences likely to be required, but which are not included in the DCO, is set out in Table 1.
- 1.10.2 Table 1 lists the type of consent or licence required, the relevant consenting body, any agreement that has been reached with that body, actions to be undertaken and the status of the relevant application (e.g. whether the consent or licence has been granted or the anticipated application submission date).
- 1.10.3 The Applicant has submitted SoCG with a number of the parties identified in Table 1-1, including Derbyshire County Council and South Derbyshire District Council [EN010122/D8/8.1], the Environment Agency [EN010122/D8/8.2] and Natural England [REP7-005]. None of those parties have through those SoCG raised any issues with the consents and licences identified in Table 1 being obtained, and as set out in Table 1 Natural England have during the course of the Examination issued a Letter of No Impediment in respect of the Badger Licence.

NATURE OF CONSENT/LICENCE	KEY LEGISLATION	CONSENTING AUTHORITY	STATUS/COMMENT
1 Electricity Generation Licence	Electricity Act 1989	Office of Gas and Electricity Markets (OFGEM)	<p>Required for electricity generation under the Scheme in the areas specified in Schedule 1.</p> <p>An electricity generation licence was obtained on the 26th September 2022.</p>
2 Water abstraction or impoundment licence	Water Resources Act 1991 (as amended by the Water Act 2003), Environment Act 1995, Water Resources (Abstraction and Impounding) Regulations 2006	Environment Agency	If groundwater pumping / dewatering is required then applications will be made by the contractor before the abstraction or impoundment commences as appropriate.
3 Water discharge or flood risk	Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	If water discharge activities are required then an application for water discharge activity environmental permit will be made by the contractor before water is discharged. If flood risk activities are required then an application for a flood risk activity environmental permit will be made by the contractor before the activity is carried out.
4 Bilateral Connection Agreement To connect the Project to the NETS	N/A – Commercial Agreement	National Grid Electricity Transmission	A Grid Connection Agreement has been secured with NGET for the export and import of the full electrical capacity of the Proposed Development.
5 Permit for transport of abnormal loads For delivery by road of loads that fall outside standard practice (if required)	Road Vehicles (Authorisation of Special Types) (General) Order 2003 or with authorisation from the Secretary of State under the Road Traffic Act 1988	Department for Transport, Highways Agency, Local Highway Authority or the police and bridge owners (if any) as appropriate	Appropriate applications and notifications, in accordance with the Construction Traffic Management Plan [Appendix 10.1 of the ES, Document 6.1] will be made by the contractor in advance of the delivery of abnormal load.
6 Section 61 consent Control of noise on construction sites	Control of Pollution Act 1974	Derbyshire County Council	Any applications required will be made by the contractor a minimum of 28 days before construction commences.
7 Health and Safety related consents	Health and Safety at Work Act 1974 and subsidiary legislation	Health and Safety Executive (HSE)	Applications to be made by the contractor before construction commences as appropriate.

8	Protected species licence	Protection of Badgers Act 1992	Natural England	<p>It is expected that a licence will be required due to the presence of badgers around the site, as documented in the Ecology Chapter of the Environmental Statement [Document 6.1]. It is proposed that the formal application process will take place in order for a licence to be obtained prior to the commencement of construction.</p> <p>The Applicant is taking that approach on a precautionary basis and will consider as part of detailed design whether it is possible to avoid the need for a licence through the layout/design of the Proposed Development.</p> <p>The Applicant is not aware of any reason why any licence required would not be granted should one be required.</p> <p>The Applicant submitted a draft Licence application to NE on the 10 September 2024. NE issued a Letter of No Impediment to the Applicant on the 21st October 2024, confirming that NE sees no impediment to issuing a licence, based on the information provided within the draft Licence application.</p>
9	Section 278 Agreement	Highways Act 1980	Derbyshire County Council	<p>As documented in the Transport Chapter of the ES [Document 6.1], surface protection, culvert reinforcement and temporary removal of street furniture is expected to be required in a small number of locations in order to allow for access to the site by two Abnormal Loads. Those works would take place entirely within the extents of the local highway network. The necessary S278 agreement would be sought prior to those works needing to be undertaken.</p>

TABLE 1 – SUMMARY OF ADDITIONAL CONSENTS AND LICENCES LIKELY TO BE REQUIRED