



Mallard Pass

Solar Farm

Mallard Pass Solar Farm

**Applicant's Responses to
Interested Parties' Deadline 2
Submissions - Land Issues**

Deadline 3 - June 2023

EN010127

EN010127/APP/9.19

Applicant's Response to Interested Parties' Deadline 2 Submissions on Land Issues

Parties Raised	Sub-Theme	Issues Raised	Applicant's Response
REP2-090	Compelling case for compulsory acquisition	<p>Concerned that there is no legally sufficient justification for the use of Compulsory Acquisition. The necessary compelling case in the public interest has not been made out.</p>	<p>The Applicant does not agree with MPAG's submissions. The statutory tests for the use of compulsory acquisition have been demonstrated (including whether there is a compelling case in the public interest).</p> <p>The Proposed Development will deliver the policy aims provided in the Energy NSPs and the Draft Energy NSPs, providing a significant amount of low carbon electricity over its lifetime. It will be a critical part of the national portfolio of renewable energy generation that is required to decarbonise 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 Proposed Development and that it will deliver national economic and social benefits, in line with the government's wider objectives of delivering sustainable development.</p> <p>The justification for the use of compulsory powers is described in the Statement of Reasons [APP-021] [see 6 and 7 in particular] and the Statement of Need [APP-202].</p>
REP2-090	Minimising compulsory acquisition impacts	<p>Concerned about the wide spreading request for compulsory acquisition within Essendine. Concerns that there has been no apparent or effective effort to minimise the impact.</p> <p>The cable option being very different to going under the east coast mainline. This solution is the least disruptive and minimises the extent of CA powers needed. It is questionable whether both sides of the highway need to be used and therefore if the blanket CA coverage of properties is necessary.</p>	<p>In designing the Proposed Development and determining the land to be subject to compulsory acquisition and temporary possession powers the Applicant has considered alternatives and modifications to the Proposed Development to minimise the potential land take. The scope of the powers of compulsory acquisition proposed in respect of the land within the Order limits goes no further than is needed. This is detailed further in the Statement of Reasons [APP-021].</p> <p>It should be noted that the powers of compulsory acquisition within Essendine are not as wide spread as it may appear. The Applicant is seeking permanent rights to lay a cable in Stamford and Bourne Road. The cable will be installed within the highway and will not directly affect any landowners. The Book of Reference is showing multiple landowners affected by these rights as where the subsoil of</p>

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			<p>a highway is not owned by the highway authority there is a common law position that the adjoining land owners own the subsoil up to the central line of the highway. Therefore, it is right that there are rights being sought in the subsoil of the highway but this will not affect the property holdings of individual land owners within Essendine in any significant way.</p> <p>The Applicant will only need to cross the East Coast Mainline in one location. However, it has put forward three options to do this as set out at paragraph 5.7.7 of Chapter 5 of the ES and further described in the response to Ex A First Written Questions 1.0.12 [REP2-037]. If the Applicant is able to select Option 1 or 2 this would negate the need to lay its cable underneath the highway within Essendine. However, as it stands it is not known whether Network Rail will accept either Option 1 or 2 is feasible and further additional land agreements would be required and therefore the Applicant must maintain Option 3 within its Application to ensure it can deliver the Scheme. If Network Rail confirm that all cabling requirements can be dealt with via the non A6121 route, then article 20 of the Draft DCO (Rev 3) will be amended to provide that the Applicant must choose, and be restricted to only using, powers over either the A6121 or through the non A6121 route (noting that either of the other two options would require the same land to be used).</p> <p>The detailed design, including the cable specifications and routes has not been determined at this stage. Therefore, flexibility is sought within the highway extent to allow for the installation of cables. Please see the response provided to the ExA's First Written Question 4.0.9 [REP2-037].</p>
REP2-090	Cabling options	Concerned that there has been no feasibility assessment of the 3 cabling options and status to date.	The Applicant has made substantial progress in the option selection. The Applicant has now obtained up-to-date engineering records from Network Rail for the brick arch structure option and has undertaken a detailed survey. Please see the response provided to the ExA's First Written Question 1.0.12 [REP2-037].
REP2-090	Design principles	Considering the NIC (National Infrastructure Commission) Design Principles have been used to	As detailed in the Schedule of Negotiations (Rev 2), the Applicant has been in voluntary negotiations with affected parties and has

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		<p>frame the Project principles of this application as outlined in the Design and Access Statement (APP-204), applying extensive compulsory acquisition rights is not in accordance with those principles as outlined below.</p> <p>People PE1- Engage openly and transparently with local communities, stakeholders and neighbours, making use of local knowledge to improve our project.</p> <p>PE2 – Consider feedback carefully and engage and respond meaningfully.</p> <p>PE3 – Behave as a considerate neighbour though both construction and operation.</p> <p>PE4 – Respect public amenity.</p>	<p>successfully entered into voluntary option agreements with the freehold owners of the majority of the Solar PV Site and expects to enter into similar agreements with the remaining freehold owners before the end of the Examination. Therefore, whilst compulsory acquisition powers are sought for the Proposed Development, these powers will not be used extensively across the Site.</p> <p>Section 4.0 of the Design and Access Statement [REP2-018] sets out the design approach to the Proposed Development and how the Applicant has adhered to the principles developed by the NIC Design Principles. Paragraph 4.15 of the DAS explains how the NIC Design principles have been 'localised' and developed into project specific 'Project Principles'. This in turn has led to the development of Design Guidance to inform the design process. Section 4.5 of the Design and Access Statement sets out how the Design Guidance has been applied in the development of the Proposed Development.</p> <p>The Applicant has complied with the consultation requirements set out in legislation and guidance through extensive non-statutory and statutory consultation and community engagement. The Applicant has engaged openly and transparently with all affected parties and considered the feedback received carefully. This is detailed within the Consultation Report [APP-025]. Therefore, Design Principles PE1 and PE2 have been complied with.</p> <p>The Applicant will behave as a considerate neighbour throughout both construction and operation and respect public amenity as described within the various management plans, including the Outline CEMP (Rev 3) and the Outline OEMP (Rev 1) secured within the Draft DCO (Rev 3).</p>
REP2-090	Alternatives to compulsory acquisition	The Applicant has not explored the options within the original design to avoid compulsory acquisition powers against residents, there has been no change in field parcels, apart from removing 2 tiny fields within the scheme. Nothing has been added or moved around to minimise the amount of	In response to comments received from the community and prescribed consultees, the Applicant reduced the area of the Solar PV site. Following Stage One non-statutory consultation, the Solar PV site was reduced from approximately 570ha to approximately 463ha. At the conclusion of Stage Two statutory consultation, the proposed Solar PV site was approximately 426ha. The Applicant

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		<p>compulsory acquisition necessary. Getting compulsory acquisition right from the beginning was obviously never a consideration and the residents affected feel they are "collateral damage".</p>	<p>removed all fields comprising solely Grade 2 land within the Order limits for use in the Solar PV Site.</p> <p>The Applicant has considered all reasonable alternatives to compulsory acquisition, including negotiating agreements, considering alternative sites and making modifications to the Proposed Development, as set out in the Site Selection Report prepared and appended to the Planning Statement [APP-203], the Alternatives chapter of the ES [APP-034], and the Design and Access Statement [REP2-018].</p> <p>The Applicant has been in voluntary negotiations with affected parties and has successfully entered into voluntary option agreements with the freehold owners of the majority of the Solar PV Site and expects to enter into similar agreements with the remaining freehold owners before the end of the Examination. This is detailed within the Schedule of Negotiations (Rev 2).</p>
REP2-090	Discrepancy in Land Plans description	<p>There appears to be a possible discrepancy/inconsistency in the land plans description. For Essendine village on A6121 the CA shading is shaded blue on Land Plans maps (APP-005). Blue shading as described in para 1.4.1 above indicates permanent. Yet the key on the page denotes both temporary and permanent. Any resident looking at this information would be confused.</p> <p>It is still very unclear from the above descriptions exactly how those statements relate to the shading on the Land Plans, and exactly whether the method of seeking both temporary and permanent rights will be in the interests of the residents affected. MPSF suggest permanent rights will only be defined after construction finishes, shouldn't</p>	<p>The key to the Land Plans [REP1-003] was updated at Deadline 1 to remove the text that relates to the temporary possession of land on the pink and blue shaded land. It is important to note that the temporary use of land is not the same as seeking compulsory powers to permanently acquire the freehold/leasehold (pink land) or compulsorily acquire rights permanently (blue land).</p> <p>Land that may be temporarily possessed is dealt with through Article 29 (for construction) and 30 (for maintenance). These rights are time limited and are distinct from the compulsory acquisition of land and/or rights in land. The temporary possession of the land applies to all of the Order land (and is not limited to the land shaded pink/blue or yellow on the Land Plans).</p> <p>The reason for seeking temporary use powers 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</p>

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		<p>this be 100% clear in the DCO what the temporary and permanent rights will be.</p> <p>It remains unclear to residents whether the removal of rights is temporary or permanent, and what temporary and permanent mean given the time unlimited application</p>	<p>construct, operate and maintain the Proposed Development. Therefore, this is in the interests of the residents affected. This is detailed further in the Statements of Reason [APP-021].</p> <p>The Applicant disagrees that there are discrepancies in the Land Plans. It may be that the representation has confused the difference between compulsory acquisition and temporary possession.</p>
REP2-090	Funding	<p>There must be reasonable prospects of the required funds for the acquisition being available. Given the vagaries of the shareholding, how can this be the case? Given the site is likely to be sold upon approval to an installer, what guarantees the funding for compensation and the correct adherence to all the conditions should the CA rights be granted?</p>	<p>Article 44 of the Draft DCO [REP3-006] provides that the undertaker must not exercise any powers of compulsory acquisition or temporary use of land until a guarantee or alternative form of security has been approved by the Secretary of State. The Secretary of State must approve the form of the guarantee / security and the amount of compensation.</p> <p>The Applicant has demonstrated reasonable prospects of the required funds for the acquisition being available. Please see the response provided to the ExA's First Written Question 4.0.6 [REP2-037].</p>
REP2-090 REP2-114 REP2-126	Consultation material for compulsory acquisition	<p>At no stage during Stage 2 consultation from 26th May to 4th August was it ever apparent there was going to be a compulsory acquisition element to this application. There were no consultation materials at the events or online that indicated any such requirement. Naturally it would have been a perfect opportunity to provide materials and an explanation at the onsite events and webinars so that residents could consider the impact. The words 'compulsory acquisition' were never used in ANY communications.</p> <p>On 5th January a section 56 letter was sent out to residents affected by CA, but again the letter focused on the registration of Interested parties, and only alluded briefly in 1 paragraph about 'having an interest in land', a statement which</p>	<p>During statutory consultation in May 2022, it was made clear that the DCO Application would include compulsory acquisition powers. This was made clear within the Section 48 notice which states at paragraph 4: <i>"The proposed DCO will, among other things, authorise... the permanent and/or temporary acquisition of land and/or rights and overriding of easements and other rights over or affecting land"</i>.</p> <p>Section 42 notices were sent in June 2022 to all affected residents notifying them of the Proposed Development.</p> <p>The section 56 letter stated at paragraph 5 that the DCO, if granted, would authorise the compulsory acquisition of land, interests in land and rights over land, and the powers to use land permanently and temporarily. A link was provided to the Planning Inspectorate's National Infrastructure Planning website which contained the relevant</p>

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		<p>means nothing to residents. They also received a version of the Land Plans maps, but with all the plot numbers removed, so the maps made no sense without plot numbers.</p>	<p>plans and accompanying documents for viewing and downloading free of charge.</p>
<p>REP2-090</p>	<p>Section 42 and Section 44 consultation</p>	<p>It is questionable whether the Applicant has diligently fulfilled their obligations with regard to contacting parties under Section 44 that are identified as meeting the condition of Category 1, 2 and 3. This was initially raised over concerns about residents who were believed to be Category 3, yet had not received the appropriate letter. This concern has grown further when cross-checking with residents supposed to have received category 1 and 2 letters as outlined in the Compulsory Acquisition section.</p> <p>Subsequent interrogation of the Consultation Report App 9-13 (APP-029) consultation documents reveals the Category 3 letter was sent out on 15th June. Checking the consultees (p336 onwards) on that date, 17 have been redacted leaving only 4 individuals on the list. Therefore, an expectation was set with residents, only to be rescinded down track in the application documents, but never re-communicated with residents to explain why they were no longer considered a Category 3 person. (I suspect the same is true of some Category 1 and 2 letters that went out).</p>	<p>The aim of the Category 1, 2 and 3 letters was to notify potentially affected parties of the Statutory Consultation period which the Applicant carried out with due diligence. All parties within the Order limits were issued Section 44 letters based on HMLR records. In some cases, where access to properties may be significantly impacted, a Category 1 & 2 interest may also be classified as a Category 3 interest. Where this has been the case, the parties have been accurately described in the Book of Reference (Rev 2) as such.</p> <p>Category 3 interests were identified using the methodology described in Consultation Report [APP-025 and AS-015]. Category 3 includes parties that the Applicant thinks that, if the order sought by the application were made and fully implemented, the person would or might be entitled to make a relevant claim for compensation under section 10 of the Compulsory Purchase Act 1965 and/or Part 1 of the Land Compensation Act 1973 and/or section 152(3) of the Act.</p> <p>As the design process progressed, and the expected use of each plot was defined, a subsequent review of these Category 3 interests was undertaken and parties that had previously been identified as potentially holding a Category 3 interest were ruled out.</p> <p>Since the Stage Two Statutory Consultation, the Applicant has updated and reduced the Order limits for Mallard Pass Solar Farm, based both on the results of environmental and technical studies, as well as the feedback we received to our proposals.</p> <p>In some instances, these updates and refinements to the Order limits changed the category of interest that certain potentially affected parties fell under. This meant, that in certain instances, the category appearing on an interested parties Statutory Consultation letter did not necessarily match their interests shown in the Book of Reference (Rev 2) at the time of application.</p>

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REP2-090	Section 56	<p>What the Applicant suggested within a letter to an interested party on the 13th Sept letter was much the same as the 2 other letters: "The content of this letter is very similar to the letters sent on 23 May and 17 June, but the verb tenses have been changed, in addition to a reference to properties adjacent to the DCO boundary". That is absolutely not the case, the wording of the relevant section was completely different. Had 13th September letter been sent out earlier, the residents would have been clearly alerted, and would have had a better opportunity during the consultation period to ask questions and respond.</p>	<p>The content of the 13 September letter is very similar to the content of the 23 May letter and 17 June letter. All 3 letters provide a summary of the Proposed Development, explain the Applicant intends to submit the DCO, set out what the consultation includes in terms of section 42, 44 and 47 of the Planning Act 2008, provide an explanation of why this letter is being sent out in accordance with section 44 of the Planning Act 2008, explain the timings for the responses to the consultation, sets out where the consultation material can be found and how to respond to the consultation.</p> <p>The only key difference is that the 13 September letter refers to Stamford Road, as the affected parties hold an interest in land adjacent to Stamford Road and had not yet been notified. In legal terms the owners of the land adjacent to a highway are also presumed to own the soil beneath the surface of the highway up to the highway point of that highway, which has been stated in the 13 September letter. This information was not required in the 23 May and 17 June letters and therefore was not stated.</p>
REP2-090	Payment for independent advice	<p>Given the solar farm application, if approved, is being imposed upon residents, we would ask that Mallard Pass pay for independent advice sought for residents in Category 3. Please could you advise whether you will support this activity?</p>	<p>The Applicant does not consider it proportionate to pay for independent advice sought by MPAG on behalf of residents.</p>
REP2-090	Land outside the Proposed Development	<p>One resident received a Category 1 & Category 2 letter relating to land completely outside of the Scheme. The resident later suggested that more appropriately they might be a Category 3 resident and promptly received a letter. They have now received a Category 1 & 2 letter pertaining to sub soil interests directly in front of their property, very different to the original letter.</p>	<p>Residents holding a subsoil interest within the order limits were issued a Category 1 & 2 letter informing them of the Statutory Consultation period. This accurately reflects their interest within the subsoil of potentially affected highway plots. In some cases, where access to properties may be significantly impacted, a subsoil Category 1 & 2 interest may also be classified as a Category 3 interest. Where this has been the case, the parties have been accurately described in the Book of Reference (Rev 2) as such.</p> <p>The aim of the Category 1, 2 & 3 letters was to notify potentially impacted parties of the Statutory Consultation period which the Applicant carried out with due diligence.</p>

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REP2-097	Compulsory Acquisition of Verges	Concern over the need for compulsory acquisition of some verges and front gardens. Information provided has been vague and inaccurate in some aspects. Further clarity is requested.	<p>The Applicant notes that some verges on the A6121 are located outside of the front wall of properties and adjacent to the pavement and therefore have the appearance of a highway verge and it has been recognised that owners of those properties hold a right to access and maintain these grass areas. For such properties, who have now been included as Category 2 interests (see the track changed BoR submitted at Deadline 2 [REP1-005]) the Applicant's compulsory acquisition of rights proposals relate to cabling to be installed in the subsoil of the highway land may potentially be undertaken in these grass areas. In such an instances, it is considered the impacts to landowners are limited, and do not impact upon the residential use of their properties as a whole. If the grass areas are impacted whilst the cables are being laid, it will be reinstated to a suitable condition once the works have been completed, which is a requirement of the temporary possession power of the DCO, which would likely be utilised prior to the full compulsory acquisition of rights powers. The details of these cabling works will be outlined within the final CEMP and CTMP, with suitable notice given to all affected parties prior to the commencement of any works.</p> <p>As part of the pre-application process for a Development Consent Order (DCO) Application, the Applicant must, under section 42(d) and section 44 of the Planning Act 2008, consult parties who hold an interest in any land within the draft Order limits for the project. Residents were contacted as a result of the fact that that their properties are adjacent to Stamford Road, in which it is proposed to install cables in the subsoil underneath the highway. The highway land is unregistered, and as a highway, in legal terms it is therefore presumed (which is a rebuttable presumption) that residents hold an interest in the land underneath the highway (up to its half way point) under what is known as the 'ad medium filum' rule. The Applicant must therefore assume that residents hold an interest in that subsoil under the highway, where the proposals seek to compulsory acquire the rights to install the cables.</p>

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REP2-236	Compulsory acquisition of rights and cables	Concerns about carrying cables over the small bridge in the village to cross the railway and the potential for massive disruption to rail services should there be even a minor problem.	<p>The safe running of the railway is the responsibility of Network Rail and as such it ensures any works which could have an effect on its infrastructure is subject to stringent controls. The Applicant is in active discussions with Network Rail in relation to the protective provisions, framework agreement and other agreements which will seek to ensure that the Proposed Scheme will not lead to disruptions to the rail services.</p> <p>The crossing of the railway via the bridge is one of three options being considered by the Applicant and is not its preferred option. Terms are close to being completed with Network Rail for an alternative route that would result in the bridge option being no longer required.</p>
REP2-236		Safety concerns about plans to permanently acquire access rights to verges for high-voltage cabling.	Utility cables are frequently installed within the highway by Statutory Undertakers. The installation of cables within either the highway or the verge will be undertaken in accordance with the relevant standards at the time of construction and the Applicant will ensure that all relevant safety measures will be adhered to.
REP2-209 REP2-090	Compulsory acquisition	Poor consultation, both in terms of distribution of information and clarity of information has undermined what justification has been advanced for the use of what are exceptional powers to expropriate property. Similar, there has been no adequate or sufficient mention of compensation entitlements.	<p>The Applicant does not agree with these submissions. The statutory tests for consultation have been complied with, both in terms of the distribution of information and the information provided. This is detailed further in the Consultation Report [APP-025].</p> <p>The section 44 cover letters expressly stated that as Category 3 interests, persons may be able to claim compensation under section 152(3) of the Planning Act 2008, section 10 of the Compulsory Purchase Act 1965 or under Part 1 of the Land Compensation Act 1973. It also explained the relevant physical factors that entitle relevant persons to compensation.</p> <p>The Proposed Development's website, within the FAQ section, also states that where parties think they are affected, they could contact the Applicant's team directly to discuss the issue, assess eligibility</p>

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			<p>and consider any claim for compensation. All claims would need to be considered after the Secretary of State's decision on the DCO Application for the Proposed Development, as it is only then that any powers would be able to be utilised and the Applicant would then decide whether to in fact use them.</p>
REP2-154		<p>The compulsory purchase of land in Essendine is a change to the original plan. Apprehension for local residents on how many more changes to the proposed development will take place to facilitate the construction, rather than considering the needs of the local communities.</p>	<p>The Statutory Consultation did not set out the specific location of land powers sought for any plots, but indicated the works that would be undertaken in and around where residents would be taking place. This is the common approach to consultation on NSIP projects. Importantly, as is set out in the Book of Reference (Rev 2), no compulsory acquisition powers are sought over residential land, but are instead limited to impacts to subsoil of adjacent highway where it is presumed that if title in the highway is not registered, that adjacent landowners may own the land under the highway up to the halfway point of the highway land. The subsoil is sought to be subject to the compulsory acquisition of rights for the cable corridor. The impact to local residents is therefore minimal, however the Applicant is willing to discuss them with the relevant residents. It is noted that Catherine Gardiner is not a resident within the Order limits.</p> <p>Since the Stage Two Statutory Consultation, the Applicant has updated and refined the Order limits for the Proposed Development, reducing the Order limits based both on the results of environmental and technical studies, as well as the feedback received to the proposals. Since the submission of the DCO Application, the Order limits have not been changed.</p>
REP2-170		<p>Stated opposition to the plans due to compulsory purchase of land which was not declared until recently and not included in the information previously distributed.</p>	<p>Please see the response provided above. It was clear from the consultation stage that the Proposed Development would include compulsory purchase powers.</p>
REP2-132		<p>There was never any suggestion at the start of this process that Compulsory Purchase Powers may be granted. The fact that is that this option is being</p>	<p>Please see the response provided above. It was clear from the consultation stage that the Proposed Development would include compulsory purchase powers.</p>

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		introduced at this point feels like it is being used as a threat.	
REP2-211		The developers gave no warning of their intent to seek compulsory acquisition rights through Essendine and on Bourne Road. This was not made clear during the consultation period.	It was clear from the consultation stage that the Proposed Development would include compulsory purchase powers.
REP2-094		<p>All compulsory powers in the order are being objected to based on the extent that they affect relative privately owned apparatus. Agreements can be entered to ensure that the Proposed Development is carried out while safeguarding the existing apparatus' undertaking. Agreements to be negotiated between the Applicant and Network Rail are (a) asset protection agreement (b) property agreement and (c) if the preferred route affects a railway bridge, a bridge agreement.</p> <p>In addition to above, objections are also raised in relation to powers to carry out works on, under or over the operational and non-operational railway land without first securing appropriate protective provisions with the relevant party.</p>	<p>The Applicant is currently in active discussions with Network Rail to enter into the required agreements.</p> <p>The completion of a Basic Asset Protection Agreement is imminent subject to some drafting amendments and Network Rail have issued Heads of Term for an Option for an Easement through existing arches under the railway following recent negotiations</p> <p>The Applicant's solicitor has also entered into negotiations with Network Rail in relation to the protective provisions, with the aim of reaching agreement before the end of the Examination.</p>
REP2-094		The Secretary of State, in applying section 127 of the Planning Act 2008, cannot conclude that new rights and restrictions over the railway land can be created without serious detriment to the owners undertaking; and no other land is available to the relevant owner which means that the detriment can be made good by them.	The Applicant aims to progress negotiations with Network Rail to the point where mitigation for the impacts identified is agreed between the Applicant and Network Rail to be sufficient, such that the Secretary of State may be duly satisfied that the Proposed Development will not cause any serious detriment to the carrying on of Network Rail's undertaking.
REP2-168, REP2-129,		Concerned of the application of the compulsory acquisition rights by the Applicant who feels it is necessary to impose control over green	The scope of the powers of compulsory acquisition proposed in respect of the land within the Order limits goes no further than is needed. All the land included within the Order limits is needed to

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		<p>infrastructure adjacent to residential properties with the objective of screening any possible view.</p>	<p>achieve the identified purpose of delivering the Proposed Development, as described in the Statement of Reasons [AS-009].</p> <p>Rights powers are sought over hedges at the edge of fields to ensure that screening is able to be maintained throughout the operation of the Proposed Development as is required by the DCO. Such parcels are therefore fundamentally required and meet the legislative tests for such powers. The Applicant is willing to discuss this further with the Interested Parties if desired.</p> <p>As set out within section 5 of the Design and Access Statement [REP2-018], areas identified as not being suitable for accommodating PV Arrays were removed from the areas identified for PV arrays. However, the removed areas were retained in the Order limits as Mitigation and Enhancement Areas to ensure that the green infrastructure is retained to mitigate the impacts of the Proposed Development for its duration.</p>
REP2-117		<p>Concerned that the frontage to the residential property will be affected but as will the access to the vineyard. The owners have a right of way to use the roadway, the only access off the road to our site, which if we are denied usage they will lose their livelihood. The owners will not be able to access the vineyard, farm and harvest the grapes as well as from a tourism perspective they will not be able to welcome the public to the vineyard.</p> <p>Mallard Pass Solar Farm were unaware that their documents showed that due to the Compulsory Acquisitions we would lose our right of way until we advised at the East of England Showground, we are awaiting communication on this matter.</p>	<p>The acquisition of new rights over land is required for the laying down, maintenance and replacement and use of low voltage electrical cables. The Applicant can confirm that the impact to this access track will be limited to cabling passing under this track and the right of way will continue to be able to be utilised during operation of the Proposed Development.</p> <p>The Proposed Development's website, within the FAQ section, also states that where parties think they are affected, they could contact the Applicant's team directly to discuss the issue, assess eligibility and consider any claim for compensation. All claims would need to be considered after the Secretary of State's decision on the DCO Application for the Proposed Development, as it is only then that any powers would be able to be utilised and the Applicant would then decide whether to in fact use them..</p>
REP2-057 REP2-138		<p>The developer wishes to compulsory acquire rights over land owned by Essendine Parish Council. Essendine Parish Council object in the strongest</p>	<p>The Applicant does not agree with this submission. The statutory tests for the use of compulsory acquisition have been demonstrated (including whether there is a compelling case in the public interest),</p>

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		<p>possible terms to these compulsory acquisition rights being granted. This is land that is owned by the public for the public, its rights should not be given away to any individual or corporate body, even if only on a temporary basis for the period of construction of this industrial edifice. Disturbance to residents' access to their properties would be unacceptable.</p>	<p>in this case fundamental cabling for the Proposed Development. The need for the compulsory acquisition is detailed in the Statement of Reasons [AS-009] and the Statement of Need [APP-202].</p> <p>The Parish Council are identified as holding an interest in plot 02-087, being Bourne Road, which is part of the cable corridor through Essendine Village. The Parish Council's interest in this plot is listed as the title to this land is unregistered, and as a highway, it is therefore presumed (which is a rebuttable presumption) that the Parish Council hold an interest in the land underneath the highway under the 'ad medium filum' rule. It is this subsoil which is sought to be subject to the compulsory acquisition of rights for the cable corridor. The impacts to the Parish Council are therefore minimal, however the Applicant is willing to discuss them with the Parish Council.</p>
REP2-094	Uncertainty about powers sought after in respect of cable routes	<p>The works (described in Schedule 1 to the DCO) include three cable routes to enable the installation of a grid connection cable that crosses the East Coast Mainline Railway. However, the Applicant has not identified a preferred route and therefore parties area unclear whether or not the Applicant is asking the Secretary of State to grant powers in respect of all three cable routes.</p>	<p>Please see the response provided to the ExA's First Written Question 1.0.12 and 4.0.9 [REP2-037].</p>
REP2-094	Cable routes 1, 2 and 3 classed as high-risk railway options.	<p>The Applicant has not demonstrated that the installation of Option 1 would not create additional risk to the integrity and safe operation of the railway or that the installation would meet the necessary railway standards.</p> <p>Whether or not the proposal to drill underneath the West Glen River would have an adverse impact on the railway would depend on the cable's proximity to the railway. A Basic Asset Protection Agreement (BAPA) would need to be entered into between</p>	<p>Discussions between the Applicant's and Network Rail's engineers are focused on routing the cables through the existing arch under the railway. These discussions are well advanced, and a Basic Asset Protection Agreement is in the process of being finalised. In addition, Heads of Terms for the Option Agreement for an Easement have been issued by Network Rail.</p> <p>There are no proposals to drill under the West Glen River.</p>

Parties Raised	Sub-Theme	Issues Raised	Applicant's Response
		<p>both parties to ensure that a detailed proposal has been put forward. As this is yet to be actioned, there have been no necessary assessments completed by landowner of the railway.</p> <p>The same comments apply in relation to Route 2 and Route 3 as in relation to Route 1; namely that a detailed assessment is required and a BAPA needs to be entered into to enable the assessment to be carried out. In addition, these are classed as a high-risk railway option.</p> <p>The party notes that Route 1 is deemed to be considered a high railway risk option.</p>	
REP2-094	Technical clearances required for property rights to be granted	The Applicant has submitted a number of clearance applications. While the business clearances have been granted, the technical clearances have not and the Applicant has been asked for further information about the proposed cable routes in order to enable the technical clearance applications to be progressed.	<p>The Applicant submitted the clearance forms early in the process and has no control over the timings for obtaining clearances by Network Rail.</p> <p>The Applicant is only aware of a request made on 14 June 2023 for a copy of the Traffic Management Plan. Although this had already been submitted as part of the DCO application [APP-212] the Applicant provided this by return.</p> <p>The Applicant is unaware of any further information requests from Network Rail and understands that technical clearance is currently going through Network Rail's internal processes.</p>
REP2-057 REP2-138	Human rights infringement	The developer states in their DCO submission "The order has the potential to infringe the human rights of persons..." The residents of Essendine are fortunate to have laws in the UK that protect them from Human Rights infringements. Essendine Parish Council object in the strongest possible terms against any organisation that wishes to construct an industrial facility that will infringe human rights.	<p>The Applicant considers that there would be very significant public benefit arising from the making of the Order, a benefit that can only be realised if compulsory acquisition powers are granted. The purpose for which the land is sought (to construct, maintain and operate the Proposed Development) is legitimate and proportionate. The consideration of human rights is detailed in the Statement of Reasons [AS-009].</p> <p>Furthermore, it is noted that the Applicant has not proposed any compulsory acquisition powers over any residential properties and its impacts to the Parish Council's land are minimal as discussed above.</p>

Parties Raised	Sub-Theme	Issues Raised	Applicant's Response
REP2-070	Carrying out of undertakings	<p>In our Relevant Representation (10.1) we explained that we were making further enquiries regarding these plots of land where the applicant seeks possession and whether the powers sought would result in any detriment to the carrying out of our undertakings, particularly in relation to the operation of the Gwash-Glen water transfer scheme.</p>	<p>The Applicant has been in discussions with the Environment Agency. The Environment Agency are to confirm the easement rights for the Gwash-Glen water transfer pipeline that were applied when the existing Ryhall Substation was constructed that would enable it to continue to carry out its statutory undertakings. The Applicant explained the approach to the Green Infrastructure Strategy and the Design Guidance which is set out within the Design and Access Statement [REP2-018]. It was agreed between the Applicant and the EA that these matters would be addressed through a Statement of Common Ground.</p>
REP2-070	Access to boreholes	<p>Further investigations have revealed that the Environment Agency has had the benefit of a lease on plot 04-19 for the installation of, and access to, groundwater monitoring boreholes (details of which are provided in paragraph 4.1 above). Although these boreholes are not currently being used, we wish to maintain access to them should they be needed in future. We are aware that this land could be impacted by Works no 4, i.e. "works to lay electrical cables including electrical cables connecting Work No. 1 to Work No. 2". The applicant has advised us that as they do not yet have a detailed cable design, it is unknown what the impact on this land could be but assures us that our unrestricted access would remain, and we will seek to secure this through an appropriate mechanism during the Examination.</p> <p>Also seeking protection in respect of access for plots 2-136, 04-06, 04-17, 02-142 and 02-144 to ensure the Environment Agency is able to continue its statutory operations without hindrance.</p>	<p>The Applicant has been in discussion with the Environment Agency in relation to the boreholes. The Applicant confirmed that the design of the Proposed Development requires a minimum 10m offset from all existing hedgerows to the security fencing surrounding the PV Arrays. Therefore, there would always be a perimeter strip around every field, ensuring there is continuous access to the boreholes.</p> <p>The protective provisions will also ensure that the Environment Agency is provided with the required access to ensure it can continue its statutory operations without hinderance.</p>

Parties Raised	Sub-Theme	Issues Raised	Applicant's Response
REP2-070	Pumping main	<p>We will need to discuss the presence of this pumping main in relation to the proposed Works nos. 4, 5 and 7, which could take place on this land, together with appropriate provisions for its protection, with the applicant.</p> <p>The EA are of the view that any interference with the pumping main could cause serious detriment to the Environment Agency's ability to carry out its statutory undertakings in terms of managing water resources.</p>	<p>The Applicant is awaiting confirmation from the Environment Agency on easements are required to ensure that Work Nos. 4, 5 and 7 do not affect the pumping main. This will ensure that the Environment Agency can continue to carry out its statutory undertakings.</p>
REP2-151	Compulsory Acquisitions	<p>We now understand that compulsory acquisitions are sought when we were assured at initial meetings that this would not be the case.</p>	<p>Please see the response above. It was clear from the consultation stage that the Proposed Development would include compulsory purchase powers.</p> <p>We note that the Younger family are not listed within the Book of Reference (Rev 2) and therefore the Applicant cannot confirm what notices the Younger family have received in relation to the Proposed Development.</p>
REP2-234	Compulsory Acquisition	<p>The applicant is applying for powers to compulsorily purchase land from farmers. While some have agreed to lease their land, others have not and may not be able to do so due to an inappropriate amount of the project's business risk being passed on to landowners. By granting the applicant compulsory purchase powers, the Secretary of State will be authorising a foreign entity the power to take land owned by UK nationals in order to profit from other UK nationals.</p>	<p>The Applicant is Mallard Pass Solar Farm limited a company incorporated in England and Wales. The majority shareholder in the Applicant is CS UK Holdings III Limited, also a company incorporated in England and Wales. If the point being made by Mr Williams is that CS UK Holdings III Limited has shareholders which are not UK nationals then this is correct, but is also a very common occurrence in projects authorised through the development consent regime. The Applicant is unaware of any requirement that an Applicant must consist entirely of UK nationals. Please also the Applicant's responses on similar points in its 'Other Issues' thematic table.</p>