

**Application by Mallard Pass Solar Farm Limited for an Order Granting  
Development Consent for the Mallard Pass Solar Farm**

**Agenda for Compulsory Acquisition Hearing 1 (CAH1):  
Compulsory Acquisition and Temporary Possession Matters**

<b>Hearing</b>	<b>Date and Time</b>	<b>Location</b>
<b>Compulsory Acquisition Hearing 1 (CAH1)</b> Compulsory Acquisition (CA) and Temporary Possession (TP) Matters	<b>Friday 14 July 2023</b> <b>Hearing Starts at 10.00am</b> Registration and seating available at venue from 9:30am and virtual Registration Process from 9:30am	<b>KingsGate Conference Centre</b> <b>2 Staplee Way, Parnwell, Peterborough</b> <b>PE1 4YT</b> and By virtual means using Microsoft Teams

**Attendees**

All Affected Persons (AP) are invited to attend the CAH. Each AP is entitled to make oral representations at the Hearing, subject to the Examining Authority's (ExA) ability to control the Hearing.

The Examining Authority (ExA) would be assisted by attendance of representatives of the following parties:

- Applicant
- Individual APs – any APs who wish to discuss CA/TP matters
- Network Rail Infrastructure Limited
- Environment Agency
- Essendine Village Hall
- Mallard Pass Action Group

If you have not already confirmed your attendance, please do so as soon as possible by contacting the Case Team on 0303 444 555 or [MallardPassSolar@planninginspectorate.gov.uk](mailto:MallardPassSolar@planninginspectorate.gov.uk).

## **Agenda**

**1. Welcome, introductions, arrangements for the Hearing, including order in which representations will be heard.**

**2. Purpose of the Hearing**

**Session 1:**

**3. The Applicant's case for Compulsory Acquisition (CA) and Temporary Possession (TP)**

The ExA will ask the Applicant to present and justify its case for CA and TP briefly, including addressing the following matters:

a) Whether the purpose for which CA powers are sought would comply with s122(2) of PA2008.

b) Whether all reasonable alternatives to CA and TP have been explored. (The ExA requires a strategic overview here and will explore site-specific matters under Agenda items 5 or 6 below).

c) Summary of reasons why the CA and TP rights to be acquired, are necessary and proportionate, including the Applicant's strategy and criteria for determining whether to seek powers for CA of land, CA of rights or TP of land.

d) Having regard to section 122(3) of the PA 2008, whether there is a compelling case in the public interest for the land to be acquired compulsorily and that the public benefit would outweigh the private loss.

The ExA will seek views from IPs and APs present on the Applicant's case as presented.

**4. Draft Development Consent Order provisions**

a) Applicant to set out briefly which articles engage compulsory and temporary possession powers.

b) Article 22 (Compulsory acquisition of rights).

c) Article 23 (Private rights).

d) Article 26 (Statutory authority to override easements etc).

e) Articles 29/30 (Temporary use of land for constructing/maintaining the authorised development).

f) Any other matters relating to the articles.

## **5. Funding**

- a) Any updates to the Funding Statement.
- b) Whether adequate funding is likely to be available to enable the Compulsory Acquisition to proceed within the statutory period following (and in event of) the dDCO being made?

## **6. Human Rights and Public Sector Equality Duty**

- a) What regard has been had to Articles 8 and 6 of the European Convention on Human Rights (ECHR) and Article 1 of the First Protocol?
- b) The degree of importance attributed to the existing uses of the land proposed to be acquired.
- c) The weighing of any potential infringement of ECHR rights against the potential public benefits if the dDCO is made.
- d) Implications arising from the Public Sector Equality Duty.

## **Session 2**

### **7. Review of the Applicant's Schedule of Negotiations and Powers Sought and related matters [REP2-008]**

- a) Whether the updated Book of Reference is accurate and complete?
- b) The Applicant to summarise outstanding objections and progress with negotiations.
- c) The Applicant to update on cable crossing options of the East Coast Mainline Railway.

### **8. Site-specific representations from persons who may be affected by the compulsory acquisition provisions in the draft Development Consent Order (Affected Persons)**

- a) Submissions from Affected Persons who have notified a wish to make oral representations at this CAH1 and any section 102 or Category 3 persons wishing to make oral representations.
- b) The ExA will invite the Applicant to respond to each representation individually under this agenda item.

### **9. Site-specific matters for the Applicant**

The ExA will ask questions of the Applicant and seek updates about negotiations and matters arising from written and oral submissions, unless they have been raised by APs and heard under Agenda item 8, or objections have been withdrawn.

## **10. Statutory Undertakers**

a) The Applicant to set out the current position in relation to negotiations with Statutory Undertakers, including whether Protective Provisions have been agreed.

b) The Applicant to summarise on whether the relevant tests for the exercise of powers pursuant to s128 and s138 PA2008 would be met in the event that agreement is not reached with all Statutory Undertakers.

c) Submissions from Statutory Undertakers

## **11. Any other relevant matters**

## **12. Actions arising and next steps**

## **13. Closing**

### **Purpose of CAH1**

The main purpose of CAH1 is:

- To enable the ExA to inquire into the Applicant's case for CA of land or rights over land and /or to take TP of land;
- For the ExA to examine whether the relevant legal and policy tests applicable to CA and TP proposals have been met;
- To fulfil the ExA's duty to hear from any APs who request to be heard; and
- To address any related matters.

The agenda provided above is indicative and may be subject to change on the day. Documents within the Examination Library should be taken as read and need not be repeated in oral submissions, although signposting to key documents may assist.

The ExA recognises that other Hearings may contribute information and evidence which will be used in support of a recommendation in respect of Compulsory Acquisition.

### **Registration Process**

Parties who have registered to speak (both in person and virtually) will receive a Joining Instruction email shortly before the Hearing which will include a link to the virtual event on Microsoft Teams, and a telephone number should they need to participate by telephone. To enable the Hearing to start on time at **10.00am** those attending virtually should join promptly at **9.30am** to ensure that all virtual attendees can complete the Registration Process in good time.

The event will be livestreamed and a link for watching the livestream will be posted on the [project webpage](#) of the National Infrastructure Planning website closer to the Hearing date. IPs and members of the public who wish to observe the Hearing can

therefore view and listen to the Hearing using the livestream, or view and listen to the recording, after it has concluded.

### **Procedure at Compulsory Acquisition Hearings**

Participants may be legally represented if they wish, but the Hearing will be conducted to ensure that legal representation is not required. Guidance under the Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 provides that it is for the ExA to probe, test and assess the evidence through direct questions of persons making oral representations at Hearings. Questioning at the Hearing will be led by the ExA.

The Hearing will finish as soon as the ExA deems that all those persons present have had their say and that all matters have been covered. If there are additional matters to be dealt with, it may be necessary to defer some matters to written questions. The evidence presented orally at CAH1 should be included in post-Hearing submissions and submitted by **Deadline 4 (Tuesday 25 July 2023)**.