



Submission by Mallard Pass Action Group (MPAG)

– unique ID ref. 20036230

**Secretary of State**

**Request for Comment on Consultation 1**

Department for Energy Security and Net Zero  
3-8 Whitehall Place  
London  
SW1A 2AW

15<sup>th</sup> April 2024

Dear Sirs,

Thank you for the invitation to comment on the responses to the Secretary of State's recent consultation. Mallard Pass Action Group (MPAG) is a community group representing the views of residents across Rutland and Lincolnshire surrounding villages. We have worked alongside other stakeholder groups and elected organisations to ensure we can provide a representative and balanced view for all, drawing upon skills and resource not readily available to any one individual within the community.

## **1. Cabling Route**

1.1 It is of great concern but unsurprising to hear the cable routing decision is still unresolved with Network Rail. There have been successive delays ever since the second compulsory acquisition hearing on September 26<sup>th</sup>.

1.2 The Applicant was put under pressure by the ExA and other Interested Parties including MPAG during the second hearing to determine the cable routing to ensure absolute clarity in the dDCO was provided. Without this clarity it would not be clear exactly what the ExA or SoS would be assessing. The impacts that will be experienced by the local community and businesses would be materially different dependant on which cabling route was finally chosen.

1.3 The ExA requested to be kept up to date at every submission after the 2<sup>nd</sup> hearing (deadline 7,8, 8a, 9 and 10). At the final deadline 10 the Applicant stated "this has not happened by the end of Examination, but is anticipated to happen soon thereafter" (REP10-013). However, 5 months since the close of the Examination, the 'Option for Easement' agreement remains outstanding, once again the 'can is kicked down the road'.

1.4 MPAG, on behalf of the Essendine community, understood the Applicant was required to demonstrate the public benefits as a justification for any compulsory acquisition powers sought. This never took place through the public consultations, the first opportunity for residents to understand more about the cabling and compulsory acquisition was less than 1 week before the second hearing on 26<sup>th</sup> September. Understandably by that stage Essendine residents were very confused and angry the Applicant had not been more forthcoming and transparent with their communications. Compulsory acquisition is a complex subject that requires some explanation, spelling out in simple layman's terms not just in complex planning terminology, exactly what kind of powers the Applicant was seeking, the justification, and the likely impacts.

1.5 The cable routing is a critical aspect of the project. MPAG were shocked to hear the Applicant had only started talks and negotiations with Network Rail in August 2022. The launch of the proposed development happened in November 2021, it is not clear why the negotiations did not start earlier. It would have provided an opportunity to enter into far greater investigation of all the options eventually explored. It seems strange that other options were only unveiled and discounted following the second hearing and were not raised or even mentioned in the application documents. As it currently stands the

Applicant is trying to retain both options of the culvert and through Essendine in the dDCO, something the ExA was never comfortable with despite amendments the Applicant made to try and make the wording more acceptable.

1.6 Essendine is already at the epicentre of the proposed development with all the associated impacts. To impose compulsory acquisition rights over their sub-soil and consequent street works affecting access to their properties and possible disruption to other utility services for both local businesses and roadside residents, MPAG does not find acceptable. The Applicant cannot give 100% assurances that there will be access to their land or property at **all times**, only that they will do their best to retain access. In every outline management plan there always seems to be a caveat.

1.7 The Applicant says they are seeking to minimise compulsory acquisition powers, but the reality is more effort has been put into the Land Registry searches before the start of the application to compile the Land Plans (vs 1-4), Book of Reference (vs1-8) and Schedule of Negotiations and Powers sought (vs1-4), than to commencing and driving negotiations with Network Rail which started at a far later stage by their own admission. It draws into question what their objective and motivation actually is.

1.7.1 Limited revisions have been made to Land Plans, only removing some plot numbers down Pickworth Road off the A6121. Otherwise all plot numbers remain on both sides of the A6121 from just before Mallard Point vineyard, up to and past the entrance to Uffington Lane on the A6121.

1.7.2 The Applicant has made no effort to avert invoking compulsory acquisition of rights power over plots 02-30/31/32 and 33 which are located *past the junction to Uffington Lane* heading towards Ryhall, see Land Plans v4 (REP9-004). Despite challenges from MPAG that the cabling from the west section of the site could potentially run *closer* to the bridleway (*not under it* as they suggest we have requested) so that it comes out almost opposite the junction to Uffington Lane, negating the need to affect those 4 properties. Their response at deadline 9 (REP9-001) gives no satisfactory explanation why this cannot be explored further with more precise mapping.

1.7.3 Worryingly there are *no detailed plans* which show the full extent of the cabling across the entire Order Limits.

1.7.4 The CA Guidance Section 122 of the Planning Act 2008 clearly says: *"It should be demonstrated that the land is needed for the authorised development and that it is no more than is reasonably required for the Proposed Development. Any land that is incidental to or is required to facilitate the development should also be limited to that which is no more than reasonably necessary and it should be made clear to the decision maker that this is the case."* The Applicant has failed to demonstrate this.

1.8. By way of redress the Applicant was keen to showcase the introduction of a Customer Liaison Group (CLG). Whilst this would be a necessary management tool, it does not nullify the impacts of the compulsory acquisition powers or the development in its entirety. The CLG cannot be seen as a satisfactory mitigation for the application of these compulsory acquisition powers.

1.9 The Applicant also gave similar assurances at deadline 9 in the Schedule of Negotiation and Powers Sought V4 (REP9-011) with respect to other key agreements, potentially requiring CPO and CA powers, that they would be signed and agreed very shortly.

1.4.1 The Williams family, landowner for fields 1, 2, and 3, only 3 weeks ago had still not signed a lease agreement despite the Examination having ended 4 months ago at that point. This suggests the *'couple of minor outstanding points'* mentioned in the Applicant's D7 submission were evidently more complex or subject to question than the Applicant had suggested.

1.4.2 The Bradleys who own the land for the proposed sub-station were also outstanding at the end of the Examination. They were prepared to sell an area of land for the substation along with rights for a cable connection route, surely this is an agreement that should have been in place even before the Examination begun and certainly not outstanding at the end.

Is this piece of land in question, not only given its setting, but also because the Applicant has accepted they now need to do full density ALC sampling to correctly define the level of BMV that would be lost, rather than simply extrapolate it which is what they did in phase 2 sampling?

Whilst these examples do not relate to cabling options they do serve to demonstrate the constant delay and deliberation of key critical actions by the Applicant. Despite reaching the end of the Examination and the end of the ExA's recommendation phase, in the case of Williams such key agreements were not in place. This certainly raises more questions than provides answers in respect of the Applicant's ability to undertake this development.

1.10 MPAG provided a detailed explanation initially through our Written Representation (REP2-090) why the imposition of compulsory acquisition of rights powers were not justified, and were another reason why this particular development is unsuitable.

## **2.0 Highways Side Agreement**

2.1 In isolation the Applicant's response to your question about whether a side agreement had been reached would seem quite plausible, if not disappointing. However reading the responses from RCC in particular and LCC it seems all 3 parties are not aligned and yet again the expectation being offered by the Applicant is falling short.

2.2 The Applicant in their closing statement at deadline 10 (REP10-013) assured the ExA their aim was to *"update the Secretary of State that this has occurred prior to their decision on the Proposed Development"*. MPAG would suggest this should mean no later than the commencement of the SoS's decision-making process which started on 16<sup>th</sup> February. Yet 2 months into this final stage of the process, it is still outstanding and the Applicant is *"currently negotiating"*.

2.3 RCC are less optimistic about the outcome quoting in their recent response they *"anticipate that an agreement would not be likely to be completed within a period of two months without significant amendments made by the applicant"* indicating a number of *"fundamental issues"*. An undertaking was given by the Applicant during the Examination to finalise this, but it seems they are happy to move the goalposts yet again.

2.4 There also seems an inconsistency with respect the process of liaising with the 2 councils. The Applicant states *"The Applicant has been dealing directly with LCC on the basis that they are in a position to liaise with RCC on highways matters and that an agreement reached with LCC on highways matters should also be acceptable to RCC. RCC had previously indicated in meetings with the Applicant that they were happy for this to be the arrangement."* However according to recent feedback RCC has not

delegated this responsibility to LCC. Given 75% of the Order Limits is within Rutland, MPAG would expect RCC to have at least an equal voice in any agreement reached.

2.5 MPAG is hugely concerned about traffic issues on a number of grounds and does not feel a side agreement should be outstanding if consent were to be granted. Whilst MPAG is not party to the elements of this side agreement we do have lived real experience of the traffic and road issues in the area.

2.5.1 There is the likely cumulative impact of major housing developments (still under planning consideration with SKDC and RCC but likely to be approved to meet local targets) amounting to c2000 houses with construction traffic concentrated on accident prone areas of the A1, the crossroads at the T-junction in the village of Great Casterton (in very close proximity to 2 schools) and all across the local and minor road network to access the 8 construction compounds. The routing plans are unrealistic and unenforceable, driving traffic through local villages like Greatford with the consequent damage and noise.

2.5.2 There are a number of SSSI areas, particularly roadside verges, vulnerable to damage from both the construction phase and during operation with the subsequent replacement of panels as they will not last the full 60 years of the scheme.

2.5.3 Recent footage of the construction works of Cleve Hill (now renamed Project Fortress), an NSIP consented in 2020 in Kent, provide a shocking insight about what is written in the outline Management Plans and what actually happens in practice. It is for this reason MPAG would want the local authorities to have every power and access to the necessary resources they need to enforce the necessary controls over the Applicant and/ or whoever might own the development when construction starts.

See 'Cleve Hill Solar Park' You Tube from Nik Mitchell Wild  
<https://www.youtube.com/watch?v=lhkTGph-R2E> (hyperlink removed)





### 3.0 Great Crested Newts

3.1 The Applicant essentially blames Natural England for not issuing the necessary license, but as Natural England has not responded we have no evidence either way. There is nothing within the documents that suggest they have applied.

3.2 By virtue of the fact that the Applicant has only just added a paragraph in the final oCEMP v10 "*District Level Licenses (required for GCN) will be obtained prior to the commencement of construction and the successful obtaining of them will be confirmed in the detailed CEMP (s)*" indicates it is an outstanding matter.

3.3 Whether the Applicant has provided Natural England with sufficient detail to demonstrate how they will protect and handle the GCNs is also open to question. Certainly in the application documents and thereafter there was no real acknowledgement of GCNs present, despite the fact our resident ecologist regularly sees them in his pond less than 1 mile from the Order Limits. It is highly likely therefore there are more GCNs, but the original survey work was either mostly desk based or not conducted at the most appropriate time of year.

### 4.0 Community Benefit Fund (CBF)

4.1 MPAG was shocked and dismayed to see the Applicant introduce the subject of Community Benefit Fund in response to the SoS's consultation questions as it was not one of the questions.

4.2 By their own admission the Applicant says "*the matter of community benefit payments cannot be taken into account in the planning balance, as set out in case law*". We therefore request that this is discounted from the SoS's consideration in her decision-making process.

4.3 MPAG, who has been involved all the way through pre application and during the full Planning Inspectorate Examination, is not aware of any discussions with the *community* on this specific subject, noting the Applicant cites no document references.

4.4 The only instance MPAG is aware of is an approach direct to one of our MPs, Alicia Kearns, whereby it was reported and we quote *“deeply inappropriate approaches from those companies, asking me to drop my opposition in return for a school, a playground, a swimming pool or something I might like. They say that it has been done before”* Our MP, dumbfounded by this approach requested advice from the government. This is documented in Hansard: <https://hansard.parliament.uk/Commons/2023-06-22/debates/446B6033-BB52-42BB-A5C5-F13ECA52300B/BusinessOfTheHouse#contribution-A5D87116-C733-406B-B82A-A3169CD90E03>

4.5 The ideal opportunity for the Applicant to explore the reaction to a CBF would have been during the 2 pre application consultations, rather than the above approach. It is unclear why that did not happen and no offers were made. The reality is that the scale of opposition is so high, due to the immense negative impacts and harms of the proposed development, a CBF would not be seen as a ‘quid pro quo’. The numbers against this development speak for themselves:

- Unanimous vote from both SKDC and RCC planning committees to support the Planning Officers’ Local Impact Report findings and their overall conclusion not in support of the Proposed Development.
- Stage 1 consultation: 978 responses
- Stage 2 consultation: 1097 responses.
- Relevant Representation: 1206 registered as an Interested Party. 95.7% (1,154) were against it. This is the highest response of all NSIPs per MW.
- 15 Parish Councils registered their opposition through their Relevant Representation.
- 880+ followers on MPAG Facebook Group
- 940 people signed up for MPAG newsletter
- 3,414 people signed a ‘paper petition’ presented to the House of Commons on 20<sup>th</sup> March (an unprecedented high figure for a small rural community).

4.6 The CBF would in no way compensate for:

- The reductions residents would expect off their electricity bills each year
- The paltry amount offered when you consider the landowners would be receiving an average of £1000 per acre each year
- The price reductions to some properties that will be experienced (local estate agent quoting up to -30%) or the fact residents are unable to sell their property which has already been the case.
- The 29 residents in Greatford who had their houses flooded during Storm Henk and are facing an even worse prospect of flooding should Mallard Pass go ahead. Water run-off will be far faster off the panels, and on saturated ground it will speed up surface water flooding both off the land and into the River Glen which runs through the middle of the order limits. The mitigations suggested by the Applicant will not sufficiently protect Greatford and other flood risk areas across the site, the Environment Agency does not have the funds (£5-15m) to avert future flooding. How could any CBF scheme even begin to offset or compensate these residents in the future?





Storm Henk Greatford



Storm Henk – Greatford Main St

- The industrialisation of the landscape
- The affect on local community health and well-being
- The loss of productive agricultural land (in excess of 50% BMV) leading to higher imports and carbon footprint.

4.7 MPAG are aware that the government has conducted a recent consultation review of [‘Community Benefits for Electricity Transmisssion Network Infrastructure’](#) and published a response in November 2023.

- *“The intention of the guidance would be to give communities the knowledge, power and flexibility to decide what benefits they want in consultation with the project developer.”*



- *“Improving engagement within the planning process was raised by some respondents, including the importance of early engagement with communities to help build trust with developers.”*

This never happened with the Applicant.

The government response is clear in that *“The proposals on community benefits for electricity transmission network infrastructure discussed within this document will remain **separate** to the planning process. It will not be a material consideration in planning decisions, and not secured through those decisions”*. It may be subject to interpretation but it does not seem that the solar panel installation falls within the scope of this government consultation, just the network infrastructure of a transmission operator.

Given the whole subject is still under consideration by the government AND it is not currently a material planning matter, it should not be a consideration in the planning balance of the Mallard Pass Solar Plant application.

END.

Kind regards,

Mallard Pass Action Group (MPAG)