

Gate Burton Energy Park EN010131

Statement of Reasons

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Gate Burton Energy Park

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Gate Burton Energy Park Limited

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1. EXECUTIVE SUMMARY

1.1 Purpose and Structure of this Statement of Reasons

- 1.1.1 This Statement of Reasons relates to the Application for a development consent order made by Gate Burton Energy Park Limited (the Applicant) to the Secretary of State under the Planning Act 2008 for powers to construct, operate (including maintenance) and decommission the Scheme.
- 1.1.2 This Statement is required because the Application is seeking powers to:
- (a) acquire land compulsorily;
 - (b) create and compulsorily acquire new rights over land and impose restrictions; and
 - (c) extinguish or override existing rights over land.
- 1.1.3 The Applicant is also seeking powers to take temporary possession of land to construct the Scheme.
- 1.1.4 It is necessary for the decision-maker to be satisfied that there is a compelling case in the public interest for the inclusion of compulsory acquisition powers in the DCO. This Statement explains why it is necessary, proportionate and justifiable for the Application to seek powers of compulsory acquisition, and why there is a compelling case in the public interest for the Applicant to be granted these powers.
- 1.1.5 The matters addressed in this Statement are summarised in this section. References to numbered sections or paragraphs are to sections or paragraphs of this Statement. Terms used in this Executive Summary are defined in the main body of this Statement of Reasons.

1.2 Description of the Scheme (Section 3)

- 1.2.1 The Scheme will comprise the installation of solar photovoltaic (PV) generating panels and on-site energy storage facility together with grid connection infrastructure at a proposed site in Lincolnshire and Nottinghamshire. The Scheme lies within the administrative areas of Bassetlaw District Council and West Lindsey District Council, and at county level within

Nottinghamshire County Council and Lincolnshire County Council.

- 1.2.2 A DCO is required for the Scheme as it falls within the definition and thresholds for a NSIP under sections 14(1) and 15 of the 2008 Act. This is because it consists of a generating station in England which does not generate electricity from wind and has a gross electrical output capacity exceeding 50MW. The Scheme will be located within the 'Order limits' (as described below) and is the subject of the Application.
- 1.2.3 The Order limits comprises approximately 824 hectares (ha) of land and straddles the boundary between the counties of Nottinghamshire and Lincolnshire, within the districts of Bassetlaw and West Lindsey. The Scheme is described in Schedule 1 of the draft DCO **[EN010131/APP/6.1]**, where it is referred to as the "authorised development" and is divided into works packages. The works numbers for those packages are identified in this Statement and referred to throughout. The areas in which each component may be constructed are shown on the Work Plans **[EN010131/APP/5.2]**. Note that there is an overlap of Work Numbers in some locations and so the sum of the Order limits is not the total of these areas.
- 1.2.4 In addition, Schedule 1 to the Order authorises such other works or operations as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance of the Scheme but only within the Order limits and insofar as these works or operations are unlikely to give risk to any materially new or materially different environmental effects from those assessed in the Environmental Statement.
- 1.2.5 It is anticipated that construction will commence no earlier than the first quarter of 2025 and be completed within 24 months to 36 months, with operation therefore anticipated to commence around Q1 2028.

1.3 Description of the Order limits (Section 4)

- 1.3.1 The land within the Order limits totals approximately 824 ha and is located approximately 4 kilometres (km) south of Gainsborough. The Scheme spans two county districts: Lincolnshire and Nottinghamshire.

1.3.2 The Order limits comprise:

- (a) The Solar and Energy Storage Park Site – area within the Order limits for solar development, the on-site substation, the Battery Energy and Storage System (BESS) and associated infrastructure;
- (b) Grid Connection Corridor – area within the Order limits for the Grid Connection between the on-site Substation at the Solar and Energy Storage Park Site and the connection location at the Cottam National Grid Substation.
- (c) The Order limits is the area within which the Scheme may be carried out. This is split between approximately 652 ha for the Solar and Energy Storage Park and approximately 172 ha for the Grid Connection Corridor. The Order limits is shown on the Works Plans.

1.3.3 The powers in the Order enabling the acquisition of land, new rights over land and the imposition of restrictions over land and temporary use, relate to the Order land only, which is all the land within the Order limits, with the exception of one small area shown shaded white on the Land Plans.

1.4 Source and Scope of Powers Sought in the DCO (Section 5)

1.4.1 Section 120 of the PA 2008 provides that an order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development, which includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement.

1.4.2 Section 122 of the PA 2008 provides that an order granting development consent may include provisions authorising the compulsory acquisition of land only if the Secretary of State, in respect of the Application, is satisfied that the land is required for the development to which the DCO relates and the land is required to facilitate or is incidental to that development. The Secretary of State must also be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO.

- 1.4.3 The powers sought with the Application of the DCO are:
- (a) all interests in land, including freehold (Article 20 in the DCO) – shown edged red and shaded pink on the Land Plans;
 - (b) permanent acquisition of new rights (including restrictions) (Article 22 in the DCO) - shown edged red and shaded blue on the Land Plans;
 - (c) temporary use of land to permit construction or maintenance where the Applicant has not yet exercised powers of compulsory acquisition (Articles 29 and 30 in the DCO) – shown edged red and shaded green on the Land Plans;
 - (d) extinguishment and/or suspension of rights (Article 23 in the DCO) and overriding of easements and other rights (Article 26 in the DCO) – shown edged red on the Land Plans.
- 1.4.4 The Applicant considers that in the absence of these powers, the Order land may not be assembled, uncertainty will continue to prevail, and its objectives and Government policy objectives would not be achieved.
- 1.4.5 The Applicant has been seeking to acquire the relevant freehold interests, new rights and temporary use of land by private treaty, in order to ensure implementation of the Scheme. Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land, the rights and other interests in, on and over the land, the temporary use of land, as well as secure the removal of matters affecting the Order land that may impede the Scheme, by agreement wherever possible. This approach of seeking powers of compulsory acquisition in the Application for the DCO and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the Department for Communities and Local Government Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (2013) (the CA Guidance).
- 1.4.6 This Statement (alongside the Schedule of Negotiations and Powers Sought **[EN010131/APP/6.5]**) sets out the position in relation to the negotiations undertaken to date with affected owners. In summary, at the time of writing, agreements have been entered into for the majority of the land within the Solar and Energy Storage Park site and negotiations are ongoing with

landowners in relation to the remainder of the rights required in the Order land.

1.5 Purpose of the Powers (Section 6)

- 1.5.1 The meaningful and timely contributions offered by the Scheme to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, will be critical on the path to Net Zero. Without the Scheme, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.
- 1.5.2 In the absence of powers of compulsory acquisition, it might not be possible to assemble all of the land within the Order land, uncertainty will continue to prevail and the Applicant considers that its objectives and those of Government policy would not be achieved.

1.6 Justification for the Compulsory Acquisition Powers (Section 7)

- 1.6.1 Under section 122 of the PA 2008, compulsory acquisition powers may only be granted if the SoS is satisfied that the land is required for the Scheme (or is required to facilitate it or is incidental to it), and if there is a compelling case in the public interest for inclusion of the powers.
- 1.6.2 The CA Guidance related to procedures for the compulsory acquisition of land (DCLG, September 2013) also states that: there must be a clear idea how the land to be acquired is to be used and it must be no more than is reasonably required; there must be compelling evidence that the public benefits would outweigh the private loss from the acquisition; all reasonable alternatives to compulsory acquisition should have been explored; there are reasonable prospects of the required funds for the acquisition being available; and that the purposes for which the land is sought are legitimate and sufficient to justify interfering with the human rights of affected people.
- 1.6.3 This Statement, the Planning, Design and Access Statement **[EN010131/APP/2.2]** and the Explanatory Memorandum **[EN010131/APP/6.2]**, set out the factors that the Applicant considers demonstrate that the conditions in section 122 of the PA 2008, and the considerations set out in the CA Guidance, are satisfied (with the exception of the availability of funding, which

is demonstrated in the Funding Statement **[EN010131/APP/6.7]**).

- 1.6.4 In particular, those documents demonstrate that the Scheme would:
- (a) help meet the urgent need for new energy infrastructure in the UK, providing enhanced energy security and supporting UK Government priorities in relation to economic development and security of supply;
 - (b) deliver additional renewable energy capacity, supporting the achievement of the UK Government's climate change commitments and carbon budgets;
 - (c) minimise or mitigate adverse impacts to an acceptable degree; and
 - (d) comply with NPS EN-1, NPS EN-3, NPS EN-5, Draft NPS EN-1, Draft NPS EN-3 and Draft NPS EN-5 which are important and relevant factors under section 105 of the PA 2008.

1.7 Communications and Negotiations (Section 8)

- 1.7.1 In accordance with the requirements of the 2008 Act, the Applicant undertook "diligent inquiry" through a land referencing process to identify parties within Categories 1, 2 and 3, as defined in sections 42 and 44 of the 2008 Act. These include owners, lessees, tenants and occupiers of the land within the Order land. Category 2 includes parties that are interested in the land or have the power to sell, convey or release the land within the Order land. Category 3 includes parties that may be eligible to make a claim for compensation as a result of the construction or operation of the Scheme.
- 1.7.2 The current position in relation to the Applicant's engagement and negotiations with each landowner affected by the Scheme is explained in Appendix 2. Detailed discussions are ongoing with landowners and occupiers in order to ensure that their concerns are taken into account and accommodated wherever possible. Negotiations are continuing with landowners and persons with interests in land affected by the Scheme. The Applicant and its advisors have been liaising with statutory undertakers whose apparatus may be affected by the Scheme.

1.8 Human Rights (Section 9)

- 1.8.1 Article 1 of the First Protocol to the European Convention on Human Rights (ECHR) and Article 8 of the ECHR have been considered in respect of the proposals for the Scheme. The DCO has the potential to infringe the human rights of persons who own property or have rights in the land proposed to be acquired pursuant to the DCO.
- 1.8.2 The Applicant considers that there would be very significant public benefit arising from the making of the DCO, a benefit that can only be realised if compulsory acquisition powers are granted. The purpose for which the land is sought (to build and operate the Scheme) is legitimate, necessary and proportionate.

1.9 Special Considerations (Section 10)

- 1.9.1 There is no special category land within or affected by the Order limits.
- 1.9.2 There is apparatus of statutory undertakers within the Order limits. The Applicant has included protective provisions within the Order and is seeking to agree these with each statutory undertaker whose apparatus would be affected by the Scheme.

1.10 Related Applications and Consents (Section 11)

- 1.10.1 The Applicant requires or may require various other consents, as well as a DCO, in order to build and operate the Scheme. The Consents and Agreements Position Statement **[EN010131/APP/6.3]** sets out the additional consents required and when they will be applied for. The Applicant is not aware of any reason why these and other consents required would not be granted and therefore does not consider that they represent an impediment to the Scheme proceeding.

1.11 Further Information (Section 12)

- 1.11.1 Where powers of compulsory acquisition are exercised, owners of the relevant land or rights in land may be entitled to compensation under the Compensation Code, where a valid claim is made out. Any dispute in respect of the compensation payable would be referred to and determined by the Lands Chamber of the Upper Tribunal.

- 1.11.2 Owners and occupiers of property affected by the Scheme who wish to discuss matters of compensation should contact Ian Cunliffe by email ian.cunliffe@gateleyhamer.com.
- 1.11.3 Provision is made by statute for compensation for the compulsory acquisition of land. Helpful information is given in the series of booklets published by the Department for Communities and Local Government entitled "Compulsory Purchase and Compensation". Copies of these booklets are obtainable, free of charge, from:
<https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>.

1.12 Conclusion

- 1.12.1 The power to acquire the Order land or rights over the Order land and the power to impose restrictions and make temporary use of land are required for the purposes of, to facilitate or are incidental to, the Scheme and are no more than are reasonably necessary. Furthermore, there is a compelling case in the public interest for the powers to be granted.

2. INTRODUCTION

2.1.1 This Statement of Reasons has been prepared by Gate Burton Energy Park Limited (the Applicant). It forms part of the application (the Application) for a development consent order (DCO) that has been submitted to the Secretary of State for Business, Energy and Industrial Strategy (the SoS) under section 37 of the Planning Act 2008 (PA 2008). Terms used in this Statement of Reasons are defined in Chapter 0: Chapter 0 - Table of Contents, Glossary and Abbreviations of the Environmental Statement [EN010131/APP/3.1].

2.2 The Scheme

2.2.1 Gate Burton Energy Park (the Scheme) is a proposed solar farm with energy storage which will generate and store renewable electricity for export to the National Grid.

2.2.2 The Scheme will comprise the installation of solar photovoltaic (PV) generating panels and on-site energy storage facility together with grid connection infrastructure at a proposed site in Lincolnshire and Nottinghamshire. The Scheme lies within the administrative areas of Bassetlaw District Council and West Lindsey District Council, and at county level within Nottinghamshire County Council and Lincolnshire County Council.

2.2.3 The Scheme qualifies as a Nationally Significant Infrastructure Scheme (NSIP) and will require a DCO to be granted from the SoS, due to its generating capacity exceeding 50 MW.

2.2.4 Full details of the Scheme, including the proposed construction methods and phasing, can be found in Chapter 2: The Scheme of the Environmental Statement [EN010131/APP/3.1] accompanying the Application.

2.3 The Applicant

2.3.1 The Applicant (Gate Burton Energy Park Limited, company number 12660764) is registered in England and Wales. The sole shareholder of the Applicant is Low Carbon UK Solar Investment Company Limited, a company registered in England and Wales under company number 11202297 ("Low Carbon Investment"). Low Carbon Investment is an indirect subsidiary of Low Carbon Limited (company number 13356797) ("**Low Carbon**").

- 2.3.2 Low Carbon is a privately-owned UK investment and asset management company with over a decade of experience. Low Carbon have an extensive background in the development of renewable energy parks in the UK and abroad, and target investments in solar, onshore wind, offshore wind, waste-to-energy, battery storage and other proven renewable energy technologies.
- 2.3.3 The Low Carbon investment model has enabled the deployment of more than £600 million in capital into renewable infrastructure with more than 1GW already developed. Its proprietary renewable energy pipeline currently stands at more than 5GW, ideally positioning Low Carbon to capitalise on investment opportunities as the need for green power and energy security increases. Low Carbon's investments are generating sufficient clean energy to power more than 390,000 homes, saving in excess of 750,000 tonnes of CO₂ each year¹.
- 2.3.4 Further details about the Applicant can be found in the Funding Statement [EN010131/APP/6.7].

2.4 The Purpose and Structure of this Document

- 2.4.1 This Statement has been produced pursuant to Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (the APFP Regulations) and the Department of Communities and Local Government guidance 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (September 2013) (the CA Guidance) and the Guidance on Compulsory purchase process and the Crichel Down Rules (updated 16 July 2019).
- 2.4.2 This Statement is required because the DCO sought for the Scheme would authorise the compulsory acquisition of land or interests in land.
- 2.4.3 This Statement explains why it is necessary to acquire land, acquire and/or create rights and impose restrictions over land, override, suspend or extinguish rights over land and to temporarily use land for the purposes of the Scheme, if necessary, by compulsion. It also explains the reasons for the inclusion of compulsory acquisition and related powers in the draft DCO and sets out why there is a clear and compelling case

¹ Low Carbon internal calculations using OFGEM Typical Domestic Consumption Values and BEIS Carbon Conversion Factors

in the public interest, in accordance with section 122 of the PA 2008, for the DCO to include such powers.

2.4.4 The structure of this Statement is set out below and also addresses each of the requirements of the relevant guidance referred to above:

- (a) An introduction to the Applicant is contained in section 2.3;
- (b) A description of the Scheme is set out in section 3;
- (c) A description of the Order limits, its location, and present use is contained in section 4;
- (d) The legislation relied on and scope of powers sought are set out in section 5;
- (e) The purpose of the powers including the need for the Scheme and policy support is set out in section 6;
- (f) A statement of the justification for compulsory acquisition including reference to funding is included in section 7;
- (g) How the Applicant has sought to engage with landowners and negotiate to acquire the relevant land by agreement is included in section 8;
- (h) How regard has been given to the human rights legislation relevant to the determination of the Application is included in section 9;
- (i) Any special considerations affecting the Order limits including Special Category Land is included in section 10;
- (j) Details of the other consents needed before the Scheme can be implemented are included in section 11;
- (k) Any other information which would be of interest to someone affected by the Scheme, such as, telephone number and email address where further information on these matters can be obtained, is included in section 12.

2.5 Useful documents

2.5.1 This Statement is one of a number of documents accompanying the Application submitted to the SoS. It should be read in

conjunction with the rest of the documents comprising the Application, particularly the following –

- (a) Land Plans [\[EN010131/APP/5.6\]](#) [\[AS-010\]](#) and [\[AS-010\]](#);
- (b) Crown Land Plans [\[EN010131/APP/5.7\]](#) [\[APP-214\]](#);
- (c) Works Plans [\[EN010131/APP/5.2\]](#) [\[AS-004\]](#) and [\[AS-005\]](#);
- (d) Draft Development Consent Order [\[EN010131/APP/6.1\]](#) [\[REP2-027\]](#);
- (e) Draft Explanatory Memorandum [\[EN010131/APP/6.2\]](#) [\[REP2-029\]](#);
- (f) Consents and Agreements Position Statement [\[EN010131/APP/6.3\]](#) [\[REP2-022\]](#);
- (g) A Funding Statement [\[EN010131/APP/6.7\]](#) [\[APP-221\]](#);
- (h) Book of Reference [\[EN010131/APP/6.6\]](#) [\[AS-012\]](#);
- (i) Schedule of Negotiations and Powers Sought [\[EN010131/APP/6.5\]](#) [\[REP2-031\]](#);
- (j) Statement of Need [\[EN010131/APP/2.1\]](#) [\[APP-004\]](#); and
- (k) Planning, Design and Access Statement [\[EN010131/APP/2.2\]](#) [\[REP2-004\]](#) and [\[REP2-006\]](#)

3. DESCRIPTION OF THE SCHEME

- 3.1.1 Gate Burton Energy Park (the Scheme) will comprise the installation of solar photovoltaic (PV) generating panels and on-site energy storage facility together with grid connection infrastructure at a proposed site in Lincolnshire and Nottinghamshire. The Scheme will be located within the ‘Order limits’ (as described below) and is the subject of the Application.
- 3.1.2 The Scheme qualifies as a Nationally Significant Infrastructure Scheme (NSIP) and will require a DCO to be granted from the SoS, due to its generating capacity exceeding 50 MW.
- 3.1.3 The Order limits comprises a total area of 824 ha and includes the following key components. The Scheme is also described in Schedule 1 of the draft Proposed DCO [\[EN010131/APP/6.1\]](#)

where it is defined as the “authorised development” and is divided into works packages alongside the corresponding works numbers.

3.2 Works Packages

3.2.1 A detailed description of the Scheme can be found in Chapter 2: The Scheme of the Environmental Statement [EN010131/APP/3.1]. It comprises a generating station of more than 50MW, being the NSIP, and is described in Work No. 1 in Schedule 1 to the Order. The Scheme also includes Associated Development, which comprises Work Nos. 2 to 9 in Schedule 1 to the Order.

Work No. 1 – a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including –

- (a) solar panels fitted to mounting structures; and
- (b) balance of solar system (BoSS) plant.

Work No 2: a BESS compound including–

- (i) battery energy storage system (BESS) units each comprising an enclosure for BESS electro-chemical components and associated equipment, with the enclosure being of metal façade, joined or close coupled to each other, mounted on a reinforced concrete foundation slab or concrete piles;
- (ii) transformers and associated bunding;
- (iii) inverters, switch gear, power conversion systems (PCS) and ancillary equipment;
- (iv) containers or enclosures housing all or any of Work Nos. 2(ii) and (iii) and ancillary equipment;
- (v) monitoring and control systems housed within the containers or enclosures comprised in Work Nos. 2(i) or (iv) or located separately in its own container or enclosure;
- (vi) heating, ventilation and air conditioning (HVAC) systems either housed on or within each of the containers or enclosures comprised in Work

Nos. 2(i), (iv) and (v), attached to the side or top of each of the containers or enclosures, or located separate to but near to each of the containers or enclosures;

- (vii) electrical cables including electrical cables connecting to Work No. 3;
- (viii) fire safety infrastructure including water storage tanks and a shut-off valve for containment of fire water and hard standing to accommodate emergency vehicles; and
- (ix) containers or similar structures to house spare parts and materials required for the day to day operation of the BESS facility.

3.2.2 **Work No 3:** development of an onsite substation and associated works including:

- (i) substation, switch room buildings and ancillary equipment including reactive power units;
- (ii) monitoring and control systems for this Work No. 3 and Work Nos. 1 and 2 housed within a control building or located separately in their own containers or control rooms; and
- (iii) 400 kilovolt harmonic filter compound.

3.2.3 **Work No 4:** works to lay high voltage electrical cables, access and construction compounds for the electrical cables including–

(a) **Work No 4A:**

- (i) one 400 kilovolt cable circuit connecting Work No. 3 and/or Work No. 5 to Work No. 4B including tunnelling, boring and drilling works for trenchless crossings;
- (ii) laying down of internal access tracks, ramps, means of access, footpaths, crossing of watercourses, roads, including the laying and construction of drainage infrastructure, signage and information boards; and
- (iii) construction compounds, including site and welfare offices and areas to store materials and equipment;

- (b) **Work No 4B:**
 - (i) one 400 kilovolt cable circuit connecting Work No. 4A to Work No. 4C including tunnelling, boring and drilling works for trenchless crossings;
 - (ii) laying down of internal access tracks, ramps, means of access, footpaths, crossing of watercourses, roads, including the laying and construction of drainage infrastructure, signage and information boards; and
 - (iii) construction compounds, including site and welfare offices and areas to store materials and equipment;
- (c) **Work No 4C:** electrical engineering works within or around the National Grid Cottam substation including:
 - (i) the laying and terminating of one 400 kilovolt cable circuit;
 - (ii) the installation of one 400 kilovolt generation bay; and
 - (iii) ancillary equipment.

3.2.4 **Work No 5:** works including electrical cables, including but not limited to electrical cables connecting Works 1, 2 and 3 to one another and connecting solar panels to one another and the BoSS; fencing, gates, boundary treatment and other means of enclosure; works for the provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing; landscaping and biodiversity mitigation and enhancement measures including planting; improvement, maintenance and use of existing private tracks; laying down of internal access tracks, ramps, means of access, footpaths, crossing of watercourses, and roads, including the laying and construction of drainage infrastructure, permissive paths, signage and information boards; earthworks; sustainable drainage system ponds, runoff outfalls, general drainage and irrigation infrastructure, systems and improvements or extensions to existing drainage and irrigation systems; construction compounds, including site and welfare offices and areas to store materials and equipment; works to divert and underground existing electrical overhead lines.

- 3.2.5 **Work No 6:** construction compounds including areas of hardstanding, car parking, site and welfare offices, canteens and workshops, area to store materials and equipment, storage and waste skips, area for download and turning, security infrastructure, including cameras, perimeter fencing and lighting, site drainage and waste management infrastructure (including sewerage), and electricity, water, waste water and telecommunications connections.
- 3.2.6 **Work No 7:** office, warehouse and plant storage building comprising, offices and welfare facilities, storage facilities, waste storage within a fenced compound, parking areas, and a warehouse building for the storage of spare parts, operational plant and vehicles.
- 3.2.7 **Work No 8:** works to facilitate access to Work Nos. 1 to 9 including creation of accesses from the public highway, creation of visibility splays, and works to widen and surface the public highway and private means of access.
- 3.2.8 **Work No 9:** areas of habitat management including landscape and biodiversity enhancement measures, habitat creation and management, including earthworks, landscaping, and the laying and construction of drainage infrastructure, laying down of permissive paths, signage and information boards, and fencing, gates, boundary treatment and other means of enclosure.
- 3.2.9 In addition, Schedule 1 to the Order authorises such other works or operations as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance of the Scheme but only within the Order limits and insofar as these works or operations are unlikely to give risk to any materially new or materially different environmental effects from those assessed in the Environmental Statement.

3.3 Proposed Timing of Construction

- 3.3.1 Subject to being granted consent and following a final investment decision, the earliest the construction of the Scheme could start is Q1 2025 and construction will require an estimated 24 to 36 months, with operation therefore anticipated to commence around Q1 2028.
- 3.3.2 Full details of the proposed construction of the Scheme, including the proposed construction methods and phasing, can be found in Chapter 2: The Scheme of the ES **[EN010131/APP/3.1]** and the Framework Construction Environmental Management Plan

(Framework CEMP) **[EN010131/APP/7.3]** accompanying the Application.

3.4 Flexibility

- 3.4.1 The Applicant has undertaken extensive studies and assessments in order to obtain as much certainty as possible, however, a number of elements of detailed design for the Scheme cannot be confirmed until the tendering process for the design and construction of the Scheme has been completed. For example, due to the rapid pace of technological development in the solar photovoltaic (PV) and energy storage industry, the Scheme could utilise technology which does not currently exist and therefore sufficient flexibility needs to be incorporated into the Application.
- 3.4.2 To address this, a 'Rochdale Envelope' approach is used, this is set out in more detail in Chapter 5: Environmental Impact Assessment Methodology of the Environmental Statement **[EN010131/APP/3.1]**. This involves assessing the maximum (and where relevant, the minimum) parameters for the Scheme where flexibility needs to be retained. The principles and justification for this approach are set out in section 5.2 of Chapter 5 of this ES, and the maximum (and minimum) parameters assessed as part of the Rochdale Envelope form the Design Principles set out in the Outline Design Principles **[EN010131/APP/2.3]**. The DCO includes a requirement that detailed design of the Scheme must be in accordance with the Outline Design Principles **[EN010131/APP/2.3]**.
- 3.4.3 This flexibility is essential to ensure the successful delivery of the Scheme.

4. DESCRIPTION OF THE ORDER LIMITS

- 4.1.1 The land within the Order limits required to construct, operate and maintain the Scheme is shown on the Location Plan **[EN010131/APP/5.1]** and totals 824 ha which is located within the administrative areas of Lincolnshire County Council and Nottinghamshire County Council. The Order limits is located:
- 4.1.2 The Solar and Energy Storage Park Site is located approximately:
- (a) 50m to the west of Gate Burton;

- (b) 200m to the west of Knaith;
 - (c) 500m to the south west of Marton;
 - (d) 700m to the east of Willingham by Stow; and
 - (e) 1.8km to the east of Kexby.
- 4.1.3 The Grid Connection Corridor is located to the immediate south and east of Marton, 400m to the north of Brampton in Lincolnshire, then 50m to the north of Cottam and 300m east of Rampton to connect with Cottam Power Station in Nottinghamshire.
- 4.1.4 The land within the Order limits is not covered by any statutory landscape designations (i.e. National Parks, or Areas of Outstanding Natural Beauty (AONB)).

5. SOURCE AND SCOPE OF POWERS SOUGHT IN THE DCO

5.1 Introduction

- 5.1.1 The draft Proposed DCO **[EN010131/APP/6.1]** contains powers to enable the acquisition of land, new rights over land and the imposition of restrictions that are required to construct, operate and maintain the Scheme. In addition, it contains powers sought for the possession and use of land on a temporary basis to facilitate the construction of the Scheme. Where the necessary land and rights over land cannot be acquired by agreement with the requisite landowners and occupiers, the draft DCO enables the acquisition of land and rights. These powers in the draft DCO relate to the Order land only, which is all the land within the Order limits with the exception of one small area of land which is shown shaded white on the Land Plans.
- 5.1.2 The Applicant has been seeking to acquire the relevant freehold interests and other rights over land required by agreement, in order to allow for the construction, operation and decommissioning of the Scheme. Discussions with the relevant landowners are ongoing, with voluntary agreements secured for all land for solar PV panels (Work No. 1) at the point of DCO application, and good progress made in relation to the remainder of the Order land (see Schedule of Negotiations and Powers Sought **[EN010131/APP/6.5]**). The Applicant will continue to endeavour to acquire the land, rights and other interests by

agreement wherever possible. This approach of making the application for powers of compulsory acquisition in the Application and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the Guidance.

- 5.1.3 Notwithstanding where an 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 contracts are not adhered to or otherwise is set aside, for example: (i) 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; or (ii) the contracting party dies, is subject to divorce proceedings, or is declared insolvent. In those circumstances, it would be in the public interest for the Scheme to proceed and the interests in question effectively converted into a claim for compensation. 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.
- 5.1.4 There are a number of plots within the Land plans **[EN010131/APP/5.6]** which are not registered at Land Registry. Following diligent inquiry, ownership of a number of these plots has been established, however, there are interests identified in the Book of Reference **[EN010131/APP/6.6]** where it has not been possible to identify ownership. The statement “Unknown” is given in the Book of Reference **[EN010131/APP/6.6]** when diligent inquiry has been carried out and it has still not been possible to obtain information. The Applicant has carried out searches and enquiries with the Land Registry, site visits and notices have been and will be erected on site to seek to identify unknown landowners or persons with an interest in the land.
- 5.1.5 The compulsory purchase powers in the DCO will enable the Applicant to protect the Scheme, to mitigate impacts of the Scheme where necessary, and to ensure that access could be taken as necessary to facilitate the construction, operation and maintenance of the Scheme.

5.2 Enabling Powers

- 5.2.1 Section 120(3) of the PA 2008 provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development. These include (amongst others):

- (a) the acquisition of land, compulsorily or by agreement (paragraph 1);
- (b) the creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement (paragraph 2);
- (c) the abrogation or modification of agreements relating to land (paragraph 3); and
- (d) the payment of compensation (paragraph 36).

5.2.2 Section 122 of the PA 2008 provides that a DCO may only include provision authorising the compulsory acquisition of land if the SoS is satisfied that the land is:

- (a) required for the development to which the DCO relates;
- (b) required to facilitate or is incidental to that development; or
- (c) replacement land for commons, open spaces, etc.

5.2.3 Further, it is also necessary for the SoS to be satisfied, in relation to the Application, that there is a compelling case in the public interest for the land to be acquired compulsorily. This is required by Section 122(3) of the PA 2008.

5.2.4 This Statement provides the information that will enable the SoS to comply with sections 120 and 122 of the PA 2008.

5.3 Permanent Acquisition

5.3.1 The areas of the Order land over which compulsory acquisition powers are sought in respect of all interests (including freehold) are shown edged red and shaded pink on the Land Plans **[EN010131/APP/5.6]**. This land is described in more detail in the Book of Reference **[EN010131/APP/6.6]**.

5.3.2 In summary, the areas in which freehold acquisition is sought are for the Solar and Energy Storage Park Site for the solar PV panels, on-site substation and BESS plus other associated development such as cabling. The Applicant has only included powers to compulsorily acquire the freehold interest in land where other powers (such as to acquire new rights or take temporary possession) would not be sufficient or appropriate to

enable the construction, operation or maintenance of the Scheme.

- 5.3.3 Article 20 of the DCO is relied upon for this purpose. The article reflects the terms of the source of the compulsory acquisition powers in section 122 of the 2008 Act, would provide the Applicant with the power to acquire so much of the Order land as is required for the Scheme, or such land as is required because it facilitates or is incidental to that development.

5.4 Temporary Use

- 5.4.1 There will be situations where it will not be necessary for the Applicant to permanently acquire rights and interests, but instead be authorised to temporarily possess and use land. The land over which rights of temporary possession only are sought is shown edged red and shaded green on the Land Plans **[EN010131/APP/5.6]**. The Applicant is also seeking temporary use powers over all other land within the Order land, in order to allow it to take temporary possession ahead of acquiring land or rights permanently (see further explanation below). This land is described in more detail in the Book of Reference **[EN010131/APP/6.6]**.
- 5.4.2 The reason for seeking temporary use powers over all other land within the Order land 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 construct, operate and maintain the Scheme, because, for example, the Applicant could exercise the temporary possession powers to undertake site investigation works to inform and minimise the land within the Grid Connection Corridor over which permanent rights are needed.
- 5.4.3 Articles 29 and 30 of the DCO are relied upon in respect of all land within the Order land. Article 30 allows temporary possession of land for the purposes of maintaining the Scheme. As noted above, Article 29 permits temporary use in two ways in connection with the construction of the Scheme:
- (a) Firstly, the land identified in Schedule 12 to the Order may only be temporarily possessed (i.e. the Applicant cannot acquire the land nor new rights over it), and possession can only be taken for the purposes set out in that Schedule for the particular plot. In summary, these are plots 4/2, 12/10, 12/11, 12/12, and 15/7. These

areas are shown shaded green on the Land Plans **[EN010131/APP/5.6]**; and

- (b) Secondly, Article 29 permits the Applicant to take temporary possession of any other part of the Order land where it has not yet exercised powers of compulsory acquisition – this will allow the Applicant (for instance) to initially take temporary possession of the whole width of corridors required for the Grid Connection Corridor. Once the Applicant has carried out detailed surveys and installed the relevant apparatus (such as pipes or cable), the Applicant can then acquire new rights (pursuant to the powers set out above) 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.

5.4.4 The Schedule of Negotiations and Powers Sought **[EN010131/APP/6.5]** sets out the latest position in relation to negotiation of voluntary agreements with landowners. As part of these negotiations landowners have been made aware that the DCO will seek temporary possession rights over all of their land included within the Order land.

5.4.5 Under Article 30, the Applicant is entitled to occupy the land for as long as necessary to carry out the relevant maintenance works. The Applicant must give the landowner and any occupier not less than 28 days' notice and on completion of the maintenance works must remove all temporary works and restore the land to the satisfaction of the landowner.

5.5 Other Rights and Powers

5.5.1 The land over which compulsory acquisition powers are sought for rights and the creation of new rights (including imposing restrictive covenants) is shown edged red and shaded blue on the Land Plans **[EN010131/APP/5.6]**. This land is described in more detail in the Book of Reference **[EN010131/APP/6.6]**. Article 22 of the DCO is relied upon in respect of new rights. The new rights are set out in Schedule 10 to the DCO and include access rights, cable rights and substation connection rights.

- 5.5.2 In addition, the Applicant has included powers to ensure that easements and other private rights identified as affecting the land are extinguished or suspended, so as to facilitate the construction and operation of the Scheme without hindrance. Furthermore, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be extinguished in order to facilitate the construction and operation of the Scheme. Articles 23 and 26 of the DCO are relied upon in respect of this land and apply in relation to all of the Order land (that is, all land edged red on the Land Plans [EN010131/APP/5.6]). With respect to land shaded green, in respect of which temporary possession only is sought, Article 23(3) makes clear that any private rights or restrictive covenants are only suspended for the period in which the Applicant is in lawful possession of the land (i.e. they would only be suspended temporarily).
- 5.5.3 The Order contains the following additional powers which may constitute an interference with land and/or rights over land and as such are captured in the Book of Reference [EN010131/APP/6.6]:
- (a) **Article 8** – Street works: this article would confer authority on the Applicant to interfere with and execute works in or under any streets for the purposes of the authorised development;
 - (b) **Article 11** – Temporary stopping up of public rights of way: this article permits the Applicant to temporarily stop up, alter, divert or restrict the use of public rights of way for the purposes of the development, whilst ensuring that pedestrian access is maintained;
 - (c) **Article 12** – Use of private roads: this article enables the Applicant to use any private road within the Order limits during construction or maintenance of the authorised development;
 - (d) **Article 13** – Access to works: this article allows works accesses to public highways to be created. It gives the Applicant a general power to form means of access;
 - (e) **Article 16** – Discharge of water: this article sets out the circumstances in which the Applicant is entitled to discharge water into a sewer, watercourse or drain, and its purpose is to establish statutory authority for doing so;

- (f) **Article 18** – Protective works to buildings: this article provides a power to monitor certain buildings and structures (included within the Order limits) for the effects of ground movement relating to settlement arising from the construction of the authorised works; and to carry out protective works where necessary to mitigate the effects of such settlement. This power applies throughout the Order limits;
- (g) **Article 19** - Authority to survey and investigate the land: this article gives the Applicant the power to enter certain land for the purpose of surveying and testing. It provides that the Applicant must give 14 days' notice before exercising the powers of entry, and that compensation is payable for any loss or damage caused;
- (h) **Article 26** – Statutory authority to override easements and other rights: this article permits the Applicant to override easements and other rights such that land vested in the Applicant would be discharged from all rights, trusts and incidents to which it was previously subject at the point of vesting, together with the benefit of restrictive covenants and instances where land subject to third party rights is acquired by agreement rather than through compulsory acquisition;
- (i) **Article 38** – Felling or lopping of trees and removal of hedgerows: this article would permit any tree or shrub that is near the Scheme to be felled or lopped, or have its roots cut back by the Applicant if it is considered to obstruct the construction, operation or maintenance of the Scheme or endanger anyone using it. Compensation is payable for any loss or damage caused; and
- (j) **Article 48** – Incorporation of the minerals code: incorporates Parts 2 d 3 of Schedule 2 to the Acquisition of Land Act 1981. It has been included within the Draft DCO as mineral rights have been identified within the Order land and the mineral code provides a statutory process for dealing with the purchase of and compensation for minerals.

All the above-mentioned articles in the Draft DCO, which would provide powers enabling the Applicant to acquire land permanently or to use land temporarily, are required to enable the construction, operation, maintenance and decommissioning of the Scheme.

6. PURPOSE OF THE POWERS

6.1 The Need for the Scheme

- 6.1.1 The Statement of Need [EN010131/APP/2.1] sets out the need for the Scheme. A summary of the need for the Scheme is set out below.
- 6.1.2 Decarbonisation is a UK legal requirement and is of global significance. It cannot be allowed to fail, and urgent actions are required in the UK and abroad, to keep decarbonisation on track to limit global warming;
- (a) Large-scale solar generation is essential to support urgent decarbonisation of the GB electricity sector. Large-scale solar is important not only to reduce power-related emissions, but also to provide a timely next step contribution to a future generation portfolio which is capable of supporting the electrification and therefore decarbonisation of transport, heat and industrial demand;
 - (b) As part of a diverse generation mix, solar generation contributes to improve the stability of capacity utilisations among renewable generators and when developed alongside other renewable technologies, large-scale solar will help to smooth out seasonal variations in total GB renewable generation, more closely matching anticipated seasonal levels of demand;
 - (c) Other conventional low-carbon generation (e.g. tidal, nuclear or conventional carbon with CCUS) remain important contributors to achieving the 2050 Net Zero obligation, but their contributions in the important 2020s will be very low;
 - (d) By being connected at the transmission system level, large-scale solar generation can and will play an important role in the resilience of the GB electricity system from an adequacy and system operation perspective;
 - (e) Large-scale solar generation also supports security of supply by helping reduce the national dependency on imported hydrocarbon source fuels, e.g. coal and gas;

- (f) The cost of solar generation is already super-competitive against the cost of other forms of conventional and low-carbon generation, both in GB and more widely;
- (g) Internationally, and importantly for GB in this regard, is the ongoing trend of solar generation assets becoming larger and more affordable, each subsequent project providing a real-life demonstration that solar schemes of similar size and scale as the Scheme can be developed in GB. The development of such schemes will provide decarbonisation benefits and commercial benefits to consumers;
- (h) Single large-scale solar schemes deliver more quickly and at a lower unit cost than multiple independent schemes which make up the same total capacity, bringing forward carbon reduction and more affordable electricity in line with government policy.

6.1.3 These general benefits of solar generation in GB also apply specifically to the Scheme:

- (a) The Scheme is a substantial infrastructure asset, capable of delivering large amounts of low-carbon electricity to local and national networks. The Scheme, along with other solar schemes, is of critical importance on the path to Net Zero, with NGEN scenarios predicting the need for 25-40GW of operational solar capacity in GB by 2030. The need for solar is further established given the context of the Climate Change Committee's recent identification of the need for urgent action to increase the pace of decarbonisation in the GB electricity sector, and government's adoption of their recommendations for the Sixth Carbon Budget (2033 – 2037);
- (b) The Scheme's connection to the National Electricity Transmission System (NETS) at the Cottam National Grid Substation means that it will play its part in helping National Grid manage the national electricity system. This includes participating in mandatory balancing markets (to help balance supply and demand on a minute-by-minute basis and provide essential ancillary services) as well as providing visibility to the GB power market of its expected generation. This means that the low marginal cost solar power it will produce, can be forecast and priced into future contracts for power delivery by all market participants, thus allowing all

consumers to benefit from the market price reducing effect of low-marginal cost solar generation;

- (c) The Scheme provides an efficient opportunity to integrate energy storage with large-scale solar generation. Energy storage is an essential technology for high-RES electricity systems, such as that which the NETS is anticipated to become during the critical 2020s, as the power generation sector seeks to achieve rapid decarbonisation in support of wider decarbonisation on the path to Net Zero. Energy storage play essential roles in the provision of those services necessary to keep power flowing to all consumers, as well as integration measures which help balance supply and demand, thereby reducing the need for carbon-intensive back-up generation; and
- (d) Maximising the capacity of generation in the proposed area, is to the benefit of all GB consumers, and the solar industry generally.

6.1.4 The Scheme will deliver large amounts of low-carbon power ahead of other technologies (which have longer construction timeframes or have potentially not yet been proven at scale) which will support decarbonisation only in future years and only if they are brought forwards.

6.1.5 In summary: the meaningful and timely contributions offered by the Scheme to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, will be critical on the path to Net Zero. Without the Scheme, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.

6.1.6 This Scheme is a leading GB large-scale solar scheme, and is an essential stepping-stone towards the future of efficient decarbonisation through the deployment of large-scale, technologically and geographically diverse low-carbon generation schemes. This Scheme addresses all important aspects of existing and emerging government policy.

6.2 National policy support (NPS)

6.2.1 A more detailed explanation of the legislative and policy context of the Scheme is set out in Section 7 of the Planning, Design and Access Statement **[EN010131/APP/2.2]** This includes the

Applicant's reasoning for both the applicable existing and draft Energy NPSs being important and relevant matters in the SoS's decision.

6.2.2 Section 105(2) of the PA 2008 provides the basis for deciding the DCO application, given it is envisaged that as at the time of acceptance no technology specific NPS has effect. As a result, the SoS must have regard to the provisions set out in section 105 of the PA 2008. This includes any matters which the SoS deems to be both important and relevant to their decision. The Applicant considers that the following NPSs are all important and relevant to the SoS's decision:

- (a) Overarching National Policy Statement for Energy (EN-1) (NPS EN-1),
- (b) National Policy Statement for Renewable Energy (EN-3) (NPS EN-3), and
- (c) National Policy Statement for Electricity Networks Infrastructure (EN-5) (NPS EN-5).

6.2.3 In addition, the Applicant also expects the Draft NPSs listed below to be important and relevant to the SoS's decision:

- (a) Draft Overarching National Policy Statement for Energy (EN-1) (Draft NPS EN-1),
- (b) Draft National Policy Statement for Renewable Energy (EN-3) (Draft NPS EN-3), and
- (c) Draft National Policy Statement for Electricity Networks Infrastructure (EN-5) (Draft NPS EN-5).

6.2.4 The Energy NPSs, Draft Energy NPSs, and other national energy policy set out the government's aims to provide secure and affordable energy supplies whilst decarbonising the energy system. This is in order to enable the UK to achieve its legally binding commitment to reduce carbon emissions and achieve net zero carbon emissions by 2050; as well as provide a resilient and low cost energy network for the future. The government recognises that the need to deliver these aims and commitments is immediate and therefore renewable energy NSIPs, including large scale solar projects, need to be delivered urgently.

6.2.5 The Scheme will deliver these policy aims, providing a significant amount of low carbon electricity over its lifetime; and providing resilience, security and affordability of supplies due to its large scale and proposed integration of energy storage. It will therefore

be an essential step in the development of the portfolio of solar generation that is required to decarbonise its energy supply quickly whilst providing security and affordability to the energy supply. The Scheme will make a valuable contribution to adopted UK government policy and the achievement of world-leading decarbonisation commitments.

- 6.2.6 The Scheme will also deliver other more localised economic, social and environmental benefits. These include biodiversity net gain and encouraging local people to access apprenticeships and training and employment during the construction phase. With regard to biodiversity, the Scheme is expected to deliver an exemplary project and will be implemented in accordance with the Outline Landscape and Ecological Management Plan **[EN010131/APP/7.10]**.
- 6.2.7 The analysis of planning policy compliance in the Planning, Design and Access Statement demonstrates that the need for the Scheme is supported by planning policy and other national energy and environmental policy and that the Scheme addresses relevant national and local planning policies through its design, avoiding and minimising adverse impacts where possible.
- 6.2.8 With the mitigation proposed, the Environmental Statement **[EN010131/APP/3.1]** demonstrates that the Scheme will not have any significant adverse effects in relation to designated historic assets, protected species or important ecological features, the water environment, noise and vibration, transport and access, human health, air quality, glint and glare, ground conditions, major accidents and disasters, telecommunications, best and most versatile agricultural land, television reception and utilities, and materials, waste and recycling. It is however acknowledged that Scheme will result in residual significant adverse effects upon landscape and visual receptors and some non-designated heritage assets. All these effects will occur while the Scheme is under construction, operational or being decommissioned and will disappear when the Scheme is decommissioned.
- 6.2.9 The Applicant has carefully designed the Scheme to ensure landscape and visual impacts are minimised through sensitive siting of the largest Scheme components in the most well screened areas of the Site and a green infrastructure led landscape and ecological design set out within the Landscape Masterplan **[EN010131/APP/3.2]** and the **Outline Landscape and Ecological Management Plan [EN010131/APP/7.10]**. Key features of the Landscape Masterplan include offsets and buffer zones in proximity to residential receptors, extensive planting and

habitat enhancement areas throughout the Solar and Energy Storage Park, protection buffer zones around existing hedgerows, trees, woodland and watercourses, and removal of panels in proximity to heritage assets including Heynings Priory and Gate Burton Estate. This limits the landscape and visual effects during the operational period to a small number of areas and receptors. In terms of the planning balance, the fact that these effects are localised; will be reversed following decommissioning at the end of the Scheme's operational life; and that NPS EN-1 and Draft NPS EN-1 acknowledge that adverse effects are likely, given the scale of energy NSIPs, the national benefits of the Scheme outweigh these localised effects.

- 6.2.10 The majority of the Order limits is ALC Grade 3b (moderate quality agricultural land) with some 3a (good quality agricultural land) BMV land and some non-agricultural land. More than half of the BMV land within the Order limits is located within the grid connection corridor which will be fully reinstated following installation of the cable. The impacts on BMV land have been minimised by the nature of the Scheme and its design. The specific areas of BMV land that are retained within the Scheme are justified by factors related to their location and context within the Scheme, the wider landholdings, and in relation to adjacent and surrounding land. The benefits of the Scheme outweigh any reversible loss of the agricultural use of the small proportion of BMV land, particularly noting that Draft NPS EN-3 states that land type should not be the predominating factor in determining the suitability of a site for solar development.
- 6.2.11 As described in Section 8 of the Planning, Design and Access Statement, whilst it has not been possible to avoid all impacts these have been minimised, where possible, through careful and sensitive design and detailed mitigation strategies. When considered against the NPS and NPPF, the Scheme accords with relevant policies, and with regard to specific policy tests, the national and local benefits of the Scheme are considered on balance to outweigh its adverse impacts. The Scheme is also considered to be broadly consistent with relevant local planning policy, and accords with the relevant criteria which concern renewable and low carbon energy schemes. Therefore, it is considered that development consent for the Scheme should be granted.
- 6.2.12 To ensure that the Scheme can be built, operated and maintained, and so that the Government's policy in relation to the timely provision of new generating capacity is met within a reasonable timescale, the Applicant requires the acquisition of a number of property interests in third party ownership, and has

therefore applied for the grant of powers to facilitate acquisition and/or creation of new rights and interests, and to extinguish rights over land.

- 6.2.13 In the absence of powers of compulsory acquisition, it might not be possible to assemble all of the land within the Order limits, uncertainty will continue to prevail and the Applicant considers that its objectives and those of Government policy would not be achieved.

7. JUSTIFICATION FOR THE COMPULSORY ACQUISITION POWERS

7.1 The matters to which the SoS must have regard

- 7.1.1 As noted above, under section 122 of the PA 2008, a 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:
- (a) 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)) (see section 7.2 below); and
 - (b) there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the DCO (section 122(3)). The 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 (see Sections 7.3 and 7.4 below).
- 7.1.2 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.
- 7.1.3 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.

7.1.4 Further, paragraphs 8 to 10 of the CA Guidance also set out a number of general considerations that the applicant must demonstrate to the satisfaction of the SoS when justifying an order authorising compulsory acquisition. These are as follows:

- (a) that all reasonable alternatives to compulsory acquisition (including modifications to the Scheme) have been explored – see section 7.5 below in relation to how the Applicant has given regard to alternatives to compulsory acquisition;
- (b) that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate – see the remainder of this section, and Section 7.4 below;
- (c) that the Applicant has a clear idea of how they intend to use the land which it is proposed to acquire – Section 3 above describes the Scheme, and Section 5 alongside The Schedule of Negotiations and Powers Sought **[EN010131/APP/6.5]** describes the nature of the interest sought and the purposes for which areas are to be acquired or used;
- (d) that there is a reasonable prospect of the requisite funds for the acquisition becoming available – see section 7.7 below in addition to the Funding Statement **[EN010131/APP/6.7]**; and
- (e) that the purposes for which compulsory acquisition of land powers are included in the DCO are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected – see Section 8 below.

7.1.5 This Statement sets out the factors that the Applicant considers demonstrate that the conditions in section 122 of the PA 2008, and the considerations set out in the CA Guidance, are satisfied.

7.2 Use and quantum of the Order limits

- 7.2.1 At paragraph 11, the Guidance states that there must be no doubt in the decision maker's mind as to the purposes to which the land to be acquired is to be put. It should be demonstrated that the land is needed for the authorised Scheme and that it is no more than is reasonably required for that Scheme. 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.
- 7.2.2 In designing the Scheme and determining the land to be subject to compulsory acquisition and temporary possession powers, as demonstrated in section 7.5 – 7.7 below, the Applicant has considered alternatives and modifications to the Scheme to minimise the potential land take.
- 7.2.3 Section 3 sets out the Scheme and a summary of the Scheme for which rights in the Order land are required. The Schedule of Negotiations and Powers Sought **[EN010131/APP/6.5]** summarises the purpose for which rights in the Order land are sought.
- 7.2.4 The proposed interference with the rights of those with an interest in the land is for a legitimate purpose because the Applicant requires the land for the development of the Scheme and can satisfy the conditions set out in section 122(2) of the PA 2008. The land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development.
- 7.2.5 The scope of the powers of compulsory acquisition proposed in respect of the land within the Order land goes no further than is needed. All the land included within the Order land is needed to achieve the identified purpose of delivering the Scheme. The Schedule of Negotiations and Powers Sought **[EN010131/APP/6.5]** shows the powers being applied over each plot and the requirement for each plot of land demonstrating the assessment that has been carried out on each plot. Appendix 1 shows each plot over which freehold acquisition is required, and the works for which each plot of land is required. Steps have been taken to ensure that the interference with the rights of those with an interest in the affected land is no more than is necessary to deliver the benefits associated with the Scheme.

7.3 Public Benefits

- 7.3.1 Section 6.1 sets out the need for the Scheme which would ensure meaningful and timely contributions to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, which is critical on the path to Net Zero. Without the Scheme, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.
- 7.3.2 In addition to meeting the urgent national need for secure and affordable low carbon energy infrastructure, the Scheme will deliver other benefits, many of which have been maximised and will be delivered as a result of the Scheme's careful design. These include:
- (a) The provision of biodiversity net gain, as set out in the Biodiversity Net Gain Report **[EN010131/APP/7.9]**.
 - (b) Employment during the construction and operational phases. It is expected that a total of 363 total net jobs per annum will be created during the construction period. It is also anticipated that there will be up to fourteen permanent full time equivalent (FTE) staff during the operational phase working on a site and flexible office basis.
 - (c) A Skills, Supply Chain and Employment Plan **[EN010131/APP/7.7]** will be prepared prior to the commencement of construction. This will set out measures that the Applicant will implement in order to advertise and promote employment opportunities associated with the Scheme in construction and operation locally.
 - (d) Further information in relation to these project benefits can be found in the Planning, Design and Access Statement **[EN010131/APP/2.2]**.

7.4 Impacts and Private Loss

- 7.4.1 In order to deliver the benefits of the Scheme set out above, 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.

- 7.4.2 Compensation is payable for the compulsory acquisition of land or rights and for loss or damage caused by the exercise of any power of temporary use of land. Any dispute in respect of the compensation payable is to be determined by the Lands Chamber of the Upper Tribunal.
- 7.4.3 As shown in the Schedule of Negotiation and Powers Sought **[EN010131/APP/6.5]**, the Applicant has taken pro-active steps to engage with these 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.
- 7.4.4 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.
- 7.4.5 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.
- 7.4.6 The Scheme is a NSIP and the public benefits associated with the Scheme are set out in section 7.3 above. The Applicant considers 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.
- 7.4.7 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. Compensation is payable to anyone whose rights are extinguished, suspended or interfered with.

7.5 Alternatives to Compulsory Acquisition

- 7.5.1 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's use of compulsory acquisition powers is intended to be proportionate. Where practicable, lesser powers of temporary possession will be used.

7.6 Alternatives to the Scheme

- 7.6.1 The 'no development' scenario as an alternative to the Scheme has not been considered. This is because 'no development' is not considered to be a reasonable alternative to the Scheme as it would not deliver the proposed additional electricity generation capacity which is essential to meet the urgent national need for secure and affordable low carbon energy infrastructure.
- 7.6.2 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.
- 7.6.3 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.
- 7.6.4 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.
- 7.6.5 Further details on the consideration of alternatives are set out in Chapter 3: Alternatives and Design Evolution **[EN010131/APP/3.1]** of the Environmental Statement.

7.7 Site Selection

- 7.7.1 In order to determine the location of a potential energy park site, there needs to be an available grid connection, and, if possible, a landowner agreeable to their land being used for the development. A 'smaller development' as an alternative to the Scheme has not been considered further, as NPS EN-1 at

paragraph 4.4.3 states that the decision maker: “...*should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity (including energy security and climate change benefits) in the same timescale as the Scheme*”. A smaller scheme would not deliver the same generation capacity or energy security and climate change benefit as the Scheme, and as such would not represent a reasonable alternative. A Statement of Need [EN010131/APP/2.1] is submitted with the Application which addresses the need for the Scheme at the size it is.

- 7.7.2 In order to be deliverable and suitable, a solar farm site also requires good irradiance and site topography, as well as relatively few key environmental and social constraints. The length of the grid connection is also critical, to minimise environmental and social impacts and deliver an economically viable scheme.
- 7.7.3 Therefore, the point of connection of the Scheme to the National Grid was a key criterion, with a target 8km radius from existing National Grid infrastructure.
- 7.7.4 A feasibility study and site selection process was undertaken comprising four stages:
- (a) Stage 1 – identification of a 8km area of search for potential solar development sites based on operational criteria associated with the fixed point of connection. Constraints were mapped to 15 km to also capture potential constraints close to the area of search;
 - (b) Stage 2 – within the study area identified in Stage 1, exclusionary and discretionary planning and environmental criteria were applied to discount land within the area of search unsuitable to locate the solar scheme;
 - (c) Stage 3 – of the land that remained within the area of search after Stage 2, a series of key operational inclusionary criteria were applied such as site size, land assembly, site topography, access requirements and availability of brownfield land. In summary, this stage identified land suitable for solar development; and
 - (d) Stage 4 – comprised of a desktop assessment and evaluation by environmentalist and planning specialists to consider the identified locations. This process

identified the most suitable land opportunities that were potentially available for the siting of a solar scheme should the land be available for development.

7.7.5 This process is described in detail in ES Chapter 3 **[EN010131/APP/3.1]**.

7.7.6 Having regard to the above environmental constraints and criteria, the land at the Gate Burton site (part of which is now the Order limits) was identified as being suitable for a solar farm development.

7.8 Commercial negotiations with affected parties

7.8.1 The Applicant has secured voluntary agreements for the land for the solar PV panels comprised in Work No. 1. Option agreements are in place for this land.

7.8.2 Negotiations for the purchase of other land, rights and interests are ongoing in respect of the land and new rights required for the Scheme. Nonetheless, it is necessary for the Applicant to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third-party interests or encumbrances affecting such land, rights and interests may be acquired, overridden or extinguished pursuant to the draft DCO, thereby ensuring that the Scheme can be constructed, operated and maintained.

7.9 Availability of funds for compensation

7.9.1 The Funding Statement **[EN010131/APP/6.7]** confirms that the Applicant has the ability to procure the financial resources required for the Scheme, including the cost of acquiring any land and rights and the payment of compensation, as applicable.

7.9.2 The Applicant is not aware of any interests within the Order land in respect of which a person may be able to make a blight claim, but in the event this did occur the Applicant has sufficient funds to meet any compensation due.

7.9.3 The Applicant therefore considers that the SoS can be satisfied that the requisite funds for payment of compensation will be available at the appropriate time.

8. COMMUNICATIONS AND NEGOTIATIONS

8.1 Diligent inquiry / land referencing

8.1.1 In accordance with the requirements of the 2008 Act, the Applicant undertook “diligent inquiry” through a land referencing process to identify parties within Categories 1, 2 and 3, as defined in sections 42 and 44 of the 2008 Act. These include owners, lessees, tenants and occupiers of the land within the Order limits. Category 2 includes parties that are interested in the land or have the power to sell, convey or release the land within the Order limits.

8.2 Diligent inquiry methodology

8.2.1 The Applicant was required to identify individuals in one or more of the categories set out in sections 44 and 57 of the 2008 Act. This included undertaking “diligent inquiry” to identify parties within Categories 1, 2 and 3, as defined in sections 44 and 57 of the 2008 Act. Category 1 includes owners, lessees, tenants and occupiers of the land within the Order limits. Category 2 includes parties that are interested in the land or have the power to sell, convey or release the land within the Order limits. Category 3 includes parties who the Applicant thinks would or might, if the Order sought by the application were made and fully implemented, 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 2008 Act.

8.2.2 The Land Referencing limits were set to include all land and rights necessary to construct and operate the Scheme. A professional land referencing firm was employed to undertake diligent inquiry to identify these land interests. The following processes were undertaken as part of the methodology to identify and consult with those with an interest in affected land.

8.2.3 Land Registry data was received in the form of a digital shape file (a GIS layer) and digital copies of the Official Copy Registers and Title Plans. All relevant freehold, leasehold, mortgagee, beneficiary, other charges and restrictive covenant information was extracted and stored in a land referencing database.

- 8.2.4 An update to the land registry information was carried out prior to the preparation of the Book of Reference **[EN010131/APP/6.6]** as part of the DCO application documentation.
- 8.2.5 Adopted highways plans were acquired from Lincolnshire County Council and Nottinghamshire County Council. Information was also obtained regarding special category land (including open space, common land, fuel and field garden allotments); and any information relating to extant planning permissions. Information was received in a variety of formats and entered into the GIS system as appropriate. Where necessary, further enquiries were made to address any changes, anomalies, or gaps.
- 8.2.6 Statutory undertakers that were believed to have a possible interest in the area were contacted to identify their interests. Information received was entered into the GIS as appropriate and where necessary further enquiries were made to address changes, anomalies or gaps.
- 8.2.7 Any existing information or stakeholder data gained by the Applicant as a result of property negotiation or Section 42 consultation was incorporated accordingly.
- 8.2.8 Consultation with landowners has been ongoing throughout the development of the proposals. The identification of potentially affected parties has been an ongoing process. This included checking all company addresses at Companies House to ensure the correct address was being used. The registered address was used unless advised differently by the affected party.
- 8.2.9 Land Interest Questionnaires (LIQs) were issued to all affected parties within the Order land. Telephone numbers and email addresses were provided on the letter which accompanied the LIQs, allowing parties to make contact if they sought further information on the proposals. Parties identified after this date, or whose initial LIQ unsuccessfully delivered, were issued at the earliest possible opportunity.
- 8.2.10 Where there was unregistered land within the Order limits, site notices were affixed on or adjacent to the land in order to notify any unregistered interested parties of the proposals.

8.3 Consultation with landowners

- 8.3.1 The Applicant has been seeking to acquire the relevant freehold interests, new rights and temporary use of land by private treaty, in order to ensure implementation of the Scheme. The current position in relation to the Applicant's engagement and

negotiations with each landowner affected by the Scheme is explained in the Schedule of Negotiations and Powers Sought [EN010131/APP/6.5]) and the Consultation Report [EN010131/APP/4.1].

- 8.3.2 It has not yet been possible to acquire all of the land, the temporary use of land and the rights required by agreement at the point of DCO application. In addition, the Applicant requires certain rights to be suspended, overridden or extinguished within the Order land so as to ensure there are no impediments to the construction, operation and maintenance of the Scheme.
- 8.3.3 Negotiations will continue with landowners and persons with interests in land affected by the Scheme. Nonetheless, it is necessary for the Applicant to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third-party interests or encumbrances affecting such land, rights and interests may be acquired, overridden or extinguished pursuant to the draft DCO, thereby ensuring that the Scheme can be constructed, operated and maintained.

8.4 Consultation with Statutory Undertakers

- 8.4.1 The Applicant and its advisors have been liaising with statutory undertakers whose apparatus may be affected by the Scheme. A summary of these negotiations and correspondence can be found within table 3 in the Schedule of Negotiations and Powers Sought [EN010131/APP/6.5]).

9. HUMAN RIGHTS

- 9.1.1 The Human Rights Act 1998 incorporated into UK law the European Convention on Human Rights (the "Convention"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 9.1.2 The following Articles of the Convention are relevant to the SoS's decision as to whether the Order [EN010131/APP/6.1] should be made so as to include powers of compulsory acquisition:
- 9.1.3 **Article 1** of the First Protocol to the Convention – protects the rights to peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest.

- 9.1.4 **Article 6** – entitles those affected by the compulsory acquisition powers sought in the draft DCO to a fair and public hearing of any relevant objections they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the decision-making process.
- 9.1.5 **Article 8** – protects private and family life, home and correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.
- 9.1.6 The SoS, as the decision maker, is under a duty to consider whether the exercise of powers interacts with the rights protected by the Convention.
- 9.1.7 The Order has the potential to infringe the rights of persons who hold interests in land within the Order land under Article 1 of the First Protocol. Such an infringement is authorised by law so long as:
- (a) the statutory procedures for making the Order are followed and there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order; and
 - (b) the interference with the convention right is proportionate.
- 9.1.8 In relation to Article 1, in preparing the Application, the Applicant has considered the potential infringement of the Convention rights in consequence of the inclusion of compulsory acquisition powers within the Order and has sought to minimise the amount of land over which it requires powers of compulsory acquisition. As set out in section 7.3 above and in more detail in the Statement of Need **[EN010131/APP/2.1]** and the Planning, Design and Access Statement **[EN010131/APP/2.2]** the Applicant considers that there would be very significant public benefits arising from the grant of the Order. The benefits are only realised if the Order is accompanied by the grant of powers of compulsory acquisition, and the purpose for which the land is sought (to build and operate the Scheme) is legitimate. The Applicant has concluded on balance that the significant public benefits outweigh the effects upon persons who own property within the Order land. For those affected by expropriation or dispossession, compensation is payable in accordance with the statutory compensation code.

- 9.1.9 In relation to Article 8, the Order limits do not include, and the Scheme does not require, the outright acquisition of any residential dwelling-houses. Consequently, as dwelling-houses will not be directly affected, it is not anticipated that the Convention rights protected by Article 8 will be infringed. In the event that such rights were to be infringed, such interference would be justifiable on the basis that it would be lawful and in the public interest.
- 9.1.10 In relation to Article 6, there has been opportunity to make representations regarding the preparation of the Application. In accordance with Part 5 of the PA 2008, the Applicant has consulted with persons set out in the categories contained in Section 44 of the PA 2008, which includes owners, lessees, tenants and occupiers within the Order limits and those with an interest in the Order limits. The Applicant has also consulted with those persons who may be able to make a relevant claim under Section 10 of the Compulsory Purchase Act 1965, Part 1 of the Land Compensation Act 1973 or s152(3) of the PA 2008.
- 9.1.11 Furthermore, representations can also be made in response to any notice given under Section 56 of the PA 2008 for consideration at examination of the Application by the Examining Authority and in any written representations procedure which the Examining Authority decides to uphold or at any compulsory acquisition hearing held under Section 92 of the PA 2008.
- 9.1.12 Should the Order be made, any person aggrieved may challenge the Order in the High Court if they consider that the grounds for doing so are made out pursuant to Section 118 of the PA 2008.
- 9.1.13 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. In relation to matters of compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), which is an independent judicial body, to determine the compensation payable.
- 9.1.14 For the above reasons, any infringement of the Convention rights of those whose interests are affected by the inclusion in the Order of powers of compulsory acquisition, is proportionate, necessary and legitimate and is in accordance with national and European law. For the reasons set out in Sections 7 and 8 of this Statement, the Applicant considers that there is a compelling case in the public interest for the exercise of such powers of compulsory acquisition.

- 9.1.15 The Applicant considers that the Order strikes a fair balance between the public interest in the Scheme going ahead and the interference with the rights that will be affected. The Applicant considers that it would, therefore, be appropriate and proportionate for the SoS to make the Order, including the grant of compulsory acquisition powers.

10. SPECIAL CONSIDERATIONS AFFECTING THE ORDER LIMITS

10.1 Special Category Land – Crown Land

- 10.1.1 The Order land includes Crown land but this land is excluded from the scope of compulsory acquisition powers – see Crown Land Plans [EN010131/APP/5.7] and Part 4 of the Book of Reference [EN010131/APP/6.6]. Title checks at HM Land Registry and discussions with the Crown Estate confirm that such land belongs to the Crown Estate.
- 10.1.2 The Applicant is engaged with agents for the Crown Estate in order to voluntarily acquire the necessary interests/rights over the Crown Estate's land. This process will run in parallel with the application for development consent.

10.2 Special Category Land – Open Space

- 10.2.1 There is no open space, common land or fuel or field garden allotments included or affected by the Order limits.

10.3 Statutory Undertakers' Land and Apparatus

- 10.3.1 The interests held by each Statutory Undertaker identified by the Applicant as having a right to keep or access apparatus within the Order limits are identified in the Book of Reference [EN010131/APP/6.6].
- 10.3.2 Section 127(2) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of statutory undertakers' land to the extent that matters set out in section 127(3) are satisfied. Those matters are:

- (a) the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
- (b) if purchased, the land can be replaced by other land belonging to or available for acquisition by the undertakers without serious detriment to the carrying on of the undertaking.

10.3.3 Section 127(5) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of a right over statutory undertaker's land by the creation of a new right over land to the extent that matters set out in section 127(6) are satisfied. Those matters are:

- (a) the right can be purchased without serious detriment to the carrying on of the undertaking; or
- (b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of the other land belonging to or available for acquisition by them.

10.3.4 Article 31 of the DCO 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 159 which contains protective provisions for their benefit. 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.

10.3.5 Various statutory undertakers and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the Order limits. Statutory undertakers and other apparatus owners that are known to have equipment on, in or over the Order limits are included in the Book of Reference **[EN010131/APP/6.6]**. Section 138 of the PA 2008 applies if a development consent order authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a 'relevant right', or there is 'relevant apparatus' on, under or over the land. The draft DCO 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 915 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.

10.3.6 With respect to the current status of negotiations with each Statutory Undertaker, in summary, the Applicant has been in discussions in relation to protective provisions with Anglian Water Services Limited, Canal & River Trust, Severn Trent Water Limited, Uniper UK Limited, National Grid Electricity Distribution (East Midlands) plc, National Grid Electricity Transmission plc, National Grid plc, EDF Energy (Thermal Generation) Limited, Northern Powergrid (Yorkshire) Plc, British Telecommunications Plc, Network Rail Infrastructure Limited, Trent Valley Internal Drainage Board, Upper Witham Internal Drainage Board, and the Environment Agency and Exolum Pipeline Systems Limited. The current status of negotiations with these Statutory Undertakers can be seen in table 3 of the Schedule of Negotiations and Powers Sought [EN010131/APP/6.5]. The Applicant will continue to seek agreement as to protective provisions with the other parties contacted, and in any event has included standard protective provisions in the DCO for the protection of electricity, gas, water and sewerage undertakers and for the protection of operators of electronic communications code networks, in order to ensure the assets of those parties receive adequate protection under the Order.

10.3.7 There are no other relevant special considerations in respect of the Order limits.

11. Related Applications and Consents

11.1.1 Other consents are required in order for the Scheme to be constructed and subsequently operate. The key consents are identified below and reference should be made to the Consents and Agreements Position Statement [EN010131/APP/6.3] which sets out the additional consents required and the status and timeframe for each consent. These may include:

- (a) Electricity Generation Licence;
- (b) Bilateral Connection Agreement (to connect to the National Electricity Transmission System);
- (c) Water abstraction or impoundment licence;
- (d) Water discharge;
- (e) Permit for Transport of Abnormal Loads;
- (f) Section 61 consent (control of noise on construction site);
- (g) Health and Safety related consents; and
- (h) Protected species licence.

11.1.2 The Applicant is not aware of any reason why these and other consents required would not be granted and therefore does not consider that they represent an impediment to the Scheme proceeding.

12. Further Information

12.1 Negotiation of Sale

12.1.1 Owners and occupiers of property affected by the Scheme who wish to discuss matters of compensation should contact Ian Cunliffe by email ian.cunliffe@gateleyhamer.com.

12.2 Compensation

12.2.1 Provision is made by statute with regard to compensation for the compulsory acquisition of land and the depreciation value of properties. Helpful information is given in the series of booklets published by DCLG entitled "Compulsory Purchase and Compensation" listed below:-

- (a) Booklet No. 1 – Compulsory Purchase Procedure;
- (b) Booklet No. 2 – Compensation to Business Owners and Occupiers;
- (c) Booklet No. 3 – Compensation to Agricultural Owners and Occupiers;

- (d) Booklet No.4 – Compensation for Residential Owners and Occupiers; and
- (e) Booklet No.5 – Reducing the Adverse Effects of Public Development: Mitigation Works.

12.2.2 Copies of these booklets are obtainable, free of charge, from:
<https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>

13. Conclusion

- 13.1.1 This Statement demonstrates that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Scheme meets the requirements of Section 122 of the PA 2008 as well as the considerations in the CA Guidance.
- 13.1.2 A description of the intended use of the land and rights to be acquired compulsorily has been provided.
- 13.1.3 In summary, the compulsory acquisition of the Order land or rights over the Order land (including restrictions), together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is required for the purposes of, to facilitate, or are incidental to, the Scheme and are proportionate and no more than is reasonably necessary.
- 13.1.4 Furthermore, there is a compelling case in the public interest for the land or rights over the land to be compulsorily acquired given the meaningful and timely contributions offered by the Scheme to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life.
- 13.1.5 The need for the Scheme is clearly set out in **NPS EN-1**, **NPS EN-3** and **NPS EN-5**, and the **Draft NPS EN-1**, **Draft NPS EN-3** and **Draft NPS EN-5**. These demonstrate that there is a compelling case in the public interest for the land, and rights over land and imposition of restrictions, to be acquired compulsorily.
- 13.1.6 All reasonable alternatives to compulsory acquisition have been explored. Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land, the temporary use of land, the rights and other interests by agreement, as well as secure the removal of matters affecting the Order land that may impede the Scheme, wherever possible.
- 13.1.7 Given the national and local need for the Scheme and the support for it found in policy, as well as the suitability of the Order

limits (for the reasons outlined above), compulsory acquisition of the land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights is justified.

- 13.1.8 The proposed interference with the rights of those with an interest in the Order land is for a legitimate purpose, namely the construction and operation of the Scheme which is an NSIP, and is necessary and proportionate to that purpose. The Applicant considers that the very substantial public benefits to be derived from the proposed compulsory acquisition would decisively outweigh the private loss that would be suffered by those whose land or interests are to be acquired, and therefore justifies interfering with that land or rights.
- 13.1.9 The Applicant has set out clear and specific proposals for how the Order land will be used.
- 13.1.10 An explanation has been provided as to how it is expected that the construction of the Scheme and the acquisition of the land or rights over the land will be funded, as well as compensation in respect of the exercise of powers of compulsory acquisition, which demonstrates that there is a reasonable prospect of the requisite funds being available. Further detail is provided in the Funding Statement **[EN010131/APP/6.7]**.
- 13.1.11 Articles 1, 6 and 8 of the First Protocol to the Convention have been considered. The Applicant considers that the very substantial public benefits to be derived from Scheme would outweigh the private loss that would be suffered by those whose land is to be acquired or whose rights would be interfered with.
- 13.1.12 It is therefore submitted that the Order be made and any compulsory acquisition powers and powers of temporary possession sought within the Order be granted.