

# Gate Burton Energy Park Draft Statement of Common Ground between the Applicant and the Canal and Rivers Trust

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Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Gate Burton Energy Park Limited

Prepared for:

Gate Burton Energy Park Limited

Prepared by:

AECOM Limited

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## STATEMENT OF COMMON GROUND

**This Statement of Common Ground has been prepared and agreed by (1) Gate Burton Energy Park Limited and (2) the Canal and Rivers Trust.**

**Lauren McGill, Project Manager on behalf of Gate Burton Energy Park Limited**

**Date:.....**

**Signed.....**

**[NAME] [POSITION] on behalf of the Canal and Rivers Trust**

**Date:.....**

**Signed.....**

## Table of Contents

1.	Introduction.....	5
1.1	Introduction.....	5
	Format of Document and Terminology.....	6
2.	Areas of Discussion between the Parties.....	7
	Appendix A: Record of Engagement.....	<a href="#">1244</a>

# 1. Introduction

## 1.1 Introduction

1.1.1 This Statement of Common Ground (SoCG) has been prepared to accompany an application made to the Secretary of State for the Department for Energy Security and Net Zero for a Development Consent Order (the Application) under section 37 of the Planning Act 2008 (PA 2008). The Application seeks consent for the proposed Gate Burton Energy Park (hereafter referred to as the Scheme).

1.1.2 The Application is submitted by Gate Burton Energy Park Ltd (the Applicant). The Applicant is funded by Low Carbon Limited (company number 13356797) ("Low Carbon"), which is a privately-owned UK investment and asset management company specialising in renewable energy. The Funding Statement [APP-221/6.7] provides further information on the Applicant and Low Carbon.

1.1.3 This SoCG has been prepared by (1) Gate Burton Energy Park Ltd (the Applicant) and (2) the Canal and Rivers Trust (CRT).

1.1.4 ~~The~~ CRT is the navigation authority for the River Trent and has a duty to maintain the river between Meadow Lane Lock, Nottingham and Gainsborough Bridge as a commercial waterway under section 105 of the Transport Act 1968. ~~The~~ CRT is ~~also understood to be a~~ lessee of the foreshore and riverbed under a lease from The Crown Estate. ~~The~~ CRT also has environmental and recreational duties under section 22 of the British Waterways Act 1995 when considering proposals in relation to its functions.

1.1.5 The Examining Authority requested the SoCG include the following matters as set out in the Rule 6 Letter:~~This SoCG covers the following matters as requested by the Examining Authority as set out in the Rule 6 Letter:~~

- relevant policy and construction and operational stage technical matters, including navigation and navigational safety, impact on river banks and protecting rights of river users and access to river banks;
- impact on Canal and River Trust assets;
- Canal and River Trust's Code of Practice for Third Party Works; and
- draft Development Consent Order, including Protective Provisions and any other agreements.

~~4.1.6—~~These matters are included in the SoCG to the extent they have been points requiring discussion between the Applicant and CRT. These matters are otherwise covered in CRT's relevant representation and the application documents. The parties agree no matters remain outstanding to be resolved. This SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties, where agreement has not been reached (and that is the parties' final position) and where discussions are still ongoing.

## 1.1.6

~~4.2~~—~~This SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties, where agreement has not been reached (and that is the parties' final position) and where discussions are still ongoing. This version has been prepared by the Applicant for submission at Deadline 1 to document discussions between parties to date. Therefore, it does not yet incorporate comments from CRT. The document will continue to be revised and updated as discussions progress during the Examination period.~~

## 1.1.7

1.1.8 This version has been prepared by both parties for submission at Deadline 3.

## ~~4.3~~**1.2 The Scheme**

~~4.3.1~~1.2.1 Gate Burton Energy Park is a proposed solar photovoltaic electricity generating facility. The Application is for development consent to construct, operate, maintain and decommission ground mounted solar photovoltaic (PV) panel arrays, on-site battery storage and associated infrastructure. Associated infrastructure includes, but is not limited to, access provision and an underground 400kV electrical connection of approximately 7.5km to the National Grid Substation at Cottam Power Station. A detailed description of the Scheme is included in Chapter 2: The Scheme of the Environmental Statement [**APP-011/3.1**].

~~4.3.2~~1.2.2 The land within the Order Limits is wholly contained within one site and will comprise of two distinct areas, based on the elements of the Scheme that are proposed in each:

- The **Solar and Energy Storage Park**: is the main area for the Scheme, including the area where the solar panels, Battery Energy Storage System (BESS) and on-site substation would be located. This is an area of 652 hectares.
- The **Grid Connection Corridor**: this comprises of land between the Solar and Energy Storage Park and Cottam Substation for grid connection works. This is an area of 172 hectares.

## **Format of Document and Terminology**

~~4.3.3~~1.2.3 Section 2 summarises the issues that are 'agreed', 'not agreed' or are 'under discussion'. 'Not Agreed' indicates a final position where the parties have agreed to disagree, 'Agreed' indicates where the issue has been resolved.

This SoCG is supported by Appendix A, which details the full record of engagement between the parties.

## 2. Areas of Discussion between the Parties

Ref.	Document	Subject	CRT Position	Applicant Position	Status
1. General principles of the Scheme					
1.1	CRT RR	Shared grid connection corridor	CRT welcomes a joint working approach with all proposed NSIP schemes to ensure efficiency in the consenting process and to limit the potential for short and long term economic, environmental and social impacts on the navigation and its users.	Comments noted.	<del>Applicant's approach to collaborative working between other applicants of the Solar NSIPs agreed with thanks. Agreed through RR response 41/04/2023.</del> <u>Agreed.</u>
2. Draft Development Consent Order (DCO) and Protective Provisions					
2.1	CRT RR	DCO articles	<p><u>With reference to article 6(1) (legislation to be disapplied), CRT has identified that the Trent (Burton-upon-Trent and Humber) Navigation Act 1887, listed at 1(e) of Schedule 3 of the dDCO contains powers to dredge the River Trent at the location that the Applicant proposes the grid connection cable will cross under the river.</u></p> <p><u>Before ISH2, the Applicant agreed the principle that the Scheme does not need to prevent dredging of the river and has no intention to preclude those powers.</u></p> <p><u>CRT and the Applicant agree that the following wording for article 6(1)(g) would give effect to this this principle:</u></p>	<p><u>The Applicant has updated the draft DCO at Deadline 3 to include article 6(1)(g). The Applicant is not aware of any provisions which directly impact the CRT in its role as navigation authority. As explained in the Explanatory Memorandum [APP-216], it is difficult to conclusively determine whether or not the provisions of the legislation are relevant to the Order, and subsequently to what extent their disapplication impacts to the CRT. However, Article 6 only disapplies the legislation listed in Schedule 3 in so far as the provisions still in force are inconsistent with the powers in the Order. In any event therefore, the inclusion of protective provisions will offer sufficient protection for the CRT and will resolve CRT's concerns.</u></p>	<del>Under discussion</del> <u>Agreed.</u>

Ref.	Document	Subject	CRT Position	Applicant Position	Status
			<p><u>(g) the legislation listed in Schedule 3 (legislation to be disapplied) in so far as the provisions:</u>  <u>-are still in force; and</u>  <u>-are incompatible with the powers contained within this Order; and</u>  <u>-do not impact on the operation or maintenance of the River Trent as a navigable river.</u>  <del>CRT not yet ascertained whether the disapplication of legislation proposed by article 6, and schedule 3 impacts CRT's responsibilities. The Explanatory Memorandum indicates legislation relates to river navigation, fisheries and water in the vicinity of the Order Limits. Queries whether the Applicant can provide an explanation regarding the above.</del></p>		
2.2	Draft development consent order	Protective Provisions	<p><u>CRT have been working with the Applicant in cooperation with Cottam Solar Project, West Burton Solar Project and Tillbridge Solar Project to agree draft protective provisions.</u></p> <p><u>The draft protective provisions agreed with the Applicant are being included in part 11 of Schedule 15 of the dDCO being submitted by the Applicant at DL3. CRT notes the draft DCO does not contain specific PPs for CRT. CRT has requested engagement with the applicant regarding PPs. CRT proposes the PPs mirror those annexed to CRT's RR for Cottam Solar Project.</u></p>	<p><u>The Applicant has updated part 11 of Schedule 15 of the draft DCO at Deadline 3 to include the agreed protective provisions for the benefit of Canal and River Trust. The Applicant has engaged in discussions with the CRT regarding protective provisions. The Applicant has also been cooperating with the applicants of the Cottam Solar Project, West Burton Solar Project and Tillbridge Solar Project to adopt an aligned approach, and a draft set of protective provisions was issued to the CRT on behalf of all four projects. These protective provisions largely mirror those annexed to the CRT's relevant representation.</u></p> <p><u>The parties had an all-party meeting on 14 July 2023 to discuss the interactions between the</u></p>	<del>Under discussion</del> Agreed.



Ref.	Document	Subject	CRT Position	Applicant Position	Status
<p>schemes and the River Trent. [The Applicant is confident that agreement will be reached in this respect during the course of the Examination. In the meantime, the Applicant has included a placeholder for protective provisions for the benefit of the CRT at Part 11 of Schedule 15 of the updated DCO submitted at Deadline1, which it expects to update with agreed protective provisions early in Examination.</p> <p>Under the protective provisions, the Applicant will only be able to exercise any powers in the DCO subject to those protective provisions, which ensures protection and safeguards for the CRT's assets and interests are in place. For example, the protective provisions incorporate the Third Party Works Code of Practice, as requested by the CRT. In finalising the protective provisions, the parties will agree that appropriate protection is in place for CRT and that as a result CRT will not suffer serious detriment to the carrying on of its undertaking as a result of the Scheme.</p>					
<p>3. CRT's Third-Party Works Code of Practice</p>					
3.1	CRT RR	Third-Party Works Code of Practice	<p><u>CRT requested works on any parts of the Scheme with the potential to affect River Trent should be carried out in accordance with CRT's Third-Party Works Code of Practice.</u></p> <p><u>The Applicant and CRT have agreed wording in the draft protective provisions to give effect to this. CRT request works on any parts of the Scheme with the potential to affect River Trent should be carried out in accordance with</u></p>	<p><u>The protective provisions incorporate the Code of Practice and are agreed. The Code of Practice is appropriately incorporated into the draft protective provisions being discussed between the Applicant and the CRT.</u></p>	<p><u>Under discussion/Agreed.</u></p>

Ref.	Document	Subject	CRT Position	Applicant Position	Status
			<del>CRT's Third Party Works Code of Practice. CRT reference their appended PPs for the appropriate wording.</del>		
4. Horizontal Directional Drilling (HDD) and surveys CRT's					
4.1	CRT RR	HDD and Surveys	<p><del>CRT welcomes the cable crossing the River Trent via trenchless techniques (HDD). CRT considers surveys are necessary to inform the appropriate depth of the directional drilling beneath the River Trent.</del></p> <p><del>CRT state this would inform the design process and prevent mobilisation of silt from the riverbed which would have potentially detrimental impacts on navigational safety.</del></p> <p><del>The Applicant is committed to drilling at least 5m below the lowest surveyed part of the riverbed, so amendment requested to secure this through the Outline Design Principles document.</del></p> <p><del>The Applicant is now aware that Navigational Safety also applies to surveying of the riverbed. CRT welcomes the cable crossing the River Trent via trenchless techniques (HDD).</del></p> <p><del>CRT considers surveys are necessary to inform the appropriate depth of the directional drilling beneath the River Trent. CRT state this would inform the design process and prevent mobilisation of silt from the riverbed which would have potentially detrimental impacts on navigational safety.</del></p>	<p><del>The Applicant is committed to a minimum HDD depth of 5m to cross the River Trent and will include this commitment in the updated Outline Design Principles to be submitted at Deadline 4. Horizontal directional drilling will be used to install the 400kV cable &gt;2m and &lt;25m below the riverbed of the River Trent, as secured via the Outline Design Principles.</del></p> <p><del>In relation to navigational safety, consultation will be undertaken on the nature, timings and duration of construction activities including the management and control of noise and lighting for example. This is secured via Draft DCO Requirement 12 Construction Environmental Management Plan.</del></p>	Agreed.



## Appendix A: Record of Engagement

<b>Date</b>	<b>Correspondence</b>	<b>Topics discussed and outcomes</b>
11/11/2022	Email from LM (Low Carbon) to ID (CRT)	Email to offer meeting to discuss statutory consultation response.
08/12/2022	Email from ID (CRT) to LM (Low Carbon)	Email to confirm meeting offer and propose suitable dates.
11/01/2023	In person meeting with Low Carbon and CRT	In person meeting discussing issues and points raised in CRT's statutory consultation response.
11/04/2023	CRT Relevant Representation (RR)	CRT RR submitted to the Planning Inspectorate. RR published on PINS website 17/04/2023.
31/05/2023	ExA's Rule 6 Letter	Rule 6 letter issued by the ExA requesting a Statement of Common Ground is prepared between Gate Burton Energy Park Limited and the Canal and Rivers Trust.
23/06/23	Email to CRT on behalf of the Applicant, West Burton Solar, Cottam Solar and Tillbridge Solar developers	Email of proposed amendments to protective provisions and making arrangements for an all parties meeting
14/07/2023	Virtual meeting between CRT, the Applicant, West Burton Solar, Cottam Solar and Tillbridge Solar developers	All parties meeting to discuss interactions between the solar schemes and the River Trent, and protective provisions.
<u>14/07/2023-21/08/2023</u>	<u><a href="#">Email correspondence</a></u>	<u><a href="#">To agree protective provisions and other remaining matters as reflected in table above.</a></u>