

Gate Burton Energy Park Limited  
Stirling Square  
5-7 Carlton Gardens  
London  
SW1Y 5AD

21 December 2023

Rob Cook  
National Infrastructure Directorate  
The Planning Inspectorate  
Temple Quay House  
Temple Quay  
Bristol  
BS1 6PN

FAO: gateburtonsolar@planninginspectorate.gov.uk

Dear Rob

## **Applicant Letter Deadline 6, Gate Burton Energy Park**

**Application Ref: EN010131**

### **Introduction**

This letter accompanies the submission of a suite of documents by the Applicant for the Gate Burton Energy Park at Deadline 6 of the Examination on 21 December 2023.

### **Rule 17 Letter on National Policy Statements**

On 4 December 2023 the Examining Authority issued a Letter under the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 17 asking whether any parties have comments on the effect of the forthcoming Energy National Policy Statements (NPSs) (November 2023) on the Gate Burton Energy Park application. The Letter also asked what weight should be afforded to the forthcoming NPSs.

The Applicant has updated the Planning Design and Access Statement [**document 2.2**] at Deadline 6 to take account of the new NPSs. This document provides the Applicant's full position, with a brief summary of the points the Applicant regards as most important set out below.

### **Weight to be Applied to the Forthcoming NPSs**

The NPSs published in November 2023 have been presented to Parliament and are expected to be designated in early 2024. The NPSs are therefore highly likely to be designated before a decision is made on the Gate Burton Energy Park Development

Consent Order (DCO) application. They are at a very advanced stage and should have substantial weight as relevant and important matters in decision making. The weight afforded to them is substantial because they provide guidance on decision making on solar Nationally Significant Infrastructure Projects (NSIPs), something no other document was written to do. They were also published on 22 November 2023, so present the most up to date Government policy and guidance. They are highly relevant to the application.

### Principle of Solar Development

The forthcoming Overarching NPS for Energy (EN-1) states that the Government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure and that solar developments fall into this category. EN-1 states in paragraph 3.3.63 that:

*‘Subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible.’*

Paragraph 4.2.6 goes on to state that:

*‘The overarching need case for each type of energy infrastructure and the substantial weight which should be given to this need in assessing applications, as set out in paragraphs 3.2.6 to 3.2.8 of EN-1, is the starting point for all assessments of energy infrastructure applications.’*

EN-1 therefore describes solar NSIPs as ‘critical’ and ‘urgent’, emphasising that the need for the project should be given substantial weight and will generally outweigh any other residual impacts. The mitigation hierarchy has been applied throughout the Scheme development and has resulted in a very well mitigated project with few residual significant effects. The Scheme also delivers additional significant benefits, particularly on ecology. EN-1 is clear that the planning balance for decision-making on solar NSIPs begins with a presumption of established need, and this balance is clearly and demonstrably in favour of consenting the Gate Burton Energy Park given the need and significant benefits of the Scheme when weighed against the very few residual effects. This balance remains the case when considering the Scheme cumulatively with other solar NSIPs in the area; with these projects also being CNP infrastructure and delivering significant benefits.

The forthcoming NPS introduced solar as CNP infrastructure. In doing so, the Government has shown recognition of the urgent need for solar NSIPs and provides a clear tilted balance in favour of consenting the Scheme, provided other policy tests are met.

## Landscape and Visual Effects

The only residual significant adverse effects of the Scheme are related to landscape and visual effects. In this context it is noteworthy that the text on assessing landscape and visual effects in both EN-1 and NPS for Renewable Energy Infrastructure (EN-3) have changed relatively little since previous drafts. In particular, the following paragraphs in forthcoming NPS EN-1 are very similar to the previous versions:

NPS EN-1 paragraph 5.10.12 states that:

*‘Outside nationally designated areas, there are local landscapes that may be highly valued locally. Where a local development document in England or a local development plan in Wales has policies based on landscape or waterscape character assessment, these should be paid particular attention. However, locally valued landscapes should not be used in themselves to refuse consent, as this may unduly restrict acceptable development’*

NPS EN-1 paragraph 5.10.35 states that:

*‘The scale of energy projects means that they will often be visible across a very wide area. The Secretary of State should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project.’*

The Scheme does not affect any nationally designated areas and has relatively limited significant landscape and visual effects given the scale of project and its benefits. The landscape is locally valued as part is locally designated as an Area of Great Landscape Value, but this in itself should not be used to refuse consent. The adverse impact on the landscape is not so damaging that it is not offset by the benefits, particularly given that this is a CNP project.

## Agricultural Land

Paragraph 2.10.31<sup>1</sup> of forthcoming NPS for Renewable Energy Infrastructure EN-3 states in the section on solar NSIPs that (our emphasis):

*‘It is recognised that at this scale, it is likely that applicants’ developments **will** use some agricultural land. Applicants should explain their choice of site, noting the preference for development to be on suitable brownfield, industrial **and low and medium grade agricultural land.**’*

This wording is a change from the previous March 2023 draft of NPS EN-3, which stated that applications ‘*may*’ use some agricultural land. The previous draft also expressed a preference for development on ‘non-agricultural land’, with the text amended in the November 2023 version to state a preference for development on ‘*low or medium quality agricultural land*’. These changes are subtle but important, as they make it clear that solar development is, in principle, expected to be located on

---

<sup>1</sup> It is noted that there are some numbering discrepancies in the latest EN-1 and the above paragraph may be numbered 2.10.24 (or differently) when the final version is designated.

agricultural land and the preference is for use of low or medium grade agricultural land rather than non-agricultural land. This policy change is important for decision making on projects such as the Gate Burton Energy Park, which is located primarily on low and medium grade agricultural land.

### Rule 17 Letter on Waste

On 8 December 2023 the Examining Authority issued a Letter under the Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 17 asking the Applicant for an updated waste assessment applying a fully justified and appropriate methodology. This response has been provided in Applicant Response to Rule 17 Request – Waste [document 8.33] submitted at Deadline 6.

### Update on Discussions with Third Parties

The Applicant has engaged in, and continues to engage in, discussions and negotiations with third parties in relation to the Scheme. In advance of Deadline 6, the Applicant has made good progress with some key stakeholders, including:

- **The Crown Estate** has confirmed their consent pursuant to Section 135 of the Planning Act 2008. The confirmation letter is provided in Appendix A of this cover letter (also see [AS-026]).
- **Tarmac Aggregates** have removed their holding objection to the project [AS-027].
- **National Grid Electricity Transmission Plc** – the Applicant has added agreed wording into the square brackets placeholder in the protective provisions at Part 9 of Schedule 15 of the draft DCO, with compulsory acquisition provisions in relation to NGET land. The protective provisions are therefore finalised and in an agreed form.
- **Exolum Pipeline Systems Ltd** – the Applicant has included agreed protective provisions at Part 12 of Schedule 15 of the draft DCO for the benefit of Exolum. On that basis, Exolum has subsequently written to the ExA to withdraw any objection.
- **Northern Powergrid (Yorkshire) Plc** – the Applicant has included agreed protective provisions at Part 16 of Schedule 15 of the draft DCO for the benefit of NPG. On that basis, the Applicant has asked NPG to write into the Examination to confirm the withdrawal of its objection.

Further information and detail on the progress of discussions with third parties can be found in the documents submitted at this Deadline 6. In particular, see Schedule 15 (protective provisions) of the final DCO [document 6.1] and the final Schedule of Negotiations and Powers Sought.

## Documents Submitted

The table below lists documents submitted by the Applicant at Deadline 6 with this cover letter, with further information provided in the remainder of the letter.

Doc. No.	Title	Version	No. of files
<b>New Documents</b>			
8.32	Applicant Responses to Deadline 5 Submissions	1 (D6)	1
8.33	Applicant Response to Rule 17 Request – Waste	1 (D6)	1
8.34	Applicant's Written Summary of Oral Submissions at Issue Specific Hearing 4 (ISH4), Compulsory Acquisition Hearing 2 (CAH2) and Open Floor Hearing 3 (OFH3) held on 14 December 2023	1 (D6)	1
<b>Updated documents: track changed and clean versions of each</b>			
1.3	Final Guide to the Application	8	2
2.2	Planning Design and Access Statement (two parts)	3	4
2.3	Outline Design Principles	7	2
3.3	ES Appendix 13E Construction Traffic Management Plan (two parts)	5	4
4.3A	Final Statement of Common Ground with West Lindsey District Council (only clean version)	2	1
4.3B	Final Statement of Common Ground with Nottinghamshire County Council and Bassetlaw District Council	3	2
4.3C	Final Statement of Common Ground with Natural England	3	2
4.3E	Final Statement of Common Ground with the Environment Agency	3	2
4.3F	Statement of Common with Trent Valley Internal Drainage Board (unsigned)	2	2

Doc. No.	Title	Version	No. of files
4.3H	Final Statement of Common with Lincolnshire County Council	3	2
6.1	Final Development Consent Order (including word version and statutory instrument tracker documents)	8	5
6.2	Explanatory Memorandum	8	2
6.5	Final Schedule of Negotiations and Powers Sought	8	2
6.6	Final Book of Reference (four versions and schedule of changes)	5	5
8.5	Statement of Commonality for Statements of Common Ground	5	2
8.7	Objections of Compulsory Acquisition Schedule	5	2
8.8	Statutory Undertakers Tracker	5	2
8.14	Schedule of Changes to Draft Development Consent Order (only tracked version)	3	1
8.26	Joint Report on Interrelationships with other Nationally Significant Infrastructure Projects (Appendix B as separate file due to size)	3	4

## [Further Detail on Documents Submitted](#)

### New Documents

#### 8.32 Applicant Responses to Deadline 5 Submissions

This document includes the Applicant's responses to Interested Party Submissions submitted at Deadline 5.

#### 8.33 Applicant Response to the ExA's Request for Further Information (Rule 17) - Waste

This document has been prepared in response to the ExA's Request for Further Information (Rule 17) on Waste **[PD-017]**.

### **8.34 Applicant's Written Summary of Oral Submissions at Compulsory Acquisition Hearing 2 (CAH2), Open Floor Hearing 3 (OFH3) and Issue Specific Hearing 4 (ISH4) (14 December 2023)**

This document has been prepared to provide a summary of the Applicant's Oral submissions put forward at Compulsory Acquisition Hearing 2 (CAH2), Open Floor Hearing 3 (OFH3) and Issue Specific Hearing 4 (ISH4) which ran concurrently on 14 December 2023.

#### **Revised Documents**

##### **1.3 Guide to the Application (Final Version)**

The Final Guide to the Application has been updated to provide a full list of all documents submitted to enable easy version control.

##### **2.2 Planning Design and Access Statement**

This document has been updated to take account of the publication of the forthcoming National Policy Statements, which are due to be designated in early 2024 and the newly published NPPF (December 2023). It also includes updates to reflect additional information submitted during Examination such as the Agricultural Land Classification surveys for the grid connection corridor and changes to the Order limits in accordance with the Applicant's change request dated 3 October 2023.

##### **2.3 Outline Design Principles**

This document has been updated to include the buffer zone for the Scheduled Monument Fleet Plantation Moated Site near Torksey Ferry Road.

##### **3.3 ES Appendix 15Ea Construction Traffic Management Plan**

This document has been updated to incorporate the updates made at Deadline 5 **[REP5-007 to REP5-010]** alongside the changes for the Applicant's Change Request **[CR-007a and 007b]**. This version has been submitted because the Change Request amendments were excluded in error from the previous version.

##### **4.3A Final Statement of Common Ground with West Lindsey District Council**

This document has been updated to reflect the conclusion of discussions between the Applicant and West Lindsey District Council. The final version has been signed by all parties. A tracked changed version has not been submitted due to the significant updates to format and text made since application submission version **[APP-200/4.3a]**, which made a tracked version difficult to read.

##### **4.3B Final Statement of Common Ground with Nottinghamshire County Council and Bassetlaw District Council**

This document has been updated to reflect the conclusion of discussions between the Applicant, Nottinghamshire County Council and Bassetlaw District Council. The final version has been signed by all parties with most matters agreed.

### **4.3C Final Statement of Common Ground with Natural England**

This document has been updated to reflect the conclusion of discussions between the Applicant and Natural England. The final version has been signed by all parties with all matters agreed.

### **4.3E Final Statement of Common Ground with Environment Agency**

This document has been updated to reflect the conclusion of discussions between the Applicant and the Environment Agency. The final version has been signed by all parties with all matters agreed.

### **4.3F Statement of Common Ground with Trent Valley Internal Drainage Board**

This document has been updated to reflect the discussions between the Applicant and Trent Valley Internal Drainage Board (IDB). Unfortunately, the document remains unsigned with most matters under discussion despite attempts by the Applicant to contact Trent Valley IDB to receive a signed version as detailed in the record of engagement. Given the lack of recent discussions, this is considered final.

### **4.3H Final Statement of Common Ground with Lincolnshire County Council**

This document has been updated to reflect the conclusion of extensive discussions between the Applicant and Lincolnshire County Council. The final version has been signed by all parties with the majority of matters agreed.

## **6.1 Draft Development Consent Order, 6.2 Explanatory Memorandum and 8.14 Schedule of Changes to the Draft Development Consent Order**

A final draft DCO has been submitted, alongside the updated Explanatory Memorandum. The submission includes PDFs of the draft DCO and Explanatory Memorandum in tracked changes to show the updates made between Deadline 5 and Deadline 6, as well as clean PDFs of the Deadline 6 versions of the draft DCO and Explanatory Memorandum. Given this is the final substantive deadline of Examination, the submission also includes the final draft DCO as a word document that is compliant with the Statutory Instrument template. This word document has been successfully validated, which is confirmed in the validation report and the validation success email, which have both also been submitted. An updated and final Schedule of Changes to the draft DCO has also been submitted.

## **6.5 Schedule of Negotiations and Powers Sought**

The final schedule has been updated.

## **6.6 Final Book of Reference**

A land registry refresh was carried out on 12 December but did not result in any changes to the Book of Reference. A change has been made to the Book of Reference to include Tarmac Aggregates, with their interest being identified through a consultation response and further due diligence. As with all previous versions, redacted version of the Book of Reference have been provided to omit a land interest who would like to remain anonymous.



## 8.5 Final Statement of Commonality for Statements of Common Ground

This document has been updated to reflect the conclusion of discussions with all parties and updates made in the final versions of the SoCGs.

## 8.7 Objections of Compulsory Acquisition Schedule

Updated to reflect discussions.

## 8.8 Statutory Undertakers Tracker

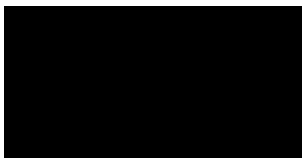
Updated to reflect discussions.

## 8.26 Joint Report on Interrelationships with other Nationally Significant Infrastructure Projects

The main body of the report contains minor updates such as the amended West Burton examination timetable and dates of the Cottam Change Application now that it has been submitted. Appendix E of the Interrelationships Report has been updated to include a summary of the waste technical note that has been prepared in response to the ExA's Request for Further Information (Rule 17). As per previous versions, this report has been shared with the developers of the Cottam, West Burton and Tillbridge projects and comments incorporated.

Please feel free to contact me if you have any questions on information submitted.

Yours sincerely,



**Ali Leeder**

DCO and Planning Lead, Arup, [REDACTED], [info@gateburtonenergypark.com](mailto:info@gateburtonenergypark.com)

## Appendix A: Crown Estate Letter

The Crown Estate

1 St James's Market Tel: +44 (0)20 7851 5000

London, SW1Y 4AH

Web: [www.thecrownestate.co.uk](http://www.thecrownestate.co.uk)

National Infrastructure Planning  
The Planning Inspectorate  
3D Eagle Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

**AND BY EMAIL:** [gateburtonsolar@planninginspectorate.gov.uk](mailto:gateburtonsolar@planninginspectorate.gov.uk)

30 November 2023

Dear Sirs

**Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010****Application by Gate Burton Energy Park Limited ("the Applicant") for an Order Granting Development Consent for The Gate Burton Energy Park Order**

I write further to the above.

In this letter:

"the book of reference" shall have the meaning given to it in the Order;

"the Commissioners" shall mean the Crown Estate Commissioners;

"Draft DCO" shall mean the Applicant's draft development consent order (reference REP4-023, revision 5 and dated October 2023); and

"Order" shall mean The Gate Burton Energy Park Order 202[.] once made by the Secretary of State.

As you are aware, the Commissioners disagree with any view that section 135(1) of the Planning Act 2008 ("the Act") provides that any provision authorising the acquisition of third party interests in Crown land may only be included in a development consent order if the unconditional consent of the appropriate Crown body to the acquisition is obtained before the development consent order is made.

However, and without prejudice to the Commissioners' position set out in the preceding paragraph, the Commissioners have reached a separate agreement with the Applicant which provides the Commissioners with sufficient assurance as to the way in which compulsory acquisition powers (as contained in Articles 20, 22 and 25 of the Draft DCO) may be exercised in respect of third party interests in Crown land forming part of the Crown Estate. As such, and subject to the below, the Commissioners confirm their consent to the compulsory acquisition of the third party interests in Plot 13/4 for the purpose of section 135(1) of the Act.

The Commissioners' consent is granted subject to:

1. the inclusion and continuing application of the following amended "Crown rights" wording in the Order at Article 49:

**"49.— (1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—**

The Crown Estate

1 St James's Market Tel: +44 (0)20 7851 5000

London, SW1Y 4AH

Web: [www.thecrownestate.co.uk](http://www.thecrownestate.co.uk)

(a) *belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;*

(b) *belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or*

(c) *belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department*

*(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.*

*(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.*

and;

2. the Commissioners being consulted further if any variation to the Draft DCO is proposed which could affect any other provisions of the Order which are subject to section 135(1) and 135(2) of the Act.

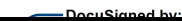
Subject to:

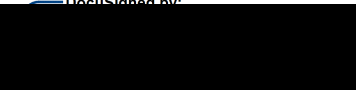
1. the inclusion of Article 49 in the Order as referred to above and its continuing application; and

2. the Commissioners being consulted further if any variation to the Draft DCO is proposed which could affect any other provisions of the Order which are subject to section 135(1) and 135(2) of the Act

the Commissioners confirm their consent to Articles 3, 4, 5, 16, 19, 29, 30, 43, 44 and 49 of the Draft DCO, to the extent that they are included in the Order, applying in relation to Plot 13/04 for the purpose of section 135(2) of the Act.

Yours sincerely

DocuSigned by:



Jonathan Treadaway  
**Senior Legal Counsel**  
**For and on behalf of the Crown Estate Commissioners**