

West Burton Solar Project

Written Summary of the Applicant's Oral Submissions & Responses at Compulsory Acquisition Hearing 1 and Responses to Action Points

Prepared by: Pinsent Masons LLP

February 2024

PINS reference: EN010132

Document reference: APP/WB/EX4/WB8.1.26

The Infrastructure Planning (Examination Procedure) Rules 2010: 8(1)(c)





Issue Sheet

Report Prepared for: West Burton Solar Project Ltd.
Examination Deadline 4

Written Summary of Applicant's Oral Submissions & Responses at Compulsory Acquisition Hearing 1 and Response to Action Points

Prepared by:

Pinsent Masons LLP

Agenda Item	Comments
<p>1. Welcome and Introductions</p>	<p>The ExA introduced the hearing and the following parties introduced themselves:</p> <p><u>The Applicant</u></p> <ul style="list-style-type: none"> Claire Brodrick, Legal Director at Pinsent Masons LLP (solicitors for the Applicant, West Burton Solar Project Limited) Eve Browning, Senior Project Development Manager at Island Green Power Joel Roche, Associate at Bruton Knowles (Land Agents for the Applicant) <p><u>Interested Parties</u></p> <ul style="list-style-type: none"> Christine Warren, local resident
<p>2. Purpose of the Hearing</p>	<p>The ExA described the purpose of the hearing and how it would be conducted.</p>
<p>3. The Applicant's Case for CA and TP</p> <p>a) Identification of the powers sought and their purposes.</p> <p>b) Relevant draft Development Consent Order provisions.</p> <p>c) How the relevant statutory and policy tests under the Planning Act 2008 (PA2008) (including s122, s123, s127 and s138) and Department for Communities and Local Government guidance related to compulsory acquisition would be met.</p> <p>d) The Applicant's strategy / criteria for determining whether to seek powers for CA of land, CA of rights or TP of land.</p> <p>e) Consideration of alternatives to CA / TP.</p> <p>f) Human rights considerations.</p> <p>The ExA will ask questions in relation to the Applicant's case for CA and TP, with particular reference to whether the extent of powers sought are justified.</p> <p>The ExA will invite submissions from Affected Persons (APs) who wish to raise general matters in relation to the Applicant's case for CA and TP.</p>	<p>The ExA noted receipt of the Schedule of Progress regarding objections and agreements in relation to compulsory acquisition and temporary possession ([REP2-014], now [EX4/WB8.1.12_B]), and requested updates since that document was submitted.</p> <p>Ms Brodrick summarised the powers of compulsory acquisition and temporary possession sought by the Applicant and their purposes. She described that the Applicant is seeking powers of compulsory acquisition of the freehold of land (shown in pink on the Land Plan [EX4/WB2.2_C]). She added that the Applicant is also seeking compulsory acquisition of rights and imposition of restrictions over the land shown in blue on the Land Plan, noting that the Applicant will be also able to take temporary possession of the land shown in blue or pink.</p> <p>Ms Brodrick added that Schedule 10 of the draft DCO [EX4/WB3.1_E] sets out the purpose for which rights may be compulsorily acquired in the 'blue' land. She added that, broadly, this is to create rights of access to the Scheme and to create rights to install, use and maintain the underground grid connection cables.</p> <p>Ms Brodrick noted that Schedule 12 of the draft DCO [EX4/WB3.1_E] provides the purposes for which temporary possession may be taken over the 'yellow' land shown on the Land Plan [EX4/WB2.2_C]. She added that this land is required to be used to facilitate the construction of the Scheme, and to create temporary construction compounds.</p> <p>She stated that the purpose for which compulsory acquisition powers are sought is also set out in detail in Appendix A to the Statement of Reasons [EX4/WB4.1_B], which goes through the plots referred to in the Book of Reference [EX4/WB4.3_E] and sets out the type of acquisition and the purpose with reference to the work numbers that are set out in Schedule 1 to the draft DCO [EX4/WB3.1_E].</p> <p>She noted that the relevant power in the DCO [EX4/WB3.1_E] relating to compulsory acquisition is Article 20 (compulsory acquisition of land, which is subject to Article 22 (compulsory acquisition of rights) and Article 29 (temporary use of land for constructing the authorised development).</p> <p>Ms Brodrick noted that section 122 of the Planning Act 2008 (PA 2008) sets out the purpose for which land may be compulsorily acquired. The land must be required for the authorised development, or be required to facilitate or be incidental to the authorised development. She reiterated that Appendix A to the Statement of Reasons [EX4/WB4.1_B] sets out the purpose for each of those plots and that they meet that test.</p> <p>She added that section 122(3) of the PA 2008 requires that there is a compelling case in the public interest for the land or rights over land to be acquired compulsorily. As set out in sections 6 and 7.3 of the Statement of Reasons [EX4/WB4.3_E], the Applicant considers that it has demonstrated that there is a compelling case in the public interest for the Scheme as this is a nationally significant infrastructure project (NSIP) for renewable energy. Further details of the benefits and need for the Scheme are set out in the Planning Statement [EX4/WB7.5_B] and the Statement of Need [APP-320]. The public interest in the Scheme includes the decarbonisation of the UK energy sector and the national electricity grid, as well as meeting the Government's net zero ambitions.</p>

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	<p>Ms Brodrick stated that the Applicant has considered how the Scheme will be constructed and operated, and sought to acquire the minimum amount of land necessary to construct, operate and maintain and decommission the Scheme. Wherever practicable, compulsory acquisition of rights has been sought instead of compulsory acquisition of the freehold, that being a lesser power, and similarly where temporary possession powers are sufficient, for example, in respect of construction compounds, then only temporary possession powers are being sought rather than permanent rights. There are some areas (such as for the grid connection route) where a wider area of land is subject to compulsory acquisition powers, so that the detailed design and micro-siting of the grid connection cable route can happen at the detailed design stage. She added that the Applicant will only seek to exercise compulsory acquisition powers over the land it actually requires for the installation of the cable once that detailed design is known. Temporary possession powers will be utilised to ensure that the minimum amount of land required for permanent rights for the cable is sought.</p> <p>In terms of alternatives more generally, Ms Brodrick noted that the Applicant has sought to acquire the land and rights necessary for the Scheme via voluntary negotiation, and has entered into option agreements with the landowners for the sites required for the solar PV panels, substation, and energy storage. However, it remains necessary to include compulsory acquisition powers within the draft DCO [EX4/WB3.1_E] over this land to ensure that the Scheme can be delivered without impediment. For example, if there are any unknown third party rights, or if the terms of the option agreement were not complied with. She added that this is a standard approach for NSIPs to ensure deliverability.</p> <p>Ms Brodrick added that ES Chapter 5 Alternatives and Design Evolution [APP-043] and the Site Selection Assessment Revision A [AS-004] sets out the Applicant's approach to alternatives for both the sites and the Cable Route Corridor, as well as consideration of different types of solar PV systems technology. She noted that further detail can be provided on site selection and alternatives, although this was dealt with at Issue Specific Hearing 1 (See agenda item 4 of the Written Summary of the Applicant's Oral Submissions & Responses at Issue Specific Hearing 1 and Responses to Action Points [REP1-052]).</p> <p>She noted that the ExA had referred to ongoing negotiation with landowners, and confirmed that negotiations have been continuing since the last deadline. She confirmed that there were no significant updates, but that the Applicant remains confident that a number of voluntary agreements will be concluded before the close of the examination. She confirmed that discussions in terms of the detail of those option agreements are progressing, and that the Applicant hoped to have a more substantial update deadline.</p> <p><i>Post hearing note: Please see the Schedule of progress regarding objections and agreements in relation to Compulsory Acquisition, Temporary Possession, other land rights, and blight [EX4/WB8.1.12_B] and Action Point 5 in the table below.</i></p> <p>Ms Brodrick noted that sections 127 and 138 of the PA 2008 relate to the impact of the Scheme on statutory undertakers and the impact of the Scheme on those with apparatus within the Order Limits, adding that the Schedule of Progress regarding Protective Provisions and Statutory Undertakers ([REP2-015], now [EX4/WB8.1.14_B]) provided an update on negotiations. She confirmed that those discussions are ongoing, noting that amendments to the Protective Provisions are included in the draft DCO [EX4/WB3.1_E] and that various side agreements are being negotiated. She concluded that the Applicant remains confident that those will be concluded prior to the end of the Examination. There remain only a few points outstanding in relation to the majority of statutory undertakers.</p> <p>In respect of human rights considerations, Ms Brodrick referred to Section 9 of the Statement of Reasons, [EX4/WB4.1_B] which sets out the Applicant's position. Section 9 sets out the articles of the Human Rights Act 1998 that are affected and sets out how these tests are met via the PA 2008 process in terms of the ability for people to participate in that process, and the provision of compensation for anybody that is affected by the exercise of compulsory acquisition powers.</p>

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	<p>In response to the ExA's question about the exercise of Article 29 (temporary use of land for constructing the authorised development) of the DCO [EX4/WB3.1_E], Ms Brodrick responded that when designing the cable route, the final easement width will depend on the configuration of the cable circuits. She added that there will also be further survey work and ground investigations undertaken prior to construction in order to establish the preferred route for micro siting the cable.</p> <p>Ms Brodrick described the process where no voluntary agreement has been agreed with the landowner, whereby a temporary possession notice will usually be served on the landowner for the area required to install the cable, and also the area required for the temporary construction process, such as temporary haul roads, construction compounds and the lay down of equipment. She noted that compensation is payable for any damage throughout the period of temporary possession and the land must be restored. Ms Brodrick confirmed that a notice to treat or general vesting declaration would then be served in relation to the permanent easement for the cable, so those permanent rights would exist for the cable over a smaller area. The wider area of land required during construction would then be restored and possession returned to the landowner.</p> <p>In response to the ExA's question regarding the Schedule of Progress regarding objections and agreements in relation to compulsory acquisition and temporary possession [EX4/WB8.1.12_B] and progress on Heads of Terms for the voluntary agreements, Ms Brodrick responded that once Heads of Terms are signed by the parties, solicitors are appointed. Following this, the Applicant's solicitors liaise with the landowners' solicitors to agree the form of the option agreement and easement. She noted that the same solicitors are acting for a number of landowners, so a precedent option is used, meaning only land or landowner specific points then need to be negotiated. She added that once those negotiations have been completed, then the agreement will be sent for signature and it may be that an additional consent is required, such as the consent of the mortgagee if the landowner has a mortgage. She confirmed that the schedule of progress regarding objections and agreements in relation to compulsory acquisition and temporary possession [EX4/WB8.1.12_B] sets out negotiations status of those parties that are participating in the Examination. Ms Brodrick noted that the Schedule of Negotiations [EX4/WB8.1.13_B] then sets out the status of negotiations with all landowners, which is an update to Appendix B of the Statement of Reasons [EX4/WB4.1_B]. She confirmed that, whilst there are a number of landowners where Heads of Terms are still to be signed, they are a minority, as the majority of negotiations with landowners are well progressed.</p> <p>In response to the ExA's question on the progress of negotiations, Ms Brodrick responded that she had been informed by the Applicant's in house solicitors that there has been progress towards signing agreements for a number of landowners, confirming she was hopeful there will be a more substantive update at Deadline 4. She further noted that there are a number of landowners who are not willing or minded to enter into an agreement, and these are noted in the documents. Ms Brodrick confirmed that the Applicant remains willing to negotiate and enter into agreements with those parties, however, compulsory acquisition powers may be required should the landowner's position not change by the end of the Examination.</p> <p><i>Post hearing note: Please see response to Action Point 5 in the table below.</i></p> <p>In response to the ExA's question relating to voluntary agreements with owners of subsoil interests, Ms Brodrick noted that the Book of Reference [EX4/WB4.3_E] must list all parties (following diligent inquiry by the Applicant) that might have an interest in the land which includes subsoil interests in the public highway. If the freehold of the highway is not registered at the Land Registry and there is no evidence to the contrary, there is a presumption that the adjoining owners have an interest in the subsoil up to the midpoint of the highway. She confirmed that that has led to a number of landowners being listed in for this reason in the Book of Reference [EX4/WB4.3_E]. She noted that from a voluntary property agreement perspective, it is not typical to enter into a voluntary property agreement regarding someone's interest in the subsoil, as streets powers can be utilised to undertake works to public highways and to lay utilities in highways.</p> <p>Ms Brodrick noted that, if the landowners own other private land that is affected by the Scheme, the Applicant will be negotiating an agreement with that landowner. However, she confirm that if the only interest is subsoil in public highway, the Applicant does not consider it necessary to enter into an agreement.</p>

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	<p>In response to the ExA requesting a clarification on the Book of Reference [EX4/WB4.3_E], Ms Brodrick responded that the category 2 column in part 1 of the Book of Reference lists every person who has an interest in the Order Land generally, not just those that may need to be interfered with for the Scheme. She confirmed that there are a number of interests listed where no consent is necessary as the Scheme will not interfere with their rights. For example, if someone has a right of way for a water pipe that would not be affected by the Scheme, there would be no need to enter into a voluntary agreement with them. However, she confirmed that their interest in the Order Land still needs to be noted in the Book of Reference [EX4/WB4.3_E].</p> <p>In response to the ExA's query about Entry 5 in the schedule of progress regarding objections and agreements in relation to CA and TP [EX4/WB8.1.12_B], relating to the Cable Route Corridor and noting there had been no further update between Deadline 1 and Deadline 2 since the statement that the landowner (Mr Elliott) was not willing to enter into a voluntary agreement, Ms Brodrick noted that Mr Elliot's concerns set out in his Relevant Representation [RR-234] relate to electromagnetic field (EMF) impacts of the Scheme. The Applicant has responded to those concerns to state the Scheme does comply with EMF limits to give some reassurance that his concerns will not materialise. She confirmed that the Applicant has also looked at micro siting the cable as close as possible to the boundary of his land, however, at the moment it is not considered likely he will be willing to enter into a voluntary agreement. She reiterated that the Applicant has taken steps to answer his queries and concerns.</p> <p>In response to the ExA's question requesting an update on Entries 7 and 8 in [EX4/WB8.1.12_B], Ms Brodrick responded that discussions are ongoing with the Hills. Mr and Mrs Hill are affected by the Shared Cable Route Corridor with the Cottam and Gate Burton projects. She confirmed that discussions between the developers and the landowners have been ongoing. Ms Brodrick noted that at the moment, discussions relate to the quantum of compensation, and further work to value the land is being undertaken. She added that the parties are quite far apart on the appropriate value for this land at present. Ms Brodrick reiterated that dialogue is ongoing, and there is the possibility of an agreement should there be a resolution on compensation, which the Applicant appreciates is not a matter for this hearing. She confirmed that a further update will be provided at Deadline 4. She also noted that an options report of alternative cable routes in this location was submitted at Deadline 2 [REP2-009] which concluded that the route through the Hills land set out in the DCO application remains the preferred route.</p> <p>In response to the ExA's question regarding Entries 9 and 10 in [EX4/WB8.1.12_B], Ms Brodrick responded that the Applicant met with the landowners (SNSE Limited and SISED Limited) and their agent on 2 February 2024 to discuss the Heads of Terms for the cable route easement in this area. Ms Brodrick noted that since the Application was submitted, it has come into the public domain that the landowner has entered into agreement with the developer for another NSIP scale solar development located to the south of this Scheme. She confirmed that the Applicant is working with the developer to ensure the Schemes can co-exist, noting that this is why the Cable Route Corridor to the south of West Burton substation is so large – this is to enable micro siting around those development proposals, noting that the proposals for the other scheme are currently at a very early stage so there is no detailed design available. Ms Brodrick noted that when the previous update on property negotiations was provided, this scheme was not in the public domain, but she confirmed it will be further commented on at the next deadline now that it is. She confirmed that the Applicant is confident that no technical issues will prohibit the schemes co-existing, in a similar way to how the Applicant is working with other NSIP and TCPA developers.</p> <p>The ExA's referred to Entry 16 in [EX4/WB8.1.12_B], and plot 06-080 (subsoil interest beneath public highway in public road and verges (South of Tillbridge Lane)), and the confusion expressed by the landowner in his written representation [REP1A-052]. Ms Brodrick responded that as far as she was aware this Affected Party (Mr Foster) has not been met by the Applicant's team. She confirmed that he has received the relevant statutory notices, but noted there may be merit in writing to him again if there is some confusion about the extent to which he may be affected. The ExA confirmed a further letter would be helpful.</p>

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	<p><i>Post hearing note: A letter has been sent to Mr Foster to confirm that the Scheme will not impact upon his land and providing contact details for the Applicant's land referencing team if he further wishes to speak about this.</i></p> <p>In response to a further request for the Applicant to keep the ExA updated on the progress of negotiations, Ms Brodrick noted that, as previously mentioned, options agreements have been signed for all of the main solar PV and battery energy storage sites, so agreements are only outstanding for parts of the Cable Route Corridor. She confirmed that the Applicant is confident that many of the agreements still being negotiated will be agreed. She further added that negotiations will not stop when the examination closes, they will continue through the Recommendation and Decision phases, as required by the relevant guidance, given that the use of compulsory acquisition powers should only be as a last resort where there is no voluntary agreement.¹ She confirmed that the Applicant can provide an update to the Secretary of State following the close of the Examination if requested.</p>
<p>4. The Applicant's Update as a consequence of the Change Request</p> <p>The Applicant will be asked to explain the implications of the Change Request in terms of the CA and TP provisions sought and how they meet the tests of the PA 2008.</p>	<p>In response to the ExA asking for an explanation of the implications of the Change Request [AS-013], Ms Brodrick responded that the minor changes to the Order Limits as part of the Change Application also included a request for compulsory acquisition and temporary possession powers over these additional areas. She noted that in each case, the powers being sought were similar to those sought over the adjacent land, for example, where rights were sought for the cable route under Network Rail's railway, the area has been widened to give some flexibility, but the same nature of rights is sought. She added that similarly, where the Order Limits have been widened as a result of discussions with another solar developer, the nature of rights sought are the same, just over a wider area. Ms Brodrick confirmed that the Applicant's case as to how the tests to acquire rights over land in the PA 2008 are satisfied is therefore the same as for the original DCO Application. She further confirmed that all of the proposed changes relate to the outcomes of discussions with interested parties.</p> <p>Ms Brodrick then set out the five Changes, as follows, noting that further detail is set out in the Change Application and Consultation Report [AS-056]:</p> <ol style="list-style-type: none"> 1. An extension of the Order Limits from the public highway to the West Burton 1 Site. The 'yellow' land plot has been extended to the A1500. This change can be seen on sheet 1 of the Change Land Plans [AS-027] (also shown on [EX4/WB2.2_C]). This change is as a result of discussions with Lincolnshire County Council's highway department about the potential need for temporary passing places within the highway boundary during construction. 2. Widening of the Cable Route Corridor between the West Burton 2 and West Burton 3 Sites to allow for micro siting flexibility to ensure the Scheme can co-exist with the solar project being promoted by Luminous Energy, in the event they are granted planning permission. This change can be seen on sheet 5 of the land plans [AS-027] (also shown on [EX4/WB2.2_C]). 3. Extension of the Order Limits at the location where the West Burton 3 Site crosses beneath the Lincoln to Gainsborough Railway Line. This change is as a result of further discussions with Network Rail to give more flexibility for the design of that railway crossing. This change can be seen on sheet 6 of the land plans [AS-027] (also shown on [EX4/WB2.2_C]). 4. Extension of temporary use powers for a visibility splay for construction vehicles access AC110 along the A156 (High Street, Marton), to ensure the Order Limits of this Scheme align with the Order Limits for the Gate Burton Scheme and the Cottom Solar Project in this location. This change can be seen on sheet 7 of the land plans [AS-027] (also shown on [EX4/WB2.2_C]). 5. An additional access route into West Burton Power Station has been included. This is an existing access route to the north of the proposed route originally shown in the DCO application. Ms Brodrick confirmed that no works will be required, and that this change is to

¹ Guidance related to procedures for the compulsory acquisition of land, Department for Communities and Local Government (September 2013).

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	<p>facilitate construction and ongoing maintenance of the grid connection point. This change can be seen on sheet 10 of the land plans [AS-027] (also shown on [EX4/WB2.2_C]).</p> <p>In response to comments from Ms Warren, Ms Brodrick responded that the reference to the railway was to the railway crossing by the cable route east of Marton, rather than proximate to the West Burton Power Station. She acknowledged the potential for confusion given the amount of detail in the public domain about this Scheme and others in the area. Ms Brodrick also noted that at statutory consultation for this Scheme, the Applicant was considering locating battery energy storage (BESS) and a substation close to West Burton, and that the Scheme included the West Burton 4 site for PV panels. She confirmed that, as a result of design evolution and statutory consultation responses, the West Burton 4 Site was removed from the Scheme, and the BESS and substation were relocated to within the West Burton 3 Site.</p> <p>Ms Brodrick noted that for this Scheme, the cabling connects into West Burton Power Station from a south easterly direction. She added that minimal vehicle movements are associated with the cable route's construction in this area. She noted that she appreciates there is another NSIP solar proposal in this area, which will have impacts and offered to explain to Ms Warren the proposals for this Scheme.</p> <p><i>Post hearing note: Please see the response to Action Point 1 in the table below.</i></p>
<p>5. Site Specific Matters</p> <p>a) The Applicant will be asked to provide an update on the progress of negotiations with APs and the timetable for their conclusion.</p> <p>b) APs will be asked to briefly set out any outstanding concerns in relation to CA / TP for the land in which they have an interest that have not been addressed by the Applicant.</p> <p>c) The ExA will ask questions of the Applicant and APs about negotiations and matters arising from written and oral submissions relating to land rights, unless objections have been withdrawn.</p>	<p>In response to the ExA's question regarding the Shared Cable Route Corridor through the Hills' land, Ms Brodrick referred to the Land South of Marton Grid Connection Options Report [REP2-009] which concluded that routing the cable through the Hills' land was the preferred route. She noted that the Shared Cable Route Corridor developers have undertaken a significant amount of work to confirm that the agricultural barns that landowner has planning permission for can be built out and co-exist with the cable route. She further confirmed that the main issue at the moment relates to the consideration payable for the property agreement, although she confirmed that (as noted above) the parties are currently far apart on this point.</p>
<p>6. Statutory Undertakers</p> <p>a) The Applicant will be asked to:</p> <p>(i) Summarise any outstanding matters arising from representations by Statutory Undertakers.</p> <p>(ii) Summarise whether the relevant tests for the exercise of power pursuant to s127 and s128 of PA2008 would be met in the event that agreement is not reached with all statutory undertakers.</p> <p>b) Any Statutory Undertaker or other relevant body in attendance and wishing to speak in relation to an objection or issue raised that is relevant to the effects of the Proposed Development on its undertaking, apparatus or land will be invited to put oral submissions to the ExA.</p> <p>c) The ExA will ask questions of the Statutory Undertaker or other relevant body, and the Applicant, about matters arising from written and oral submissions.</p>	<p>Ms Brodrick noted that there were no further updates regarding withdrawal of objections since Issue Specific Hearing 2 (23 January 2024). She noted that where statutory undertakers are affected by both the Cottam and West Burton projects, negotiations with the statutory undertakers are happening together. She added that protective provisions and side agreements are being negotiated in respect of the Cottam project at present, as this is the priority given that examination closes shortly. She confirmed that it is expected that very similar protective provisions and side agreements will be entered into in respect of this Scheme.</p> <p>Ms Brodrick added that there are a number of statutory undertakers where the Applicant also requires voluntary property agreements to be entered into, and those discussions are being undertaken at the same time. By way of example, she referred to Network Rail and EDF, where voluntary property agreements being negotiated with both parties. She explained that as the protective provisions and side agreements typically restrict compulsory acquisition powers, it is important for these to be progressed before any limitations on compulsory acquisition powers in protective provisions are agreed to. She added that the protective provision negotiations with these parties are well progressed, however, they are waiting on further progress in the property agreements, so that everything can be agreed at the same time.</p> <p>In response to the ExA's question regarding the progress of negotiations with National Grid and other statutory undertakers, Ms Brodrick responded that points on the level of insurance cover required, provision of financial security during the works (both of which link to the level of indemnity provided) and dispute resolution mechanisms (whether that should be the arbitration provisions in the DCO [EX4/WB3.1_E] or another form) were the sort of points still under discussion in the outstanding side agreements. She noted that the mechanism for approval of works is fairly standard, and the wording of provisions on that in the protective provisions in the draft DCO [EX4/WB3.1_E] are largely agreed. She</p>

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	<p>confirmed that the Applicant's position is therefore that the protective provisions in the DCO provide sufficient protection such that the statutory undertakers will not suffer serious detriment, and so the requirements of section 127 PA 2008 would be met.</p> <p>Ms Brodrick confirmed the versions of the protective provisions in the draft DCO [EX4/WB3.1_E] are the most up to date, save for Network Rail where the Applicant is waiting for the voluntary property agreements to be agreed. Ms Brodrick further confirmed that negotiations with EDF have been progressed and that the Applicant expected the next version of the DCO [EX4/WB3.1_E] to include protective provisions for this entity and others where there are placeholders.</p> <p>In response to the ExA's question relating to negotiations with EDF, Ms Brodrick noted that EDF have provided a set of protective provisions which the Applicant has reviewed and sent back to EDF's solicitors. It is hoped these will be included in the next version of the DCO. These protective provisions will set out the approval process for any works that might affect EDF's undertaking.</p> <p>In response to the ExA's question relating to negotiations with Network Rail, Ms Brodrick responded to confirm that the change relating to the HDD cable crossing of the railway (Change 3 in the Change Application [AS-056]) came about through discussions with Network Rail about the design of the crossing to enable flexibility in how the final crossing could be designed and implemented. Ms Brodrick explained that in the current protective provisions, the Applicant has to get consent from Network Rail for any works affecting "railway property", meaning that Network Rail will have to consent to the detailed design of the crossing. She further confirmed that Network Rail's preferred protective provisions are included in the most recent version of the DCO [EX4/WB3.1_E] (see Part 10 of Schedule 16). She confirmed that the Applicant is hopeful the property agreements will be agreed soon.</p>
<p>7. Crown Land</p> <p>a) The ExA will ask the Applicant (and any Crown authorities present) to provide an update on matters relating to Crown land and s135 of PA2008.</p>	<p>Ms Brodrick noted that the Applicant continues to chase the Crown Estate Commissioners' solicitors for the draft documentation and remains confident that this consent required under section 135 of the PA 2008 will be provided soon, as it was recently on the Gate Burton project for the Shared Cable Route Corridor. Ms Brodrick added that the Applicant is aware that consent needs to be provided prior to the Secretary of State's decision and that on previous DCOs it has not been forthcoming until after the examination has closed. She confirmed that the Applicant remains hopeful this will be provided before the end of the examination.</p>
<p>8. Funding</p> <p>a) The ExA will ask the Applicant to summarise, and advise of any updates to, the Funding Statement.</p>	<p>Ms Brodrick stated that as part of the Change Application, the application Funding Statement was reviewed and an updated Funding Statement ([AS-045], now [EX4/WB4.2_B]) was prepared as part of the Change Application. It was confirmed as part of this review that there was no need to update the cost estimate for the exercise of compulsory acquisition powers to include the additional land, as the difference was negligible and covered by the existing funding position.</p>
<p>8. Review of issues and Actions</p>	<p>Please see the List of actions for the Applicant and other parties following the DCO Compulsory Acquisition Hearing 1 in the table below.</p>
<p>9. Any other matters</p>	<p>None were raised.</p>
<p>10. Close</p>	<p>The ExA closed the hearing.</p>

List of actions for the Applicant and other parties following the DCO Compulsory Acquisition Hearing 1 (6 February 2024)

No	Party	Action	Deadline	Applicant's response
1	Applicant	By Deadline (DL)4 (28 Feb 2024) to liaise directly with Christine Warren (Interested Party) regarding, amongst other things, the direction of cabling into West Burton Power Station, and provide plans and figures. Further, to cross refer to these in written summary submitted at DL4.	4	The Applicant provided Ms Warren with a hard copy of the plans at CAH1. An email containing additional information regarding the application requested by Ms Warren was sent on 15 th February 2023.
2	Applicant	To provide evidence on transport movements relating to Change 5 of the recent Change Application or to cross refer to specific impact of the change on transport for ease of understanding.	4	Please refer to the Applicant's Response to Agenda Item 4a) in the Written Summary to ISH4 [EX4/WB8.1.28].
3	Applicant	Continue on-going discussions with Affected Parties, including providing clarity on the implications of Development Consent Order provisions where it appears that there is some confusion (for example in relation to Entry 16 of the Schedule of Progress [REP2-014]).	4	Please see the Schedule of Progress regarding objections and agreements in relation to compulsory acquisition and temporary possession [EX4/WB8.1.12_B], Schedule of Negotiations [EX4/WB8.1.13_B] and the Schedule of Progress regarding Protective Provisions and Statutory Undertakers [EX4/WB8.1.14_B] for the latest positions on negotiations with Affected Parties.
4	Applicant	To advise the Examining Authority where specific issues which may result in a delay or impasse are anticipated.	4	Please see the response to Action Point 3 above.
5	Applicant	To provide an updated Schedule of Negotiations due to ongoing discussions.	4	Please refer to the Schedule of Negotiations [EX4/WB8.1.13_B].
6	Applicant	Updates to Funding Statement where required (noting AS -045 has been updated).	4	The Applicant notes the comments made against agenda item 8 above. The latest version of the Funding Statement is document reference [EX4/WB4.2_B], although it is noted there has been no change to the property costs estimate since the Application was submitted.

No	Party	Action	Deadline	Applicant's response
7	Applicant	Continue liaison with Crown Estate regarding Crown Land.	Ongoing	The Applicant notes the comments made against agenda item 7, and confirms that it is continuing to chase the Crown Estate Commissioners' solicitors for the draft documentation and remains confident that this consent required under section 135 of the PA 2008 before the Examination closes.