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15 March 2024

Dear Sir or Madam,

APPLICATION BY WEST BURTON SOLAR PROJECT LIMITED FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE WEST BURTON SOLAR PROJECT

THE APPLICANT'S PROPOSED PROVISION FOR THE COMPULSORY ACQUISITION OF ADDITIONAL LAND: JANUARY 2024.

1.0 Introduction

- 1.1 Carter Jonas LLP, together with Burges Salmon LLP, act on behalf of the United Kingdom Atomic Energy Authority (“UKAEA”), Unique Reference: 20037335 and **Representor 342**.
- 1.2 I write regarding the above project and the Applicant's proposed provision for the compulsory acquisition of additional land, as set out in a letter to the UKAEA dated 19 January 2024.
- 1.3 I also note the Examining Authority's (“**ExA**”) deadline to comment on the proposed provision of **23:59 on Friday 15 March 2024**.
- 1.4 Hereunder, I set out objections to the proposed compulsory acquisition on behalf of the UKAEA.

2.0 UKAEA objection to Compulsory Acquisition powers

- 2.1 The UKAEA has an interest land at West Burton Power Station, pursuant to an Option with EDF Energy (Thermal Generation) Limited (EDF) dated 3 October 2022. The terms of the Option itself are bound by confidentiality, however the Project has the potential to directly affect UKAEA's proposals for the future of the land at West Burton Power Station.
- 2.2 As noted in UKAEA's Relevant Representation [**RR-342**], the Project has the potential to directly affect the UKAEA's plans for the future of the EDF West Burton Power Station. UKAEA researches fusion energy and related technologies, with the aim of positioning the UK as a leader in sustainable nuclear energy. UKAEA is an executive non-departmental public body, sponsored by the Department for Energy Security and Net Zero. The EDF West Burton Power Station will become home to the second generation Spherical Tokamak for Energy Production (STEP), which is a project to harness the energy of atomic function.

- 2.3 The UKAEA is a statutory body created by the Atomic Energy Authority Act 1954. Its powers and functions are prescribed by that Act. Those powers and functions are relevant to the consideration of the present proposals of the Applicant as part of the Project. Whilst the UKAEA does not presently meet the definition of “statutory undertaker” for the purposes of s.127 of the Planning Act 2008, it is submitted that it should be considered to be analogous to such an undertaker and that its Option at West Burton should be treated as an interest in land that will be used for its statutory purposes. In such circumstances, the Secretary of State should only authorise the compulsory acquisition of land where they are satisfied that the land can be acquired without serious detriment to the carrying out of UKAEA’s undertaking. That position is enhanced by the UKAEA’s intention to obtain a generation licence under s.6 of the Electricity Act 1989 in due course in association with its STEP programme, at which point the protections of s.127 would apply.
- 2.4 The UKAEA conducted a nationwide site selection process, including inviting regions to submit their site nominations, before the site at West Burton was selected to host the ground-breaking STEP prototype fusion energy plant. Since the announcement of West Burton as the home for STEP, work has begun to understand the West Burton campus, the locale within which it sits, including getting to know the local and regional stakeholder communities. The most recent stage of the STEP programme is an engagement programme with local communities, residents and other stakeholders into the UKAEA’s vision for STEP at West Burton which is running up to 31 July 2024.
- 2.5 The UKAEA land affected by the Project comprises the following plots:

Plot	Nature of rights sought
10-183	Acquisition of rights, imposition of restrictive covenants
10-183a	Acquisition of rights, imposition of restrictive covenants
10-183b	Acquisition of rights, imposition of restrictive covenants
10-183c	Acquisition of rights, imposition of restrictive covenants
10-183d	Temporary possession
10-184	Acquisition of rights, imposition of restrictive covenants
10-185	Acquisition of rights, imposition of restrictive covenants
10-194a	Temporary possession only

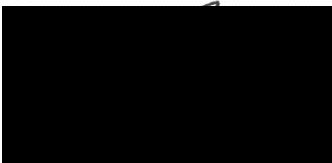
- 2.6 It is noted that despite many of these plots having appeared in previous iterations of the Book of Reference, it is only in the most recent version (Revision E [REP4-033]) that the UKAEA interest is recorded.
- 2.7 Whilst UKAEA is willing to work with the Applicant to explore the potential for a voluntary agreement by which the rights or powers required are granted to the Applicant on a voluntary basis by the existing freehold owner EDF in a manner consistent with the UKAEA interest in land, no such agreement has yet been proposed by the Applicant. Given the future intended use of the West Burton site by UKAEA for its STEP programme, it is essential that the site is not fettered by permanent third party rights of the sort being proposed by the Applicant. UKAEA would have no objection in principle to the grant of voluntary easements over land subject to:
- a) Appropriate time limits where they relate to the exercise of access rights associated with the construction of the Project; and

- b) "lift and shift" provisions which would enable UKAEA to require the Applicant to relocate (without detriment to the Applicant's Project) its cable route which is proposed to cross the West Burton site in order to access the onsite substation.

- 2.8 The terms of any agreement are also likely to include a requirement for the inclusion of protective provisions for the benefit of the UKAEA within the draft DCO, to ensure that any powers are exercised consistently with the UKAEA interest in the site, including compliance with relevant standards for works proposed, future access arrangements and safeguarding.
- 2.9 The UKAEA notes that discussions have been initiated with the Applicant in relation to a potential voluntary agreement.
- 2.10 The UKAEA therefore objects to the proposed exercise of compulsory acquisition (CA) and / or temporary possession powers (TP) over its land at West Burton as affect by the Project.
- 2.11 The UKAEA's position is that the Applicant's request for permanent powers of compulsory acquisition of rights are not reasonable, necessary and proportionate given UKAEA's willingness to reach voluntary agreement in respect of both permanent and temporary rights. The acquisition of such powers also has the potential to interfere with the UKAEA's proposals for the West Burton site, and the UKAEA's statutory functions.
- 2.12 In the alternative, in the event that the Secretary of State is minded to approve the Order in the form promoted, the UKAEA seek protective provisions in relation to the compulsory acquisition powers sought and how they are exercised, so as to prevent detriment to the UKAEA in carrying out its statutory functions.
- 2.13 Given the late introduction of compulsory purchase powers affecting the UKAEA land interests (and the late identification of the UKAEA as a party with an interest in that land), the UKAEA reserves its ability to revisit the position outlined in this representation as it continues to assess the Applicant's proposals.

I trust that these comments are acceptable, and helpful to the ExA and I will be happy to provide more detail as and when necessary.

Yours faithfully,



Peter Canavan BA (Hons) MSc MRTPI
Partner

E: [Redacted]
T: [Redacted]
M: [Redacted]