

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

WEST BURTON SOLAR PROJECT

**RESPONSE SUBMITTED ON BEHALF OF EDF ENERGY (THERMAL GENERATION)
LIMITED TO THE EXAMINING AUTHORITY'S SECOND WRITTEN QUESTIONS (NOS.
2.4.13 AND 2.5.22)**

DEADLINE 5

11 APRIL 2024

CMS Cameron McKenna Nabarro Olswang LLP
Saltire Court
20 Castle Terrace
Edinburgh EH1 2EN


cms.law

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1. INTRODUCTION

- 1.1 EDF Energy (Thermal Generation) Limited (“**EDF**”) is an Affected Person for the purposes of the Planning Act 2008 and the Infrastructure Planning (Interested Parties) Regulations 2010, as its land is subject to proposed compulsory acquisition rights by the applicant, West Burton Solar Project Limited (the “**Promoter**”). The Book of Reference (APP-021) identifies plots 10-183, 10-184 and 10-185 as land owned by EDF over which compulsory acquisition powers to acquire new rights and imposition of restrictions are sought. As such, EDF is an Interested Party by virtue of being an Affected Person as defined by s. 59(4) of the Planning Act 2008.
- 1.2 EDF also registered as an Interested Party and submitted a relevant representation on 5 June 2023 in order to protect its existing assets (RR-077).
- 1.3 The Examining Authority’s second written questions and requests for information (ExQ2) issued on 19 March 2024 included questions for EDF and the Promoter.
- 1.4 EDF’s response to the questions 2.4.13 and 2.5.22 is set out below. These have been discussed with the Promoter.

2. Q. 2.4.13: EDF ENERGY (THERMAL GENERATION) LIMITED

- 2.1 EDF continue to engage with the Promoter in respect of voluntary property agreements. Until agreement has been reached, it remains EDF’s position that compulsory acquisition of its land would have an adverse impact on and serious detriment to EDF’s existing (and future) operations and to ensure that the Station can be safely demolished.

3. Q. 2.5.22: SCHEDULE 16 – PROTECTIVE PROVISIONS, PART 18

- 3.1 The Promoter and EDF are largely in agreement on the form of protective provisions that should be included in the DCO for the protection of EDF’s undertaking, and Part 18 of Schedule 16 to the draft DCO submitted at Deadline 5 has been updated by the Promoter to reflect this.
- 3.2 The only area of disagreement relates to paragraph 238 (*acquisition of land*), and the parties’ preferred wording is as follows:

EDF’s preferred wording	Promoter’s preferred wording
238.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of or entry to any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of EDF otherwise than by agreement.	[Not used]
(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between EDF and the	[Not used]

<p>undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of EDF or affect the provisions of any enactment or agreement regulating the relations between EDF and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as EDF reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between EDF and the undertaker acting reasonably and which must be no less favourable on the whole to EDF unless otherwise agreed by EDF, and the undertaker will use reasonable endeavours to procure or secure (or both) the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.</p>	
<p>(3) Save where otherwise agreed in writing between EDF and the undertaker, the undertaker and EDF agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by EDF or other enactments relied upon by EDF as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.</p>	<p>[Not used]</p>
<p>(4) As a condition of an agreement between the parties in sub-paragraph (1) which relates to taking temporary access rights during construction over EDF's land, EDF may ensure that it retains flexibility to alter any construction routes (within the Order limits) or to limit access for certain time periods, and may require the undertaker to pay any reasonable security and maintenance costs involved in the grant of any such rights.</p>	<p>[Not used]</p>
<p>(5) Any agreement or consent granted by EDF under paragraph 9 or any other paragraph of this Part of this Schedule, are not be taken to constitute agreement under sub-paragraph (1).</p>	<p>[Not used]</p>

3.3 While the Promoter has agreed with EDF's preferred form of wording for paragraph 238, it does not agree with its inclusion before voluntary agreements have been concluded. It remains EDF's position that this wording must be included regardless of if or when voluntary agreements are finalised to ensure there is no serious detriment to EDF's undertaking.

CMS Cameron McKenna Nabarro Olswang LLP

For and on behalf of EDF Energy (Thermal Generation) Limited

11 April 2024