

# West Burton Solar Project

## Written Summary of the Applicant's Oral Submissions & Responses at Issue Specific Hearing 6, Compulsory Acquisition Hearing 2, Open Floor Hearing 3

Prepared by: Pinsent Masons LLP

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Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 6,  
Compulsory Acquisition Hearing 2, Open Floor Hearing 3 and Responses  
to Action Points  
April 2024

## Issue Sheet

Report Prepared for: West Burton Solar Project Ltd.  
Examination Deadline 6

**Written Summary of the Applicant's Oral Submissions and  
Responses to Action Points at Issue Specific Hearing 6 (ISH6),  
Compulsory Acquisition Hearing 2 (CAH2), and Open Floor Hearing  
3 (OFH3) on 23 April 2024**

**Prepared by:**

Pinsent Masons LLP

## 1 Summary of Oral Submissions at ISH6, CAH2 and OFH3

Agenda Item	Comments
1. Welcome and Introductions	The ExA opened the hearing and made some preliminary remarks.
2. Purpose of these Hearings	<p>The ExA explained the primary purpose of the hearing is in relation to the Applicant's proposed changes to the application, as set out in the Change Application [AS-021 to AS-071]. The ExA confirmed the hearing would comprise an issue specific hearing, a compulsory acquisition hearing and an open floor hearing, held concurrently.</p> <p>The following parties introduced themselves during CAH2, OFH3 and ISH6:</p> <p><u>The Applicant</u></p> <ul style="list-style-type: none"> <li>Claire Brodrick, Legal Director at Pinsent Masons LLP (solicitors for the Applicant).</li> </ul> <p><u>United Kingdom Atomic Energy Authority (UK AEA)</u></p> <ul style="list-style-type: none"> <li>Daisy Noble, Francis Taylor Building (Counsel for UK Atomic Energy Authority (UK AEA)).</li> <li>Gary Corbett, Head of Estate Management at UK AEA.</li> </ul> <p><u>Local Resident</u></p> <ul style="list-style-type: none"> <li>Christine Warren.</li> </ul>
3. Brief summary by the Applicant of Changes to the application and any effect these have on the Applicant's case.	<p>Ms Brodrick noted that the Applicant's change application is set out in the Change Application and Consultation Report [AS-056]. Section 3 of that document outlines the five proposed changes, which Ms Brodrick summarised as:</p> <ul style="list-style-type: none"> <li><b>Change 1</b> – An extension to Order limits along the highway from the West Burton 1 Site to the A1500 Tillbridge Lane, to the north of Broxholme in order to facilitate access to the Site during the construction phase.</li> </ul>

Agenda Item	Comments
	<ul style="list-style-type: none"> <li>• <b>Change 2</b> – An extension to Order limits to the east of the Lincoln-Gainsborough railway line within Stow Park to allow for flexibility in relation to the separate proposed solar farm development at Stow Park Farm pursuant to the Town and Country Planning Act 1990.</li> <li>• <b>Change 3</b> – An extension to Order limits along the Lincoln-Gainsborough railway line within the West Burton 3 Site to allow for flexibility in relation to the method of constructing the cable under the railway.</li> <li>• <b>Change 4</b> – A small extension to the Order Limits along A156 High Street, Marton in proximity to the Cable Route Corridor construction access point reference AC110 for a visibility splay.</li> <li>• <b>Change 5</b> – An extension to Order limits to include the existing main vehicular access road to West Burton Power Station from Gainsborough Road to provide access during the construction and operational phases to the National Grid Substation site.</li> </ul> <p>As part of the change application, the Applicant prepared a Supporting Environmental Information Report <b>[AS-057]</b>, which considers the conclusions of the Environmental Statement <b>[APP-038 to APP-061, REP1-012 and REP3-010]</b> submitted with the DCO application in relation to the proposed changes, and in particular, whether there are any changes to the potential likely significant effects compared to those reported in the original Environmental Statement for the Scheme. The Supporting Environmental Information Report concludes that there are no new or different likely significant effects of the change.</p> <p>The Change Application and Consultation Report also sets out the engagement that the Applicant has undertaken with stakeholders, including local authorities and landowners who are affected by the proposed changes. In a number of cases, the changes have been a result of consultation and discussions with those landowners.</p> <p>The Applicant notes that the ExA did not have any additional questions on the Change Application.</p>
<p><b>4. Representations from Additional Affected persons and Additional Interested</b></p>	<p>The ExA noted that there were requests to speak from three parties, including:</p> <ul style="list-style-type: none"> <li>• UK AEA.</li> </ul>

Agenda Item	Comments
<p><b>Parties including in relation to the Proposed Development and the proposed provisions of the Change Request.</b></p>	<ul style="list-style-type: none"> <li>• Ms Christine Warren.</li> <li>• Broxholme Parish Meeting Solar Group, however, they were not in attendance and no representations were made during the hearing.</li> </ul> <p><u>UK AEA</u></p> <p><i>UK AEA's position</i></p> <p>The ExA set out what it understood to be UK AEA's position based on their previous representations <b>[RR-342, AS-066, REP5-005]</b>. Ms Noble, on behalf of UK AEA, reiterated UK AEA's position on the use of powers of compulsory acquisition. The Applicant notes that Mr Corbett, on behalf of UK AEA explained that flexibility is needed in relation to the location of the STEP fusion project, as site investigations are ongoing. Mr Corbett stated that he anticipates the risk assessments for the STEP project will be completed in the next 2 to 3 years, construction on the will commence in the early 2030's and for the plant to be operational in the early 2040's.</p> <p><i>Applicant's response</i></p> <p>Ms Brodrick, on behalf of the Applicant, confirmed the Applicant engaged with UK AEA as soon as it became aware of the option agreement between EDF Energy (Thermal Generation) Limited (EDF), being the landowner, and UK AEA. These discussions have addressed the technical alignment of the underground cabling to the National Grid substation and the protective provisions.</p> <p>Ms Brodrick noted the area immediately south of the National Grid substation is very constrained as there are a number of overhead lines and pylons coming into the substation. The cable route needs to navigate its way through these constraints. The Applicant believes a route has been identified that is acceptable both to EDF and UK AEA. However, the Applicant does need to retain some flexibility because there is the potential for National Grid to change the location of the bay into which the cable connects. This is why the Order Limits are fairly wide around the National Grid substation.</p>

Agenda Item	Comments
	<p>The Applicant understands that UK AEA does not intend to relocate the National Grid substation as part of the STEP Project. The Applicant's intention is for UK AEA to approve the precise location of the cable in the area to the south of West Burton Power Station. The protective provisions for the benefit of UK AEA that the Applicant will submit in the draft DCO at Deadline 6, provides UK AEA with an approval role, as well as the ability to impose any reasonable conditions in terms of depth or other protective measures to facilitate their ongoing development proposals.</p> <p>Ms Brodrick explained that whilst UK AEA have the benefit of the Option Agreement, they are not the current landowner. The Applicant is currently negotiating a voluntary agreement with EDF, the landowner. The Applicant cannot restrict or give up its compulsory acquisition powers until such a voluntary agreement is in place with EDF, and UK AEA cannot grant a voluntary agreement as it is not the freehold owner of the land. The Applicant has offered to enter into a separate side agreement with UK AEA to provide some further assurances to UK AEA should it become the freehold owner of the land prior to the construction of the cable for the Scheme.</p> <p>Ms Brodrick noted that the Secretary of State has already considered in a number of other DCOs, such as the National Grid (Hinkley Point C Connection Project) Order 2016 and the Immingham Open Cycle Gas Turbine Order 2020, that there is a case for granting compulsory acquisition powers to ensure there are the correct property rights to enable a nationally significant infrastructure project to go ahead, and that this can be done without causing serious detriment to the undertaking of statutory undertakers, or, in this case, future development proposals, because protective provisions provide a mechanism whereby consent needs to be given for the actual works themselves.</p> <p><b><i>Post hearing note: This principle was established in the Secretary of State's decision letter for the National Grid (Hinkley Point C Connection Project) Order 2016 (see paragraph 95 of the decision letter) and reiterated in Secretary of State's decision letter for the Immingham Open Cycle Gas Turbine Order 2020 (see paragraphs 6.6 to 6.23 of the decision letter).</i></b></p>

Agenda Item	Comments
	<p>In the absence of a voluntary agreement with EDF as landowner, the Applicant considers that it needs to retain compulsory acquisition powers to ensure deliverability of the Scheme, and that the protective provisions provide adequate protection for UK AEA's future development plans.</p> <p>The ExA asked what progress is likely to be made with reaching an agreement up until the close of Examination. Ms Brodrick, on behalf of the Applicant noted that it is unlikely the Applicant will reach a voluntary agreement with EDF prior to the close of Examination. The Applicant has issued EDF heads of terms, which EDF are currently considering. The Applicant remains hopeful that a voluntary agreement can be reached with EDF prior to the Secretary of State making its decision. EDF is also the owner of the Cottam Power Station Site, and is also involved with negotiating terms for a voluntary property agreement with the projects that connect into Cottam Power Station, being the Cottam Solar Project, Gate Burton Energy Park and Tillbridge Solar Project.</p> <p>The Applicant has issued a draft side agreement to UK AEA, which addresses the concerns raised in today's hearing. If the draft agreement can be concluded, it should also allow for the agreement of the protective provisions within the draft DCO. The Applicant remains optimistic the Parties can progress negotiations on a separate side agreement before the end of Examination. If the agreement cannot be concluded by the end of Examination, the Applicant will continue to work with UK AEA and provide an update to the Secretary of State when the DCO application progresses to the determination stage.</p> <p>The ExA asked that by the end of Examination, for the Parties to inform the ExA of the Parties' respective positions, particularly in terms of the areas where agreement has not been reached.</p> <p><i>Updates to Land Plans</i></p>



Agenda Item	Comments
	<p>The ExA noted an error on Sheet 10 of the Land Plans, as the plot referenced '10-138b' should read plot '10-183b'. The ExA requested the Applicant update the Land Plans.</p> <p><i>Treatment of UK AEA as statutory undertaker</i></p> <p>The ExA sought clarification as to whether UK AEA is a statutory undertaker for the purposes of section 127 Planning Act. The Applicant notes that Ms Noble confirmed that UK AEA is not currently a statutory undertaker. Ms Brodrick explained that although UK AEA is not a statutory undertaker for the purposes of the Planning Act 2008, the Applicant has approached the UK AEA's concerns in the same way as concerns raised by other statutory undertakers. Accordingly, the Applicant considers protective provisions are the appropriate mechanism to protect UK AEA's future development plans.</p> <p>The protective provisions require the Applicant to submit plans to the UK AEA for approval prior to construction, which is the same protection afforded to other statutory undertakers. The Applicant therefore argues that the protective provisions are adequate to resolve the concerns that UK AEA have raised.</p> <p>The protective provisions also ensure that access is maintained during construction, which addresses UK AEA's concerns about the use of the access road into the West Burton Power Station. These provisions are similarly reflected in the protective provisions with National Grid.</p> <p>The protective provisions also provide for controls over the use of highways powers, protective works to buildings, indemnity, payment of expenses, etc, which mirror those that have been offered to other statutory undertakers.</p> <p><u>Ms Warren</u></p> <p><i>Ms Warren's position</i></p> <p>Ms Warren raised various concerns about the Scheme, including traffic impacts and cumulative effects.</p> <p><i>Applicant's response</i></p>

Agenda Item	Comments
	<p>Ms Brodrick, on behalf of the Applicant noted that traffic impacts were considered in detail during Issue Specific Hearing 4 by Mr Robert Roughan, associate director at Transport Planning Associates and referred to the Applicant's summary of that hearing <b>[REP4-071]</b>. The construction works relating to the grid connection in this location will take place over 90 days, with eight vehicle movements per day and up to ten workers per day. Ms Brodrick noted this is a small amount of traffic movements required to facilitate the works at the National Grid substation to provide the connection and the construction of this section of underground cable route. The traffic impact assessment has included the operational traffic movements of a number of existing projects, such as the demolition works at West Burton Power Station and Sturton le Steeple Quarry, as part of the baseline.</p> <p>At Deadline 5, the Applicant submitted a technical note <b>[REP5-031]</b>, and an Environmental Statement Addendum <b>[REP5-015]</b>, which provided an update on the cumulative effects, based on further information that has come into the public domain since the DCO application was submitted. Although there is a limited amount of information available for some of these projects, as they are only just at the beginning of the consenting process, the Applicant has considered the cumulative impacts in terms of traffic and other matters including noise, ecology and landscape and visual.</p> <p>The Applicant considers that it has adequately assessed the cumulative impacts, both in terms of the small impacts of this Scheme, and in the context of all the other projects that are ongoing in the vicinity of the West Burton Power Station. Ms Brodrick also confirmed that that no works have commenced in respect of this Scheme, and therefore, the concerns Ms Warren raised about the activities that are currently being undertaken are not associated with this Scheme.</p> <p>The Applicant notes that the Applicant's traffic consultant, Mr Roughan, was available at the hearing to answer any specific questions, in addition to the matters that were addressed at ISH4. No additional questions were asked.</p>

Agenda Item	Comments
5. Responses by Applicant (if not addressed above)	See Item 5 above.
6. Other Matters	<p>The ExA noted that a Rule 17 letter <b>[PD-017]</b> will be issued shortly, which includes a number of matters the ExA would like to raise with the Applicant.</p> <p>The ExA also confirmed the action points, which are outlined below. The ExA also noted that they are expecting comments on the documents received at Deadline 5 and statements from interested parties regarding any unresolved matters that have been raised during Examination.</p>
7. Close	The ExA closed the hearing.

## 2 Action Points

No.	Party	Action	Deadline	Applicant's Response
1.	Applicant	Applicant to provide revised Land Plans to correct the plot reference from "10-138b" to "10-183b" on Sheet 10.	DL6	Revision D of the Land Plans [EX6/WB2.2_D] has been submitted at Deadline 6, which corrects the plot reference.
2.	Applicant and UK AEA	Applicant and UK AEA to continue to negotiate the agreement and protective provisions in the draft DCO.	Ongoing	The Applicant is continuing to negotiate the side agreement and protective provisions with UK AEA.
		The Parties are to inform the ExA of the Parties' respective positions on the agreement and protective provisions, particularly in terms of the areas where agreement has not been reached.	DL7	At the end of Examination, the Applicant will make a submission on the Applicant's position on the status of the side agreement and protective provisions.