

# West Burton Solar Project

## The Applicant's Responses to Request for Further Information by the ExA

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## Issue Sheet

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

### Applicant's Response to Request for Further Information by the ExA

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## **1 Introduction**

- 1.1.1 This report responds to the request made by the Examining Authority's (ExA) for further information pertaining to the Examination, issued by way of a Rule 17 letter on 23 April 2024 **[PD-017]**. It provides the Applicant's response to each of the numbered requests for information.

## 2 Schedule of Responses to Requests for Further Information by the ExA

No.	ExA's Request for Information	Applicant's Response
1.	<p>For the avoidance of doubt, please provide further detail as to how diligent enquiry has been carried out, noting that there are many 'unknown' interests in Part 1, Part 2 and Part 3 the Book of Reference [REP4-032].</p>	<p>The Applicant notes that in respect of Category 1 interests, an owner or reputed owner has been listed for all plots. Where land is unregistered (including, for example, the subsoil beneath a public highway, tracks and drains), an "unknown" interest has also been added as a conservative approach due to the absence of registered title information and as is standard for a Book of Reference for a NSIP.</p> <p>The Applicant can confirm that for each "unknown" Category 2 interest that the Applicant's land referencers have identified through desktop referencing but have been unable to ascertain who the interest now benefits, a schedule of unknown interests was prepopulated on the Land Interest Questionnaire sent to the landowner, requesting confirmation as to who benefits from the unknown interest. Desktop research including TracelQ searches were also conducted where it was possible. For unregistered land, site notices were affixed on or adjacent to the land in order to notify any unregistered interested parties of the proposals. The same approach was taken in respect of any mines and minerals interests that were excluded from the registered freehold title.</p> <p>In each case, the Applicant's land referencers have not been able to identify the beneficiaries of the unknown interests after undertaking these activities. Further details are set out in section 8.2 of the Statement of Reasons [EX6/WB4.1_C].</p> <p>The Applicant considers that it has complied with its statutory obligations to carry out diligent inquiries.</p>

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2.	<p>The Schedule of Negotiations [REP4-064], the Schedule of Progress Regarding Protective Provisions and Statutory Undertakers [REP4-065] and the Schedule of Progress regarding objections and agreements in relation to Compulsory Acquisition, Temporary Possession, other land rights and blight [REP4-063] identify a number of plots for which the owners have not agreed to the Compulsory Acquisition of their land. The Applicant confirms in their response to the ExA second written question 2.4.2 [REP5-039] that there may be some instances where objections to compulsory acquisition of land is not formally withdrawn once agreement is reached. Noting the possibility of outstanding objections, the Applicant is asked to please address the following:</p>	
2a)	<p>What assessment, if any, has been made of the effect upon individual Affected Persons and their private loss that would result from the exercise of Compulsory Acquisition powers in each case</p>	<p>Details of the site selection process undertaken by the Applicant to identify the Order limits for the Scheme is set out in Chapter 5: Alternatives and Design Evolution of the Environmental Statement <b>[APP-043]</b> and Appendix 5.1 Site Selection Assessment <b>[APP-071]</b>. As part of this exercise the Applicant considered the impact on individual landowners and occupiers to ensure that compulsory acquisition powers were only being sought over the minimum amount of land and rights over land required to construct, operate, maintain and decommission the Scheme.</p> <p>Appendix A of the <b>Statement of Reasons Revision C [EX6/WB4.1_C]</b> assesses the land over which compulsory acquisition powers are required. This assessment is carried out at a plot level, to explain how each parcel of land is required for the Scheme. Part 1 of Appendix A shows each plot over which freehold acquisition is required, and the works for which each plot of land is required. Part 2 of Appendix A shows each plot over which new rights and the imposition of restrictions is required and the purpose</p>

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		<p>of such rights and restrictions. Part 3 of Appendix A shows each plot over which temporary possession is required and the purpose of such temporary possession powers. These are also outlined in Schedules 10, 12 of the <b>Draft Development Consent Order [EX6/WB3.1_G]</b>.</p> <p>Section 7.4 and Appendix B of the <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b> outlines the pro-active steps the Applicant has taken to engage with persons whose land and rights will be affected by the Scheme to understand the direct and indirect impacts on them and to try to reach a voluntary agreement. This has helped to shape the Scheme and, where possible enabled changes to the design to minimise the private loss.</p> <p>Appropriate compensation would be available to those entitled to claim it under the relevant provisions of the national Compensation Code for the compulsory acquisition of land or rights and for loss or damage caused by the exercise of any power of temporary use of land.</p> <p>The Applicant has also obtained valuation advice from qualified chartered surveyors regarding the amount of compensation likely to be payable to each landowner and occupier in the event that compulsory acquisition powers need to be exercised. This has informed the cost estimate for the Scheme referred to in paragraph 2.4.3 of the Funding Statement <b>[REP4-030]</b>.</p> <p>The Applicant notes that it has entered into Option Agreements with the landowners of West Burton 1, 2 and 3 where the solar PV panels, substations and BESS will be located. In respect of the Cable Route Corridor, this is located on agricultural land and once constructed, the land will be restored and agricultural use can recommence. The Applicant</p>

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		<p>considers that any private loss suffered by the landowner or occupier, such as crop loss during construction, can be adequately compensated.</p> <p>In terms of the effects of the Scheme on individual Affected Persons, the Statement of Reasons <b>[EX6/WB4.1_C]</b> must be read in conjunction with the other DCO Application documents, including the conclusions of the assessment of likely significant effects set out in the Environmental Statement.</p> <p>It is not typical for a Statement of Reasons to contain a plot-by-plot assessment of the impacts of the Scheme on individual Affected Persons against the public benefits of the Scheme. Instead, the public interest in the Scheme as a whole is considered and in this case the Applicant considers that the benefits of the Scheme to the public override any private loss suffered by individual landowners and occupiers.</p>
2b)	How has it been demonstrated within the application that the public benefits of the scheme would outweigh any residual adverse effects including private loss suffered by individual landowners and occupiers	<p>Sections 6 and 7.3 of <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b> outlines the public benefits of the Scheme, including meaningful and timely contributions to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, which is critical on the path to Net Zero. The Scheme also provides biodiversity net gain, improving connectivity with the existing network of PROWs, retaining the existing network of PROWs and employment during the construction phase.</p> <p>Paragraphs 7.4.5-7.4.7 of the <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b> recognise that the Scheme would have some adverse impacts on the environment and local community, but notes these impacts do not outweigh the important nationally significant benefits of contributing towards the urgent national need for secure and affordable</p>



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		<p>low carbon energy infrastructure. The extent of the Order limits is no more than is reasonably necessary for the construction, operation and maintenance of the Scheme and therefore any interference with private rights is proportionate and necessary.</p> <p>All relevant environmental, social and economic benefits and adverse impacts have been assessed and are reported on in the Application documents, most notably the <b>Environmental Statement [APP-038 to APP-061, REP1-012, REP1-032, EX6/WB6.2.23_C]</b>.</p> <p>Further details of the benefits and need for the Scheme are set out in the <b>7.11 Statement of Need [APP-320]</b>.</p> <p>Section 7 of the <b>7.5_C Planning Statement Revision C [EX6/WB7.5_C]</b> assesses how the public benefits of the Scheme would outweigh any residual adverse effects.</p> <p>Section 7.4 of the <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b> recognises that the compulsory acquisition powers will result in persons who have an interest in the relevant land suffering private loss. However, the Applicant considers that any private loss can be minimised through the payment of appropriate compensation.</p>
2c)	Demonstrate how such a conclusion has been reached and how the balancing exercise between public benefit and private loss has been carried out?	Please see the answer to 2(b) above.
3.	Section 9 of the Statement of Reasons [REP4-028] addresses human rights.	

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3a)	Please provide a more detailed demonstration that interference with human rights in this case would be proportionate and justified	<p>As set out in Section 9 of the <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b>, interference with human rights can be justified in the public interest and subject to a fair and public hearing.</p> <p>The Applicant considers the proposed interference with human rights is a legitimate purpose as it is required to develop the Scheme or is required to facilitate or is incidental to the Scheme, in accordance with section 122 Planning Act 2008.</p> <p>The Applicant refers to its responses to questions 2(a) and (b) above as to why the compulsory acquisition powers being sought are necessary and proportionate and why any private loss is outweighed by the public benefits of the Scheme.</p> <p>As set out in paragraph 5.3.2 of the <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b>, the Applicant has only included powers to compulsorily acquire the freehold interest in land where other powers (such as to acquire new rights, impose restrictions or take temporary possession) would not be sufficient or appropriate to enable the construction, operation, maintenance or decommissioning of the Scheme. On this basis, the Applicant considers its approach to be proportionate and justified.</p> <p>Section 5.4 of the <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b> sets out why the acquisition of rights and imposition of restrictions, including the need for powers over the entire Cable Route Corridor, is necessary and proportionate.</p> <p>The Applicant also refers to paragraphs 5.5.2 and 7.5 of the <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b> which states that</p>

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		<p>where practicable, lesser powers of temporary possession will be used (e.g. during construction).</p> <p>The Applicant notes that the approach taken by the Applicant to the consideration of any interference with human rights in its statement of reasons is consistent with the approach taken in the Longfield Solar Farm Order 2023 and numerous other energy DCOs.</p>
3b)	Explain how the proportionality test has been undertaken and how this approach has been undertaken in relation to individual plots?	Please see answers to 2(a), 2(b) and (3)(a) above.
3c)	For the avoidance of doubt, please set out all the factors that are regarded as constituting evidence for a compelling case in the public interest for the Compulsory Acquisition and Temporary Possession powers sought and where, giving specific paragraph references, are these set out in the submitted documentation?	<p>Sections 6.1 and 7.3 of the <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b> outlines the public benefits of the Scheme, which constitute a compelling case for the compulsory acquisition and temporary possession powers that are sought in the <b>Draft Development Consent Order [EX6/WB3.1_G]</b>. These are:</p> <ul style="list-style-type: none"> <li>• The Scheme is capable of delivering large amounts of low-carbon electricity to local and national networks, which would contribute to the decarbonisation of the GB electricity sector and the Government's net zero legal requirement: paragraphs 6.1.2-6.1.3 <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b>;</li> <li>• As part of the energy generation mix, solar and BESS improves the stability of capacity utilisations among renewable generators. The connection to the National Electricity Transmission System (NETS) at West Burton Power Station will help National Grid manage the national electricity system and provide stable energy supply for consumers paragraphs 6.1.2-6.1.3 <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C]</b>;</li> </ul>

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		<ul style="list-style-type: none"> <li>The cost of solar generation is very competitive against other forms of conventional and low-carbon generation. There is also an ongoing trend for solar generation assets becoming larger and more affordable, which provides decarbonisation benefits and commercial benefits to consumers paragraph 6.1.2 <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C];</b></li> <li>The Scheme will deliver large amounts of low-carbon power ahead of other technologies which have longer construction timeframes or have potentially not yet been proven at scale paragraph 6.1.4 <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C];</b></li> <li>The Scheme would also deliver other benefits, including significant net gain for biodiversity, a new permissive path that will be retained during the operation of the Scheme, and a significant amount of employment during the construction phase paragraphs 6.2.7-6.2.9 and 7.3.2 <b>WB4.1 Statement of Reasons Revision C [EX6/WB4.1_C].</b></li> </ul> <p>The above matters are explained in further detail in the <b>7.11 Statement of Need [APP-320]</b> and <b>7.5_C Planning Statement Revision C [EX6/WB7.5_C].</b></p>
4.	The Applicant is asked to please clarify the following discrepancy in the Statement of Reasons [REP4-028] with regard to the land ownership of the mains solar arrays sites	
4a)	Paragraph 5.1.2 of the sets out that Option Agreements have been entered into with the <u>owners of the three Sites</u>	Option agreements have been entered into with every landowner who owns land within the three Scheme sites, West Burton 1, West Burton 2 and West Burton 3.

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4b)	Paragraph 7.9.1 sets out that the sites are within <u>four landownerships</u>	The Applicant confirms that this is correct. West Burton 1 and 2 sites are owned by one landowner each and West Burton 3 includes land owned by two separate landowners.
4c)	Paragraph 7.9.2 sets out that Option Agreements have been entered into for <u>each of the Sites</u>	The land within West Burton 1 has an option on it, with one landowner. This is the same for West Burton 2, for a separate landowner. West Burton 3 has two options over it, one for each of the two separate landowners of the land contained within it.
5.	The ExA notes that references to "Access to Works Plan" have been changed to "Access Plans", with reference to this alternation being made in Schedule of Changes [REP1-054]. The Applicant is asked to clarify the reason for this change.	The change was to ensure consistency between Part 1 'Interpretation', Schedule 7 and Schedule 14 of the Development Consent Order.
6.	<p>ExA second written question 2.4.9 [REP5-039] makes reference to the Canal and River Trust's concerns about the implications of the Land South of Marton Grid Connection Options Report [REP2-009], with reference to the implications of Option 2. The Applicant's response indicates that it is not proposing to proceed with Option 2.</p> <p>However, the Report sets out at paragraph para 11.1.5 that 'Option 1 utilises the existing shared Grid Connection Corridor provided in the original DCO application and retains cables through the same land as is proposed for the barns. This option would either require the cables to be installed under the barns (1a and b), which would be challenging and undesirable, or the barns to be relocated/ not constructed (1c).</p> <p>Significant uncertainty is associated with all three options due to the lack of opportunity for site surveys and uncertainty over the construction of the barns. Therefore, to assess a worst case scenario it would be assumed that this option would result in the barns not being</p>	<p>The Land South of Marton Grid Connection Options Report <b>[REP2-009]</b> assessed grid connection routes in the area south of Marton. The Options Report was undertaken in response to objections raised by Mr and Mrs Hill as to the impact of the Shared Cable Route on their development proposals for their land. A number of options were assessed, with the conclusion that Options 1 and 2 were most favourable in terms of environmental impacts and affected landowners. This led to the further conclusion that in light of this assessment, there was no requirement to amend the Order limits in this area and hence this did not feature as a part of the change application submitted on 19 January 2024 and detailed in WB9.2 Change Application and Consultation Report <b>[AS-056]</b>.</p> <p>During the pre-construction phase, detailed engineering design work will be commissioned to establish whether Option 2 is viable. At this stage, it is believed that it is. If Option 2 proves not to be viable, then as explained in paragraph 4.1.1 of <b>[AS-056]</b> regarding Option 1: It may also be possible for</p>

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	<p>constructed or demolished. Whilst it is considered that this is still a viable option and justified for the construction of the scheme, <u>it should only be pursued if Option 2 was not viable</u>.</p> <p>Paragraph 11.1.6 also sets out that 'Option 2 utilises the same Grid Connection Corridor but proposes to construct the cables around the agricultural buildings. This would avoid impacts on the agricultural barns associated with Option 1.'</p> <p>The Applicant is therefore asked to clarify the implications of the conclusions of this Report.</p>	<p>the cables to be installed under the barns or for the barns to be constructed elsewhere. At this stage the Applicant would discuss with the landowners on how this might best be implemented. The worst case is that the barns are not constructed at all or if they had been constructed, would be demolished, and the landowner compensated accordingly.</p>
7.	<p>With reference to the Stow Park Cultural Heritage Position Statement [REP5-027], the Applicant sets out at paragraph 5.1.1 that the removal of the solar panels within the Stow Park Deer Park would result in the loss of approximately 104.145. MWp of installed capacity resulting in West Burton 3 capacity being reduced to 186.615 MWp. The Applicant is asked to please clarify how these figures relate to the overall generating capacity of the Proposed Development.</p>	<p>The 104MWp installed capacity is based upon the indicative technology and design used for the EIA. The Applicant notes that this may be subject to change based upon technological advances prior to the commencement of construction.</p> <p>Based on the <b>WB2.3_E Works Plan Revision E [REP5-035]</b> the overall area of Work No.1 (i.e. the land where solar PV panels can be located) for the Scheme as a whole is 5,074,441 square meters. The deer park land contains 1,032,418 square meters of land forming part of Work No. 1. The deer park land contains approximately 20% of the 522MWp installed capacity of the Scheme and therefore will be responsible for around 20% of its total electricity generation.</p> <p>At this stage in the process (i.e. prior to detailed design), it is not possible to determine precisely the impact in terms of generating capacity of the deer park land being removed upon the total exported generation profile of the Scheme and its ability to generate the 480MW grid connection offered by National Grid. This is due to factors such as the overplanting ratio and panel type not yet being determined. However, given that the</p>

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		<p>deer park land is anticipated to contain approximately 20% of the installed capacity, it can definitively be concluded that the removal of this land would result in a significant reduction in the generating capacity of the Scheme. Further explanation of overplanting can be found in <b>8.1.5 Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 1 (ISH1) [REP1-052]</b>.</p>
8.	<p>The Applicant is asked to ensure that the latest versions of all submitted documentation consistently refers to the proposed 60 year life of the Proposed Development, rather than 40 year. For example, the Non-Technical Summary [APP-308] paragraph 6.9.13 and the Design and Access Statement Part 1 [APP-314] paragraph 4.2.3 are not consistent in this regard.</p>	<p>The Applicant has updated at Deadline 6 a number of documents which will be certified (as set out in Schedule 14 Article 40 in <b>3.1_G Draft Development Consent Order Revision G [EX6/WB3.1_G]</b>) which still referenced an operational lifetime of the Scheme of 40 years to state up to 60 years..</p> <p>The Applicant reiterates that the <b>8.2.3 Review of Likely Significant Effects at 60 Years [REP1-060]</b> (submitted at Deadline 1) considers the implications of having an up to 60 year operational phase by each environmental matter topic in the ES. At Deadline 3 <b>6.2.23_B Chapter 23 Summary of Significant Effects Revision B [REP3-010]</b> was updated to reflect any changes to the significant effects relating to the change from 40 to up to 60 years. The Applicant does not therefore consider it necessary or proportionate to update every reference in the Environmental Statement or other DCO application documents.</p>