

Cottam 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
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Issue Sheet

Report Prepared for: Cottam Solar Project Ltd.
Examination Deadline 3

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

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#	ExA Question / Item for discussion	Applicant's response
Agenda Item 1 - Welcome, opening remarks and introductions		
1	The Examining Authority (ExA) welcomed participants and read introductions and the public livestream and recording was started.	<p>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) - Eve Browning, Project Development Manager at Island Green Power - Joel Roche, Associate at Bruton Knowles (Land Agents for the Applicant) - Neil Fletcher, noise consultant at Tetra Tech (consultants for the Applicant) - Paul Bentley, noise consultant at Tetra Tech (consultants for the Applicant) <p><u>Affected Parties</u></p> <ul style="list-style-type: none"> - Simon Skelton, local resident - Elizabeth Garbutt (on behalf of Mr Nick Hill and Ms Emma Hill, Affected Parties) <p><u>LNT Group</u></p> <ul style="list-style-type: none"> - Alistair Wood, Planning and Development Manager, LNT (on behalf of LNT Aviation, owners of Blyton Park Driving Centre (BPDC)) - Alan Mugglestone, Facility Manager at Blyton Park Driving Centre <p><u>7000 Acres</u></p> <ul style="list-style-type: none"> - Tony Cork
Agenda Item 2 - The purpose of the hearing and how it will be conducted		
2	The ExA introduced how the hearing would be conducted, and its purpose.	N/A
Agenda Item 3 - Applicant's Introduction and Update		
3.1	Applicant to outline the case for compulsory acquisition and temporary possession, and how they meet the tests of the PA 2008	<p>Ms Brodrick, for the Applicant, explained that Section 120 of the Planning Act 2008 (PA 2008) sets out that a development consent order (DCO) may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development, which includes the compulsory acquisition of land, and the creation, suspension or extinguishment of, or interference with interests in or rights over land.</p> <p>Sections 122 and 123 of the PA 2008 set out the main tests for the inclusion of compulsory acquisition powers over land and rights over land within a DCO.</p>

#	ExA Question / Item for discussion	Applicant's response
		<p>Section 122(2) requires that the land is required for the development, or is required to facilitate or is incidental to the development. Ms Brodrick stated that the Applicant confirms that the land and the new rights and restrictions sought are required for the Scheme or to facilitate or are incidental to the Scheme.</p> <p>The scope and purpose for which compulsory acquisition powers are being sought is set out in Sections 5 and 6 of, and Appendix A to, the Statement of Reasons [AS-013]. The powers are required for the construction, use and maintenance, and decommissioning of the Scheme.</p> <ul style="list-style-type: none"> • Article 20 of the draft DCO (dDCO) [REP2-004] contains the power to the acquire compulsorily land required for the Scheme or to facilitate it, or as is incidental to it; and to use land acquired for the purpose authorised by the Order or for any other purpose in connection with or ancillary to the authorised development. • Article 20 is subject to paragraph 2 of Article 22, which sets out that the compulsory acquisition powers are limited to the acquisition of existing rights and benefit of restrictive covenants over that land and creation and acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column 2 of Schedule 10 to the dDCO and shown coloured blue on the Land Plans [REP1-004]. • Article 29 of the DCO [REP2-004] permits the temporary use, including possession, of land for constructing the authorised development. There are certain plots of land specified in Schedule 12 and shown coloured yellow on the Land Plans [REP1-004] in respect of which only powers relating to temporary possession are being sought. <p>Section 122(3) 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 [AS-013], the Applicant considers that it has demonstrated that there is a compelling case in the public interest for the Scheme including the compulsory acquisition of land and rights as this is a nationally significant infrastructure project.</p> <p>Further details on the public interest for the Scheme are set out in the Planning Statement [REP2-029] and the Statement of Need [APP-350]. The public interest in the Scheme includes the decarbonisation of the UK energy sector and the national electricity grid. As a large-scale solar project, with battery energy storage, the scheme is essential to support decarbonisation and is a core pillar of the Government's decarbonisation agenda. It will reduce power related emissions whilst contributing to security of supply and the adequacy and resilience of the electricity system. It will also be important to ensure the achievement of Net Zero by 2050.</p> <p>Ms Brodrick added that to ensure the Scheme can be built, operated and maintained, and so that the Government's policy in relation to the timely provision of new low carbon generating capacity is met within a reasonable timescale, the Applicant requires the acquisition of a number of property interests in third party ownership, and has therefore applied for the grant of powers to facilitate acquisition and/or creation of new rights and interests, and to extinguish rights over land.</p>

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		<p>In the absence of powers of compulsory acquisition, it may not be possible to assemble all of the land within the Order limits that is required for the Scheme, and the Applicant considers that its objectives and those of Government policy would not be achieved.</p> <p>Other benefits are set out in the Planning Statement [REP2-029] which include the provision of biodiversity net gain, a new permissive path and socioeconomic benefits, such as construction employment opportunities.</p> <p>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. Compensation is payable to anyone whose rights are extinguished, suspended or interfered with.</p> <p>Overall, the Applicant considers that the public interest in the project outweighs any interference with private rights. The proposed interference with the rights of those with an interest in the Order land is for a legitimate purpose, namely the construction and operation of the Scheme which is a Nationally Significant Infrastructure Project (NSIP), and is necessary and proportionate to that purpose.</p> <p>The Applicant considers that the very substantial public benefits to be derived from the proposed compulsory acquisition for the Scheme would decisively outweigh the private loss that would be suffered by those whose land or interests are to be acquired, and therefore justifies interfering with that land or rights.</p>
3.2	Applicant to explain the total period for which the land may be subject to TP.	<p>Ms Brodrick explained that Article 29 of the dDCO [REP2-004] permits the temporary use, including possession, of land for constructing the authorised development. There are certain plots of land specified in Schedule 12 in respect of which only temporary possession may be taken. These are shown coloured yellow on the Land Plans [REP1-004]. Otherwise, the undertaker can enter onto any of the Order land before the compulsory acquisition powers have been exercised. The reason for including the ability to take temporary possession over all of the Order land is set out in section 5.5.2 of the Statement of Reasons [AS-013] and will enable the Applicant to permanently acquire the minimum amount of land or rights over land necessary for the Scheme.</p> <p>The temporary possession power is subject to a minimum of 14 days notification. The Applicant considers this to be appropriate as the land is in agricultural use. If the undertaker takes entry onto land under this power, possession is limited to 1 year after final commissioning of that part of the Scheme unless compulsory acquisition powers have been exercised. The article also requires reinstatement of land, subject to certain exclusions, and the payment of compensation for any loss or damage as a result of the powers.</p> <p>Article 30 of the dDCO permits the temporary use, including possession, of land for maintaining the authorised development, subject to advance notice and the undertaker only remaining on the land so long as is reasonably necessary. It is also subject to payment of compensation. Article 30 only applies during the maintenance period, which is set as being five years from date of final commissioning, except where any longer maintenance period for landscaping works is required by the Outline Landscape Environmental Management Plan (OLEMP) [REP2-026].</p>
3.3	Applicant to summarise how the application demonstrates that all reasonable alternatives to CA	In relation to the consideration of alternatives, Ms Brodrick explained that the Applicant has sought the rights it needs to deliver the scheme via voluntary negotiations and has entered into Option agreements for the Cottam 1, Cottam 2, Cottam 3a and Cottam 3b

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	(including modifications to the scheme) have been explored.	<p>sites which is the land required for the solar panels, substations and energy storage. This land is still required to be included within the compulsory acquisition powers sought in the draft DCO to ensure the deliverability of the Scheme. For example, to protect against a scenario whereby contracts are not adhered to or are set aside or to protect against unknown third party interests that may arise between now and the construction of the Scheme.</p> <p>This is standard practice for nationally significant infrastructure projects to ensure deliverability of the Scheme and prevent undue delay.</p> <p>Negotiations are well advanced for the land rights along the Cable Route Corridor. An update on the status of negotiations with landowners was submitted at Deadline 2 [REP2-042] and a further update will be submitted at Deadline 3. Since Deadline 2, the Lincoln Diocesan Trust and Board of Finance Limited have signed Heads of Terms.</p> <p><i>Post hearing note: An updated version of the Schedule of Negotiations has been submitted at Deadline 3 [EX3/C8.1.12_B].</i></p> <p>Further details on alternatives more generally are contained at Section 7.5 of the Statement of Reasons [AS-013] and in Chapter 5: Alternatives and Design Evolution of the Environmental Statement (ES) [APP-040] and details on site selection are at section 7.7 of the Statement of Reasons [AS-013]. The staged approach to site selection is set out in Section 5.5 of Chapter 5 of the ES.</p> <p>In respect of the use of alternative technologies, Ms Brodrick explained that the Applicant had reviewed the relevant representations received and responded in writing. In particular, a large number of relevant representations referred to the use of rooftop solar being an alternative to the Scheme. The Applicant does not consider that these are alternatives to the Scheme, as a range of renewable energy projects are required to achieve net zero by 2050. Further details on design choices are set out in the Design and Access Statement [APP-342 to APP-345].</p> <p>Overall, the Applicant considers that all reasonable alternatives have been considered prior to the making of the DCO application at the relevant stages, including technical feasibility and minimising environmental impacts.</p>
3.4	Applicant to explain how the powers sought are compatible with human rights tests.	<p>Ms Brodrick stated that the Applicant's approach was set out in Section 9 of the Statement of Reasons [AS-013]. The European Convention on Human Rights was incorporated into UK law by the Human Rights Act 1998.</p> <p>Article 1 of the First Protocol of the Convention protects the rights to peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest.</p> <p>If granted, the Order could infringe on the rights of affected persons, however, the infringement is authorised by law if:</p> <ul style="list-style-type: none"> (a) The statutory procedures for making the Order are followed and there is a compelling case in the public interest for the inclusion of the powers of compulsory acquisition in the Order; and (b) The interference is proportionate. <p>Ms Brodrick explained that for the reasons explained during this hearing and in the Statement of Reasons [AS-013], the Applicant considers that these tests are met, as the PA 2008 process has and will continue to be followed.</p>

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		<p>There is a compelling case for the Scheme to proceed. The Applicant has also minimised the amount of land which is required for the Scheme through design evolution and has sought voluntary agreements for all Order land.</p> <p>Article 6 entitles those affected by compulsory acquisition of land to be heard at a fair and public hearing, which is the purpose of this hearing.</p> <p>The PA 2008 provides multiple opportunities for engagement by affected persons, including pre-application statutory consultation, the section 56 notice process following acceptance and written submissions into the Examination. A challenge to the grant of the Order can also be made to the High Court.</p> <p>Ms Brodrick confirmed that the provisions of Article 6 are therefore satisfied.</p> <p>Article 8 protects private and family life. Interference is justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country. No dwelling houses are subject to compulsory acquisition and it is not considered by the Applicant that this article is engaged.</p> <p>Overall, it is considered that there is no infringement of any Convention rights, and if there is, that any infringement is proportionate, necessary, and legitimate and is in accordance with law.</p>
3.5	Applicant to provide an update on the progress and expectations on negotiations.	<p>In response to questions from the ExA, Ms Brodrick confirmed that the Heads of Terms were not contractually binding, but were regarded as a positive step in the progress towards entering into a binding agreement. She noted that a number of landowners are being represented by the same firm of solicitors who are negotiating with the Applicant's solicitors. A template form of Heads of Terms is close to being agreed, following which there may be landowner specific negotiations. Ms Brodrick added that the Applicant remains hopeful that the agreements will be signed prior to the end of the Examination, as they should be reasonably quick to finalise these once the Heads of Terms template has been agreed.</p> <p>The ExA asked for an update to the Schedule of Progress regarding objections and agreements in relation to Compulsory Acquisition, Temporary Possession, other land rights, and blight [REP2-040] to include information about objections in a new column.</p> <p><i>Post hearing note: The Applicant notes that Schedule of Progress regarding objections and agreements in relation to Compulsory Acquisition, Temporary Possession, other land rights, and blight [EX3/C8.1.11_B] only includes those Affected Persons who have submitted an objection to the DCO application and lists the Examination Library references for the submissions made. The Applicant has added a column to the Schedule of Negotiations has been submitted at Deadline 3 [EX3/C8.1.12_B] to identify those landowners that have submitted objections.</i></p> <p>The ExA asked the following specific questions in relation to the Schedule of Progress regarding objections and agreements in relation to Compulsory Acquisition, Temporary Possession, other land rights, and blight [REP2-040]:</p>

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		<ul style="list-style-type: none"> - <u>Entry 5</u>: Is plot 17-361 still required for the Cable Route, and should this therefore be removed from the Land Plans? Ms Brodrick responded that the Applicant would check this and respond in writing, but noted that the removal of this land does not form part of the Change Application nor does it require a change to the Order Limits, because this has been agreed voluntarily with the landowners. In response to the ExA asking whether this still meant the tests in the PA 2008 to justify compulsory acquisition were met, Ms Brodrick responded that flexibility was still required whilst the cable route design is finalised. This forms part of the Shared Cable Route Corridor, and the ordering of the cables means there may be a situation where the cable needs to be routed to the north. As such, it was considered prudent to retain the flexibility to route this way. Negotiations with the landowner have stopped because they are not willing to enter into a voluntary agreement, however, the Applicant will re-consider this point. - <u>Entry 14</u>: Are plots 10-221, 10-222 and 10-223 still required for the Cable Route, and should these therefore be removed from the Land Plans [REP-004] and Book of Reference [REP2-006]? Ms Brodrick responded that the position was the same as for the previous plot, however, the Applicant will re-consider this. - <u>Entry 24</u>: The ExA requested an update on negotiations over plot 16-315. Mr Roche, for the Applicant, responded that rights are sought over an access track, and the Applicant is still waiting to hear back from the owner of the rights. Mr Roche confirmed an update would be provided at Deadline 3. <p><i>Post hearing note: Please see the Applicant's response to Action 1 below.</i></p>
Agenda Item 4 – The objections to compulsory acquisition and temporary possession		
4.1	<p>Affected Persons (APs) will be invited to set out any outstanding matters of concern.</p> <p>The Applicant will be provided with an opportunity to respond.</p> <p>The Applicant and APs may be asked to respond to questions from the ExA.</p>	<p><i>Mr Simon Skelton</i></p> <p>Mr Skelton provided a summary of the impacts of the Scheme on his property interests (plots 07-155, 07-156, 07-157, 09-188, 09-189, 09-190).</p> <p>Ms Brodrick noted that the Applicant had responded in writing to Mr Skelton's more general points and noted that the Applicant disagrees with Mr Skelton's position that a compelling case in the public interest for compulsory acquisition is not made out. Ms Brodrick explained that Mr Skelton has rights over the access track, plot 07-157, as well as the field to the north (plots 07-155 and 07-156). The Applicant will not extinguish Mr Skelton's rights over the access track, and (as is required) has entered into an agreement for access with the landowner. The Outline Construction Traffic Management Plan (CTMP) [REP2-016] contains protections for the use of such tracks (such as the requirement to repair any damage), and as such, no voluntary agreement is considered necessary with Mr Skelton. Ms Brodrick added that the Applicant could provide the numbers of vehicle movements over the access track in writing.</p> <p>Ms Brodrick then referred to sheet 7 of the Works Plans [AS-007] and confirmed that plot 07-155 and 07-156 would be used for Work No. 10 (ecological mitigation) and Work No. 1 (solar photovoltaic panels) in the locations shown.</p> <p>The ExA referred to the proximity of the panels close to Mr Skelton's land. Ms Brodrick responded that, as set out in the Written Summary of the Applicant's Oral Submissions & Responses at Issue Specific Hearing 1 [REP-051], at Action 5Q, the Applicant</p>

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		<p>provided a post hearing note with a summary of the meetings that took place between the Applicant's landscape consultants and Mr Skelton.</p> <p>The Applicant's position is that it did not agree to certain buffers at that meeting and that the buffer shown on the Works Plans [AS-007] was considered by the landscape consultants to be appropriate based on their assessment of Mr Skelton's property. The Applicant agreed to check if any consultation materials showed the field behind Mr Skelton's property as containing no panels. Mr Skelton then raised further concerns relating to the use of the access track, and Ms Brodrick confirmed again that these would be provided in writing, although it was noted that very few vehicles will use the track during operation. Ms Brodrick added that the Applicant would consider if additional wording could be added to the CTMP to alleviate Mr Skelton's concerns about security regarding the use of the track.</p> <p><i>Post hearing note: Please see the responses to Actions 2, 3 and 4 below.</i></p> <p><i>Ms Garbutt (on behalf of Mr Nick Hill and Ms Emma Hill)</i></p> <p>Ms Garbutt, on behalf of Mr and Ms Hill, provided a summary of the impacts of the Scheme on Mr and Ms Hill's property interests, relating to the Shared Cable Route Corridor.</p> <p>Ms Brodrick explained that the location of the Shared Cable Route Corridor had been considered as part of the pre-application process for the Scheme. The Hills acquired the land during the pre-application process, and this was why the Applicant had written to WLDC, to inform WLDC of the Scheme and its interaction with the planning application for the barns. Ms Brodrick strongly refuted the assertion of any undue influence on the planning process, stating it was common practice to submit a representation where a planning application would affect land required for existing NSIP proposals.</p> <p>Ms Brodrick also strongly refuted Ms Garbutt's assertion that the Applicant had acted in an intimidating manner to the Hills, noting the Hills had requested that the Applicant did not contact them but that the Applicant had a statutory duty to engage.</p> <p>Ms Brodrick noted that there had been further cable route optioneering work undertaken to see whether there was an alternative route that could be pursued. A detailed report on this has been submitted into the Gate Burton examination and would be submitted in to the Examination at Deadline 3.</p> <p>Ms Brodrick noted it was her understanding that the easement for the cable would not be for a permanent term, and that this was being negotiated between the parties. It was also noted that, for consistency purposes along the Cable Route Corridor, the Applicant was pursuing an easement rather than a subsoil lease. Ms Brodrick noted it was her understanding that the Gate Burton Project had put forward terms for a subsoil lease, which had been rejected. Whilst compensation was not a matter for the Examination, she noted that Mr Hill had put forward a proposal for a payment of 25x more than other parties have agreed to in respect of the easement.</p> <p>In response to further submissions from Ms Garbutt and questions from the ExA, Mr Roche confirmed that the terms of the easement would be for at least 60 years (to correspond with the maximum operational lifetime of the Scheme), as would any lease.</p>

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		<p>Ms Brodrick added that the Hills had bought the land in the knowledge of the proposed Scheme, and the other projects using the Shared Cable Route Corridor. She also noted that the developments can co-exist, and added that the details of any future proposals for planning permission were not (to the Applicant's knowledge) detailed. She added that, in respect of any future development proposals, the need for the Scheme outweighs any potential loss of development. Finally, Ms Brodrick noted that the Hills had not instructed a land agent or solicitors, and that the Applicant had offered to pay the Hills' legal and professional fees. She reiterated that offer again and suggested the Hills reconsider the offer as legal advice may be helpful to them, in particular understanding the process.</p> <p>In response to further representation from Ms Garbutt, Ms Brodrick confirmed that the Hills would receive impartial professional advice and noted they have a choice of representation. The Applicant was solely offering to pay the costs of such advice.</p> <p><i>Post hearing note: Please see the response to Action 5 below.</i></p> <p><u>LNT Aviation (Blyton Park Driving Centre 'BPDC')</u></p> <p>The ExA noted that, due to safety issues, part of the unaccompanied site visit undertaken yesterday to the BPDC was accompanied but confirmed that no substantive conversations about the Scheme took place.</p> <p>Ms Brodrick, for the Applicant, noted that the LNT entries in the Book of Reference relate to rights over an access track (shown as a blue strip on sheet 1 of the Land Plans [REP1-004]) – plot 01-031. A private road that will be used for access during construction and operation, which the Driving Centre also had rights of access over.</p> <p>She noted it was her understanding that the BPDC considered they had rights over plots 01-003, 01-007, 01-006 and 01-017 to use these fields as an emergency run off area. However, the owner of these plots, with whom the Applicant has an option agreement, had not made the Applicant aware of such rights and the Applicant had not found any evidence of their existence to date. This is why they are not referred to in the Book of Reference [REP2-006]. It was also noted that this was based on a previous lease registered at HMLR, dated 2015, however, the Applicant was aware that the lease may recently have been renewed. Ms Brodrick noted that the information the Applicant had been made aware of relating to the nature of the rights over the surrounding fields did not accord with the statements being made by LNT Aviation.</p> <p>The Applicant notes that Mr Wood, on behalf of LNT Aviation, responded that the lease had not been renewed, its term is until 2046 and contains rights of access. He also noted that the use of the emergency run off area exists as a result of long-established use since the racing track first began use in the 1950s and was formalised in the 1990s.</p> <p>He noted the run off areas are vital to the safe operation of BPDC. He provided a detailed submission relating to ensuring the continued safety of BPDC and noted a lack of meaningful dialogue to date with the Applicant regarding potential buffer zones. He also noted potential visibility issues if the panels are their maximum 4.5m height and requested an area be kept free of panels in plot 01-003 in order to protect the operation of the BPDC control centre (at the top of plot 01-003).</p>

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		<p>Ms Brodrick referred to the Applicant's Responses to Relevant Representations [REP-049] (see "LNT Aviation Limited [RR-033]"), and reiterated that the emergency run off area was not highlighted to the Applicant during the pre-application design and consultation process. The emergency run off area had therefore not been taken into account as the Applicant simply was not aware of it. The Applicant's request for clarification of the nature of BPDC's rights was reiterated, so that these can be considered in the context of the powers currently sought in the DCO.</p> <p>Ms Brodrick noted that negotiations are now ongoing between the Applicant and BPDC and the design is being looked at in this area to see what can be accommodated and what other possible solutions there are in terms of mitigation. It was noted that any loss of panels would reduce the generating capacity of the Scheme and the cost associated with putting in place another form of mitigation will need to be balanced against that. The Applicant is mindful of the safety concerns raised and it is the Applicant's intention to ensure the existing use of BPDC can be safely maintained.</p> <p>It was confirmed that the maximum height of the fixed panels would be 3.5 metres regardless of its fixing methodology and the maximum height of the tracker panels would be 4.5 metres, again regardless of its fixing methodology. In respect of the concerns raised by Mr Wood regarding sight lines from the BPDC control centre, Ms Brodrick noted that this was a new point and asked for BPDC to provide the height of the control centre and any information on the property rights over plot 01-003, and other areas, restricting the use of the land to safeguard the operation of BPDC. It was noted that the Applicant was considering the need for an ES addendum to Chapter 18 (Socio Economics, Tourism and Recreation) [APP-053] and Chapter 15 (Noise and Vibration) [APP-050] to address concerns raised by BPDC.</p> <p>Ms Brodrick explained to the ExA that the Applicant had their noise consultants present at the hearing should the ExA wish for an update. However, it was noted that the ExA would prefer to see the ES addendums before raising additional queries, if any.</p> <p>The ExA noted that this point would be revisited in the Change Application Compulsory Acquisition hearings, scheduled to be held in late February 2024, and asked for discussions to be continued outside of the hearing between the Applicant and LNT Aviation.</p> <p><i>Post hearing note: A meeting between LNT and the Applicant (including the Applicant's landscape and noise consultants) is due to take place on 19 December 2023. Information relating to the outcome of this meeting and an update on the status of discussions will be submitted at Deadline 4.</i></p> <p>In response to further submissions by Mr Skelton, Ms Brodrick reiterated that the security arrangements for the access track would be considered. It was also noted that it was the Applicant's position that the buffer areas around Mr Skelton's property were considered sufficient, as set out in the current indicative plans for the Scheme.</p>
<p>Agenda Item 5 – Statutory undertakers – S127 and S183 PA 2008</p>		

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5.1	<p>The Applicant will be asked to provide an update on the progress of Protective Provisions for the benefit of Statutory Undertakers; and</p> <p>SUs will be given an opportunity to raise or expand on any concerns or objections.</p>	<p>Ms Brodrick, for the Applicant, noted that negotiations were ongoing with the affected Statutory Undertakers, but that the position was still as set out in the Schedule submitted for Deadline 2 [REP2-044]. The Applicant remains confident that agreement will be reached in negotiations prior to the end of the Examination.</p> <p>Following a question from the ExA relating to negotiations with the National Grid Electricity Transmission (NGET), Ms Brodrick responded that negotiations were ongoing relating to a side agreement with NGET. The protective provisions in the DCO for NGET are agreed, subject to the agreement of the side agreement.</p> <p>In respect of EDF, discussions are being led by Gate Burton Energy Park. It was noted that updates will be provided at subsequent deadlines, including after the close of the Gate Burton Examination.</p> <p><i>Post hearing note: An updated Schedule of Progress regarding Protective Provisions and Statutory Undertakers has been submitted at Deadline 3 [EX3/C8.1.13_B].</i></p>
<p>Agenda Item 6 – Consideration of whether updates or revisions to the Statement of Reasons and Book of Reference are required, and any implications for the drafting of the DCO.</p>		
6.1		<p>In response to questions relating to the Book of Reference, Ms Brodrick, for the Applicant, explained that the Applicant's Land Agents are continuously reviewing the data that supports the Book of Reference [REP2-006] to keep track of any changes. If there are any changes by Deadline 3, an updated Book of Reference would be provided to reflect the changes to the Land Registry. The Applicant would like to ensure the rights to LNT Aviation are listed correctly following discussions during this hearing. There will be separate updates to the Book of Reference as part of the Change Application.</p> <p>In response to the ExA's question whether the new plots created in the most recent plans were as a result new registrations of titles at the Land Registry and are not in fact additional land that has been added to the Order Limits, Ms Brodrick confirmed that these plots are as a result of titles being split and registered at the Land Registry. There has been no new land added to the Order limits. The dDCO has been updated to reflect the splitting of titles [REP2-004].</p> <p>It was noted that the Statement of Reasons [AS-013] has not been updated since submission, but that a revised version is being prepared as part of the Change Application and will be submitted in due course.</p> <p>Mr Tony Cork of 7,000 Acres raised questions relating to the Book of Reference [REP2-006], specifically plot 10-241 and the ownership of Tillside Limited.</p> <p>In response, Ms Brodrick noted that this plot is subject to a pending registration at the Land Registry, which is explained in the Applicant's Responses to Written Representations Part 2 [REP2-050] (see 7A-063, which refers to response 7A3-01 in its Responses to Procedural Deadline A and Additional Submissions [REP-056]).</p> <p>The Book of Reference has been updated [REP2-006] accurately reflected the information that had been made available to the Applicant. It was emphasised that the registration of land transfers can often take a long time, sometimes several years for various reasons. Ms Brodrick confirmed that the Applicant is confident that the option agreement that has been entered into with the</p>

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		<p>Cottam 1 landowner is binding on successors in title. Ms Brodrick noted that Tillside Limited had not objected to the DCO application nor participated in the Examination to date.</p> <p>Ms Brodrick confirmed that it is not in the Applicant's interest to produce a Book of Reference that is inaccurate and the Applicant has appointed qualified Land Referencers to ensure the Applicant's statutory obligations are complied with.</p>
Agenda Item 7 – Other matters		
7.1		None raised.

List of actions for the Applicant following Compulsory Acquisition Hearing 1 (7 December 2023)

	Actions	Applicant's response																									
1	Applicant to confirm whether plots 17-361, 10-221, 10-222 and 10-223 are still required for the Scheme	<p>In respect of plot 17-361, the Applicant has reviewed the need for this plot and for the reasons set out in the hearing still requires the flexibility to microsite the cables within plot 17-361.</p> <p>Since the Deadline 2 update, further discussions have taken place with EDF, Uniper and National Grid regarding the anticipated order of the cables as they enter Cottam Power Station. It is now anticipated that the cables for the Scheme will be the most southerly of the cables in the Shared Cable Route Corridor and therefore the Applicant needs to retain the flexibility to use plot 17-361. Whilst the Applicant is committed to trying to avoid plot 17-361 where practicable to do so, as the cable design for the Scheme, and the cable design for the other projects using the Shared Cable Route, has not yet been finalised it would not be appropriate to remove the land from the Order limits for the Scheme (or the other projects) at this stage. On this basis, the Applicant has recommenced discussions with the landowner to try to obtain a voluntary agreement should their land be required.</p> <p>The same position applies in respect of plots 10-221, 10-222 and 10-223. The Applicant requires sufficient flexibility at the detailed design stage. Whilst the Applicant is committed to trying to avoid these plots where practicable to do so, the Applicant does not consider it appropriate to remove the land from the Order limits at this stage. On this basis, the Applicant has recommenced discussions with the landowner to try to obtain a voluntary agreement should their land be required.</p>																									
2	Applicant to review the extent of the proposed buffer from North Farm on plots 07-155 and 07-156.	<p><u>Current Separation Distance</u></p> <p>The Applicant has reviewed the separation distance from the residential dwelling at North Farm (Residential Receptor R63a Sheet C6.3.8.3.3.2.5, ES Appendix 8.3 Assessment of Potential Visual Effects Revision A [REP2-012], page 378) and concluded that the setback as currently proposed is adequate.</p> <p>The conclusions on likely effects for each assessment period is set out in Table 1 below:</p> <table border="1" data-bbox="875 1234 2012 1795"> <thead> <tr> <th colspan="5" data-bbox="875 1234 2012 1312">Table 1: Residential Receptor: R63A North Farm</th> </tr> <tr> <th data-bbox="875 1312 1053 1423"></th> <th data-bbox="1053 1312 1299 1423">Construction</th> <th data-bbox="1299 1312 1537 1423">Operation (Y1)</th> <th data-bbox="1537 1312 1757 1423">Operation (Y15)</th> <th data-bbox="1757 1312 2012 1423">Decommissioning</th> </tr> </thead> <tbody> <tr> <td data-bbox="875 1423 1053 1507">Magnitude</td> <td data-bbox="1053 1423 1299 1507">Medium</td> <td data-bbox="1299 1423 1537 1507">Medium</td> <td data-bbox="1537 1423 1757 1507">Low</td> <td data-bbox="1757 1423 2012 1507">Low</td> </tr> <tr> <td data-bbox="875 1507 1053 1621">Type of Effect</td> <td data-bbox="1053 1507 1299 1621">Adverse & Short Term</td> <td data-bbox="1299 1507 1537 1621">Adverse & Long Term</td> <td data-bbox="1537 1507 1757 1621">Adverse & Long Term</td> <td data-bbox="1757 1507 2012 1621">Neutral & Short Term</td> </tr> <tr> <td data-bbox="875 1621 1053 1795">Significance of Effect</td> <td data-bbox="1053 1621 1299 1795">Moderate-Major Significant</td> <td data-bbox="1299 1621 1537 1795">Moderate-Major Significant</td> <td data-bbox="1537 1621 1757 1795">Minor-Moderate Not Significant</td> <td data-bbox="1757 1621 2012 1795">Minor Not Significant</td> </tr> </tbody> </table> <p><u>Potential Changes to Current Separation Distance</u></p>	Table 1: Residential Receptor: R63A North Farm						Construction	Operation (Y1)	Operation (Y15)	Decommissioning	Magnitude	Medium	Medium	Low	Low	Type of Effect	Adverse & Short Term	Adverse & Long Term	Adverse & Long Term	Neutral & Short Term	Significance of Effect	Moderate-Major Significant	Moderate-Major Significant	Minor-Moderate Not Significant	Minor Not Significant
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	Actions	Applicant's response
		<p>The difference to the significance of effect would not change if the setback distance were increased by, for example, 10m, 50m or to remove the panels from the southern part of Field A4 (please refer to Field Numbering Plans Cottam 1 [APP-149]). This consequence of 'no change' is due to the visibility from North Farm already being fully curtailed by the area of existing woodland that is located to the north and northeast of the property. The Landscape and Ecology Mitigation and Enhancement Plan Figure 8.16.1 [REP-024] also proposes a native shelter belt/woodland planting area within Field A4 at the southern end of the panel area, which would also provide screening and this would be as effective if the setback distance were increased by 10m or 50m.</p> <p><u>Offset Distances</u></p> <p>The assessment sheet for R63a [REP2-012] sets out that at operation (Year 15) "All planting areas would be offset to a maximum of 50m from the property boundary". The LVIA also sets out at Para. 8.6.3 (Table 8.21) that "Identification of key visual receptors and key views at the baseline stage. Proximity of residential properties with 50m (min) from boundary curtilage to outer edge of solar panel to allow marginal areas of vegetation to establish fully as screening". The identification of the offset distance has been undertaken in accordance with this commitment and is therefore in accordance with the process and approach to mitigation set out in the LVIA. Please refer to ES Appendix 8.1 LVIA Methodology [APP-068] that sets out the full methodology used for the assessment of residential properties, specifically Appendix 8.1.2 (page 36). The offset distances of the panels from North Farm and application of mitigation is considered to be reasonable.</p> <p><u>Visual Assessment of Residential Properties (RVAA)</u></p> <p>With regard to the offsets from neighbouring residential properties the LVIA considers both the landscape and visual effects of the Scheme, including the proximity to residential properties to ensure the impacts and effects on the views and visibility are taken into account.</p> <p>The LVIA takes account of current guidance on RVAA at paragraphs 8.4.28 to 8.4.32 and has undertaken steps 1-3 in full accordance with the guidance. With regard to RVAA Step 4, the LVIA takes into account that where at Year 15 there remain significant effects of the highest magnitude, a RVAA will be undertaken, where appropriate, for those affected properties. The detailed assessment sheet [REP2-012] shows there are no long-term significant effects for North Farm (R63a) and as a result an RVAA has not been undertaken. There is therefore no breach of the RVAA in terms of the process, approach and effects identified for this residential property.</p> <p><u>Voluntary Consultation</u></p> <p>Voluntary consultation with individual property owners was undertaken throughout the duration of the Scheme development and the preparation of the ES including discussion over bespoke mitigation relevant to the individual properties. A number of meetings and visits to North Farm have therefore taken place, including initial contact by Lanpro to introduce the Scheme and take forward discussions in February 2022. The residents of North Farm were then visited by Lanpro on 13 June 2022 to retain engagement and prepare the detailed assessment relating to North Farm, which is set out at Appendix 8.3 Assessment of Potential Visual Effects A [REP2-012] page 378. This detailed assessment concludes that the visibility of the panels is focussed from first floor windows of the main farmhouse to the south overlooking Willingham Road. To the south, the panels are offset by at least 240m within a landscape that supports a good network of hedgerows and tree cover, which assist with their integration. Visibility to the north towards the panels is curtailed by existing woodland and to east, the panels are distanced at 870m, with the panels distanced at approximately 380m to the west.</p>
3	Applicant to update the Outline Construction Traffic Management Plan (CTMP) [REP2-016] to include measures	The Outline Construction Traffic Management Plan (CTMP) [C6.3.14.2_D] and the Outline Operational Environmental Management Plan [C7.16_B] submitted at Deadline 3 have been updated to require security measures to be put in place where existing access tracks are being used.

	Actions	Applicant's response
	relating to security measures for the access track to North Farm.	
4	Applicant to confirm the estimated number of traffic movements during construction for the access track to North Farm.	The Transport Assessment for the Scheme [REP2-014] at Paragraphs 6.13-6.19 shows that there will be approximately four arrivals and four departures per day by HGV and 30 arrivals and 30 departures by car/van using the three Willingham Road construction accesses at the peak construction period. At this stage, it is not possible to separate out the movements that will use the North Farm access from the other two accesses. However, the number of movements on an average day will not be more than total movements for the three accesses combined during the peak construction period.
5	Applicant to submit the detailed report on cable route options for the land owned by Mr and Mrs Hill at Deadline 3.	Please see C8.2.9 Land South of Marton Grid Connection Options Report [EN010133/EX3/C8.2.9] submitted at Deadline 3.