

Application by EPL 001 Limited for an Order granting Development Consent for a Solar Farm

Written Submissions submitted on behalf of Network Rail Infrastructure Limited for the Compulsory Acquisition Hearing on 20 November 2024

Planning Inspectorate Reference Number: EN010135

Network Rail sends its apologies for not attending the Compulsory Hearing today. However, it wishes to make written submissions to reaffirm its position in respect of its objection and namely, in relation to Agenda item 4 – Statutory Undertakers.

Network Rail's Relevant Representation identifies several plots of land, which Network Rail owns or has rights over, which the Applicant proposes under the DCO to acquire new rights over and one plot which is to be acquired.

In order to protect Network Rail's interests, Network Rail requests:

- a) For its standard protective provisions, be included in the face of the Order (and not the existing version, which has not been agreed).
- b) For the Applicant to enter into property agreements, in an acceptable form, to enable Network Rail to grant such necessary rights required for the works under the Order; and
- c) For the Applicant to enter into a framework agreement that secures commitments in relation to the matters identified above, as well as such other commitments required for the benefit and protection of Network Rail's operational railway and assets.

However, in order to commence negotiations on the relevant documents mentioned above, Network Rail require certainty on the route of the cables that are to go under, over or above Network Rail's land and assets. As well as clarity on the methodology for placing any cables to ensure the railway is maintained and to manage any risks from a health and safety perspective. In particular, whether the promoter intends to utilise the existing ducting under the railway or if it will be installing new equipment. Network Rail's surveyors have been advised by UK Power Networks (the party who will be carrying out the Works, on behalf of the Applicant), that the route of the cable has now changed and is currently unknown. Without this crucial information, Network Rail is unable to review and assess the full extent of the impact of the Works on its assets/interests and nor is it able to finalise any heads of terms for any agreement(s) with the Applicant.

We would also question why the DCO continues to promote the use of compulsory purchase powers affecting Network Rail's land when there is a lack of certainty over the route of the cable(s). We would draw the Examiner's attention to section 127 (statutory undertakers land) of the Planning Act 2008, which sets out the requirements that need to be met, in order for the Secretary of State to be satisfied that the CPO powers can be sought over Network Rail's land/rights.

Put simply, without any information relating to the proposed cable route, it is not possible for Network Rail, or indeed the Examiner or Secretary of State, to reach any informed conclusion on either whether the rights can be acquired without serious detriment to Network Rail's undertaking or whether Network Rail has the use of other land which could mitigate the acquisition of such proposed rights.

It is therefore paramount for Network Rail as a statutory undertaker to have its existing rights and land retained in order to carry out its duty under its railway licence and for the agreements to be completed prior to any Works being carried out, if the DCO were to be granted.

Network Rail therefore request the Applicant confirm the route of the cables and the methodology for placing the cable(s), as soon as possible and by no later than 27 November 2024, to give Network Rail time to review the route and assess the impact, so it can provide further detail of the application materials and its concerns (if any), at the written representation stage on 11 December 2024.

Thank you.