

Stonestreet Green Solar

Statement of Reasons (Tracked)

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1 Executive Summary

1.1 Purpose and Structure of this Statement of Reasons

1.1.1 The matters addressed in this Statement are summarised in this section. Unless the context indicates otherwise, references to numbered sections or paragraphs are to sections or paragraphs of this Statement. Terms used in this Executive Summary are defined in the main body of this Statement.

1.1.2 This Statement explains why it is necessary, proportionate and justifiable for the Application to seek powers of compulsory acquisition for the Project, and why there is a compelling case in the public interest for the Applicant to be granted these powers.

1.2 Description of the Project

1.2.1 The Project is described in detail in Schedule 1 of the **Draft Development Consent Order ('DCO') (Doc Ref. 3.1)**, and the areas in which each component (the Work Nos.) may be constructed are shown on the **Works Plans (Doc Ref. 2.3)**.

1.2.2 The Project is split into 8 Work Nos. as follows:

Work No. 1

A ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including—

(a) *solar PV panels; and*

(b) *mounting structures,*

along with associated development within the meaning of section 115(2) of the 2008 Act including—

Work No. 2

Balance of system and BESS works including—

(a) *inverter stations;*

(b) *BESS;*

(c) *DC-DC converters;*

(d) *intermediate substations;*

(e) *fire hydrants;*

- (f) bunding and other water retention features; and
- (g) acoustic barriers;

Work No. 3

Project substation and associated works including—

- (a) *project substation, including switchroom and control room buildings, circuit breakers, 132 kilovolt bus-bars, pad mounted transformers, earthing circuits, office facilities (to include welfare unit, water closet, cesspit) and ancillary equipment;*
- (b) *monitoring and control systems for Work No. 1, Work No. 2 and Work No. 3;*
- (c) *car parking;*
- (d) *metal palisade security fencing with gates;*
- (e) *access track with separate access provision;*
- (f) *geotechnical works and retaining structures;*
- (g) *drainage and water retention system works;*
- (h) *acoustic barriers; and*
- (i) *two spare parts storage containers.*

Work No. 4

Works to lay high voltage electrical cables and extend Sellindge Substation to facilitate grid connection including—

- (a) *laying of electrical cables to connect Work No. 3 to Sellindge Substation, including tunnelling, boring, open cut trenching and horizontal directional drilling works for trenchless crossings;*
- (b) *works to allow electrical cable crossings of non-navigable rivers, other watercourses and drains, permissive paths, public rights of way and other highways;*
- (c) *works to allow installation of bridge crossings over non-navigable rivers and other watercourses and drains;*
- (d) *crossing of Network Rail infrastructure either—*
 - (i) *using existing electrical ducts; or*
 - (ii) *through the installation of new cable ducts;*

- (e) *laying down of internal access tracks, ramps, means of access, footpaths, roads, landscaping and vegetation management, signage, information boards and temporary secured construction laydown areas; and*
- (f) *extension of the Sellindge Substation including—*
 - (i) *installation of new or amended structures, including outdoor air insulated switchgear or indoor gas insulated switchgear, circuit breakers, disconnectors, earth switches, bus-bars, steel supports and ancillary electrical infrastructure;*
 - (ii) *laying down of access tracks, ramps, means of access, footpaths and roads;*
 - (iii) *construction of a retaining wall, landscaping and vegetation management, signage, information boards and temporary construction laydown areas;*
 - (iv) *fencing, gates, boundary treatment and other means of enclosure;*
 - (v) *provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, and communication infrastructure; and*
 - (vi) *drainage works;*

Work No. 5

Works including—

- (a) *fencing, gates, boundary treatment and other means of enclosure;*
- (b) *provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, a fence detection system, cameras, weather stations, and communication infrastructure;*
- (c) *laying of electrical cables, including but not limited to electrical cables connecting Work No. 1, Work No. 2 and Work No. 3, including works to allow electrical cables crossings of non-navigable rivers, other watercourses and drains, permissive paths, public rights of way and other highways;*
- (d) *works to allow installation of bridge crossings over non-navigable rivers and other watercourses and drains;*
- (e) *laying down of internal access tracks (including fire access tracks), improvement of existing tracks, ramps, means of access, and roads, including construction signage and information boards;*
- (f) *provision of water tanks and pipework connection to hydrants located at inverter stations where BESS installed; and*

(g) *equipment and materials storage during construction and decommissioning phases;*

Work No. 6

Works to provide site access including—

- (a) *creation of accesses from the highway;*
- (b) *creation of visibility splays;*
- (c) *upgrading and repairing of existing accesses; and*
- (d) *highways improvements;*

Work No. 7

Construction and decommissioning works including—

- (a) *compound areas including hardstanding, turning and loading areas, car parking, offices/welfare facilities, storage areas, waste skip areas, solar PV panel testing area, bunded area for storage of fuels and hydrocarbons, security fencing and hoarding; and*
- (b) *an internal haulage road comprising temporary permeable ground protection mats including passing bays, means of access, and signage;*

Work No. 8

Works to create, enhance and maintain green infrastructure, boundary treatments and crossing structures including—

- (a) *landscape and biodiversity enhancement measures, including habitat creation and management and seating;*
- (b) *mitigation and biodiversity enhancement planting;*
- (c) *landscape reinforcement works;*
- (d) *works to allow installation of bridge crossings over non-navigable rivers and other watercourses and drains; and*
- (e) *works to alter, maintain, repair or replace existing crossing structures over non-navigable rivers and other watercourses and drains; and*

1.2.3 In addition, Schedule 1 to the **Draft DCO (Doc Ref. 3.1)** lists other associated works which may be carried out in connection with the construction of Work Nos. 1 to 8.

1.3 Description of the Site and Order land

- 1.3.1 The area of the Site extends to approximately 192 hectares. The Site generally comprises agricultural fields delineated by hedgerows and tree belts. The Site lies entirely within the administrative boundary of Ashford Borough Council and Kent County Council.
- 1.3.2 The generating station, energy storage system, Project substation, associated works, site access, construction and decommissioning works, green infrastructure, boundary treatments and crossing structures would be located on the Site, as well as the electrical infrastructure for connection to the existing Sellindge Substation using buried underground cables and the extension of Sellindge Substation.

1.4 Compulsory Acquisition Powers

- 1.4.1 The powers sought are:
- All interests in land, including freehold (Article 22 in the **Draft Development Consent Order ('DCO') (Doc Ref. 3.1)**¹) – shown edged red and shaded pink on the **Land Plans (Doc Ref. 2.1)** and **Crown Land Plans (Doc Ref. 2.2)**.
 - Statutory authority to override easements and other rights (Article 24 in the **Draft DCO (Doc Ref. 3.1)**).
 - Permanent acquisition of new rights and imposition of restrictive covenants (Article 26 in the **Draft DCO (Doc Ref. 3.1)**) - shown edged red and shaded blue on the **Land Plans (Doc Ref. 2.1)** and **Crown Land Plans (Doc Ref. 2.2)**.
 - Extinguishment of rights (Article 27 in the **Draft DCO (Doc Ref. 3.1)**).
 - All interests in land, including freehold, in respect of subsoil and airspace only (Article 29 in the **Draft DCO (Doc Ref. 3.1)**).
 - Temporary use of land for carrying out and maintaining the authorised development (Articles 31 and 33 in the **Draft DCO (Doc Ref. 3.1)**).

1.5 Need for the Compulsory Acquisition of Land and Rights

- 1.5.1 The Applicant requires powers of compulsory acquisition to ensure that the Project can be constructed, operated (including maintenance) and decommissioned and so that the Government's policies in relation to the timely delivery of new renewable energy generating capacity and achieving the UK's net zero targets are met. The Applicant considers that, in the absence of these powers, there would remain a risk that the Order land would not be fully assembled and the Project would not be delivered, meaning that Government policy objectives would not be achieved.
- 1.5.2 This Statement (alongside the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)**) sets out the current status of the negotiations undertaken to date

¹ A draft of the Order has been submitted with the Application. All references to the **Draft DCO (Doc Ref. 3.1)** throughout this Statement are to that draft document.

with affected persons. Details of how the Applicant identified persons with an interest in the affected land are set out in the **Consultation Report (Doc Ref. 6.1)**.

1.5.3 The Applicant has sought to use alternatives to compulsory acquisition but considers that these would not achieve the Project objectives and the significant public benefits of the Project would not arise.

1.5.4 The Applicant has sought to acquire the necessary land and rights by agreement, and whilst it has reached agreement with the majority of the freehold owners of the Site and is in advanced negotiations with the remaining freehold owners, the Applicant has not been able to enter voluntary agreements with all landowners at this time. Whilst it will continue to seek to acquire the land and rights by voluntary agreement, it requires the powers of compulsory acquisition sought in the Application in order to provide certainty that all the land required for the Project can be acquired in order to realise the Project's significant public benefits.

1.6 Justification for the Use of the Powers of Compulsory Acquisition

1.6.1 The principal justification for the use of powers of compulsory acquisition arises from the fact that the Project will deliver the following benefits:

- The Project will make a meaningful contribution to the UK's legally binding net zero commitment, with the Project able to generate an amount equivalent to 397% of the electricity currently (in 2022) generated from photovoltaics in Ashford, 225% of the electricity currently (in 2022) generated from photovoltaics in the areas of Ashford Borough Council and Folkstone and Hythe District Council, 35% of the electricity (2022) generated from solar in Kent and 1% of the electricity (2022) generated from solar in the UK.
- The Project will provide an additional source of domestic energy security that reduces the market price of electricity by generating power so that more expensive and more carbon intensive generation (such as gas) are not required to generate as much, reducing the overall cost of electricity to consumers.
- The Project provides battery energy storage, co-located with the solar generation which maximises the efficiency of land use and grid capacity and allows the Project to maximise the usable output from intermittent generation which will reduce the overall amount of generation capacity required whilst also providing the opportunity to deliver grid balancing to the local electricity network.
- The Project includes a range of ecological enhancement measures that will result in a biodiversity net gain ('BNG') of at least 100% for habitat units and at least 10% for hedgerow and river units.
- The Project includes significant additional tree planting.
- The Project will result in a reduction in nitrate emissions to the East Stour River as a result of the removal of the Site from intensive arable agricultural use.

- The Project includes the introduction of new public rights of way will be created to provide new facilities for active travel, recreation and links between communities and developments. The Project will provide new access routes that will support wider connections between Ashford and the Otterpool Park development on attractive and safe, well-maintained paths.
- The Project will create an average of 132 direct full time equivalent ('FTE') jobs over the 12-month construction period of which 98 are expected to be taken up by residents within the region. The direct construction employment will generate circa £6.2m in Gross Added Value ('GVA') within the regional construction economy (based on average GVA per head in the construction industry).
- It is anticipated that the decommissioning phase would require a similar level of employment and generate a similar scale and character of workforce spending and supply chain effects as the construction phase.
- The operational phase of the Project would support four direct FTE jobs consisting of operational and maintenance roles for the Project's PV panels and other structures, where relevant.
- National policy makes it clear that energy security is nationally important, whilst climate change is the single most important issue facing the planet. The scale and urgency of the challenge to the UK in meeting our zero carbon commitment is unparalleled. Renewable energy has an increasingly important role to play, but it is dependent on the diversification of the UK's energy market. The Project is in the national interest and national policy requires that substantial weight be given to the need for its development.
- To enhance the overarching national benefit of delivering the Project, the Applicant has worked closely with stakeholders to develop a landscape and ecological enhancement scheme that would provide a significant benefit to the local area. These wider public benefits of the development are also considered to carry substantial weight.

1.7 Special Considerations

- 1.7.1 There are Crown interests within the Order land. The Order includes an article (Article 42 in the **Draft DCO (Doc Ref. 3.1)**) protecting the position of the Crown. The Applicant has engaged in discussions with the Secretary of State for Transport in order to secure the rights and access necessary to carry out the relevant parts of the authorised development and to obtain the consent of the Crown to the inclusion of provisions applying in relation to Crown land.
- 1.7.2 The land or apparatus of a number of statutory undertakers would be affected by the Project. Protective provisions have been included within the draft Order which the Applicant has agreed or is in the process of seeking to agree with each statutory undertaker.

1.8 No Impediments

- 1.8.1 In addition to the Order, the Project requires a number of other consents in order to construct, operate (including maintain) and decommission the Project. The

Applicant is not aware of any reason why these other consents required would not be granted and does not consider that they represent any impediment to the Project proceeding. Further details on these are set out in the **Schedule of Other Consents and Licences (Doc Ref. 3.4)**.

1.9 Human Rights

- 1.9.1 The **Draft DCO (Doc Ref. 3.1)** has the potential to infringe the human rights of persons who own property or have rights in the land proposed to be acquired pursuant to the Order. The Applicant considers that there would be significant public benefit arising from the making of the Order. That benefit can only be realised if the Order includes compulsory acquisition powers. The purpose for which the land is sought (to construct, operate (including maintain) and decommission the Project) is legitimate. The Applicant considers that there is a compelling case in the public interest for the powers of compulsory acquisition to be granted. The Applicant considers that it would be appropriate and proportionate for the Secretary of State to make the Order including the compulsory acquisition powers sought.

1.10 Conclusion

- 1.10.1 The Applicant submits, for the reasons explained in this Statement, that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Project meets the conditions of section 122 of the PA 2008, as well as the considerations in the CA Guidance, and that these powers should therefore be included in the Order.

2 Introduction

2.1 Overview

- 2.1.1 This Statement of Reasons ('Statement') has been prepared on behalf of EPL 001 Limited² (the 'Applicant'). It forms part of the application ('Application') for a Development Consent Order ('DCO') that has been submitted to the Planning Inspectorate on behalf of the Secretary of State under section 37 of the Planning Act 2008 ('PA 2008') (Ref. 1.1) for Stonestreet Green Solar (the 'Project').
- 2.1.2 The Project comprises the construction, operation, maintenance and decommissioning of solar photovoltaic ('PV') arrays and energy storage, together with associated infrastructure and an underground cable connection to the existing National Grid Sellindge Substation.
- 2.1.3 The Project will include a generating station (incorporating solar arrays) with a total capacity exceeding 50 megawatts ('MW'). The agreed grid connection for the Project will allow the export and import of up to 99.9 MW of electricity to the grid. The Project will connect to the existing National Grid Sellindge Substation via a new 132 kilovolt ('kV') substation constructed as part of the Project and cable connection under the Network Rail and High Speed 1 ('HS1') railway.
- 2.1.4 As the proposed generating capacity exceeds 50 MW, the Project is classified as a Nationally Significant Infrastructure Project under sections 14(1)(a) and 15(1) and (2) of the PA 2008. A DCO is therefore required for the Project.

2.2 The Applicant

- 2.2.1 The Applicant is a wholly-owned subsidiary of Evolution Power Limited.
- 2.2.2 Evolution Power Limited is a UK-based, independent solar and Battery Energy Storage System developer established to develop affordable and sustainable renewable energy projects that will help the UK meet its 2050 net zero emissions target.
- 2.2.3 Information on the corporate structure of the Applicant and its financials and how the Project will be funded is presented in the **Funding Statement (Doc Ref. 4.3)**.
- 2.2.4 Evolution Power Limited has significant experience in delivering solar projects across the UK. The team at Evolution Power Limited has installed and / or financed more than 50 UK solar PV projects, including some of the largest solar projects built in the UK during the renewable obligation certificate subsidy period.

² Company name: EPL 001 Limited; company number: 12444050; registered office address: 2nd Floor, Regis House, 45 King William Street, London, United Kingdom, EC4R 9AN; registered in England and Wales.

2.3 The Site

- 2.3.1 The Project is located on approximately 192 hectares of land to the north and west of the village of Aldington, approximately 6.5 kilometres ('km') to the south-east of Ashford Town Centre and approximately 13.7km to the west of Folkestone Town Centre, in the county of Kent (the 'Site').
- 2.3.2 The Site generally comprises agricultural fields delineated by hedgerows and tree belts. The predominant surrounding land use in all directions is agriculture.
- 2.3.3 The Order limits include the land shown outlined in red on the **Land Plans (Doc Ref. 2.1)** within which the Project must be carried out and which may be subject to a right to override easements and other rights upon appropriation of the land for the purposes of the Project, and the extinguishment of private rights of way. The Order land is the land over which the Applicant is applying for compulsory powers, which is described in the **Book of Reference (Doc Ref. 4.1)** and shown on the **Land Plans (Doc Ref. 2.1)** and **Crown Land Plans (Doc Ref. 2.2)**.
- 2.3.4 Further information about the Site is provided in **Environmental Statement ('ES') Volume 2, Chapter 3: Project Description (Doc Ref. 5.2)**.

2.4 Project Description

- 2.4.1 The Project is split into 8 Work Nos. as follows:

Work No. 1

A ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including—

- (a) solar PV panels; and*
- (b) mounting structures,*

along with associated development within the meaning of section 115(2) of the 2008 Act including—

Work No. 2

Balance of system and BESS works including—

- (a) inverter stations;*
- (b) BESS;*
- (c) DC-DC converters;*
- (d) intermediate substations;*
- (e) fire hydrants;*

- (f) bunding and other water retention features; and
- (g) acoustic barriers;

Work No. 3

Project substation and associated works including—

- (a) *project substation, including switchroom and control room buildings, circuit breakers, 132 kilovolt bus-bars, pad mounted transformers, earthing circuits, office facilities (to include welfare unit, water closet, cesspit) and ancillary equipment;*
- (b) *monitoring and control systems for Work No. 1, Work No. 2 and Work No. 3;*
- (c) *car parking;*
- (d) *metal palisade security fencing with gates;*
- (e) *access track with separate access provision;*
- (f) *geotechnical works and retaining structures;*
- (g) *drainage and water retention system works;*
- (h) *acoustic barriers; and*
- (i) *two spare parts storage containers.*

Work No. 4

Works to lay high voltage electrical cables and extend Sellindge Substation to facilitate grid connection including—

- (a) *laying of electrical cables to connect Work No. 3 to Sellindge Substation, including tunnelling, boring, open cut trenching and horizontal directional drilling works for trenchless crossings;*
- (b) *works to allow electrical cable crossings of non-navigable rivers, other watercourses and drains, permissive paths, public rights of way and other highways;*
- (c) *works to allow installation of bridge crossings over non-navigable rivers and other watercourses and drains;*
- (d) *crossing of Network Rail infrastructure either—*
 - (i) *using existing electrical ducts; or*
 - (ii) *through the installation of new cable ducts;*

- (e) *laying down of internal access tracks, ramps, means of access, footpaths, roads, landscaping and vegetation management, signage, information boards and temporary secured construction laydown areas; and*
- (f) *extension of the Sellindge Substation including—*
 - (i) *installation of new or amended structures, including outdoor air insulated switchgear or indoor gas insulated switchgear, circuit breakers, disconnectors, earth switches, bus-bars, steel supports and ancillary electrical infrastructure;*
 - (ii) *laying down of access tracks, ramps, means of access, footpaths and roads;*
 - (iii) *construction of a retaining wall, landscaping and vegetation management, signage, information boards and temporary construction laydown areas;*
 - (iv) *fencing, gates, boundary treatment and other means of enclosure;*
 - (v) *provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, and communication infrastructure; and*
 - (vi) *drainage works;*

Work No. 5

Works including—

- (a) *fencing, gates, boundary treatment and other means of enclosure;*
- (b) *provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, a fence detection system, cameras, weather stations, and communication infrastructure;*
- (c) *laying of electrical cables, including but not limited to electrical cables connecting Work No. 1, Work No. 2 and Work No. 3, including works to allow electrical cables crossings of non-navigable rivers, other watercourses and drains, permissive paths, public rights of way and other highways;*
- (d) *works to allow installation of bridge crossings over non-navigable rivers and other watercourses and drains;*
- (e) *laying down of internal access tracks (including fire access tracks), improvement of existing tracks, ramps, means of access, and roads, including construction signage and information boards;*
- (f) *provision of water tanks and pipework connection to hydrants located at inverter stations where BESS installed; and*

(g) *equipment and materials storage during construction and decommissioning phases;*

Work No. 6

Works to provide site access including—

- (a) *creation of accesses from the highway;*
- (b) *creation of visibility splays;*
- (c) *upgrading and repairing of existing accesses; and*
- (d) *highways improvements;*

Work No. 7

Construction and decommissioning works including—

- (a) *compound areas including hardstanding, turning and loading areas, car parking, offices/welfare facilities, storage areas, waste skip areas, solar PV panel testing area, bunded area for storage of fuels and hydrocarbons, security fencing and hoarding and CCTV; and*
- (b) *an internal haulage road comprising temporary permeable ground protection mats including passing bays, means of access, and signage;*

Work No. 8

Works to create, enhance and maintain green infrastructure, boundary treatments and crossing structures including—

- (a) *landscape and biodiversity enhancement measures, including habitat creation and management and seating;*
- (b) *mitigation and biodiversity enhancement planting;*
- (c) *landscape reinforcement works;*
- (d) *works to allow installation of bridge crossings over non-navigable rivers and other watercourses and drains; and*
- (e) *works to alter, maintain, repair or replace existing crossing structures over non-navigable rivers and other watercourses and drains.*

2.4.2 The associated development for the purposes of section 115 of the PA 2008 comprises Work Nos. 2 to 8, as well as further associated development as set out in the final paragraph of Schedule 1 of the **Draft DCO (Doc Ref. 3.1)**.

2.4.3 A more detailed description of the Project is provided at Schedule 1 of the **Draft DCO (Doc Ref. 3.1)** and **ES Volume 2, Chapter 3: Project Description (Doc Ref. 5.2)**. The areas within which each of the main components of the Project are to be built are shown by the coloured and hatched areas on the **Works Plans (Doc Ref. 2.3)**.

2.5 The purpose and structure of this Statement

2.5.1 The purpose of this Statement is to explain why it is necessary, proportionate and justifiable for the Applicant to seek powers of compulsory acquisition in the Order to acquire land, acquire or create rights over land, to extinguish or suspend rights over land, and to temporarily use land for the purposes of the Project, and why there is a compelling case in the public interest for the Applicant to be granted these powers.

2.5.2 This Statement has been prepared in accordance with the requirements of section 37(3)(d) of the PA 2008, regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ('APFP Regulations') (Ref. 1.2) and the 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' ('CA Guidance') (Ref. 1.3).

2.5.3 This Statement should be read alongside the other Application documents that relate to the compulsory acquisition powers sought by the Applicant and the need for the Project, including:

- **Land Plans (Doc Ref. 2.1);**
- **Crown Land Plans (Doc Ref. 2.2);**
- **Works Plans (Doc Ref. 2.3);**
- **Draft DCO (Doc Ref. 3.1);**
- **Explanatory Memorandum (Doc Ref. 3.3);**
- **Schedule of Other Consents and Licences (Doc Ref. 3.4);**
- **Book of Reference (Doc Ref. 4.1);**
- **Funding Statement (Doc Ref. 4.3);**
- **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4);**
- **Environmental Statement (Doc Ref. 5.1-5.4);** and
- **Planning Statement (Doc Ref. 7.6).**

3 Description of the Project

3.1 Overview

- 3.1.1 This section provides further detail on the components of the Project. The development to which the Project applies is set out at Schedule 1 to the **Draft DCO (Doc Ref. 3.1)** and is called the "authorised development" in that document. The **Works Plans (Doc Ref. 2.3)** show the areas in which the parts of the Project may be constructed.
- 3.1.2 Full details of the Project can be found in **ES Volume 2, Chapter 3: Project Description (Doc Ref. 5.2)**.

3.2 Work No. 1: Solar PV Generating Station

PV Panels

- 3.2.1 PV panels convert sunlight into direct electrical current ('DC'). Each PV panel will be enclosed in a module frame. The PV panels will be installed as fixed tilt arrangement (rather than using single axis trackers) and therefore will not move once installed.

PV Panel Mounting Structures

- 3.2.2 The PV panels will be fixed to a metal frame mounting structure in groups known as PV strings. The exact number and arrangement of panels in each PV string is dependent on factors such as the generating capacity and electrical characteristics of the PV panels used. As this is changing rapidly and is expected to continue to do so, flexibility is required to accommodate technological advances.

3.3 Work No. 2: Balance of system and Battery Energy Storage System

- 3.3.1 Inverters, transformers, switchgear and ancillary equipment are required to manage the electricity generated by the PV panels. This equipment will be sited in Inverter Stations.
- 3.3.2 Electricity from a number of Inverter Stations will be exported to local Intermediate Substations, and then exported to the Project Substation.
- 3.3.3 The combination of Inverter Stations and Intermediate Substations represent the balance of system infrastructure required to invert and transmit the power generated by the PV panels to the Project Substation.

Inverter Stations

- 3.3.4 Each Inverter Station will contain electrical infrastructure including inverters, transformers and switchgear which, together, allow the electricity generated by the PV panels to be inverted and then exported to an Intermediate Substation.

- 3.3.5 Electricity is exported from PV strings to an inverter at low voltage. Inverters convert the DC electricity produced by PV panels into alternating ('AC') current. Inverters are sized and connected to a defined number of PV strings to match the total output.
- 3.3.6 Transformers step up the voltage of the AC electricity produced by an inverter prior to export to an Intermediate Substation.
- 3.3.7 Switchgear and ancillary equipment include switches, fuses and circuit breakers which allow the control, protection and isolation of electrical equipment. Switchgear is used both to de-energise equipment to allow work to be done and to clear faults downstream.

Battery Energy Storage System

- 3.3.8 The Project also includes a Battery Energy Storage System ('BESS') which allows electricity generated from the PV panels or imported from the National Grid to be stored and discharged at a later time. This allows the BESS to help balance the electricity network.
- 3.3.9 The battery storage and associated heating, ventilation and cooling ('HVAC') systems, monitoring and risk mitigation equipment will be housed within individual metal containers, referred to as BESS Units. The design and number of BESS Units will depend on the battery technology selected and the most appropriate duration of energy storage at the time of construction.

Intermediate Substations

- 3.3.10 Intermediate Substations combine electricity from a number of Inverter Stations prior to export to the Project Substation.

3.4 Work No. 3: Project Substation

- 3.4.1 The Project Substation will receive electricity exported from each of the Intermediate Substations. This electricity is transformed at the Project Substation from 33kV to 132kV for export to the electricity grid via the Grid Connection Cable. The Project Substation also allows the import of electricity from the electricity grid to charge the BESS Units.
- 3.4.2 The Project Substation compound will contain transformers, switchroom and control room buildings, bus-bars, circuit breakers and metering and other ancillary equipment.

3.5 Work No. 4: Grid Connection and Sellindge Substation Extension

- 3.5.1 Electricity generated by the Project will be exported to the National Grid Sellindge Substation via the Cable Route Corridor. UK Power Networks ('UKPN'), the distribution network operator responsible for connecting the Project, has informed the Applicant that some limited extension works will be required at Sellindge Substation to accommodate the connection.

Grid Connection Cable

- 3.5.2 The Project grid connection is via a 132kV cable from the Project Substation to Sellindge Substation.
- 3.5.3 To connect into Sellindge Substation the cable will need to cross under HS1 and the Network Rail railway lines. UKPN has confirmed there are existing cable ducts that will be available for the grid connection. In the unlikely event the ducts are not available new ducts under the railway infrastructure using Horizontal Directional Drilling methods will be required.

Sellindge Substation Works

- 3.5.4 Limited extension works will be required at Sellindge Substation to allow the Project to connect. UKPN will be responsible for these works, which include the installation of new circuit breakers and ancillary electrical infrastructure within the eastern part of the Sellindge Substation.

3.6 Work No. 5: Associated Works

- 3.6.1 The Project will require a range of associated works across the Site. The main components of the associated works will include:
- Site fencing, gates and boundary treatments;
 - lighting, security and monitoring (including Closed Circuit Television ('CCTV') and weather stations) and associated structures;
 - on-site cabling (excluding the 132kV Grid Connection Cable within Work No. 4);
 - internal access tracks and fire response infrastructure;
 - bridge crossings; and
 - laydown areas.

3.7 Work No. 6: Site Access

- 3.7.1 The primary site access point to the Project from the public highway will be located via access off Station Road (the 'Primary Site Access').
- 3.7.2 The Primary Site Access provides access to the primary construction/decommissioning compounds during construction/decommissioning and to the Project Substation during operations.

3.8 Work No. 7: Construction and Decommissioning Works

- 3.8.1 During the construction and decommissioning phases a number of temporary works will be required, including construction/decommissioning compounds and an internal haulage road.

Primary Construction/Decommissioning Compounds

- 3.8.2 There will be two primary compounds, which will include temporary site offices/welfare facilities, turning and loading areas for incoming Heavy Goods Vehicles, containerised storage areas, waste storage area, PV panel testing area, bunded area for storage of fuels and hydrocarbons, parking, and security infrastructure (fencing, CCTV).

Secondary Construction/Decommissioning Compounds

- 3.8.3 Four secondary compounds are proposed. The secondary compounds will be unsurfaced and fuel / oil will not be stored in these areas. They will be secured by fencing or hoarding and will include welfare facilities, open areas and containers for storage of materials and equipment, waste storage, and areas for turning and loading of vehicles.

Internal Haulage Road

- 3.8.4 An internal off-road haulage road is proposed between the primary construction/decommissioning compounds and the remainder of the Site (excluding the south eastern area) to minimise the use of the local road network during construction/decommissioning.
- 3.8.5 All deliveries will be unloaded within the primary construction compounds. Equipment will then be transported using the internal haulage road.
- 3.8.6 The internal haulage road will comprise the laying of ground protection mats, aluminium trackway or similar on the ground which will be laid for vehicles to drive over. No below ground excavation works are expected. The internal haulage road will be permeable to avoid changes to the current flow of surface water and will be removed and reused on other construction sites following completion of construction/decommissioning.

3.9 Work No. 8: Green Infrastructure, Boundary Treatments and Crossing Structures

Green infrastructure and boundary treatments

- 3.9.1 The Project contains areas of landscape and biodiversity enhancements in the form of green infrastructure, habitat creation, planting and strengthening of existing hedgerows and woodland areas.

Crossing structures

- 3.9.2 A number of temporary bridge crossings over the East Stour River, IDB Managed Ordinary Watercourse and drains to allow access to and within the Site will be required. An existing agricultural vehicle bridge over the East Stour River and two existing drain crossings are also expected to be used and will be upgraded if required.

3.10 Site Wide Works

- 3.10.1 In connection with and in addition to Work Nos. 1 to 8, further associated development may be carried out comprising such other works as may be necessary or expedient for the purposes of or in connection with the authorised development and which are within the Order limits and fall within the scope of work assessed by the ES.

3.11 Flexibility

- 3.11.1 The technologies proposed as part of the Project are rapidly evolving. The **Draft DCO (Doc Ref. 3.1)**, the **Works Plans (Doc Ref. 2.3)** and the **Design Principles (Doc Ref. 7.5)** therefore maintain appropriate flexibility to ensure that the latest technology can be utilised at the point of construction to maximise the Project's benefits.
- 3.11.2 This is in accordance with section 4.3 of the Overarching National Policy Statement for Energy EN-1 ('NPS EN-1') and paragraphs 2.6 and 2.10 of the National Policy Statement for Renewable Energy Infrastructure EN-3 ('NPS EN-3').
- 3.11.3 Given the flexibility applied for and in order to ensure a robust assessment of the likely significant environmental effects of the Project, the Environmental Impact Assessment ('EIA') has been undertaken adopting the principles of the 'Rochdale Envelope' where appropriate, as described in the Planning Inspectorate's Advice Note Nine: Rochdale Envelope (republished in July 2018, version 3) (Ref. 1.4).
- 3.11.4 This involves assessing the maximum (and where relevant, minimum) parameters for the Project where flexibility needs to be retained while ensuring all likely significant effects (beneficial or adverse) are considered. This approach sets worst case parameters for the purpose of the assessment but does not constrain the Project from being built in a manner that would lead to lower environmental impacts.
- 3.11.5 The **Draft DCO (Doc Ref. 3.1)** defines the parameters of the Project (secured via the **Design Principles (Doc Ref. 7.5)**), thus providing certainty that the impacts of the Project will be no worse than those assessed as part of the EIA. Further detail is provided in **ES Volume 2, Chapter 3: Project Description (Doc Ref. 5.2)**.

3.12 Timing of construction

- 3.12.1 It is currently anticipated that the construction of the Project will commence in 2026 and will take approximately 12 months. The spatial phasing and timing of construction will depend on a number of factors. For the purposes of the EIA, a worst-case assumption has been taken that the Project will be constructed over a single phase. This provides a reasonable worst-case assessment as construction works will be accelerated by undertaking more activities concurrently, i.e., greater overlap and therefore intensity of construction activities across the Site.
- 3.12.2 The **Draft DCO (Doc Ref. 3.1)** contains a requirement in Schedule 2 that requires the Applicant to submit for approval by the local planning authority a written scheme

setting out the phases of construction of the Project. The Project must then be constructed in accordance with that approved phasing scheme.

3.13 Operation

- 3.13.1 The proposed operational period for the Project is 40 years. During the operational phase, the activities on-Site will be minimal and are expected to amount to limited maintenance and servicing of plant and equipment, habitat and vegetation management, and monitoring to ensure effective operation of the Project.

3.14 Decommissioning

- 3.14.1 Decommissioning is expected to take approximately 12 months, and for the purposes of the EIA is expected to occur after 40 years of operation of the Project.
- 3.14.2 Following cessation of energy generation at the Site from the Project, all physical infrastructure constructed as part of the Project (with the exception of elements of Work No. 4 that are within the Sellindge Substation, and any repairs, upgrades or replacements of/to the existing bridge / drain crossings, PRow footbridges and highway improvements) will be removed and recycled or disposed of in accordance with good practice, market conditions and available technologies for recycling/reprocessing at that time.
- 3.14.3 During the decommissioning phase, the disassembly of the Site and associated infrastructure will mirror the construction phase processes in reverse. During this process, the same number of compounds are expected to be required and the process will require a similar level of personnel. All compounds and temporary access tracks will be removed once decommissioning is complete.
- 3.14.4 All cables will be removed. This will be achieved by excavating the cables and subsequent removal of the cables from the trenches with any cabling removed taken to an appropriate facility for recycling.
- 3.14.5 Post-decommissioning the Site will be returned to the control of the landowners. For the purposes of the EIA, it has been assumed that the landowners will return those areas of the Site that are currently in arable use under the baseline condition to arable use. Where existing field margins, i.e., uncropped arable land situated between arable fields under the baseline condition, have been re-enforced and upgraded to provide biodiversity and landscape enhancements as part of the Project it is assumed that these established habitats such as hedgerows and woodland will be retained and used as field margins. In addition, the Project will re-establish historic field boundaries with hedgerow planting, particularly on the north facing slopes of the Aldington Ridge line and create new field margins as a result. It is assumed that these new field margins will also be retained.

3.15 Summary

- 3.15.1 The Project comprises the construction, operation, maintenance and decommissioning of solar PV arrays and energy storage, together with associated

infrastructure and an underground cable connection to the existing National Grid Sellindge Substation.

- 3.15.2 It is currently anticipated that the construction of the Project will commence in 2026 and will take approximately 12 months. The proposed operational period for the Project is 40 years. Decommissioning is expected to take approximately 12 months and is expected to occur after 40 years of operation of the Project.
- 3.15.3 The technologies proposed as part of the Project are rapidly evolving and therefore flexibility has been built into the Project to allow the latest technology to be utilised at the time of construction.

4 Description of the Site and Order Land

- 4.1.1 The Site comprises approximately 192 hectares of land to the north and west of the village of Aldington, approximately 6.5km to the south-east of Ashford Town Centre and approximately 13.7km to the west of Folkestone Town Centre, in the county of Kent. The Site lies entirely within the administrative boundary of Ashford Borough Council and Kent County Council.
- 4.1.2 The Site generally comprises agricultural fields delineated by hedgerows and tree belts.
- 4.1.3 The generating station, energy storage system, Project substation, associated works, site access, construction and decommissioning works, green infrastructure, boundary treatments and crossing structures would be located on the Site, as well as the electrical infrastructure for connection to the existing Sellindge Substation using buried underground cables and the extension of Sellindge Substation.
- 4.1.4 The maximum area of land required for the construction, operation (including maintenance) and decommissioning of the Project is shown on the **Land Plans (Doc Ref. 2.1)** and **Crown Land Plans (Doc Ref. 2.2)**. The land-take for the Order limits has been refined as the Project design has progressed, taking into account environmental and technical factors, and consultation responses.
- 4.1.5 The Order land is the land over which the Applicant is applying for compulsory powers, which is described in the **Book of Reference (Doc Ref. 4.1)** and shown on the **Land Plans (Doc Ref. 2.1)** and **Crown Land Plans (Doc Ref. 2.2)**.
- 4.1.6 Further information about the Site is provided in **ES Volume 2, Chapter 2: Site and Context (Doc Ref. 5.2)**.

5 Compulsory Acquisition Powers

5.1 Introduction

- 5.1.1 Section 120(3) of the PA 2008 provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Section 120(4) states that this includes in particular provision for or relating to any of the matters listed in Part 1 of Schedule 5 to the PA 2008. Schedule 5 includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement.
- 5.1.2 There are conditions that must be met before a DCO may include provision authorising the compulsory acquisition of land, as set out below.

5.2 The Conditions to be Met

- 5.2.1 Under section 122 of the PA 2008, a DCO may only include provision authorising the compulsory acquisition of land if the conditions in sections 122(2) and 122(3) of the PA 2008 are met. The conditions to be met are:
- Section 122(2): the land is required for the development to which the consent relates, is required to facilitate or is incidental to that development or is replacement land which is to be given in exchange for the order land under section 131 or section 132 of the PA 2008 (open spaces, common land etc). See Section 6 and Section 7.2 of this Statement.
 - Section 122(3): there is a compelling case in the public interest for the land to be acquired compulsorily. See Section 7.1 of this Statement.
- 5.2.2 In respect of the section 122(2) condition, the CA Guidance (at paragraph 11) states that applicants should be able to demonstrate to the satisfaction of the Secretary of State that the land to be acquired is no more than is reasonably required for the purposes of the development. See Section 6 of this Statement.
- 5.2.3 In respect of the section 122(3) condition, the CA Guidance (at paragraph 13) states that the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. At paragraph 14, the CA Guidance states that, in determining where the balance of public interest lies, the Secretary of State will weigh up the public benefits that a scheme will bring against any private loss to those affected by compulsory acquisition. See Section 7.1 and Section 10.5 of this Statement.
- 5.2.4 As part of this exercise, paragraphs 8 to 10 of the CA Guidance also set out a number of general considerations that the applicant must demonstrate to the satisfaction of the Secretary of State when justifying an order authorising compulsory acquisition. These are as follows:

- that all reasonable alternatives to compulsory acquisition (including modifications to the Project) have been explored - see Section 6.4 of this Statement;
- that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate - see the rest of this Section 5, Section 6 and Section 10 of this Statement;
- that the Applicant has a clear idea of how it intends to use the land which it is proposed to acquire - see Sections 3 and 4 as well as the rest of this Section 5 of this Statement, together with the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)**;
- that there is a reasonable prospect of the requisite funds for the acquisition becoming available - see the **Funding Statement (Doc Ref. 4.3)**; and
- that the purposes for which compulsory acquisition of land powers are included in the consent are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected - see Section 10 of this Statement.

5.2.5 This Statement sets out the factors that the Applicant considers demonstrate that the conditions in section 122 of the PA 2008, having regard to the CA Guidance, are satisfied.

5.3 Scope of the powers sought

5.3.1 The following categories of land powers are included in the **Draft DCO (Doc Ref. 3.1)**:

- **All interests in land, including freehold** (Article 22 in the **Draft DCO (Doc Ref. 3.1)**) – shown edged red and shaded pink on the **Land Plans (Doc Ref. 2.1)** and **Crown Land Plans (Doc Ref. 2.2)**.
- **Statutory authority to override easements and other rights** (Article 24 in the **Draft DCO (Doc Ref. 3.1)**). This permits the carrying out or use of the authorised development notwithstanding that it involves an interference with easements or rights.
- **Permanent acquisition of new rights and imposition of restrictive covenants** (Article 26 in the **Draft DCO (Doc Ref. 3.1)**) - shown edged red and shaded blue on the **Land Plans (Doc Ref. 2.1)** and **Crown Land Plans (Doc Ref. 2.2)**. This permits the creation of new rights (including imposing restrictive covenants).
- **Extinguishment of rights** (Article 27 in the **Draft DCO (Doc Ref. 3.1)**). The Applicant has included powers to ensure that easements and other private rights identified as affecting the land are extinguished, so as to facilitate the construction, operation (including maintenance) and decommissioning of the Project without hindrance. In addition, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be extinguished in order to facilitate the Project.
- **All interests in land, including freehold, in respect of subsoil and**

airspace only (Article 29 in the **Draft DCO (Doc Ref. 3.1)**). This allows the Applicant to acquire rights in the subsoil of, and the airspace over, land only.

- **Temporary use of land** (Articles 31 and 33 in the **Draft DCO (Doc Ref. 3.1)**). This permits the Applicant to take temporary possession of any part of the Order land where it has not yet exercised powers of compulsory acquisition.

6 Need for the Compulsory Acquisition of Land and Rights

6.1 Purpose of the Compulsory Powers and Status of Negotiations

- 6.1.1 The intended purpose of the land which is subject to the proposed powers of compulsory acquisition is summarised in the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)**.
- 6.1.2 The **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)** includes plots in the **Book of Reference (Doc Ref. 4.1)** and land interests where the Applicant has been involved in negotiations to reach voluntary agreement with landowners save for in respect of the subsoil beneath and not forming part of the highway (discussed further in Section 6.2 below). For each third party the Applicant is negotiating with, the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)** describes the party's interest by reference to the Work Nos. set out in Schedule 1 to the **Draft DCO (Doc Ref. 3.1)** and shown on the **Works Plans (Doc Ref. 2.3)**, and by plot number as referenced in the Book of Reference and Land Plans and Crown Land Plans, with plots grouped together for each interested party.
- 6.1.3 As shown in the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)**, the Applicant has already negotiated and completed property agreements with the majority of the freehold owners of land within the Site. This means that should the Order be granted by the Secretary of State for the Project, the Applicant will be able to exercise an option for lease over the majority of the relevant interests in the Site for the lifetime of the Project.
- 6.1.4 For the other freehold owners where agreement has not yet been reached, negotiations have been ongoing and there are some heavily negotiated agreements in almost final form. As evidenced by the continued negotiations, the parties are willing to enter into the agreements and are currently discussing the remaining commercial points. The Applicant expects agreements with the remaining owners of the Site to be entered into shortly, and aims to have all agreements in place by the end of Examination.
- 6.1.5 Details of how the Applicant identified persons with an interest in the affected land are set out in the **Consultation Report (Doc Ref. 6.1)**.

6.2 Highway Subsoil

- 6.2.1 The surface of a highway and the first metre or so required to maintain it are deemed to be owned by a highway authority where the road is maintainable at the public expense, as most highways are. Usually, utility companies installing cables and pipes for water, gas, electricity and telecommunications install them within this upper strata forming the highway under statutory licence from the highway authority.

- 6.2.2 The cables required for the Project are to be buried in land which is highway or may otherwise need to be installed in subsoil beneath and not forming part of the highway, depending on the final confirmed burial depth of the cables. The precise extent of the highway authority's vested ownership is not defined by law, and in order to ensure that Applicant is able to lawfully install and operate the Project at the necessary depth without impediment, including beneath the top strata of land forming the highway (and therefore not part of the highway), the Order provides for the Applicant to acquire rights over the subsoil beneath the highway.
- 6.2.3 In most cases, the owner of the subsoil below the vertical plane of land forming the highway and deemed to be vested in the highway authority is not formally registered. However, there is a legal presumption that in such cases the owners of the subsoil beneath the highway (and therefore not forming part of the top strata of land, which forms the highway) are the owners of the land or houses on either side of the highway up to the middle of the road (known as the ad medium filum rule).
- 6.2.4 Where rights over the subsoil beneath the highway from owners of that land are required in connection with the Project, that interest is proposed to be acquired via compulsory acquisition without negotiation or the payment of compensation. This is because the relevant owner has no use or enjoyment of that subsoil land, is not prejudiced by the rights to be granted over that land that are necessary for the Project, and because the subsoil of a highway is not recognised to have any market value. It would therefore not be a proportionate approach to require the negotiation for the acquisition of such land by agreement from all of the presumed owners of it along the Cable Route Corridor.

6.3 Need for Compulsory Acquisition Powers

- 6.3.1 The Applicant requires compulsory acquisition powers to ensure that it is able to acquire all of the land and interests required for the Project, including the land and interests for which a private agreement has not yet been reached.
- 6.3.2 Notwithstanding the position reached in respect of the majority of the Site, it is necessary for the Applicant to be granted the compulsory acquisition powers included in the Order to protect against a scenario whereby the freeholder owners of the Site (where agreement has been reached) do not grant a lease of the Site in accordance with the terms of the completed option agreements. The Applicant also needs powers to extinguish private rights in the Site to the extent that they would conflict with the Project.
- 6.3.3 To ensure that the Project can be constructed, operated, maintained and decommissioned and so that the Government's policies are met in relation to the timely provision of new generating capacity and meeting net zero carbon emissions targets for 2050, the Applicant also requires the acquisition of property interests in third party ownership within the Order land. The Applicant 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.

- 6.3.4 Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land and rights and other interests in, on and over the land by agreement. This approach of making the application for powers of compulsory acquisition in the Application for the Order and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the CA Guidance.
- 6.3.5 The Applicant's justification for seeking compulsory acquisition powers, in accordance with the provisions of the PA 2008, is to secure land, the rights and other interests in, on and over the land and the temporary use of land required to enable them to construct, operate, maintain and decommission the Project within a reasonable commercial timeframe.
- 6.3.6 The inclusion of powers of compulsory acquisition in the Order is to ensure that this can be achieved. The relevant powers and the land and interests sought are no more than is required to facilitate the Project, its construction, operation, maintenance and decommissioning.

6.4 Alternatives to Compulsory Acquisition

- 6.4.1 The Applicant has considered all reasonable alternatives to compulsory acquisition. Throughout the pre-application stage, the Applicant took into account land ownership when designing and siting the Project. It has sought to minimise the need for compulsory acquisition and has attempted to agree private voluntary agreements with the relevant owners.
- 6.4.2 As described above, the Applicant has reached agreement with the majority of the freehold owners of the Site for a lease of the land for the lifetime of the Project. Negotiations with all other owners of land within the Order land are ongoing. The Applicant aims to have all agreements in place by the end of Examination, minimising the amount of land over which powers of compulsory acquisition will need to be exercised. Whilst the Applicant will continue to seek to acquire the remaining land and rights by voluntary agreement, it requires the powers of compulsory acquisition sought in order to provide certainty that it will have all the land required to construct, operate, maintain and decommission the Project in order to realise the Project's significant public benefits.
- 6.4.3 Powers of compulsory acquisition are sought in respect of the Order land for the reasons that are further described in Section 6.1 above.
- 6.4.4 It is considered that the 'Do Nothing' alternative or a reduced scale of development are not appropriate given the need for the Project. This is described in Section 7.2 below and expanded upon in the **Planning Statement (Doc Ref. 7.6)**. The 'Do Nothing' scenario would result in the lack of additional investment in the local economy and the lost opportunity to contribute to meeting the country's net zero targets, commitment to energy security and decarbonisation of the national grid. That would be contrary to NPS EN-1, which explains at paragraph 3.3.62 that the *"Government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure"*.

6.4.5 The alternatives to the location of the Project on the Site are considered in **ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2)**. In summary the Site was selected for the following reasons:

- The Site is not subject to any international, national, nature conservation or geological designations;
- The Site is not within a nationally designated landscape (see **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2)** for further details). Areas to the south or east of Sellindge are either within the Kent Downs NL or closer to this area (on elevated land) which would have a greater potential impact on the setting of the Kent Downs NL;
- There are no designated built heritage assets within the Site. The closest Scheduled Monument is 1.6km east and the closest Registered Park and Garden is approximately 1.4km north west of the Site. Listed buildings within 1km of the Site include two Grade I Listed buildings, six Grade II* listed buildings and seventy Grade II listed buildings. Areas to the north west of Sellindge contain a higher amount of designated assets. **ES Volume 2, Chapter 7: Cultural Heritage (Doc Ref. 5.2)** concludes that the effects of the Project on the setting of these assets are not significant;
- The Site is not subject to any allocations for housing or other planned development which would impede delivery. There is a small overlap between the Order limits for the Application and an application for the installation of a solar farm with a generating capacity of up to 49.9 MW at land south of the M20, Church Lane (Cumulative Scheme ID No. 9, East Stour Solar Farm. Application Ref. 22/00668/AS). However, this application (which was refused in April 2024) will not prejudice the ability for the DCO Application to be consented and for the Project to be delivered;
- There is a significant amount of existing developed vegetation surrounding large areas of the Site which limit close views;
- There are a low number of residential dwellings that could potentially be impacted for a project of this scale in the South-East of England;
- Approximately 80% of the Site has an ALC of Grade 3b or is non-agricultural, and is therefore not Best and Most Versatile ('BMV') land. Large areas of land within 5km of the POC is provisionally classified by Natural England as Grade 2 and therefore classified as BMV land;
- Areas to the north west of Sellindge contain large areas of woodland which limit the potential for a viable solar project;
- A large portion of the Site sits within a 'bowl' in the landscape which will aid in screening long range views; and
- The elevation changes within the Site are gentle enough that there will be limited landscape shading of PV Arrays within the Site.

6.4.6 The Applicant has undertaken a clear process to identify an appropriate Site and has considered alternatives in doing so. None of the alternatives would provide the compelling benefits that the Project would provide, or would involve additional

impacts or disadvantages in terms of land take, environmental, technical or other considerations.

6.5 Availability of Funds for Compensation

- 6.5.1 The **Funding Statement (Doc Ref. 4.3)** confirms that the Applicant has the ability to procure the financial resources required for the Project, including the cost of acquiring any land and rights and the payment of compensation, as applicable. The Applicant is not aware of any interests within the Order land in respect of which a person may be able to make a blight claim, but in the event this did occur the Applicant has sufficient funds to meet any compensation due.
- 6.5.2 The Applicant therefore considers that the Secretary of State can be satisfied that the requisite funds for payment of compensation will be available at the appropriate time.

7 Justification for the Use of Powers of Compulsory Acquisition

7.1 The Compelling Case

7.1.1 The **Planning Statement (Doc Ref. 7.6)** has been submitted to support the Application. It explains how the Project will deliver the following benefits:

- The Project will make a meaningful contribution to the UK's legally binding net zero commitment, with the Project able to generate an amount equivalent to 397% of the electricity currently (in 2022) generated from photovoltaics in Ashford, 225% of the electricity currently (in 2022) generated from photovoltaics in the areas of Ashford Borough Council and Folkstone and Hythe District Council, 35% of the electricity (2022) generated from solar in Kent and 1% of the electricity (2022) generated from solar in the UK.
- The Project will provide an additional source of domestic energy security that reduces the market price of electricity by generating power so that more expensive and more carbon intensive generation (such as gas) are not required to generate as much, reducing the overall cost of electricity to consumers.
- The Project provides battery energy storage, co-located with the solar generation which maximises the efficiency of land use and grid capacity and allows the Project to maximise the usable output from intermittent generation which will reduce the overall amount of generation capacity required whilst also providing the opportunity to deliver grid balancing to the local electricity network.
- The Project includes a range of ecological enhancement measures that will result in a biodiversity net gain ('BNG') of at least 100% for habitat units and at least 10% for hedgerow and river units.
- The Project includes significant additional tree planting.
- The Project will result in a reduction in nitrate emissions to the East Stour River as a result of the removal of the Site from intensive arable agricultural use.
- The Project includes the introduction of new public rights of way will be created to provide new facilities for active travel, recreation and links between communities and developments. The Project will provide new access routes that will support wider connections between Ashford and the Otterpool Park development on attractive and safe, well-maintained paths.
- The Project will create an average of 132 direct full time equivalent ('FTE') jobs over the 12-month construction period of which 98 are expected to be taken up by residents within the region. The direct construction employment will generate circa £6.2m in Gross Added Value ('GVA') within the regional

construction economy (based on average GVA per head in the construction industry).

- It is anticipated that the decommissioning phase would require a similar level of employment and generate a similar scale and character of workforce spending and supply chain effects as the construction phase.
- The operational phase of the Project would support four direct FTE jobs consisting of operational and maintenance roles for the Project's PV panels and other structures, where relevant.
- National policy makes it clear that energy security is nationally important, whilst climate change is the single most important issue facing the planet. The scale and urgency of the challenge to the UK in meeting our zero carbon commitment is unparalleled. Renewable energy has an increasingly important role to play, but it is dependent on the diversification of the UK's energy market. The Project is in the national interest and national policy requires that substantial weight be given to the need for its development.
- To enhance the overarching national benefit of delivering the Project, the Applicant has worked closely with stakeholders to develop a landscape and ecological enhancement scheme that would provide a significant benefit to the local area. These wider public benefits of the development are also considered to carry substantial weight.

7.1.2 The **Planning Statement (Doc Ref. 7.6)** provides a detailed consideration of these matters.

7.1.3 On this basis, the Applicant considers that there is a compelling case in the public interest for compulsory acquisition powers to be granted for the Project.

7.2 The Need for the Project

7.2.1 The need case for the Project is explained fully in the **Planning Statement (Doc Ref. 7.6)**. A summary is provided below.

7.2.2 The Climate Change Act 2008 requires the Secretary of State to ensure that the net carbon account for the year 2050 is at least 100% lower than the 1990 baseline in the UK (known as net zero). This is the overarching carbon reduction target for the Government.

7.2.3 In October 2021, the Government published a report entitled 'Net Zero Strategy: Build Back Greener'. One of the key policies in this report is for the UK to be powered entirely by clean electricity by 2035, which would also help ensure UK security of electricity supply and result in a reduction in energy costs.

7.2.4 In January 2024, the Government designated the revised Energy NPSs, including NPS EN-1, NPS EN-3 and NPS EN-5. NPS EN-1 explains that the Government has concluded that there is an urgent need for new large-scale energy infrastructure, which need attracts substantial weight (paragraphs 3.1.1, 3.2.6 – 3.2.7). In addition, the Government has concluded that there is a Critical National Priority ('CNP') for the provision of nationally significant low carbon infrastructure. Section 4.2 states

which energy generating technologies are low carbon and are therefore CNP infrastructure. In particular, paragraph 4.2.5 of NPS EN-1 explains that low carbon infrastructure for the purposes of the policy include (amongst other things): "for electricity generation, all onshore and offshore generation that does not involve fossil fuel combustion (that is, renewable generation..." The Project fall within this definition of low carbon infrastructure and therefore, on the basis of NPS EN-1, there is a CNP for the provision of the Project.

7.2.5 Paragraph 3.3.63 of NPS EN-1 states:

"Subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy. Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible."

7.2.6 Paragraph 4.1.7 of NPS EN-1 goes on to state that *"For projects which qualify as CNP Infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases."*

7.2.7 NPS EN-3 at paragraph 2.10.9 explains that the government has committed to sustained growth in solar capacity to ensure that the UK is on a pathway that allows us to meet net zero emissions by 2050, and that solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector.

7.2.8 As explained in **ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2)**, if the Project were not to proceed (the 'Do Nothing' scenario), the contribution to the UK's urgent need for renewable energy generation to meet the target of net zero would not be delivered, nor the contribution to the energy security and storage priorities identified by the government.

7.2.9 The Site would likely continue to be managed as it is currently, as largely arable farmland and grazing use. Significant long-term, beneficial effects associated with renewable energy generation, energy security, energy storage, biodiversity net gain and long-term improvements to the local rights of way and access network would therefore not be realised in the absence of the Project. It is also reasonable to assume that nutrients (nitrates and phosphates) and agri-chemicals for the purposes of crop-growing would continue to be applied to the land. The Site is in the River Stour catchment which feeds the downstream Stodmarsh Special Area of Conservation, Ramsar site and Site of Special Scientific Interest. The current nitrogen/phosphorus load from the Site will cease as the agricultural land use will be removed under the Project for a period of 40 years.

7.2.10 For the above reasons, there is a compelling need for the Project, as established in up to date national policy.

8 Special Considerations

8.1 Crown land

8.1.1 There are Crown interests within the Order land in the following plots:

- Plot 3/13 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 1644 square metres of public road (Station Road) and hedgerow (Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/14 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 5 square meters of access splay and hedgerow (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/15 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 13 square metres of access splay and hedgerow (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/16 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 159 square metres of private access track and hedgerow (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/17 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 54 square metres of access track and verges (south east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/20 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 66 square metres of private access track (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.

- Plot 3/21 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 186 square metres of bridge carrying public road (Station Road) over railway tracks (Knockholt to Dover), verge and hedgerow (Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/22 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 140 square metres of private access track, public footpath (No. AE431) and hedgerow (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/24 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 64 square metres of bridge carrying public road (Station Road) over railway tracks (Ebbsfleet to Dollands Moor (High Speed 1)) and shrubland (Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/25 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition, excluding all Crown interests, of approximately 25 square metres of agricultural land (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/29 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition, excluding all Crown interests, of approximately 20 square metres of agricultural land and hedgerow (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/31 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition, excluding all Crown interests, of approximately 113 square metres of agricultural land and private access track (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/32 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition, excluding all Crown interests, of approximately 584 square metres of agricultural land and hedgerow (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched

on the **Crown Land Plans (Doc Ref. 2.2)**.

- Plot 3/33 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition, excluding all Crown interests, of approximately 911 square metres of agricultural land (east of Station Road, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 3/38 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition, excluding all Crown interests, of approximately 1,050 square metres of hedgerow (north of Backhouse Wood, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 5/5 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 5 square metres of footbridge carrying public footpath (No. AE656) and copse (east of Church Lane, Sellindge). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 5/6 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 3 square metres of bed and banks (East Stour River) and footbridge carrying public footpath (No. AE656) (south of Sellindge Converter Station, Sellindge). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 5/7 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 36 square metres of bed and banks (East Stour River) and footbridge carrying public footpath (No. AE656) (south of Sellindge Converter Station, Sellindge). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 5/11 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 1637 square metres of railway track (Ebbsfleet to Dollands Moor High Speed 1), embankment and drain (south of Sellindge Converter Station, Sellindge). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 5/15 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 13,939 square metres of industrial apparatus, overground pipelines, private road, hardstanding and drain (Sellindge Converter Station, Sellindge). Part of

the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.

- Plot 5/16 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 293 square metres of bed and banks (East Stour River), public footpath (No. AE656), embankment and copse (south of Sellindge Converter Station, Sellindge). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 5/17 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 4 square metres of footbridge carrying public footpath (No. AE656), bed and banks (East Stour River) and copse (south of Sellindge Converter Station, Sellindge). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 5/18 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 5 square metres of footbridge carrying public footpath (No. AE656) and copse (south of Sellindge Converter Station, Sellindge). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.
- Plot 5/19 is described in the **Book of Reference (Doc Ref. 4.1)** as permanent acquisition of new rights, excluding all Crown interests, over approximately 21 square metres of bed and banks (East Stour River) (south east of Sellindge Converter Station, Aldington). Part of the freehold of this plot is owned by the Secretary of State for Transport, and this plot is therefore 'Crown Land'. The plot is shown hatched on the **Crown Land Plans (Doc Ref. 2.2)**.

8.1.2 The **Draft DCO (Doc Ref. 3.1)** includes an article providing that the Order does not prejudicially affect any estate (etc.) of the Crown, and that the undertaker may not enter on or take any Crown land other than with the consent of the appropriate authority (Article 42). Articles permitting powers of compulsory acquisition (22 and 26) specifically provide that they are subject to Article 42.

8.1.3 The Applicant has engaged in discussions with the Secretary of State for Transport in order to secure the rights and access necessary to carry out the relevant parts of the authorised development and to obtain the consent of the Crown to the inclusion of provisions applying in relation to Crown land (as required by section 135 of the PA 2008).

8.1.4 Further detail is provided in the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)**, which explains that the Applicant has been in correspondence in

relation to this land since May 2022. The Applicant will continue to seek the Crown's consent following submission of the Application.

8.2 Statutory Undertakers' Land

Powers conferred by the Order

- 8.2.1 Article 34 of the **Draft DCO (Doc Ref. 3.1)** gives the Applicant the power within the Order land to: (a) acquire compulsorily land belonging to statutory undertakers; (b) acquire compulsorily existing rights, create and acquire new rights and impose restrictive covenants over the land belonging to statutory undertakers; (c) extinguish or suspend the rights of, remove, alter, renew, relocate or reposition the apparatus belonging to statutory undertakers; and (d) construct the authorised development in such a way as to interfere with any highway or cross underneath or over apparatus belonging to statutory undertakers and other like bodies.
- 8.2.2 That Article is subject to the protective provisions included at Schedule 13 of the **Draft DCO (Doc Ref. 3.1)**.

8.3 Section 127 PA 2008

- 8.3.1 Section 127(1) of the PA 2008 states that this section applies in relation to statutory undertakers' land if: (a) the land has been acquired by statutory undertakers for the purposes of their undertaking; (b) a representation has been made about a DCO application before the end of the Examination and that representation has not been withdrawn; and (c) as a result of the representation the Secretary of State is satisfied that the land is used for the purposes of carrying on the statutory undertakers' undertaking or an interest in the land is held for those purposes.
- 8.3.2 If this applies:
- Section 127(2) of the PA 2008 states that a DCO may include provision authorising the compulsory acquisition of statutory undertakers' land only to the extent that the Secretary of State is satisfied that: (a) the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or (b) if purchased it can be replaced by other land belonging to, or available for acquisition by, the applicant without serious detriment to the carrying on of the undertaking.
 - Section 127(5) of the PA 2008 states that a DCO may include provision authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land only to the extent that the Secretary of State is satisfied that: (a) the right can be purchased without serious detriment to the carrying on of the undertaking; or (b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the applicant by the use of other land belonging to or available for acquisition by them.
- 8.3.3 The statutory undertakers with land or apparatus within the Order land are listed below, along with the status of negotiations on protective provisions, as at the time

of submission of the Application. See also the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)**.

Table 1: Summary of status of negotiations with statutory undertakers

Statutory undertaker	Plots (Land and Crown Land Plans)	Interest in the land over which powers are sought	Status of negotiations
National Grid Electricity Transmission plc ('NGET')	4/10 5/1, 5/8, 5/9, 5/13, 5/15	Permanent acquisition Permanent acquisition of new rights	<p>The Applicant has been engaging with NGET and met with the asset protection team to discuss Protective Provisions in December 2023. NGET confirmed it would require bespoke Protective Provisions and these Protective Provisions are currently being negotiated. The Applicant has informed NGET that it has included the Applicant's preferred form of Protective Provisions in the draft DCO (in Part 5 of Schedule 13) but that these are subject to further negotiations between the parties.</p> <p><u>Deadline 1: The Applicant and NGET are continuing to negotiate bespoke Protective Provisions. The Applicant provided the latest mark up of the Protective Provisions to NGET's solicitors on 18 November 2024 and has chased NGET's solicitors for an update.</u></p>
National Grid Interconnectors Limited ('NGIL')	5/8	Permanent acquisition of new rights	<p>The Applicant has been engaging with NGIL since January 2024. NGIL have confirmed it would require bespoke Protective Provisions and these Protective Provisions are currently being negotiated. The Applicant has informed NGIL that it has included the Applicant's preferred form of Protective Provisions in the draft</p>

Statutory undertaker	Plots (Land and Crown Land Plans)	Interest in the land over which powers are sought	Status of negotiations
			<p>DCO (in Part 6 of Schedule 13) but that these are subject to further negotiations between the parties.</p> <p><u>Deadline 1: The Applicant and NGIL are continuing to negotiate bespoke Protective Provisions. The Applicant provided the latest mark up of the Protective Provisions to NGIL's solicitors on 15 November 2024 and has chased NGIL's solicitors for an update and they have confirmed they are currently awaiting further instruction.</u></p>
South Eastern Power Networks plc ('SEPN')	<p>1/16, 2/1, 2/2, 3/19, 3/25, 3/26, 3/27, 3/29</p> <p>1/18, 3/2, 3/4, 3/13, 3/14, 3/15, 3/16, 3/17, 3/20, 3/22, 3/23, 5/9, 5/11, 5/13</p>	<p>Permanent acquisition</p> <p>Permanent acquisition of new rights</p>	<p>The Applicant has been engaging with SEPN about wider project impacts since 2021 and met with the Asset Protection Team to discuss Protective Provisions in March 2024. SEPN confirmed it would require bespoke Protective Provisions and these Protective Provisions are currently being negotiated. The Applicant has informed SEPN that it has included the Applicant's preferred form of PPs in the draft DCO (in Part 4 of Schedule 13), but that these are subject to further negotiations between the parties. In addition, please see the comments in the row below for UK Power Networks Services (South East) Limited.</p> <p><u>Deadline 1: The Applicant and SEPN are continuing to negotiate bespoke Protective Provisions. The Applicant provided the latest mark up of the Protective Provisions to SEPN's solicitor on 15 November 2024. These were</u></p>

Statutory undertaker	Plots (Land and Crown Land Plans)	Interest in the land over which powers are sought	Status of negotiations
			<u>returned with comments on 28 November, which the Applicant is reviewing.</u>
Openreach Limited	1/2, 1/4, 1/7, 1/17, 1/19, 2/1, 2/9, 3/2, 3/3, 3/5 1/5, 1/6, 1/15, 1/18, 2/11, 3/4, 3/8, 3/9, 3/13, 3/14, 3/15, 3/16, 3/17, 3/20, 3/22, 4/1, 4/6, 4/8, 5/3, 5/4	Permanent acquisition Permanent acquisition of new rights	The Applicant has been engaging with Openreach Limited and provided the standard Protective Provisions included at Part 2 of Schedule 13 to the Draft DCO (Doc Ref. 3.1) on 14 February 2024. No response has been received to date. <u>Deadline 1: no further update.</u>
Colt Technology Services Limited	1/2, 1/4, 1/7, 1/10, 1/16 1/5, 1/15, 1/18	Permanent acquisition Permanent acquisition of new rights	The Applicant has been engaging with Colt Technology Services Limited and provided the standard Protective Provisions included at Part 2 of Schedule 13 to the Draft DCO (Doc Ref. 3.1) on 14 February 2024. No response has been received to date. <u>Deadline 1: no further update.</u>
Lumen Technologies UK Limited	1/7, 1/10 1/15, 3/21, 5/12	Permanent acquisition Permanent acquisition of new rights	The Applicant has been engaging with Lumen Technologies Limited and provided the standard Protective Provisions included at Part 2 of Schedule 13 to the Draft DCO (Doc Ref. 3.1) on 14 February 2024. No response has been received to date. <u>Deadline 1: no further update.</u>
Network Rail Infrastructure Limited	3/29 3/14, 3/15, 3/16, 3/17, 3/20, 3/21, 5/5, 5/6, 5/7, 5/11, 5/12, 5/14,	Permanent acquisition Permanent acquisition of new rights	The Applicant has been engaging with Network Rail Infrastructure Limited's Asset Protection Team. Discussions are ongoing between the Applicant and Network Rail regarding the Protective Provisions. The Applicant has

Statutory undertaker	Plots (Land and Crown Land Plans)	Interest in the land over which powers are sought	Status of negotiations
	5/16, 5/17, 5/18, 5/19		<p>informed Network Rail that it has included the Applicant's preferred form of Protective Provisions in the Draft DCO (in Part 7 of Schedule 13), but that these are subject to further negotiations between the parties.</p> <p><u>Deadline 1: The Applicant and Network Rail Infrastructure Limited are continuing to negotiate bespoke Protective Provisions. The Applicant provided the latest mark up of the Protective Provisions to Network Rail Infrastructure Limited's solicitors on 13 November 2024. These were returned with comments on 9 December 2024, which the Applicant is reviewing.</u></p>
HS1 Limited	3/38 3/21, 3/24, 5/11	Permanent acquisition Permanent acquisition of new rights	<p>The Applicant has been engaging with High Speed 1 Limited who have confirmed they require bespoke Protective Provisions and as such a private Protective Provisions agreement is currently being negotiated, which will not be included in the DCO.</p> <p><u>Deadline 1: The Applicant has been continuing to liaise with HS1 regarding the potential ducting works as part of the cable route connect works, and as part of this has continued to liaise with HS1 regarding appropriate protections in the unlikely event that new ducting is required under the railway. HS1 has requested Protective Provisions be included in the DCO. The Applicant's solicitors provided an undertaking for the</u></p>

Statutory undertaker	Plots (Land and Crown Land Plans)	Interest in the land over which powers are sought	Status of negotiations
			<p><u>negotiation of these Protective Provisions to HS1's solicitors on 29 November 2024. On 7 December, HS1's solicitors confirmed they were taking instructions and would revert shortly. The Applicant looks forward to progressing discussions as soon as possible and is confident that an agreed position will be reached prior to the end of the Examination.</u></p>
South East Water Limited	<p>2/12, 2/14, 3/3, 3/5, 3/19, 3/25, 3/29</p> <p>2/13, 3/1, 3/6, 3/8, 3/13, 3/14, 3/16, 3/17, 3/18, 3/20, 3/21, 3/22, 3/23, 3/24, 4/1, 4/8, 5/3</p>	<p>Permanent acquisition</p> <p>Permanent acquisition of new rights</p>	<p>The Applicant has been engaging with South East Water Limited and provided the standard Protective Provisions included at Part 1 of Schedule 13 to the Draft DCO (Doc Ref. 3.1) on 14 February 2024. No response has been received to date.</p> <p><u>Deadline 1: South East Water Limited submitted a Relevant Representation [RR-271], however, this did not request bespoke Protective Provisions so the Applicant assumes that the Part 1 Protective Provisions are acceptable.</u></p>
Southern Water Services Limited	<p>2/7, 2/9, 2/10</p> <p>1/18, 3/8, 4/8, 5/8, 5/9, 5/15</p>	<p>Permanent acquisition</p> <p>Permanent acquisition of new rights</p>	<p>The Applicant has been engaging with Southern Water Services Limited since July 2023 and provided the standard Protective Provisions included at Part 1 of Schedule 13 to the Draft DCO (Doc Ref. 3.1) on 9 January 2024. Southern Water Services Limited have stated to the Applicant that they will confirm whether amendments to the Protective Provisions included within the Draft DCO (in Part 3 of Schedule 13) are</p>

Statutory undertaker	Plots (Land and Crown Land Plans)	Interest in the land over which powers are sought	Status of negotiations
			<p>required post submission of the Application.</p> <p><u>Deadline 1: A Relevant Representation from Southern Water Services Limited was received late and was accepted at the discretion of the Examining Authority on 11 November 2024 [AS-020]. Bespoke Protective Provisions for the protection of Southern Water Services Limited are included in Part 3 of Schedule 13 to the Draft DCO (Doc Ref. 3.1(B)). Discussions are ongoing between the parties regarding the drafting of these Protective Provisions.</u></p>
Environment Agency	<p>3/10, 3/12, 3/19, 3/25, 3/27, 3/28, 3/29, 3/30, 3/31, 3/32, 3/33, 3/37, 3/38, 3/44, 3/47</p> <p>3/6, 3/7, 3/8, 3/11, 3/16, 3/17, 3/20, 3/22, 3/23, 3/35, 3/40, 3/45, 3/46, 3/49, 3/50, 5/6, 5/7, 5/14, 5/16, 5/17, 5/19</p>	<p>Permanent acquisition</p> <p>Permanent acquisition of new rights</p>	<p>The Applicant has been engaging with the Environment Agency throughout the development of the Project. A meeting to discuss the Protective Provisions took place on 8 February 2024 and the Environment Agency confirmed via email on 14 February 2024 that they do not consider that they will require Protective Provisions but have asked that they review the proposed wording within the DCO to make sure that it covers the permitting and exemption requirements. The current version of the draft DCO was sent to the Environment Agency for review on 15 February 2024 and the Applicant is awaiting a response. Via email on 30 May 2024, the Environment Agency confirmed that it did not require Protective Provisions to be included in the DCO.</p>

Statutory undertaker	Plots (Land and Crown Land Plans)	Interest in the land over which powers are sought	Status of negotiations
			<u>Deadline 1: no further update.</u>
The River Stour (Kent) Internal Drainage Board	5/11, 5/12, 5/16	Permanent acquisition of new rights	The Applicant has contacted the River Stour (Kent) Internal Drainage Board and they have confirmed that no bespoke Protective Provisions are required. <u>Deadline 1: no further update.</u>
UK Power Networks Services (South East) Limited (UKPN)	1/1, 1/2, 1/4, 1/7, 1/10, 1/16, 1/17, 1/19, 2/1, 2/2, 2/8, 2/9, 3/3, 3/5, 3/10, 3/12, 3/19, 3/25, 3/26, 3/29, 3/31, 3/32, 3/33, 3/34, 3/36, 3/39, 3/41, 3/42, 3/43, 3/44, 3/47, 3/48 1/6, 1/13, 1/15, 1/18, 3/1, 3/2, 3/6, 3/9, 3/14, 3/15, 3/16, 3/17, 3/18, 3/20, 3/21, 3/22, 3/23, 3/35, 3/40, 3/46, 3/50, 3/51, 4/1, 4/2, 4/3, 4/4, 4/6, 4/7, 4/8, 4/9, 5/1, 5/2, 5/4, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/16	Permanent acquisition Permanent acquisition of new rights	The Applicant has been engaging with UKPN about wider project impacts since 2021 and met with the Asset Protection Team to discuss Protective Provisions in March 2024. UKPN confirmed it would require bespoke Protective Provisions. However, in May 2024, the Applicant received confirmation from UKPN's in house solicitor that this particular party did not need the benefit of the Protective Provisions. As such, this entity has not been included in the Protective Provisions in Part 4 of Schedule 13 to the DCO. <u>Deadline 1: no further update.</u>

8.3.4 As set out above, the protective provisions are in the process of being, agreed with the relevant statutory undertakers, and will accordingly set out constraints on the exercise of the powers in the Order, with a view to safeguarding the statutory undertakers' interests, whilst enabling the Project to proceed.

8.3.5 Accordingly, the Applicant considers that the statutory undertakers' land or right over statutory undertakers' land can be purchased without serious detriment to the carrying on of the undertaking. The tests set out in sections 127(2) and 127(5) of the PA 2008 are therefore satisfied.

8.4 Section 138 PA 2008

- 8.4.1 Section 138(1) of the PA 2008 states that this section applies if a DCO authorises the acquisition of land (compulsorily or by agreement) and:
- (a) there subsists over the land a 'relevant right' - meaning a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which: (i) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking; or (ii) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network; or
 - (b) there is on, under or over the land 'relevant apparatus' – meaning: (i) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking; or (ii) electronic communications apparatus kept installed for the purposes of an electronic communications code network.
- 8.4.2 If this applies, section 138(4) of the PA 2008 states that the Order may include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the Order relates.
- 8.4.3 As set out in the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)** and the **Book of Reference (Doc Ref. 4.1)**, the extinguishment of any relevant right or the removal of any relevant apparatus is necessary for the purpose of carrying out the Project to which the Order will relate. The test set out in section 138(4) of the PA 2008 is therefore satisfied.
- 8.4.4 There are no other relevant special considerations in respect of the Order land.

9 No Impediments

9.1 Other planning permissions, consents and orders

9.1.1 The Applicant requires various other consents, as well as a DCO, in order to build, operate and maintain the Project. The **Schedule of Other Consents and Licences (Doc Ref. 3.4)** sets out the additional consents required and when they will be applied for. The key consents that are or may be required are:

- Flood Risk Activity Permits from the Environment Agency for activities within 8m of any main river;
- Land Drainage Consent from the River Stour (Kent) Internal Drainage Board ('IDB') for activities to IDB-managed drains or other channels;
- Water Discharge Activity Permit from the Environment Agency for any discharge of liquid effluent or wastewater into surface waters;
- Licence under the Protection of Military Remains Act 1986 for the excavation of any Protected Military Remains associated with the Messerschmitt Bf109E-4 crash site in Field 17;
- Electricity Generation Licence, which is required at the operational stage of the Project in relation to generating activities;
- Bilateral connection agreement with UKPN to connect the Project to the Sellindge Substation (which was accepted by the Applicant in September 2023);
- Section 61 Control of Pollution Act 1974 consent from Ashford Borough Council in relation to control of noise on construction sites;
- Permit for Transport of Abnormal Loads to permit the delivery of relevant Abnormal Indivisible Loads;
- Health and Safety related consents from the Health and Safety Executive;
- European Protected Species licence from Natural England where works may affect one or more protected species; and
- Traffic Regulation Order from Kent County Council (as highways authority), in the event that further highways works are required in addition to those identified.

9.1.2 Land Drainage (Ordinary Watercourse) Consent from Kent County Council as the Lead Local Flood Authority for the area may be sought for any works to ordinary watercourses outside of the IDB's area. This consent is not currently anticipated to be required but will be sought if necessary.

9.1.3 The Applicant is not aware of any reason why these and other consents required will not be granted and therefore does not consider that they represent an impediment to the Project proceeding.

10 Human Rights

10.1 Introduction

- 10.1.1 The CA Guidance states that the Secretary of State must be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected (paragraph 10).
- 10.1.2 The Human Rights Act 1998 (Ref. 1.5) incorporated into domestic law the European Convention on Human Rights (the 'Convention') (Ref. 1.6). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 10.1.3 The following Articles of the Convention are relevant to the Secretary of State's decision.

10.2 Article 1 of the First Protocol to the Convention

- 10.2.1 This protects the right of everyone to peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws and principles or to secure the payment of taxes or other contributions or penalties.
- 10.2.2 The Order has the potential to affect the Article 1 rights of those whose property is to be compulsorily acquired or temporarily possessed, and whose peaceful enjoyment of their property is proposed to be interfered with.
- 10.2.3 In pursuing the Application, the Applicant has carefully considered the balance to be struck between individual rights and the wider public interest. The Applicant considers that there would be significant public benefits arising from the Project, as set out in previous sections of this Statement and in the **Planning Statement (Doc Ref. 7.6)**. Those benefits can only be realised if the Order includes compulsory acquisition powers.
- 10.2.4 The Applicant considers that the significant public benefits of the Project demonstrably outweigh the effects on persons whose peaceful enjoyment of their property is proposed to be interfered with as a result of the Project.

10.3 Article 6

- 10.3.1 Article 6 entitles those affected by powers sought for a project to a fair and public hearing of any relevant objection they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the consultation process.

- 10.3.2 Prior to submission of the Application, the Applicant undertook extensive consultation on the Project, including with those persons who would be affected by the powers sought for the Project. As set out in the **Consultation Report (Doc Ref. 6.1)**, in accordance with Part 5 of the PA 2008 Act, the Applicant consulted persons who fell within one or more of the categories listed in section 44 of the PA 2008. This includes any: persons with an interest in the Order land; persons who have the power to sell and convey or release the Order land; and those who would or might be entitled to make a claim under section 10 of the Compulsory Purchase Act 1965 (Ref. 1.7) in respect of injurious affection, under Part 1 of the Land Compensation Act 1973 (Ref. 1.8) in respect of depreciation of land value by physical factors or under section 152(3) of the PA 2008 in respect of compensation where there is no right to claim in nuisance. These persons were given a fair opportunity to submit responses to the consultation, and the Applicant had regard to all relevant responses.
- 10.3.3 In addition to the consultation described above, all the known owners and occupiers of land within the Order land have been contacted regarding the proposals for the Project by the Applicant.
- 10.3.4 Furthermore, following acceptance of the Application, representations can be made by way of relevant representations in respect of the Application in response to the notice that the Applicant is obliged to give under section 56 of the PA 2008 and any written representations procedure that the Examining Authority decides to adopt in connection with the Application. Section 92 of the PA 2008 provides that, where a DCO application includes a compulsory acquisition request, affected persons have an opportunity to request that a compulsory acquisition hearing be held and to make oral representations about the compulsory acquisition request at such hearing.
- 10.3.5 Should the Secretary of State decide to make the Order, any person aggrieved by that decision may challenge it in the High Court if they consider that the grounds for doing so are made out pursuant to section 118 of the PA 2008.
- 10.3.6 In relation to matters of compensation for land to be acquired, affected persons have the right to apply to the Upper Tribunal (Lands Chamber) to determine the compensation payable.

10.4 Article 8

- 10.4.1 This protects private and family life, home and correspondence. No public authority can interfere with these rights except in accordance with the law and so far as is necessary in the interest of national security, public safety or the economic well-being of the country.
- 10.4.2 In relation to Article 8, the Order land does not include, and the Project does not require, the acquisition of any residential dwellinghouses. Consequently, as dwellinghouses will not be directly affected, it is not anticipated that the Convention rights protected by Article 8 will be engaged. In the event that such rights were to be engaged, such interference would be justifiable on the basis that it would be lawful and in the public interest, as set out below.

10.5 Overview

- 10.5.1 The inclusion of compulsory acquisition powers within the Order is in accordance with law. As explained in Section 5.1 of this Statement, section 120(3) of the PA 2008 provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Section 120(4) states that this includes in particular provision for or relating to any of the matters listed in Part 1 of Schedule 5 to the PA 2008. Schedule 5 to the PA 2008 includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement. There are conditions that must be met before a DCO may include provision authorising the compulsory acquisition of land. As set out in the preceding sections of this Statement, those conditions are all satisfied.
- 10.5.2 The inclusion of compulsory acquisition powers within the Order is proportionate. The proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary. As set out in the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4)** and the **Book of Reference (Doc Ref. 4.1)**, the Applicant has a clear idea of how it intends to use the land which it is proposed to acquire and that land is no more than is reasonably required for the purposes of the development.
- 10.5.3 The inclusion of compulsory acquisition powers within the Order is justified in the public interest. The Applicant considers that there is a compelling case in the public interest for the exercise of the powers of compulsory acquisition, see Section 7.1 of this Statement.
- 10.5.4 Appropriate compensation will be available to those entitled to claim it under the relevant provisions of the national Compensation Code. All of those whose Convention rights would be affected by the Order will have an opportunity to object to the grant of compulsory acquisition powers in the Order, and to have their objection considered at a fair and public hearing.
- 10.5.5 For the above reasons, any interference with the Convention rights of those whose interests are affected by the inclusion in the Order of powers of compulsory acquisition is proportionate and legitimate and is in accordance with national and European law. For the reasons set out in this Statement, the Applicant considers that there is a compelling case in the public interest for the exercise of such powers of compulsory acquisition.

11 Conclusion

- 11.1.1 The Applicant submits, for the reasons explained in this Statement, that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Project meets the conditions of section 122 of the PA 2008, as well as the considerations in the CA Guidance.
- 11.1.2 The acquisition of land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is required to facilitate or is incidental to the Project. Furthermore, the land identified to be subject to compulsory acquisition is no more than is reasonably necessary for that purpose and is proportionate, as is shown in the **Draft DCO (Doc Ref. 3.1)**, the **Works Plans (Doc Ref. 2.3)**, this Statement and in other documents accompanying the Application.
- 11.1.3 The need for the Project, suitability of the Site and the support for such projects is clearly set out in this Statement. It is demonstrated that there is a compelling case in the public interest for the land to be acquired compulsorily.
- 11.1.4 Powers of compulsory acquisition are required to ensure that the Applicant is able to acquire the land and interests required to deliver the Project. The Applicant has acquired land interests in respect of the majority of the Site and is in advanced negotiations with the remaining landowners of the Order land. Where agreement has been reached, powers of compulsory acquisition are retained in case the owners (where agreement has been reached) do not grant a lease in accordance with the completed option agreements and to ensure that third party private rights across the Site can be extinguished to the extent that it is necessary to do so.
- 11.1.5 All reasonable alternatives to compulsory acquisition have been explored. Given the national and local need for the Project and the support for it found in policy, as well as the suitability of the Order land (for the reasons outlined above), compulsory acquisition of the land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is justified.
- 11.1.6 The proposed interference with the rights of those with an interest in the Order land is for a legitimate purpose, namely the Project, and is necessary and proportionate to that purpose. The Applicant considers that the substantial public benefits to be derived from the proposed compulsory acquisition would demonstrably 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.
- 11.1.7 The Applicant has set out clear and specific proposals for how the Site will be used.
- 11.1.8 The requisite funds are available to meet any costs of land acquisition and compensation payable as a result of the use of powers of compulsory acquisition.

12 Further Information

12.1 Negotiations

- 12.1.1 Owners and occupiers of property affected by the Order who wish to negotiate a sale or discuss matters of compensation should contact the Applicant by email at info@stonestreetgreensolar.co.uk.

12.2 Compensation

- 12.2.1 Provision is made by statute for compensation for the compulsory acquisition of land.
- 12.2.2 Information about compulsory purchase and compensation may be downloaded free of charge, from: <https://www.gov.uk/guidance/compulsory-purchase-and-compensation-guide-1-procedure> and https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning_Act_2008_-_Guidance_related_to_procedures_for_the_compulsory_acquisition_of_land.pdf

References

- 1.1 Parliament of the United Kingdom, Planning Act 2008 (2008)
- 1.2 Parliament of the United Kingdom, Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (2009)
- 1.3 Department for Communities and Local Government, Planning Act 2008: guidance related to procedures for compulsory acquisition (2013). Accessed online on 2 February 2024. Available at:
<https://www.gov.uk/government/publications/planning-act-2008-procedures-for-the-compulsory-acquisition-of-land>
- 1.4 Planning Inspectorate's Advice Note Nine: Rochdale Envelope (republished in July 2018, version 3). Accessed online on 2 February 2024. Available at:
<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-nine-rochdale-envelope/>
- 1.5 Parliament of the United Kingdom, Human Rights Act 1998 (1998)
- 1.6 Council of Europe, European Convention on Human Rights (1950)
- 1.7 Parliament of the United Kingdom, Compulsory Purchase Act 1965 (1965)
- 1.8 Parliament of the United Kingdom, Land Compensation Act 1973 (1973)