PLANNING ACT 2008

SECTION 88 AND 89 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010 – RULES 4, 6 AND 9 AND 13

APPLICATION BY MONA OFFSHORE WIND LIMITED FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE MONA OFFSHORE WIND

LAND TO THE EAST OF THE A548

COMPRISING

PLOTS 06/102 - 06/105 (INCLUSIVE)

PLANNING INSPECTORATE REFERENCE NUMBER EN010137

MNOW-AFP079: MNOW-AFP129: MNOW-AFP130: MNOW-AFP131

SUMMARY OF WRITTEN REPRESENTATIONS

OF

GRIFFITH W. PARRY MRICS

Griffith W Parry MRICS
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1. INTRODUCTION

An application for DCO powers ("**Order**") has been made by Mona Offshore Wind Limited (The "**Promoter**") in order to construction Mona Offshore windfarm ("**Scheme**"). The Order includes land, namely plots 06-102 to 06-105 inclusive ("**Plots**") belonging to Mrs H M Parry, Mrs E W Wade, Mr R W Parry and Mr G W Parry("**Objectors**"). The Objectors consider that the inclusion of the land will severely prejudice their own proposals for the land.

2. INSTRUCTIONS

I am instructed to prepare and submit these written representations on my own behalf as part owner of the Plots and on behalf of the Objectors my mother, sister and brother who are co-owners of the Plots. I am instructed to challenge the Promoter's rationale and alleged justification for seeking to take rights and impose restrictive covenants over the Plots. Alternative layouts, design, specification and route proposals are identified in the written representation that meet the Promoter's stated aims for the Scheme, that either do not require the Plots at all or mitigate the impact on the Plots but have not been considered or evaluated in the Promoter's case which inadequately seeks to justify its scheme.

3. QUALIFICATIONS AND EXPERIENCE

I am Griffith Parry. I graduated with a 2:1 honours degree in Land Management from the University of Reading in 1995 and subsequently qualified as a professional associate member (MRICS) of the Royal Institution of Chartered Surveyors in April 1998. I am a Registered Valuer and a Member of the Compulsory Purchase Association I have worked in the construction and property industry where I have over 30 years' experience to the present day.

I have submitted evidence and appeared as an Expert Witness before in a Public Inquiries.
I have also assisted clients with References and submission of evidence to the Upper Tribunal (Lands Chamber)

4. THE PROPERTY

The Book of Reference records the combined size of the Plots to be 58,292M2 (5.8Ha /14.4 acres).

The Plots are located close to the Pen Yr Efail Crossroads where the B5831 bisects the A548. They are some 2 miles south of Abergele and 2.5 miles north of Llanfair Talhaearn, 2 miles east of Betws yn Rhos and 7 miles west of St Asaph.

The Plots form part of land comprising a block of 9.68 ha (28.91acres) of flat land ("**Property**") currently in use as grassed agricultural land pending Robert Parry bringing forward his proposals. It is bordered by 2 caravan camps to the north and a small brook to the east, the A548 to the west and further agricultural land to the south. It enjoys access off the A548.

The Objectors own other land directly to the north beyond the caravan camps and on the opposite side of the B5831.

One of the Objectors, Robert Parry, has been developing proposals for the Property that will be materially affected or even extinguished by the Promoters proposals. The rest of the Objectors support Robert Parry's proposals and wish to safeguard his ability to implement those proposals.

5. THE DEVELOPMENT CONSENT ORDER

The Promoter is promoting the Order for Mona Windfarm under the Planning Act 2008 ("**Act**") and Regulation 16 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

Notices to inform landowners of this fact were served on 26th March 2024 which advised that relevant representations were able to be made up until 5th May 2024.

The Promoter advises that it anticipates the Order to be confirmed in early 2025. Without any modification, Article 21 of the draft Order will give the Promoter a window of 7 years, extendable to up to 10 years by strategic notice serving, in which to commence work on site and/or, abandon the scheme at that time without penalty.

6. REQUIREMENTS FOR THE ORDER TO BE CONFIRMED

6.1. That The Promoter Has Properly Considered All Reasonable Alternative

The criteria here is set down in:

-Department for Energy Security and Net Zero: Overarching National Policy Statement for Energy (EN-1) (Section 4.3.29); and

-Environmental Impact Assessment under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**Error! Bookmark not defined.**). Regulation 14 and Schedule 4 of those Regulations; and

-Section 8 of the Planning Act 2008: Guidance

Section 10 of the main written representations demonstrate how the Promoter has failed to do this and advances further alternatives that have not been considered by the Promoter as it is statutory bound to do.

6.2. That The Promoter Has Consulted And Taken Account Of Responses To Consultation

The criteria here is set down in:

-Sections 42-48 and 49 of the Act also section 37; and

- Arhus Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters :: 25 June 1998.

Section 10 of the main written representations demonstrate how the Promoter had pre-determined the route on the Property in advance of contacting the Objectors and then, with their hands tied, continued to inadequately consult, ignore relevant issues raised and cajole discussions instead towards entering into the Promoter's very onerous Heads of Terms.

6.3. That The Land Is "Required" And No More Than Is "Required" Is To Be Acquired

The criteria here is set down in:

- Section 122(2)(i) and (ii) of the Act and also as interpreted by R. v. Secretary of State for the Environment, ex p. Leicester City Council and Sharkey and Another v Secretary of State for the Environment and South Buckinghamshire Council; and

- the Section 11 Planning Act 2008: Guidance.

Section 12 of the main written representations demonstrates that the Promoter has failed to demonstrate that the Plots are "required" at all (given the abundant number of satisfactory alternatives that the Promoter has failed to consider. The Scheme can be achieved perfectly satisfactorily using alternative land .

The main written submission also presents evidence that the Promoter has also included excessive unnecessary land in the Order area simply because it desires it for convenience which is not permitted under the Act.

6.4. <u>That There Is A "Compelling Case In The Public Interest" For The Land Or Rights Being Taken That Outweighs The Local Impact And Private Loss Of The Affected Party</u>

The criteria here is set down in:

- Section 122(3) of the Act; and

- Sections 12 to 14 of the Planning Act 2008: Guidance; and

- Section 13 of the "Guidance on Compulsory purchase process and The Crichel Down Rules" produced by the Department for Levelling Up, Housing and Communities July 2019.

Sections 13 and 16 of the main written representations demonstrate how the Promoter has not built a case for this as statutorily required and further explains the detriment that the Objectors will suffer in the event that the Order is confirmed in respect of the Plots.

6.5. <u>That Funding Is In Place Or That There Is A Reasonable Prospect Of It Being So And How Shortfalls Will Be Met</u>

The criteria here is set down in:

- Section 9 of the Planning Act 2008: Guidance; and

- Section 17 and 18 of the Planning Act 2008: Guidance.

Section 14 of the main written representations demonstrate the failings or lack of information and certainty in the Promoter's funding case reflecting the Promoter's indecisiveness and lack of commitment to the Scheme with their commitment not being in place until their Final Investment decision is made at some uncertain point in the future. BP, a parent company to the Promoter has recently changed its policy towards offshore wind farms and is moving back towards hydrocarbon sources of energy making it all the more unlikely that the Final Investment Decision will ever be in favour of committing to the Scheme.

6.6. <u>That There Is No Impediment To The Imposition Of The Scheme</u>

The criteria here is set down in:

- Section 19 of the Planning Act 2008: Guidance; and

- Section 15 of the :Guidance on Compulsory purchase process and The Crichel Down Rules" Department for Levelling Up, Housing and Communities July 2019.

Section 15 of the main written representation demonstrates how the Promoter has only addressed third party licencing and permissions as impediments and no consideration has been given to physical or legal impediments or indeed the very real risk that, due to the promoter's parent company's hardening approach to offshore wind, the Final Investment Decision may never be forthcoming.

Further, the Order if confirmed without modification will cause the Objectors further detriment due to:

- The Promoter's ambiguity about the precise location of the cables makes it impossible to try and mitigate their losses and still proceed with their own proposals (even if possible); and

- The Promoters request for a seven year window during which it can serve Notice and commence works which the Promoter will be able to extend to ten years by strategic service of a Notice to Treat. This could result in the land being blighted until circa 2038 when the physical works are eventually likely to complete and the land actually handed back.

7. CONCLUSION

The Promoter has failed to comply with the essential requirements of the Planning Act 2008 under which it is seeking these powers. It's proposal does not meet the criteria and tests required and confirming the Order over the Plots within the Property are not therefore necessary and it would be an error in law to recommend their inclusion with the Order as Section 122 of the Act cannot be applied.

In light of the above the Inspector is invited to recommend modifying the Order to mitigate the impacts on the Objectors. This would be achieved by removing plots 06-102 to 06-105 from the Order prior to confirmation.

.....

Griffith Wynne Parry MRICS

Senior Consultant

The Brown Rural Partnership

Dated 7 August 2024

PLANNING ACT 2008

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1. EXECUTIVE SUMMARY

Mona Offshore Wind Limited **("Promoter")** is promoting a Section 56 Planning Act 2008 (the "**Act**") Development Consent Order ("**Order**") for Mona Offshore Windfarm ("**Scheme**"). The Order includes land, namely plots 06-102 to 06-105 inclusive ("**Plots**") belonging to Mrs H M Parry, Mrs E W Wade, Mr R W Parry and Mr G W Parry("**Objectors**"). The Objectors consider that the inclusion of the land will severely prejudice their own proposals for the land and for this reason wish to draw the Inspectors attention to several aspects of the Promoter's scheme as follows:

- The Promoter has failed to comply with the tests and criteria in its enabling guidance and legislation, in particular section 122 of the Act; **(see 9.2.1 to 9.2.6 inclusive later)**
- The Promoter has included excessive land that is not "required" to accomplish the Scheme and is merely included as the Promoter considers it desirable for its own convenience (contrary to section 122(2) of the Act); **(see 9.2.3. 12.1,12.2,and 12.2.1 to 12.2.4 inclusive later)**
- The Promoter has failed to present "***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"*** (contrary to section 122(3) of the Act); **(see 9.2.4 and 13 later)**
- That the Promoter has failed to give adequate proper consideration to reasonable alternatives or not considered them at all; **(see 9.2.1, 10, 10.2 to 10.3 inclusive later)**
- The Promoter pre-determined the selected route prior to any contact and consultation commencing. Having thus tied its own hands from before the outset, all purported consultation with the Objectors has been meaningless and had no prospect of changing the outcome that had already been decided. (demonstrated by the fact that the Promoter has ignored the Objectors' objections); **(see 9.2.2, 10 and 11 later)**
- The Promoter has failed to demonstrate that funding is in place (contrary to sections 9, 17 and 18 of the Guidance to the Act); **(see 9.2.5 and 14 later)**
- The Promoter has only addressed impediments in terms of third party consents and failed to consider physical and legal and other impediments; **(See 9.2.6 and 15 later)** and
- The Promoter has not even committed to the Scheme itself and will not, in fact, do so until its own Final Investment Decision is made at some unspecified date in the future (section1.5.1.3 of the Promoter's Funding Statement). This could be a very severe impediment given the one of the parent company's recent abrupt changes of policy towards offshore wind energy.**(see 14 and 15 later)**

Further, the Objectors will also suffer detriment due to:

- The Promoter's ambiguity about the precise location of the cables makes it impossible to try and mitigate their losses and still proceed with their own proposals (even if possible); **(see 16.1 later)** and
- The Promoters request for a seven year window during which it can serve Notice and commence works which the Promoter will be able to extend to ten years by strategic service of a Notice to Treat. This could result in the land being blighted until 2038 when the physical works are complete and the land actually handed back.

In light of the above the Inspector is invited to recommend modifying the Order to mitigate the impacts on the Objectors. This would be achieved by removing plots 06-102 to 06-105 from the Order prior to confirmation. **(see 16.2 later)**

2. INTRODUCTION

The Order includes for an underground cable corridor to transmit the generated power to a substation at St Asaph Business Park, Bodelwyddan. These written representations are submitted on behalf of the Objectors and aims to provide a review of whether the currently promoted solution in terms of the proposed underground arrangements as well as the proposed route over the Property is the optimum solution. It sets out to evaluate whether there is compelling case in the public interest for granting the

Promoter the right to take these very detrimental compulsory rights and interests and impose restrictive covenants over the Plots in relation to the negative impact that it will have on the Objectors. It considers alternative possibilities in terms of design, specification, methodology and both overall and localised route amendments which the Promoter either not sufficiently considered or indeed considered at all.

3. INSTRUCTIONS

I am instructed to prepare and submit these written representations on my own behalf as part owner of the Plots and on behalf of the Objectors my mother, sister and brother to are co-owners in the Plots. In the event that the Order is confirmed then the potential negative ramifications for the Objectors are severe and consequently I am instructed to challenge whether the Promoter's rationale and alleged justification for seeking to take rights and impose restrictive covenants over the Plots. Alternative layout, design, specification and route proposals are identified in the written representation that meet the Promoter's stated aims for the Scheme, that either do not require the Plots at all or mitigate the impact on them but that have not been considered or evaluated in the Promoter's case which inadequately seeks to justify its scheme.

4. QUALIFICATIONS AND EXPERIENCE

Following an earlier career in agriculture, I graduated with a 2:1 honours degree in Land Management from the University of Reading in 1995 and subsequently qualified as a professional associate member (MRICS) of the Royal Institution of Chartered Surveyors in April 1998. Before, during and since I have worked in the construction and property industry where I have over 30 years' experience to the present day.

Initially my property experience was focused on property portfolio investment and management. Later I became involved with regeneration projects including leading on the land issues for developments involving transport and town centre commercial projects being regenerative retail led redevelopments anchored by transport uses. For example, I was in a client role leading and coordinating consultants in respect of substantial investment and development projects at Rotherham and elsewhere in South Yorkshire.

I have acted as land acquisition surveyor to the North Wales and North West Railtrack operational railway estate, acquiring land by private treaty and statutory purposes settling claims on the Manchester Airport rail link before joining a specialist infrastructure practice where I worked on land delivery for the Docklands Light Railway, the Cambridge Rapid Light Transit scheme and the Merseyside Rapid Light Rail Scheme.

More recently I have specialised in acquiring land and interests by private treaty, compulsory purchase and other statutory powers for infrastructure and civil engineering schemes primarily for rail and especially water utility projects.

Since 2007 I have specialised in statutory valuations under the Land Compensation Acts 1961-1973 and associated legislation and hence negotiating and settling claims for acquiring authorities and for affected claimants in Liverpool, the North West and North Wales. I have also given expert evidence at Public Inquiries into Objections to compulsory purchase orders.

I was Director of Whitecroft Property Services Limited which specialised in providing advice to businesses and residents who were affected by a Compulsory Purchase Order along with providing businesses with advice in relation to other statutory compensation issues.

Since 2021 until last year I was a senior consultant to HS2 on Phase 2B advising on acquisition strategies and impact mitigation.

I am a member of the Compulsory Purchase Association and an RICS Registered Valuer.

I have submitted evidence and appeared as an Expert Witness before in a Public Inquiries.
I have also assisted clients with References and submission of evidence to the Upper Tribunal (Lands Chamber),

5. THE OBJECTORS

One of the Objectors, Robert Parry, has been developing proposals for the Property that will be materially affected or even extinguished by the Promoters proposals. The rest of the Objectors support Robert Parry's proposals and wish to safeguard his ability to implement those proposals.

As owners the Objectors are a "qualifying person" within the meaning of s.12(2) of the Acquisition of Land Act 1981 and are therefore statutory objectors.

Likewise, the Objectors are also "affected persons" for the purposes of Section 59 and 92 of the Act.

6. PROPERTY

6.1. PROPERTY DESCRIPTION

The Plots are identified as Plots 06-102, 06-103, 06-104, 06-105 in the Book of Reference and on the Scheme Land Plan. The Book of Reference records the combined plot size to be 58,292M2 (5.8Ha /14.4 acres).

The Plots are located close to the Pen Yr Efail Crossroads where the B5831 bisects the A548. They are some 2 miles south of Abergele and 2.5 miles north of Llanfair Talhaearn, 2 miles east of Betws yn Rhos and 7 miles west of St Asaph.

The Plots form part of land comprising a block of 9.68 ha (28.91acres) of flat land ("**Property**") currently in use as grassed agricultural land pending Robert Parry bringing forward his proposals. It is bordered by 2 caravan camps to the north and a small brook to the east, the A548 to the west and further agricultural land to the south. It enjoys access off the A548.

The Objectors own other land directly to the north beyond the caravan camps and on the opposite side of the B5831.

6.2. PLANNING STATUS OF THE OBJECTORS' PROPERTY

Robert Parry has been developing proposals for the land which are detailed in Robert Parry's written representations and the written representations of Kerry James, Planning Consultant which comments on the planning status of that development and to describe the planning status of the Property which the Inspector will note supports high quality tourism uses including prestigious chalet and guesthouse accommodation combined with tourism associated destination retail.

7. THE SCHEME

The Scheme aims to construct an offshore wind farm comprising of up to 96 wind turbines within an area of circa 300km2 offshore from Abergele in North Wales.

The Statement of Reasons claims that the scheme will generate up to 1.5 Gigawatts of electrical power and this power is intended to be transmitted by cable from its point of landfall between Llandulas and Abergele. As the crow flies this is circa 10.25km from the substation destination.

Once onshore 15km of 4 No. trenches housing 4 circuits of either 225kv or 275kv cables at a depth of 1.8m is proposed to run between the landing point on shore to the west of Abergele to a National Grid substation behind St Asaph Business Park.

There will be 3 cables of circa 200mm diameter for each circuit that may be arranged in trefoil or parallel arrangement[1] to be determined in the detailed design.

Article 21 of the Draft DCO Order also shows that the Promoter is seeking a window of 7 years following confirmation of the Order in which it can serve either a Notice to Treat or a Notice of Intention to Vest. Notices to Treat reserve a further 3 years before a Notice to Enter need be served and a Notice of Intention to Vest can also prolong the period until actual vesting and entry by several months.

8. POTENTIAL EFFECT OF THE CPO ON THE OBJECTORS

The written representations of Robert Parry and of Kerry James Planning refer.

The Promoter has drawn the Limits of Deviation of its scheme along the entire 290m of the western boundary of the Property (to the A548). Some of the land included is intended for use as 3.4ha (8.4 acres) compound for the wider route whilst a 100m corridor is reserved for the actual laying of cables. We are informed that somewhere within the Order limits, most likely within the 100m working corridor, an area 30m wide is to be permanently sterilized for the purposes of hosting 4 trenches each containing a separate circuit on 3 (phased) cables. The precise location of this 30m corridor is to be determined in detailed design.

This width of corridor has very significant implications for the Objectors' proposals for the land and this is further compounded by the fact that there is considerable ambiguity about the whereabouts within the 290m included in the Order that the final 30m to be permanently sterilised will be. This along with the timing of when matters move forward, if at all, make the Objectors' proposals impossible to implement.

Given that the entire frontage to the A548 is included in the Order limits, It does seem likely that the scheme will severely impact on, if not entirely extinguish the Objectors' access arrangements from the A548.

The Property is @96,806m2 (9.8Ha/23.91acres) and the limits of deviation here including the compound account for circa 58,292m2 (5.83Ha/14.40 acres) or @ 60.21% of the Property on a temporary basis with further land severed by the scheme during construction.

Of far greater concern however is the permanently sterilized corridor. That is at least 345m long and at 30m wide so the total area sterilized will be circa 10,350m2 (1.035Ha/2.56acres) or @10.69% of this Property.

The permanent loss, or sterilisation with onerous restrictive covenants, of 10.69% of the site through the middle of the Property, means that the scheme as evidenced by Robert Parry and BR Design, even if the access concerns can be addressed, is likely to lose the density necessary for it to be feasible. For instance, a scheme reduced in size and scale due to the impact of the Mona Scheme on the

[1] Section 1.3.2.18 of the Statement of Reasons

Property is unlikely to be able to cover the initial set up costs and overheads that the unfettered scheme could absorb. This again causing a further material risk to Objectors' proposals.

The width of the corridor is unjustifiably wide and also, without any modification of the proposed CPO powers then the route will likely be located in the most commodious location possible with further material and severe implications.

Equally concerning is the fact that if the Order is confirmed then the Promoter is seeking to reserve for itself a window of 7 years, extendable to up to 10 years by strategic notice serving, in which it can commence the works leaving Robert Parry and the Objectors totally unable to progress any proposals whatsoever during this period.

The Promoter has failed to take any account of the Objectors' very serious and material concerns and reasonable requests to mitigate the impact by making alternative arrangements or modifying the design and routing and it is now necessary to make these written representations and appeal to the reporting Inspector to consider the merits of these matters on and the correct basis independently and in line with the proper legislation and guidance.

The combined effect of the sterilised area, the consequent severance, together with the highway access issues and the time period for implementation that the Promoter is seeking to reserve will almost undoubtedly bring about the catastrophic loss of Robert Parry's scheme and the obvious benefits of this to the wider area will likely be lost to all.

In the absence of the scheme, Robert Parry and the Objectors would proceed with their proposals unimpeded.

9. THE DEVELOPMENT CONSENT ORDER

The Promoter is promoting the Order for Mona Windfarm under the Act and Regulation 16 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Notices to inform landowners of this fact were served on 26th March 2024 which advised that relevant representations were able to be made up until 5th May 2024.

The Promoter advises that it anticipates the Order to be confirmed in early 2025. Without any modification, Article 21 of the draft Order will give the Promoter a window of 7 years, extendable to up to 10 years by strategic notice serving, in which to commence work on site and/or, abandon the scheme at that time without penalty.

9.1. PURPOSE OF THE ORDER

Notwithstanding the Objectors' experience to the contrary, as will be demonstrated in section 11 of this written representation, the Promoter's Statement of Case advises that the Promoter has consulted widely with affected parties and accommodated requests for mitigation of impact wherever possible as required by Section 42 to 49 of the Act and that it is in negotiation with all affected parties with the aim of agreeing and documenting terms with them in accordance with Section 25 of the Guidance[(2)]. The Order is requested as a "backup" to enable the scheme to be implemented in the event that agreement ultimately cannot be reached. If confirmed then the Order will enable the Promoter to proceed to

[2] Sections 25: Consultation; in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land published by the Department for Communities and Local Government September 2013

implement the scheme to a specification and manner entirely of its own choosing commencing any time within 10 years of the confirmation date.

9.2. REQUIREMENTS FOR THE ORDER TO BE CONFIRMED

In seeking these powers under the Act the Promoter is obliged, as a minimum, to evidence the following:

9.2.1. THAT THE PROMOTER HAS PROPERLY CONSIDERED ALL REASONABLE ALTERNATIVES[3][4][5][6]

The Promoter is also obliged to properly consider alternatives to its Scheme in full and in part.

For instance, the Department for Energy Security and Net Zero: Overarching National Policy Statement for Energy (EN-1)[5] provides:

> *"4.3.29 It is intended that **potential alternatives** to a proposed development should, wherever possible, be identified before an application is made to the Secretary of State (**so as to allow appropriate consultation and the development of a suitable evidence base in relation to any alternatives which are particularly relevant**)*." (emphasis added)

Further, the Act provides for the requirement for an Environmental Impact Assessment under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017[6]. Regulation 14 and Schedule 4 of those Regulations oblige the Promoter to consider reasonable alternatives:

14.—(1) An application for an order granting development consent for EIA development must be accompanied by an environmental statement.

*(d) a **description of the reasonable alternatives studied by the applicant**, which are relevant to the proposed development and its specific characteristics, and an **indication of the main reasons for the option chosen,** taking into account the effects of the development on the environment;* (emphasis added)

And at Schedule 4:

2. *A **description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option,** including a comparison of the environmental effects.* (emphasis added)

Section 8 of the Planning Act 2008: Guidance[7] advises:

> *"8. The applicant should be able to demonstrate to the satisfaction of the Secretary of State that **all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored.** The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate."* (emphasis added)

[3] Section 37(3)(c) of the Planning Act 2008
[4] Sections 8: General Considerations; in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land published by the Department for Communities and Local Government September 2013
[5] Sections 4.3.29: in Overarching National Policy Statement for Energy (EN-1), Department for Energy Security & Net Zero, November 2023
[6] Section 14(d) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
[7] Sections 8:General Consideration: in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land published by the Department for Communities and Local Government September 2013

Section 10 of these written representations will demonstrate that the Promoter has inadequately considered macro-route alternatives and failed to consider local route alternatives to avoid or at least mitigate the impact on the Objectors at all, despite requests.

9.2.2. THAT THE PROMOTER HAS CONSULTED AND TAKEN ACCOUNT OF RESPONSES TO CONSULTATION [8].

The Promoter is obliged to "consult" by virtue of Section 42 – 48 especially Section 44 of the Act and Section 49 obliges it to **take account of responses**. The Aarhus Convention [9] obliges likewise duties to provide information for meaningful consultation and involve citizens with the decision making process.

Section 37(3)(c) of the Act requires a consultation report to be submitted with the Order application and

Section 37(7) advises that "the consultation report" means a report giving details of—

(a)what has been done in compliance with sections 42, 47 and 48 in relation to a proposed application that has become the application,
(b)any relevant responses, and
(c)the account taken of any relevant responses.

Section 104(4) of the Act obliges the Secretary of State to be is satisfied that deciding the application in accordance with any relevant national policy statement would not lead to the United Kingdom being in breach of any of its international obligations.

One of the UK's international obligations would be to the Aarhus Convention which it ratified in 2005. Article 6 of this convention obliges bodies such as the Promoter to early release and circulation of all "relevant information" before decisions are made and gives landowners, citizens and NGOs the right to participate in decision-making processes in respect of their land.

Sections 10 and 11 of these written representations will demonstrate how the Promoter had pre-determined the route on the Property in advance of contacting the Objectors and then, with their hands tied, continued to inadequately consult, ignore relevant issues raised and cajole discussions towards entering into the Promoter's very onerous Heads of Terms.

9.2.3. THAT THE LAND IS "REQUIRED" AND NO MORE THAN IS "REQUIRED" IS TO BE [10][11][12][13]

Section 122 of the Act states: -

"122 Purpose for which compulsory acquisition may be authorised

(1) An order granting development consent may include provision authorising the compulsory acquisition of land only if the [Secretary of State] is satisfied that the conditions in subsections (2) and (3) are met.

[8] Sections 42-49 of the Planning Act 2008 (especially Section 44)
[9] Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters : Arhus, Denmark: 25 June 1998.
[10] Section 122(2)(a) and (b) of the Planning Act 2008
[11] Sections 12 and 13:Compelling case in the public interest; in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land published by the Department for Communities and Local Government September 2013
[12] Sharkey And Another V. Secretary Of State For The Environment And South Buckinghamshire District Council QBD (Roch J):May 11, 1990 62P.&C.R (First Instance)
[13] Sharkey And Another V. Secretary Of State For The Environment And South Buckinghamshire District Council Court Of Appeal (L (Parker, McCowan and Scott L.n.): October 14, 1991 63P. &C.R.

(2) The condition is that the land—

*(a) is **required** for the development to which the development consent relates,*

*(b) is **required** to facilitate or is incidental to that development, or*

(c) is replacement land which is to be given in exchange for the order land under section 131 or 132. (emphasis added)

McCulloch J In R. v. Secretary of State for the Environment, ex p. Leicester City Council [14] stated that the word "required" in the above context meant that the land had to

> "*stand with the phrase " …*[the land is] *…… **needed** in order to…...*[accomplish something]*…"* (emphasis added)

Roch J in Sharkey and Another v Secretary of State for the Environment and South Buckinghamshire Council (in the first instance)[12] stated:

> *"Because of the nature of the power given to ……. [**Promoters**] ….., namely, to deprive the owner of his land against that owner's will, I prefer and adopt the **stricter meaning** of the word "**required**" ….. In my judgment the word means that the compulsory acquisition of the land is **called for**; it is a thing **needed** for the **accomplishment** of one of the **activities** or **purposes** set out in the section……. and …... without the use of compulsory purchase powers, the necessary …. purpose is unlikely to be achieved."* (emphasis added)

On the appeal of that case[13] McCowan J confirmed the above and added:

> I agree with Roch J. that the local authority do not have to go so far as to show that the compulsory purchase is **indispensable** to the carrying out of the activity or the achieving of the purpose; or, to use another similar expression, that it is essential. **On the other hand, I do not find the word "desirable"** satisfactory, because it could be mistaken for "**convenient," which clearly, in my judgment, is not sufficien**t. I **believe the word "required" here means "necessary in the circumstances of the case**." (emphasis added)

Parker J and Scott LJ agreed with LJ McGowan and the first instance case was upheld.

This position is confirmed in the Section 11 Planning Act 2008: Guidance ([15])

> *"122 (i) the land is required for the development to which the development consent relates*
>
> *For this to be met, the applicant should be able to demonstrate to the satisfaction of the Secretary of State that the land in question **is needed for the development for which consent is sought**. The Secretary of State will need to be satisfied that the land to be acquired **is no more than is reasonably required for the purposes of the development** "* (emphasis added)

AND

[14] R V Secretary of State For the Environment, Ex p. Leicester City Council, 1987, 55 P. & C.R.

[15] Sections 11:Purpose of Compulsory Acquisition: in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land published by the Department for Communities and Local Government September 2013

"122 (ii) the land is required to facilitate or is incidental to the proposed development.

An example might be the acquisition of land for the purposes of landscaping the project. In such a case the Secretary of State will need to be satisfied that the ***development could only be landscaped*** *to a satisfactory standard if the land in question were to be compulsorily acquired, and* ***that the land to be taken is no more than is reasonably necessary for that purpose, and that is proportionate****."* (emphasis added)

Section 12 of these written representations will demonstrate the Objectors view that the Promoter has not demonstrated that their land is "required" either at all or in the event that the Inspector concludes that there is a case then that the land included in the order is excessive and unnecessary in the circumstances of the case and merely included for the Promoter's convenience.

9.2.4. <u>THAT THERE IS A "COMPELLING CASE IN THE PUBLIC INTEREST" FOR THE LAND OR RIGHTS BEING TAKEN THAT OUTWEIGHS THE LOCAL IMPACT AND PRIVATE LOSS OF THE AFFECTED PARTY</u>[16][17][18][19]

Section 122 of the Act further states: -

"(3) The condition is that there is a ***compelling case in the public interest for the land to be acquired compulsorily."****[16]* (emphasis added)

Sections 12 to 14 of the Planning Act 2008: Guidance [11] advise:

"12. In addition to establishing the purpose for which compulsory acquisition is sought, section 122 requires the Secretary of State to be satisfied that there is a ***compelling case in the public interest for the land to be acquired compulsorily.***

13. For this condition to be met, 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. Parliament has always taken the view that land should only be taken*** *compulsorily where there is clear evidence that the public benefit will outweigh the private loss.*

14. 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."*** (emphasis added)

In addition

Section 13 of the "Guidance on Compulsory purchase process and The Crichel Down Rules"[17] produced by the Department for Levelling Up, Housing and Communities July 2019 states:

"13. How will the confirming minister consider the acquiring authority's justification for a compulsory purchase order?

The minister confirming the order has to be able ***<u>to take a balanced view between the intentions of the acquiring authority and the concerns of those with an interest in</u>***

[16] Section 122(3) of the Planning Act 2008
[17] Section 12,13, "Guidance on Compulsory purchase process and The Crichel Down Rules" Department for Levelling Up, Housing and Communities July 2019
[18] Section 18 of the Memorandum to Circular 06/04 The Crichel Down Rules
[19] Sections 12 and 13:Compelling case in the public interest; in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land published by the Department for Communities and Local Government September 2013

***the land that it is proposing to acquire compulsorily and the wider public interest**."* (emphasis added)

Sections 14 to 16 of the same Department for Communities and Local Government Guidance continue by explaining that

> *"…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**." When addressing the question of whether to grant powers of compulsory acquisition the decision maker is also bound to have regard to Article 1 of the First Protocol of EHCR (protection of property)"* (emphasis added)

Sections 13 and 16 of these written representations will demonstrate the detriment that the Objectors will suffer in the event that the Order is confirmed in respect of the Plots.

9.2.5. THAT FUNDING IS IN PLACE OR THAT THERE IS A REASONABLE PROSPECT OF IT BEING SO AND HOW SHORTFALLS WILL BE MET [20][21][22]

Section 9 of the Planning Act 2008: Guidance [20] advises:

> *"9. The applicant must have a clear idea of how they intend to use the land which it is proposed to acquire. **They should also be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available**. Otherwise, it will be difficult to show conclusively that the compulsory acquisition of land meets the two conditions in section 122"* (emphasis added)

And sections 17 and 18 provide:

> *"17 **Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded.** This statement should **provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required**. It may be that the project is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty about the assembly of the necessary land. In such instances, the applicant should provide an indication of how any potential shortfalls are intended to be met. **This should include the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made.***
>
> *18. The **timing of the availability of the funding is also likely to be a relevant factor**. Regulation 3(2) of the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010 allows for five years within which any notice to treat must be served, beginning on the date on which the order granting development consent is made, though the Secretary of State does have the discretion to make a different provision in an order granting development consent. **Applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made, and that the resource***

[20] Sections 9, 17 and 18: Resource Implications of the Proposed Scheme; in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land published by the Department for Communities and Local Government September 2013
[21] Section 122(2)(a), (b), (c) and Section 122(3) of the Planning Act 2008
[22] Section 14 : "What information about the resource implications of the proposed scheme does an acquiring authority need to provide?" :Guidance on Compulsory purchase process and The Crichel Down Rules" Department for Levelling Up, Housing and Communities July 2019

implications of a possible acquisition resulting from a blight notice have been taken account of*"* (emphasis added)

Section 14 of these written representations will demonstrate the failings or lack of information and certainty in the Promoter's funding case reflecting the Promoter's indecisiveness and lack of commitment to the Scheme

9.2.6. THAT THERE IS NO IMPEDIMENT TO THE IMPOSITION OF THE SCHEME [23] [24]

Section 19 of the Planning Act 2008: Guidance [23] advises:

"19. The high profile and potentially controversial nature of major infrastructure projects means that they can potentially generate significant opposition and may be subject to legal challenge. It would be helpful for applicants to be able to demonstrate that their application is firmly rooted in any relevant national policy statement. In addition, applicants will need to be able to demonstrate that:

- ***any potential risks or impediments to implementation of the scheme have been properly managed;***

- *they have taken account of any other physical and legal matters pertaining to the application, including the programming of any necessary infrastructure accommodation works and the need to obtain any operational and other consents which may apply to the type of development for which they seek development consent."* (emphasis added)

And

Section 15 of the :Guidance on Compulsory purchase process and The Crichel Down Rules" Department for Levelling Up, Housing and Communities July 2019 states:

"The acquiring authority will also need to be able to show that the scheme is unlikely to be ***blocked by any physical or legal impediments to implementation****"* (emphasis added)

Section 15 of this written representation will consider the Promoter's approach to impediments to the Scheme.

Deciding whether or not to confirm an Order such as the one for the Scheme clearly requires the Secretary of State's deep consideration of many aspects of the scheme in relation to the relevant legislation and guidance. The Objectors believe that the Promoter has not properly complied with the requirements of the Act and the guidance and sections 10 to15 of these written representations will now deal with this.

10. WHETHER PROMOTER HAS PROPERLY CONSIDERED ALL REASONABLE ALTERNATIVES

[23] Sections 19: Other Matters; in Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land published by the Department for Communities and Local Government September 2013

[24] Section 15 : "How does the acquiring authority address whether there are any other impediments to the scheme going ahead?" :Guidance on Compulsory purchase process and The Crichel Down Rules" Department for Levelling Up, Housing and Communities July 2019

10.1. 16 ROUTES CONSIDERED AND REPORTED IN THE PEIR REPORT

The Promoter was successfully awarded the bid for the Mona Offshore Windfarm lease area in February 2021. This marks the commencement of the design of the current proposals. Only some 35 months later, in January 2024, the Promoter submitted the Order application to the Planning Inspectorate for acceptance as a Nationally Significant Project ("**NSP**").

The Preliminary Environmental Information Report ("**PEIR"**) was published in April 2023 to coincide with the commencement of the public consultation process (in line with Section 44 of the Act) which ran between 19 April 2023 and 04 June 2023.

Sections 4.8.5, 4.8.6 and Table 4.17 of Volume 1, chapter 4 of the PEIR[25]: Site selection and alternatives claims that 16 on shore routes were originally considered as wide apart as West of Llanddulas and East of Rhyl. These 16 routes can be seen in Figure 4.14 on page 38 of PEIR[25] and included:

-**Rhyl West A** which broadly and partly followed the route of Awel y Mor to the Substation at St Asaph Business Park:

- **Belgrano West C** and **Belgrano East B** which broadly and partly followed the route of Gwynt y Mor (believed to be a 30m wide permanent easement with only 2 no. 132kv circuits within it) to the Substation. Notwithstanding these readymade corridors, with surplus space for additional capacity, they were immediately dismissed along with a further 10 routes for *"parallel analysis screening reasons*" which have neither been explained nor shared. This left only 3 routes for any detailed consideration whatsoever, namely Llanddulas East B, Llanddulas East A and Llanddulas East C. Both Llanddulas East A and B routes affected the Plots as did all the theoretical Llanddulas West Routes.

First contact with the Objectors was made by the Promoters in June 2022 (some 16 months after award of the lease). An indicative cable route plan was shared by email with the Objectors on 12 August 2022 [26] clearly showing the current proposed route (Llanddulas East A) albeit with a wider 300m corridor than the current 100m wide Order works corridor or Limits.

Therefore within the 17 months from being awarded the Promoter had identified, investigated, presented, reviewed and selected 1 out of 16 different routes each of up to 15km (9 miles) in length – a total of approximately 240km (144 miles). It seems clear that the review could not have been a proper review of the reasonable alternatives as the Promoter is obliged to carry out.

Llanddulas East A was selected and was the only route taken through the BRAG report [27] however it did have some options (North and South) in parts of the route.

Section1.3.1 of the BRAG Report gives an overview of the post PEIR site and route selection process. It describes that the point of landfall was fixed per a previous decision and that a 300m wide corridor around the current route was considered between the point of landfall and the substation site.

Section1.3.3 on page 18 of the BRAG Report specifically describes the refinement of the corridor down to a 74m width and gives an overview of the original site and route selection process. This is discussed again in section 1.4.2 where visual plans show certain areas where north and south options of the already pre-determined route. This refinement stage coincided with the public consultation period although the Promoter had still not contacted the Objectors by that stage.

[25] MONA: Preliminary Environmental Information Report Vol 1, Chapter 4: Site Selection and Alternatives: April 2023
[26] EMAIL: 12 August 2023 :Dalcour Maclaren to Brown Rural showing Cable Route :Llanddulas East A Route at A548 Junction
[27] MONA: Environmental Statement Vol 5 Annex 4.2: Site Selection BRAG Report: February 2024

The plan on page 21 of the BRAG report shows the first post refinement to 74m wide route corridors option entitled Section 3 North and Section 3 South. This page 21 plan broadly correlates with Sheet 6 of the Works and Land plans and book of reference. The first plot on the west or left hand side of that plan is therefore 06-100 to the west of the A548 and then the subsequent plots on the east of the A548 are the Plots within the Property. It can be seen that the Plots are included in both option for section 3-N and Option for Section 3-S. The Plots, having been pre-selected prior to landowner involvement, has therefore been included in the Order throughout. The Promoter having tied its own hands in this regard from the outset, has therefore fettered itself from carrying out any sincere and earnest meaningful consultation or having any genuine discussion as to alternatives or as to means that the impact could be mitigated on the Objectors.

This shows how poor the site selection and consultation process has been and consequentially how biased and unfair the process has been for a private company to seek to impose its will on private individuals solely for its own commercial gain and to the detriment of the affected parties.

Section 1.2.1.8 of Volume 5, Annex 4.2: Site Selection BRAG Report states that the primary site selection principle consideration to which they will adhere is:

> *"Shortest route preference to reduce impacts by minimising footprint for the Mona Offshore Cable Corridor and Mona Onshore Cable Corridor as well as considering cost (hence ultimately reducing the cost of energy to the consumer) and minimising transmission losses"*

However the reality is that, as the crow flies the substation site is a little over 10km from where the cables make landfall but the actual route being proposed is almost 50% longer at 15km.

The Inspector will also notice that in addition to failing to consider alternative options for plots all the way from landfall as far as plot 06-105 there has been no consideration of the following when selecting the currently proposed route:

- The use of new above ground power transmittal on poles or pylons;
- The use of existing above ground power transmittal on poles or pylons;
- The use of part underground and part new or existing poles or pylons;
- Route sharing with and possible upgrade to Gwynt Y Mor Scheme which comes ashore slightly to the east of Abergele and runs directly to a substation adjacent to the new one proposed for the Scheme. Alternative route options Belgrano West C and Belgrano East B but these were immediately dismissed by PEIR for "*parallel analysis screening reasons"* ; and/ or
- Route sharing with and possible upgrade to Awel Y Mor Scheme not even yet built which comes ashore slightly to the east of Rhyl and will also run directly to a substation adjacent to the new one proposed for the Scheme. Given the Awel Y Mor scheme has yet to finish its design and commence on site it would appear to be an unrivalled opportunity to collaborate with those parties.

10.2. CONSIDERATION OF OTHER ALTERNATIVES – POTENTIAL PYLON ALTERNATIVE

The Promoter has dismissed pylons as a means of power transmittal simply on the grounds of *"aesthetics"* without adequate or indeed any consideration of other factors and advantages. Neither has the Promoter considered the use of existing pylons already in situ. The Promoter has also failed to consider a proposal whereby power transmittal could be partly by pylon and partly by underground cable.

The Gas and Electricity Markets Authority grants ("**GEMA**") licences to local Distribution Network Operators (**"DNOs"**) such as Scottish Power Electricity Networks ("**SPEN**"). These licences include

provisions that allow and in fact, where appropriate, oblige a DNO to use its network assets efficiently, which can encompass renting out spare capacity which promotes efficiency and benefits consumers.

Section 6 of the Electricity Act 1989 deals with the grant of these DNO Transmission Licences. Section 7 governs the conditions for doing so. Section 9 sets out the general duties of the DNO, including the obligation "*to develop and maintain an efficient, coordinated, and economical system of electricity distribution"* as well as "*facilitate competition*….". Utilising spare capacity through rental agreements can be seen as part of fulfilling these duties.

Section 25 – Bestows the power of enforcement onto GEMA to enforce compliance with the terms of the DNO licence, which includes provisions related to the use of network assets. This oversight ensures that any renting of spare capacity is done within the regulatory framework designed to protect consumer interests and network reliability.

The Utilities Act 2000 amended the Electricity Act 1989 and introduced further provisions for the regulation of the electricity market. It supports the principles of efficient operation and management of electricity networks, which can include the rental of infrastructure.

I have raised the prospect of line sharing with staff at SPEN and was advised that they do have other such arrangements in place and are generally open minded to the idea although it would be entirely subject to regulatory approval and some capacity improvements would likely be necessary to accommodate the additional load on their AC line. They advise that, in the first instance, contact should be made with the "connections team" who will help design and evaluate proposals and ultimately grant a licence. The party commenting was not aware that any such approach had been made by Scheme. This would tend to confirm the Objectors' suspicions that such an arrangement has not even been considered.

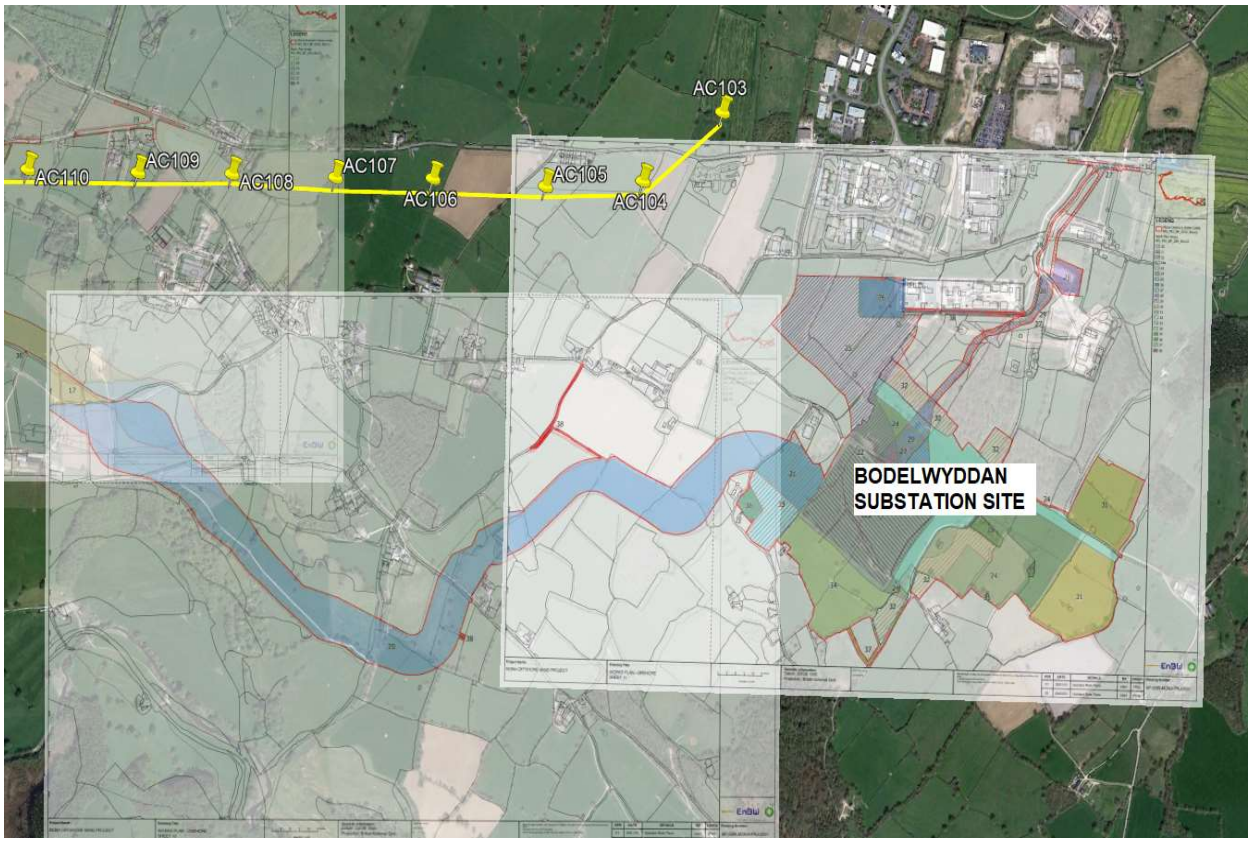
10.2.1. DESCRIPTION OF AND POTENTIAL TRANSMITTAL SHARING WITH AC LINE

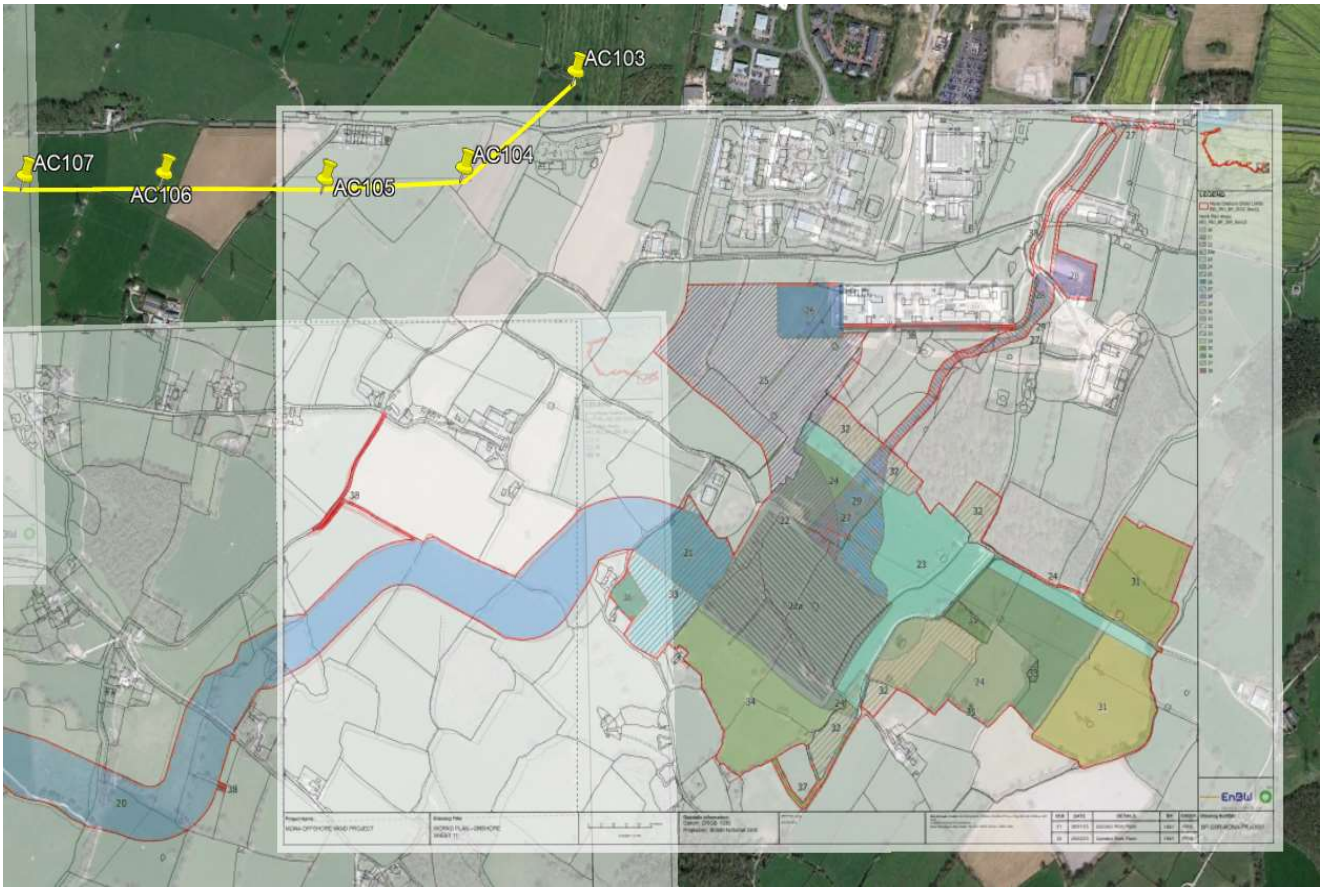
The AC Line runs directly through the Property in plot 06-103 and in fact there are 2 pylon towers contained on the Property referred to as towers AC128 and AC127. This line belongs to SPEN and transmits power from Dolgarrog Hydroelectric Plant to the major substation at Connahs Quay.

Enroute to Connahs Quay, from the Objectors' Property, the AC line almost identically follows the corresponding section of the Mona Scheme's onshore route and in fact if a "pylon sharing" arrangement could be developed with SPEN i.e. to use the transmittal capacity between tower AC128 i.e. within Plot 06-103 being approximately 5km from point of landfall then this would save the trenching operations for almost 10km of the remaining route only rejoining the currently proposed route at the tower which is believed to be AC103 or AC104.

The pylons route from AC128 through to AC103 is shown in yellow on the following overlays of the works and land plans for the Scheme. The working corridor for the Scheme is shown partly in pink and partly in blue


OBJECTORS LAND
EAST OF A548
AC103
AC124
AC123
AC121
AC125
AC122
AC120
AC116
AC126
AC119
AC117
AC115
AC113
AC118
AC112
AC111
AC110
AC109
AC107
AC105
AC106
AC104
AC114
AC129
AC128
AC127


AC103
AC110
AC109
AC108
AC107
AC106
AC105
AC104
BODELWYDDAN
SUBSTATION SITE



The saving of 4No. lengths of circa 10km of trench and cable laying would itself save some 848,538m2 (84.85ha/ 209.6 acres) of land (according to the plot sizes recorded in the book of reference) from such severe disruption. Instead, the general public and all the affected landowners would merely have to tolerate the upgrade of these pylons and their “restringing”. In doing this the Promoter would actually save up to 2/3 of the cost of 10.5km (70%) of the entire onshore route corridor construction costs.

The AC line comprises standard 132KV towers approximately 30m tall. It currently has a maximum capacity and is in use for 3no. circuits of 132KV. It is understood however that these circuits could be upgraded to 275KV and SPEN do have many circuits at this capacity in Cheshire and Merseyside and indeed 400KV for instance, the Kincardine to Blairingone XL OH Line Route.

Planning policy is not particularly supportive of new pylons or pylon upgrades. For that matter however, neither is policy supportive of the long scars and disruption to hedgerows and so on that inevitably result of laying underground cables. It is understood that there are permitted development rights to upgrade and increase the capacity of the existing cables on these pylons and also to raise the height of these pylons by 15%. It seems quite achievable that a suitable upgrade could be designed to “condense” the existing services and accommodate the Scheme’s requirements. There is therefore the very real prospect of being able to transmit Scheme power along the AC line which, given the excessive disruption that the current proposal would cause, is surprising that it has not been considered already.

What would be proposed would be sharing of apparatus similar to the way that train operating companies purchase track access from Network Rail rather than a connection into the SPEN DNO network.

This is a very real and practical alternative to the chaos and disruption currently proposed from the A548 all the way to the Bodelwyddan substation terminus and until this option has been exhaustively

explored and categorically discounted as not being viable then it is premature to attempt to argue that any of the land from plots 06-102 onwards all the way to Bodelwyddan is either *"required*" or *"indispensable***"** or "*necessary in the circumstances of the case …… for the accomplishment of the Scheme***"**. It is premature to argue that Sections 122(2) and 122(3) of the Act apply by the virtue of the fact that the Promoter has failed to consider this alternative in accordance with its statutory duties to do so.

10.2.2. OBJECTORS' VIEW ON THE USE OF PYLONS

The Objectors strongly support a proposal to share transmittal of power along the AC Line whether it was merely to cross plots 06-103 to 06-105 and into plot 06-106, returning to an underground solution from tower AC126 onwards solution or whether it be to follow the entire route to tower AC103/4 (close to plots 11-202 or 10-188) close to Bodelwyddan substation terminus. In the event that this proposal was implemented, the Objectors would be minded, subject to reasonable agreement i.e. re timescales, to permit the Promoter to use the temporary compound proposed for plot 06-103 to facilitate the connection to tower AC128. Further, the Objectors are prepared, if necessary, to permit the use of other adjacent land (edged grey on later figures, and within their title CYM795223) not currently within the Order area to be used to facilitate this arrangement.

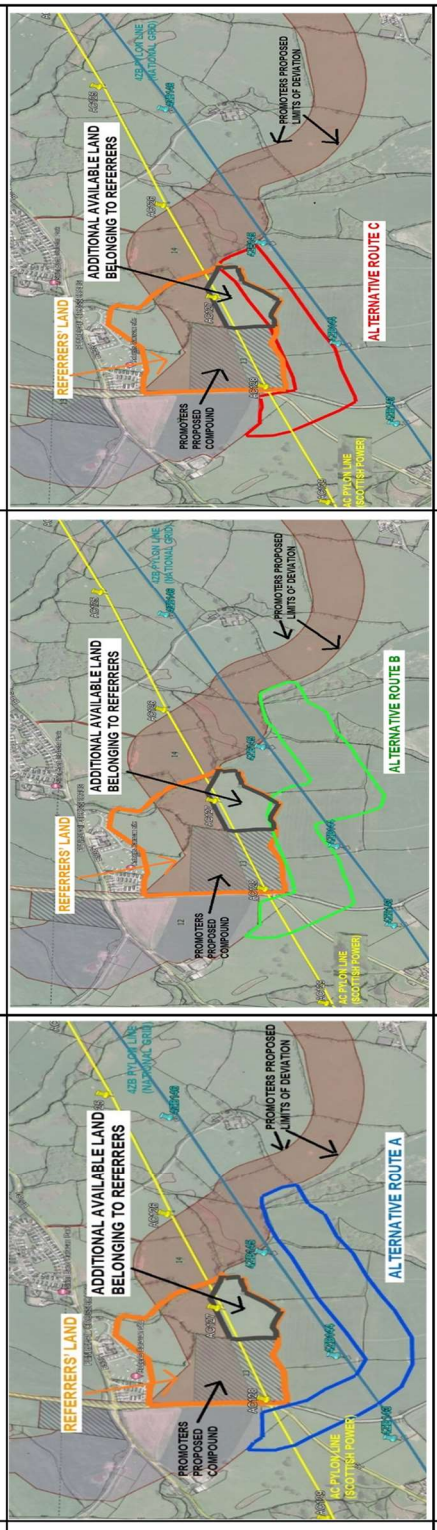
10.3. CONSIDERATION OF OTHER ALTERNATIVES – LOCAL ALTERNATIVES TO PLOTS 06-102 TO 06-105

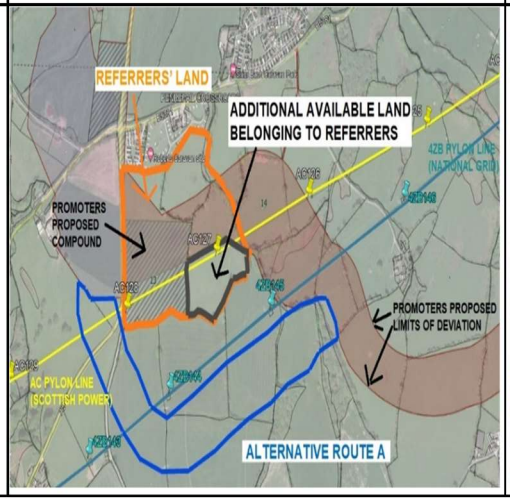
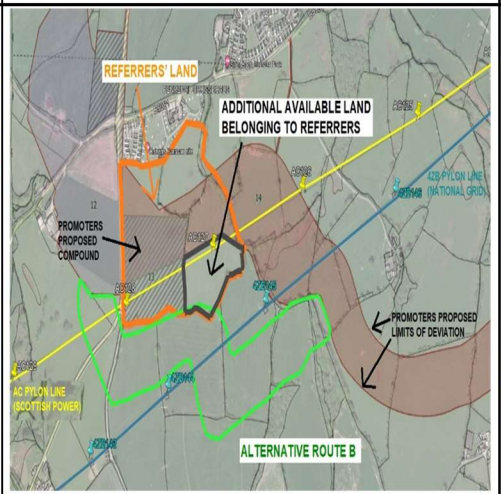
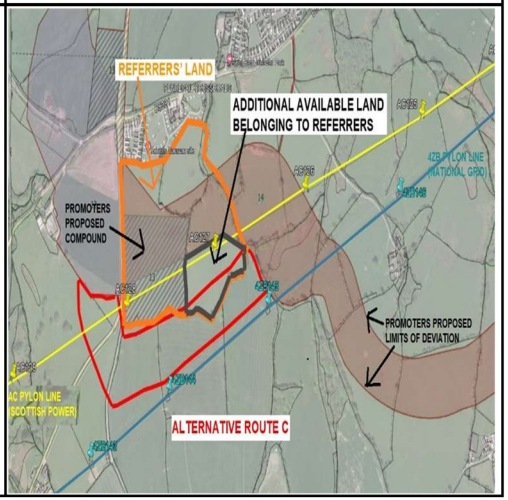
As explained in 10.1, above Llanddulas East A was selected by June / July 2022 and was the only option consulted on or considered in the BRAG report albeit with minor north and south route options to the east of the Property. No options have ever been considered as alternatives to the Plots. However there are very satisfactory local alternatives which are equally capable of accomplishing the Scheme.

These are now considered and have been tabulated for ease of reference.
Firstly Alternatives A to C are described and compared as these routes remove the cables almost entirely from the Plots and minimise the need for interaction between the Promoter and the Objectors although the Objectors have indicated that in the event that one of these routes was selected then it will, subject to reasonable matters such as timing, support the Promoter were possible. The main landowners here have also confirmed that they would support the proposals subject to proper compensation and safeguards being in place

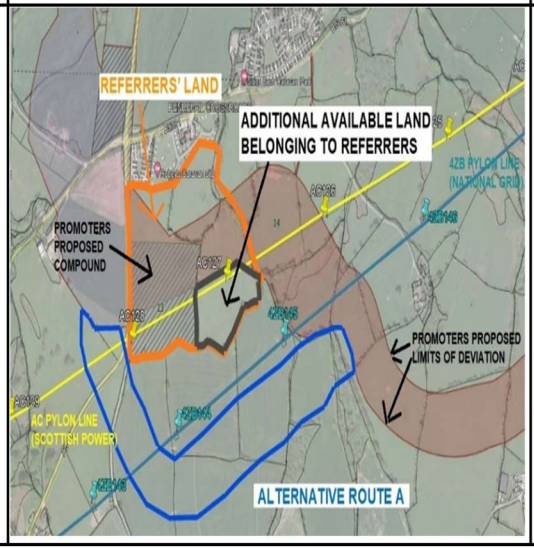
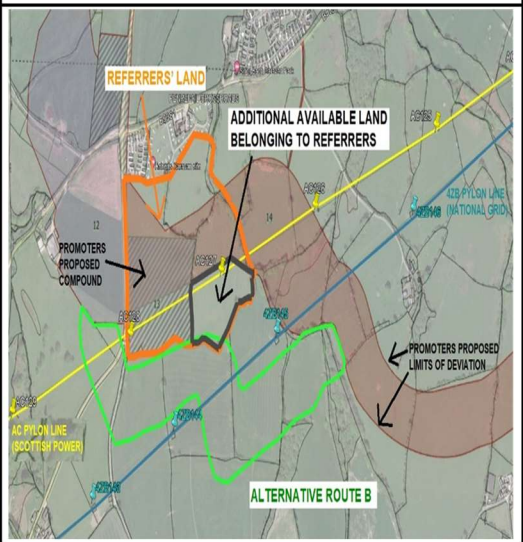
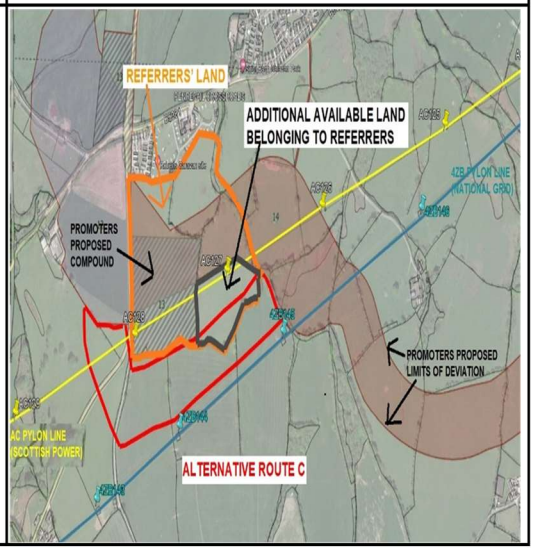
Alternatives D and E are then described and compared. These routes still affect the Plots, however, the impact on the Objectors is greatly mitigated. There is only one other landowner affected here and as before they have confirmed that they would support the proposals subject to proper compensation and safeguards being in place. The Objectors also would be minded to support this arrangement in the event that AC pylon sharing and Alternatives A to C were properly found to be unsatisfactory.

10.3.1. EXPLANATION AND COMPARISON OF LOCAL PLOT ALTERNATIVES A TO C

	ALTERNATIVE A	ALTERNATIVE B	ALTERNATIVE C
Plan / Markup			
Description	Continue south out of plot 06-100 and cross the A548 to the south of the currently proposed location (crossing the AC SPEN pylon line) - into land in title no. WA432545 -beneath the single lane -into land contained within title no. CYM195840 - crossing the 4ZB line between towers 143 and 144 -rejoin the currently proposed alignment land within title no. CYM683618 -continuing along the existing route. The proposed 100m working corridor is shown along the route and it is edged blue and entitled Alternative Route A on the figure above :	Continue south out of plot 06-100 and cross the A548 to the south of the currently proposed location (crossing the AC SPEN pylon line) - into land in title no. WA432545 -beneath the single lane -into land contained within title no. CYM195840. HOWEVER continue the alignment south of the AC pylon line and north of the 4ZB pylon lines until the 4ZB line Pylon line crossed slightly to the east between towers 144 and 145 - continuing in CYM 195840 and rejoin the currently proposed alignment land within title no. CYM683618 -continuing along the existing route. The proposed 100m working corridor is shown along the route and it is edged green and entitled Alternative Route B on the figure above :	Continue south out of plot 06-100 and cross the A548 to the south of the currently proposed location (crossing the AC SPEN pylon line) - into land in title no. WA432545 -beneath the single lane -into land contained within title no. CYM195840. HOWEVER continue the alignment south of the AC pylon line and north of the 4ZB pylon lines - continue in CYM 195840 and rejoin the currently proposed alignment land within title no. CYM683618 and cross to the south of the 4ZB line in the same way as proposed in the current route. -continuing along the existing route to Bodelwyddan. The proposed 100m working corridor is shown along the route and it is edged red and entitled Alternative Route C on the figure above :
Length of Cabling required to get back on line in Plot 06-106	This route option gives a slightly longer route by an additional @ 163m over original route from the edge of 06-100 to the meeting point within plot 06-106. This amounts to an additional 1.08% of cabling over the power transmittal route which is negligible.	This route option gives a slightly longer route by an additional @ 179m over original route from the edge of 06-100 to the meeting point within plot 06-106. This amounts to an additional 1.19% of cabling over the power transmittal route which is negligible.	This route option gives a slightly shorter route by saving @ 93.3m of cabling over original route from the edge of 06-100 to the meeting point within plot 06-106. This amounts to a saving of 0.62% of cabling over the power transmittal route.
Topographical levels	This alternative route corridor reaches up to 196m above sea level compared to 168m altitude in plot 06-101 - a negligible difference given the route undulations up from sea level in Abergele and back down to Bodelwyddan in any event.	this would be similar to Alternative A however the highest peak is close to the single track road crossing and this is eliminated in Alternative B so that the land was only some 10-15m higher	This alternative route corridor reaches up to 180m above sea level compared to 168m altitude in plot 06-101 - a negligible difference of only 10-15M given the route undulations up from sea level in Abergele and back down to Bodelwyddan in any event.
Landownership			
CYM566178 — Mr L Roberts	The Promoter is in ongoing negotiations re plot 06-100 and whilst the owner does not welcome the cables in his land it does seem likely that terms will be agreed The Owner does not consider that extending he cables slightly to the south of plot 06-106 would make much difference		
A548 — Conwy Council	Standard statutory Consultee consultation on other highways		
WA432545 — Mr. S Roberts (unrelated)	This landowner is an owner occupier but is very difficult to contact and endeavours are being made to reach him.		
Unnamed Road / Track — Conwy Council	Standard statutory Consultee consultation on other highways		

	ALTERNATIVE A	ALTERNATIVE B	ALTERNATIVE C
Plan / Markup			

CYM195840	**Mr. and Mrs. Williams**	Party already affected in plots 06-108 & 07-110 and have indicated that, subject to negotiation, they would be amenable to negotiating for additional land in CYM195840 as well as this land is at the periphery of their holding and the impact could be managed.
CYM683618	**Messrs. Davies**	These landowners are already affected re plot 06-108 and the overall impact on them would be less
Trench V trenchless Existing Position		The scheme already currently provides for trenchless crossings beneath the A548 (Sections 1.3.2.16 and 1.3.2.22 of the Statement of Reasons) and then again over the water course that runs adjacent to high quality hedgerow G58 and again beneath the same watercourse that runs alongside G63/G64 whilst trenchless is also proposed for crossings beneath the AC and 4ZB pylon lines. These total 5 crossings for the 4 cable circuit ducts totalling i.e. 20 non dig crossings in total.
Requirements for Trench V trenchless in relevant Alternative		Alternative A offers the opportunity of a single directional drill from land in CYM566178 (Plot 06-100) D13:D18 just north of the AC line and between AC129 and AC128 over the full distance to the south of the 4ZB line between tower 4ZB143 and 4ZB144. This would be a distance of 270m (between Shaft 01 in land title CYM566178 to shaft 04 in land title CYM195840 on the following figure) which would be comfortably achievable with these small diameter Tunnel Boring machines and give a saving in cost and to the project timetable. Alternatively the Promoter could choose to tunnel shorter distances i.e. beneath the AC line pylons then beneath the A548 into the land within title no. WA432545 then beneath the single lane track into land within title no. CYM195840 and then once again beneath the 4ZB pylon line. This would give rise to 4 crossings for the 4 cable circuit ducts totalling i.e. 16 non dig crossings in total. which is less than the current route provides for.
Crossing AC & 4ZB lines		This solution achieves a perpendicular crossing of the pylon lines which is preferred by network operators.
Biodiversity Implications		
Cat A High Quality Hedgerow G49		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G50		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G51		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G52		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G53		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G54		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G55		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G58		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G59		Can be retained under Alternatives A, B, C, D and E
Cat B High Quality Hedgerow G60		Can be retained under Alternatives A, B, C, D and E

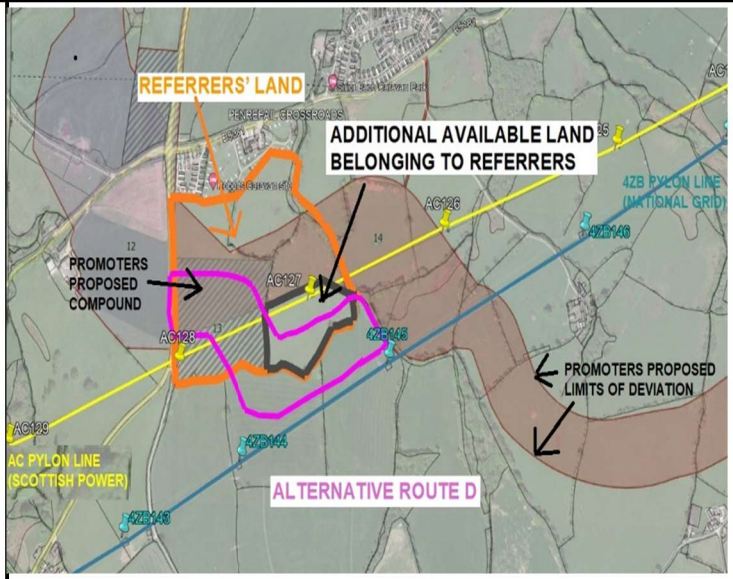
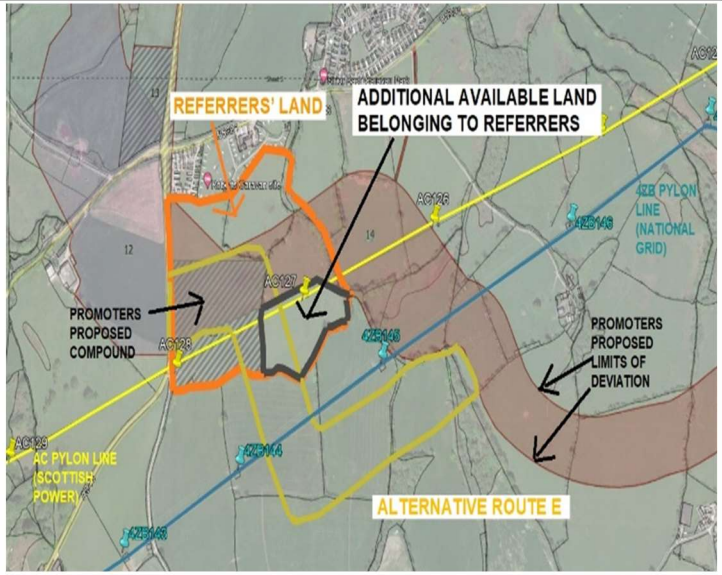
	ALTERNATIVE A	ALTERNATIVE B	ALTERNATIVE C
Plan / Markup			

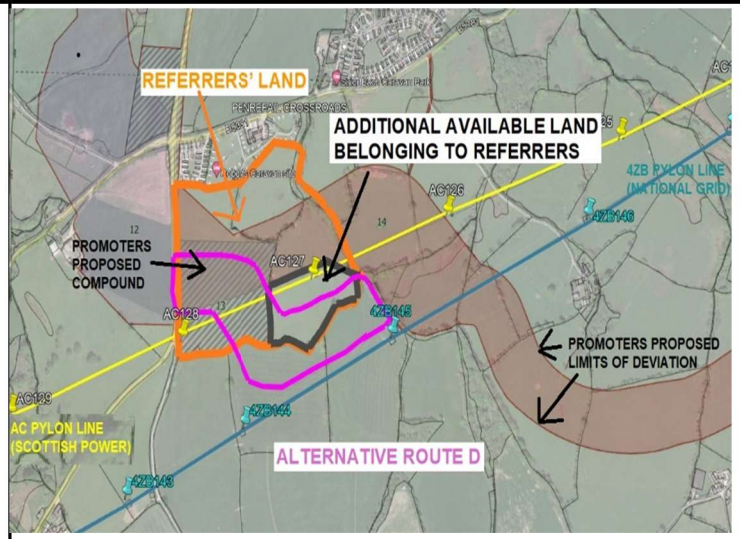
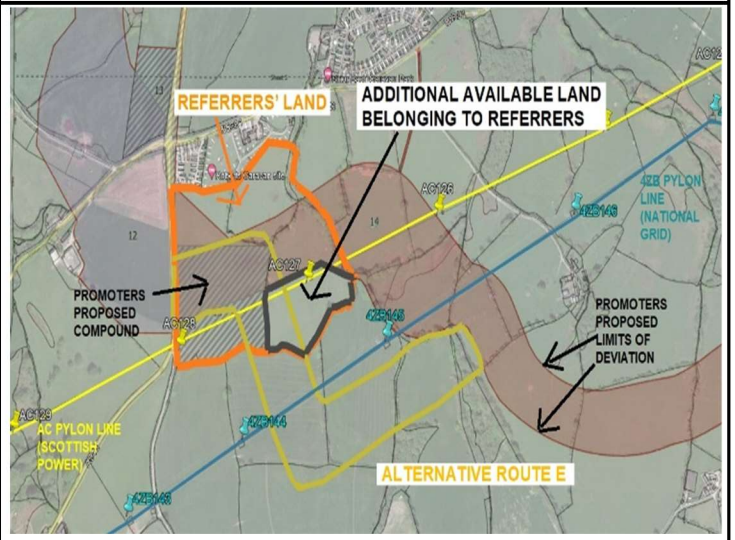
Cat B Mod Quality Hedgerow G61		Can be retained under Alternatives A, B, C, D and E	
Cat B Mod Quality Hedgerow G62		Can be retained under Alternatives A, B, C, D and E	
Cat B Mod Quality Hedgerow G63		Can be retained under Alternatives A, B, C, D and E	
Cat B Mod Quality Hedgerow G64		Can be retained under Alternatives A, B, C, D and E	
Cat B Mod Quality Hedgerow H44		Can be retained under Alternatives A, B, C, D and E	
Cat B Mod Quality Hedgerow G66		Can be retained under Alternatives A and B and E	Will be lost but under risk in original proposal as well
Cat B Mod Quality Hedgerow G67		Can be retained under Alternatives A and B and E	Will be lost but under risk in original proposal as well
Cat B Mod Quality Hedgerow G68		Can be retained under Alternatives A and B and E	Will be lost but under risk in original proposal as well
Cat B Mod Quality Hedgerow G69		Can be retained under Alternatives A, B, C, D and E	
Cat B Mod Quality Hedgerow G70		Can be retained under Alternatives A and B and E	Will be lost but under risk in original proposal as well
Cat B Mod Quality Hedgerow G71		Can be retained under Alternatives A and B and E	Will be lost but under risk in original proposal as well
Mod Quality Tree T105		Can be retained under Alternatives A, B, C, D and E	
Mod Quality Tree T106		Can be retained under Alternatives A, B, C, D and E	
Mod Quality Tree T107		Can be retained under Alternatives A, B, C, D and E	
Mod Quality Tree T108		Can be retained under Alternatives A, B, C, D and E	
Mod Quality Tree T109		Regrettably an unnumbered copse of trees and overgrowth adjoining T109 as well as T109 itself could be lost under this option however this can be mitigated by using a trenchless technique beneath the copse without increasing the number of trenchless crossings.	Can be retained

Objectors' View	The Objectors strongly support this alternative solutions A to C and in the event that one of the options was implemented then, subject to reasonable agreement regarding timing and so on, they would be minded, subject to a proper understanding re matters such as timing, to permit the Promoter to use the proposed compound in plot 06-103 to facilitate the scheme. Further and subject to similar agreement ie re timing, , the Objectors are prepared to permit the use of other adjacent land (edged grey and within their title CYM795223) not currently within the Order area to be used to facilitate this arrangement. In the event that the Promoter was directed or expressly and formally committed to an undertaking to this alternative route and the threat removed from their own land then the Objectors would be minded to fully withdraw their objection to the Order.

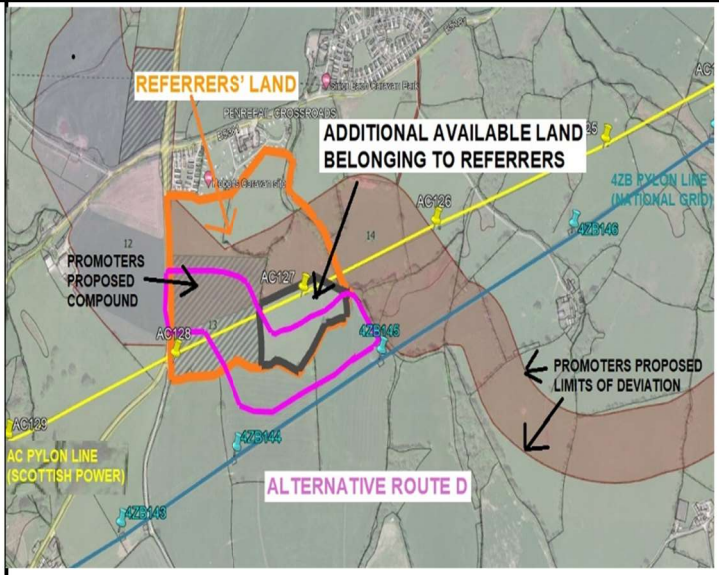
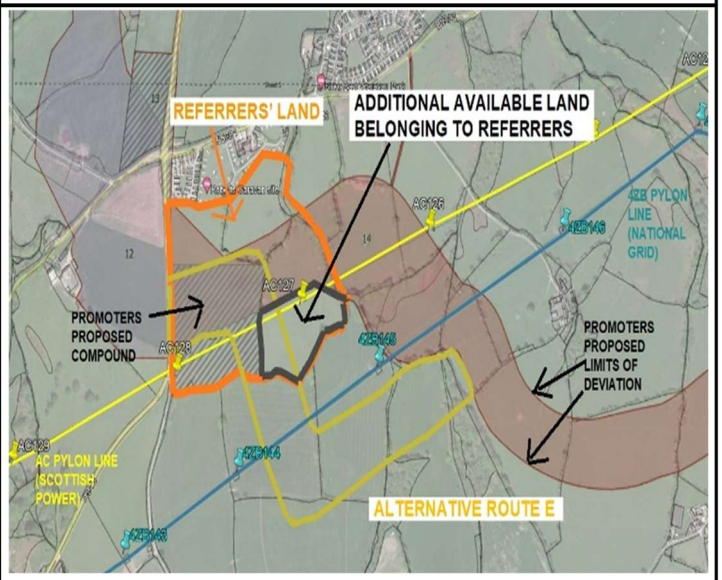
10.3.2. EXPLANATION AND COMPARISON OF LOCAL PLOT ALTERNATIVES D AND E

Plan / Markup	ALTERNATIVE D	ALTERNATIVE E
Description	Alternative D assumes that the narrower 12m wide cable corridor is implemented and that those cables are laid to the most southerly extent of the Objectors' site as possible i.e. as close to the AC line as health and safety guidelines permit. Land registry title Number WA432545 would be unaffected. The route allows for a right angled turn to take the cables to cross the AC line between towers AC128 and AC127. Once the ducts had crossed the AC Line, they could be laid in open trench to rejoin the original alignment in plot 06-106 as for Alternative C. This route will involve land edged grey in title no. title no. CYM795223 (belonging to the Objectors and also a modest amount of land within title number CYM195840. The proposed 100m working corridor is shown along the route and it is edged purple and entitled Alternative Route D on the figure above.	Alternative D assumes that the narrower 12m wide cable corridor is implemented and that those cables are laid to the most southerly extent of the Objectors' site as possible i.e. as close to the AC line as health and safety guidelines permit. Land registry title Number WA432545 would be unaffected. The route allows for a right angled turn to take the cables to cross the AC line between towers AC128 and AC127 and onwards south to cross the 4ZB line between towers 144 and 145 the cables could then be in open trench eastwards to rejoin the original alignment in plot 06-106 as for Alternatives A and B. This route will involve land edged grey in title no. title no. CYM795223 (belonging to the Objectors) and also land within title number CYM195840. The proposed 100m working corridor is shown along the route and it is edged yellow / gold in colour and entitled Alternative Route E on the figure above.
Length of Cabling required to get back on line in Plot 06-106	This route option gives a slightly shorter route by saving @ 178m of cabling over original route from the edge of 06-100 to the meeting point within plot 06-106. This amounts to a saving of 1.19% of cabling over the power transmittal route.	This route option gives a slightly longer route by an additional @ 90m over original route from the edge of 06-100 to the meeting point within plot 06-106. This amounts to an additional 0.6% of cabling over the power transmittal route which is negligible.

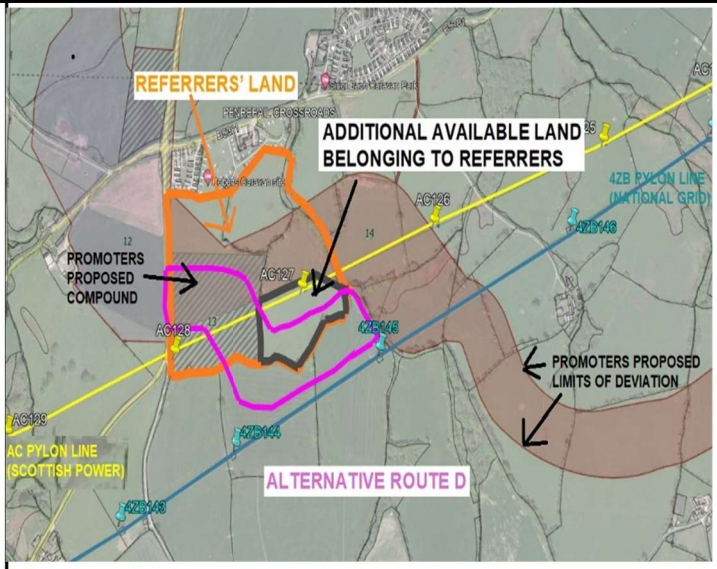
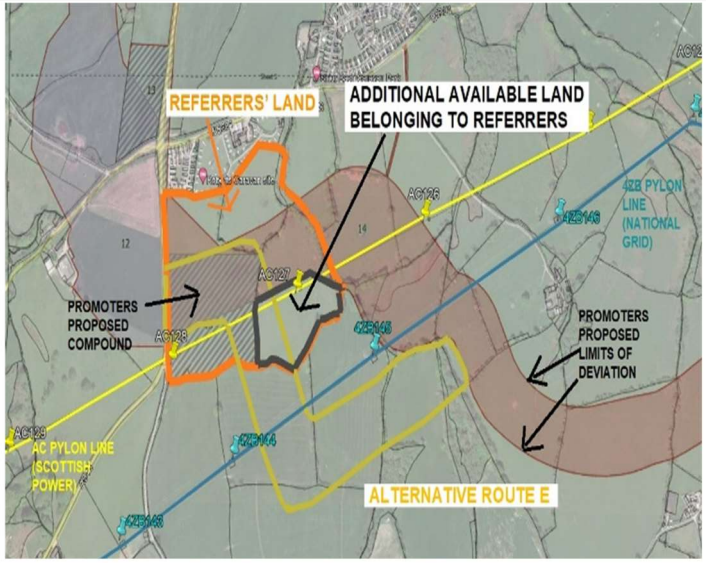
			ALTERNATIVE D	ALTERNATIVE E
Plan / Markup				
Topographical levels			This alternative route corridor reaches up to 178m above sea level compared to 168m altitude in plot 06-101 - a negligible difference of only @10M given the route undulations up from sea level in Abergele and back down to Bodelwyddan in any event.	This alternative route corridor reaches up to 180m above sea level compared to 168m altitude in plot 06-101 - a negligible difference of only 10-15M given the route undulations up from sea level in Abergele and back down to Bodelwyddan in any event.
Landownership				
	CYM566178	**Mr L Roberts**	UNAFFECTED - NO CHANGE TO CURRENT POSITION	
	A548	**Conwy Council**	UNAFFECTED - NO CHANGE TO CURRENT POSITION	
	WA432545	**Mr. S Roberts (unrelated)**	UNAFFECTED - NO CHANGE TO CURRENT POSITION	
	Unnamed Road / Track	**Conwy Council**	UNAFFECTED - NO CHANGE TO CURRENT POSITION	
	CYM195840	**Mr. and Mrs. Williams**	Party already affected in plots 06-108 & 07-110 and have indicated that, subject to negotiation, they would be amenable to negotiating for additional land in CYM195840 as well as this land is at the periphery of their holding and the impact could be managed.	

	ALTERNATIVE D	ALTERNATIVE E
Plan / Markup		

CYM683618	**Messrs. Davies**	These landowners are already affected re plot 06-108 and the overall impact on them would be less
Trench V trenchless Existing Position		The scheme already currently provides for trenchless crossings beneath the A548 (Sections 1.3.2.16 and 1.3.2.22 of the Statement of Reasons) and then again over the water course that runs adjacent to high quality hedgerow G58 and again beneath the same watercourse that runs alongside G63/G64 whilst trenchless is also proposed for crossings beneath the AC and 4ZB pylon lines. These total 5 crossings for the 4 cable circuit ducts totalling i.e. 20 non dig crossings in total.
Requirements for Trench V trenchless in relevant Alternative		This would require a trenchless crossing over the A548 as for the Promoter's original route into 06-103 and then a trenchless crossing beneath the AC line, again as per the Promoter's original route. In the same way the rest of the route would only require the same number of trenchless crossings as would the Promoter's original proposed route.
Crossing AC & 4ZB lines		This solution achieves a perpendicular crossing of the pylon lines which is preferred by network operators.
Biodiversity Implications		
Cat A High Quality Hedgerow G49		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G50		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G51		Can be retained under Alternatives A, B, C, D and E
Cat A High Quality Hedgerow G52		Can be retained under Alternatives A, B, C, D and E

	ALTERNATIVE D	ALTERNATIVE E
Plan / Markup		

	Cat A High Quality Hedgerow G53	Can be retained under Alternatives A, B, C, D and E	
	Cat A High Quality Hedgerow G54	Can be retained under Alternatives A, B, C, D and E	
	Cat A High Quality Hedgerow G55	Can be retained under Alternatives A, B, C, D and E	
	Cat A High Quality Hedgerow G58	Can be retained under Alternatives A, B, C, D and E	
	Cat A High Quality Hedgerow G59	Can be retained under Alternatives A, B, C, D and E	
	Cat B High Quality Hedgerow G60	Can be retained under Alternatives A, B, C, D and E	
	Cat B Mod Quality Hedgerow G61	Can be retained under Alternatives A, B, C, D and E	
	Cat B Mod Quality Hedgerow G62	Can be retained under Alternatives A, B, C, D and E	
	Cat B Mod Quality Hedgerow G63	Can be retained under Alternatives A, B, C, D and E	
	Cat B Mod Quality Hedgerow G64	Can be retained under Alternatives A, B, C, D and E	
	Cat B Mod Quality Hedgerow H44	Can be retained under Alternatives A, B, C, D and E	
	Cat B Mod Quality Hedgerow G66	Will be lost but under risk in original proposal as well	Can be retained under Alternatives A and B and E
	Cat B Mod Quality Hedgerow G67	Will be lost but under risk in original proposal as well	Can be retained under Alternatives A and B and E
	Cat B Mod Quality Hedgerow G68	Will be lost but under risk in original proposal as well	Can be retained under Alternatives A and B and E
	Cat B Mod Quality Hedgerow G69	Can be retained under Alternatives A, B, C, D and E	
	Cat B Mod Quality Hedgerow G70	Will be lost but under risk in original proposal as well	Can be retained under Alternatives A and B and E
	Cat B Mod Quality Hedgerow G71	Will be lost but under risk in original proposal as well	Can be retained under Alternatives A and B and E

	ALTERNATIVE D	ALTERNATIVE E
Plan / Markup		

Mod Quality Tree T105	Can be retained under Alternatives A, B, C, D and E	
Mod Quality Tree T106	Can be retained under Alternatives A, B, C, D and E	
Mod Quality Tree T107	Can be retained under Alternatives A, B, C, D and E	
Mod Quality Tree T108	Can be retained under Alternatives A, B, C, D and E	
Mod Quality Tree T109	Can be retained	Regrettably an unnumbered copse of trees and overgrowth adjoining T109 as well as T109 itself could be lost under this option however this can be mitigated by using a trenchless technique beneath the copse without increasing the number of trenchless crossings.

Objectors View	In the event that the narrower 12.75m easement width can be used and that the route is as close to the AC line as possible and Options A, B and C cannot be taken forward then the Objectors are minded to consider supporting Alternatives D or E as a partial solution and in would be prepared to accommodate the Promoter in using a proposed reconfigured temporary compound in plot 06-103 to facilitate the scheme. Further, the Objectors may be minded, subject to proper agreement re matters such as timing to permit the use of other adjacent land (edged grey as well as other land within their title CYM795223) not currently within the Order area to facilitate this arrangement.

Again, and as for the potential pylon sharing alternative, these very real alternative routes/ options have not been considered by the Promoter and have never been included in the site search corridor.

Until such time as these alternatives are actually thoroughly explored and found to be unsatisfactory or not feasible then it is obviously much too soon to attempt to argue that any of the land in the Plots and perhaps beyond is either *"required*" or "*indispensable*" or "*necessary in the circumstances of the case …… for the accomplishment of the Scheme*". Sections 122(2) and 122(3) of the Act are simply not engaged by the virtue of the fact that the Promoter has failed to consider these alternative in accordance with its statutory duties to do so.

11. WHETHER THE PROMOTER HAS CONSULTED AND TAKEN ACCOUNT OF RESPONSES TO CONSULTATION

Section 10.1 of this submission demonstrates how the Promoter did not consider route sharing along existing routes to the same or adjacent destination. It details how the Llanddulas East A route was pre-selected certainly before any engagement with landowners. It also shows how the preselected route was the only route discussed in the BRAG report.

Section 10.2 demonstrates how the Promoter has not considered any other solution other than underground cables along the entire (pre-selected) route and that. pylons and pylon sharing could potentially be a satisfactory and less disruptive solution along all or part of the route.

Section 10.3 demonstrates that local alternatives to the Plots are available and that the other main landowner affected in the event that this was progressed has advised that he is happy to host the cables, subject to proper compensation of course.

11.1. SPECIFIC CONSULTATION WITH THE OBJECTORS REGARDING THE PROPERTY

Correspondence and dialogue were held through June to August / September 2023 when more detail and information was provided by the Promoter however, when representations have been attempted to be made, the Promoter has simply brushed them off and not made any offer of accommodation, rather than engage meaningfully.

For instance, a request was made that the Promoter positioned the cables so that they were routed in accordance with Alternatives A to C discussed earlier. The response obtained on 11 September 2023[28] via the Promoter's agent's was:

> "……. *that to go to the south of the line, we would need to cross an additional road and then be running parallel between the pylon route in your land and the one just to the south, which again would be very limiting."*

Clearly, no serious consideration was given to what the Objectors had suggested. Meaningful engagement and consultation would ordinarily be a two way process, comprising of several stages whereby firstly the Promoter would present its Scheme and secondly gather the affected parties views and comments and concerns and thirdly act on those comments and concerns (in line with Section 49 of the Act and the Arhus Convention) by modifying the Scheme and then re-presenting the revised

[28] EMAIL: 11 September 2023 :Dalcour Maclaren to Brown Rural : Email Response re route Alternatives

Scheme to the affected parties and receiving further comments for consideration and amendment or adjustment.

However with the Plots having already been selected for the Scheme, the Promoter's agents have had no scope to "consult" and so the exercise has been merely one of presenting its Scheme, disregarding affected party's concerns and requests and then reiterating its proposals whilst passive aggressively referring to CPO powers in a thinly veiled attempt to portray the impression that matters are finalised and the cables and their impact are inevitable and that those affected are best advised to "protect themselves" by entering into binding agreements to grant powerful overriding options in favour of the Promoter one of the terms of which prohibit those enter the terms from making representations against the Order.

11.2. OTHER CONSULTATION ISSUES I.E. HARD COPIES OF DOCUMENTS AND LIBRARY COPIES

In addition to the evidence of poor consultation and lack of any meaningful engagement, the Promoter has sought to discourage and disincentivise proper debate at Public Inquiry by declining to produce hard copies of its evidence documents to statutory objectors. The Order notice received on 26 March 2024 advised as follows:

> *"Provision of hard copies of the ES will be subject to a maximum charge of £7,000, plus VAT, to cover printing and delivery costs."*

One of the Objectors is in her late 80's unable to drive and with vision difficulties and unable to read a computer screen and yet the Promoter expects her to travel to either Llandudno or Rhyl Library in order to inspect hard copies of the document as the Promoter's charges for them are simply prohibitive.

In fact, I visited Rhyl Library on the 23 of May 2024 in order to inspect the hard copy documents for the Scheme only to be advised that nothing at all had been received (despite the "consultation" closing on May 5th). They did advise that someone had emailed them on or around 13th May asking if the library was agreeable to holding the documents there. Llandudno library confirmed the same position.

I visited Rhyl library again on 13 June 2024 and was then advised that they had only just received a 2 page piece of A4 paper with a QR code on it which apparently takes viewers to the document library on Planning Inspectorate Website.

This further shows the extremely low regard that the Promoter has for any earnest and meaningful consultation and engagement on its scheme and any consideration of the severe implications this has for those affected by it.

Contrary to the Promoter's claims at 1.6.1.10 to 1.6.1.13 of the Statement of Reasons that it has undertaken extensive consultation with statutory and non-statutory consultees as well as to the wider public, the Objectors do not consider this to have been the case for them at all.

In summary, the 15 route alternatives in the PEIR report have not been properly and reasonably considered whilst the shared pylon option and Alternative A to E locally have not been considered at all. Instead the route through the Property was pre-determined, probably from the outset but certainly in advance of August 2022 and consequently it has never, in fact, been consulted on with the Objectors or the public or it seems any other stakeholders. Any mitigation requests have merely been dismissed without proper consideration contrary to the obligation of Section 49 of the Act and the Arhus Convention.

12. WHETHER THE LAND IS "REQUIRED" AND NO MORE LAND THAN IS REQUIRED IS INCLUDED IN THE ORDER

Section 10.1 above demonstrates that the Promoter has given inadequate consideration of the 16 routes it purports to have considered in the PEIR(25) report. Section 10.2 explains how sharing the AC pylon line could be a workable solution and cause a fraction of the upheaval proposed by the Order. Section 10.3 shows how the Promoter has failed to consider local alternatives to the Plots which was later found to be because the route through the Property was already historically pre-determined.

The crux of the matter is that, in the absence of having carried out a proper and thorough review, of those options as the Promoter is required to do, then, whether or it can claim that the Plots can, in any way, be claimed to be *"required*" or "*indispensable" or "necessary in the circumstances of the case for the accomplishmen*t" of the Scheme. It is clear to the Objectors that, without the essential analysis being undertaken, the only conclusion that can be arrived at is that the land is merely *convenient* and *desirable* and as such does not pass the tests set down in the Sharkey case (13) for. Section 122(2) of the Act.

Notwithstanding the above, The Promoter claims in 1.5.1.10 of the Statement of Reasons that it has adhered to the "*objective to avoid or minimise compulsory acquisition".* Accordingly, the rest of this section will consider whether the amount of land comprising the Plots is proportionate and "required" or "i*ndispensable*" or *"necessary in the circumstances of the case for the accomplishment"* of the Scheme.

12.1. EXTENT OF THE LAND TAKEN IN THE ORDER AREA.

It is understood that the cables will not be adopted as part of the National Grid until after they leave the Bodelwyddan substation so to all extents and purposes these cables would remain as private cables through the Property. Nevertheless, it is understood that they will be constructed to adoptable standard. However the Promoter is seeking a considerably larger and more excessive area of land than National Grid would require were they laying these cables.

Firstly, the Promoter is requesting an extraordinarily large amount of land in terms of a 40,000m2 construction compound and then a construction corridor of 100m width and a final permanent sterilised easement area of 30m.

12.2. PROMOTERS STATED REASONS FOR THE AMOUNT OF LAND TO BE USED.

The Promoter has merely sought to state that the excessively large areas of land are required rather than to provide any actual evidence required temporarily and permanently so when challenged, the Promoter's response in points 6) of the by email dated the 11 August 2023 (29) advised that:

> "*The* (trench) *separation distance (*hence the width of the corridor) *is required for several reasons these being* ***ease of construction****, electrical separation (i.e. safety), thermal independence and* ***ease of maintenance***[29]*."* (emphasis added)

These 4 reasons for requiring the land will now be considered, namely, ease of construction, ease of maintenance, electrical separation and thermal independence.

[29] Email Dated 11 August 2023 from Dalcour Maclaren to Brown Rural

12.2.1. WIDTH REQUIRED FOR (EASE OF) CONSTRUCTION (100m)

No justification for the 100m construction corridor easement has been given other than partly because it is included for "*ease of construction*".

National Grid have carried out several "*undergrounding*" schemes involving converting 400KV overhead circuits on pylons into below ground cables such as in the Dorset ANOB completed in 2022. National Grid's own literature confirms that a working area of only up to 65m [30] was required. The scheme can be seen below:

National Grid also carried out the Hinkley Point C Connection Project through the Mendip Hills which again was 400KV cables and again their literature confirms that a working area of only 65m [30] was required. The following image shows the actual cables connecting into a jointing box on one of the lines (note that the circuit cables are laid in line here rather than the more compact trefoil arrangement as proposed for the Scheme).

[30] National Grid :Undergrounding High Voltage Electricity Transmission Lines The Technical Issues

Using trench sheet piles and trench boxes (especially vinyl ones for obvious conductivity reasons) can give trench rigidity and safety to the excavation run and working area to prevent collapse which is an effective way of avoiding taking excessive land unnecessarily. Indeed, if it narrows the temporary working corridor to 65 Metres and the permanent easement to say 16m then, subject to reasonable agreement on matters such as timescales, the Objectors would be willing for sheet piles to be left in situ post construction providing they are cut off so that the Promoter ensures that there is minimum depth of 900mm cover over them.

The email of 11 August 2023 (29) describes that the trench widths / land was required for the "*ease of construction*". This clearly implies that it could be constructed without such wide trenches and using so much land. Indeed "*ease"* is only another word for *"convenience*" which Justice Roth adamantly stated was "*clearly, in my judgment, … not sufficient*" in the Sharkey case (12) (first instance)) which was entirely concurred with and upheld by the 3 justices at the superior court of appeal (13).

The Promoter therefore is perfectly able to accomplish the construction of the Scheme without having the excessive amount of temporary land that it has currently included in the Order for "*the ease of construction*". This excess land, by its own admission is merely convenient and as such, its occupation and use cannot be lawfully justified under Section 122(2) of the Act.

12.2.2. WIDTH REQUIRED FOR (EASE OF) MAINTENANCE (PERMANENT EASEMENT)

The Promoter is seeking a 30m permanent sterilised easement. This land is intended to be subject to extremely onerous restrictive covenants such that it will be rendered unsuitable for any purpose other than basic agricultural grazing and cropping.

The cables are expected to have a lifespan of at least 40 years and if adequately designed for the load and conditions then, outside of the jointing bays, the line will only be disturbed and be re-exposed in the event that they suffer some form of damage. The Promoter is seeking to impose a wide distance between trenches to protect its ability to rectify such low risk occurrences. It is understood from other schemes that the custom is to have 2 twin trenches either side of a roadway corridor and then have further sterilised areas to the outside of the trenches to protect the cables.

It is further understood that the 2m trench separation is to cover the unlikely situation that a cable laid at the stated 1.8m depth (section 1.3.2.17 of the Statement of Reasons) could be severed by

landowner activities with i.e. by an uninformed random dig down infringement with an excavator bucket that would have a horizontal reach not exceeding 2m and so any such rogue activities could not sever more than one circuit at a time due to the operator not being able to fail to notice if one of the cables were severed.

Clearly these circumstances are so improbable and remote and must be common to every underground cable all over the UK and abroad where the luxury of sterilising a 30m corridor cannot be achieved. Cables can be protected from random deep excavations by, for instance, leaving the sheet piles in situ (suitably capped) or by concrete capping, marker tapes and boards in the subsoil. Other cables are able to exist and function perfectly satisfactory along the length and breadth of the UK without these unreasonable and overcautious safety measures. This is also probably why the Promoter's agent described one of the reasons for using such an excessive area as being for *"ease of maintenance"*. This clearly implies that the Scheme can be maintained without such a wide area of land. Indeed *"ease*" is only another word for "*convenience*" which Justice Roth adamantly stated was "*clearly, in my judgment, … not sufficient*" in the Sharkey case [(12)] (first instance) which was entirely concurred with and upheld by the 3 justices at the superior court of appeal [(13)].

Even if maintenance is considered as "incidental" under Section 122(2) of the Act :

> *"the land is required to facilitate or is incidental to the proposed development."*

The test in the Guidance to the Act is that the :

> *"the Secretary of State will need to be satisfied that the development could only be ……* [i.e. Maintained] *….. to a satisfactory standard if the land in question were to be compulsorily acquired, and that the land to be taken* ***is no more than is reasonably necessary for that purpose, and that is proportionate."*** (emphasis added)

Given again, the Promoter's agent's stated purpose "*ease of maintenance***"** along with the fact that cables the length and breadth of the UK function perfectly with lesser easement width then it is clear that Promoter is therefore perfectly able to management of the Scheme without having the excessive amount of permanent easement that it has currently included in the Order for **"***the ease of maintenance***"**. This excess land, by the Promoter's own admission is merely convenient and as such, the taking of rights over it cannot be lawfully justified under Section 122(2)(i) or (ii) of the Act.

12.2.3. WIDTH OF EASEMENT REQUIRED FOR ELECTRICAL SEPARATION (IE SAFETY)

Multiple cables close together can form electrical fields (measured in volts per meter V/m) and magnetic field (measured in microteslas or μT). The highest UK safe reference levels for these are:

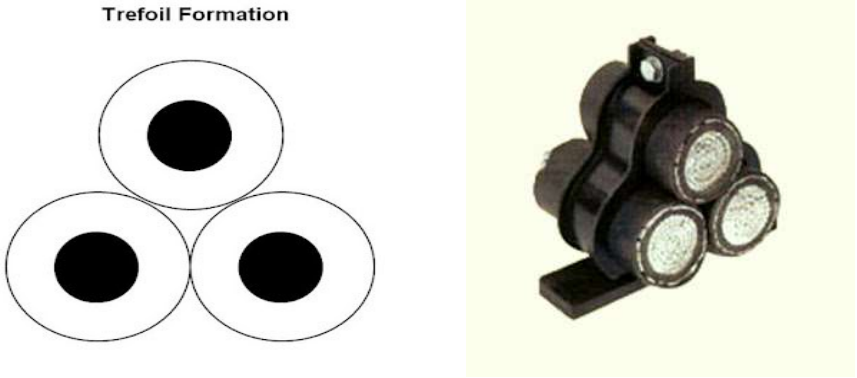
- 5000 volts perm V(/m) for electric fields; and
- 100 microteslas (μT) for magnetic fields.

Both the above amounts are the levels that one would expect to be exposed to by, for instance, standing directly under a 275 or 400kv pylon.

When cables are close to each other, there is a risk of superposition of fields so that the electric fields and magnetic fields combine to more dangerous levels. Also, with alternating currents, further currents can be induced in nearby conductive materials.

Underground cables eliminate the risk of electric fields altogether so this shouldn't be a concern for the Promoter.

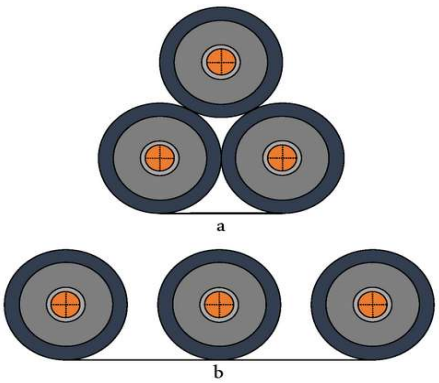
However magnetic fields can be still a risk and this can be managed by, for instance laying the cables in trefoil arrangement (as the Promoter suggests is the intention in section 1.3.2.18 of its Statement of Reasons).



Trefoil formation is often used for high-voltage cables because it helps to balance and thereby reduce the magnetic fields generated by the currents in each of the three phases, reducing electromagnetic interference (EMI) and the forces generated by fault currents reducing mechanical stresses on the cables. It also reduces the potential inductive interference with nearby metallic structures. In addition to the above advantages, the trefoil formation is also more economical with space.

The Promoter speaks of 2.5m wide trenches within the Plots (without evidence of justification as to the necessity) and then 2m separation between trenches (also not justified) however if it uses trefoil arrangement as above then there will be no reason whatsoever to have a 2.5m trench width.

The picture of the Hinkley C Project, jointing box above shows how National Grid left up to a meter gap between the phase cables. This cable spacing is understood to be the reason giving rise to the Promoter's *"desire"* for a 2.5m wide trench here for each of the 4 Scheme circuits. However, the much more efficient performance of the trefoil arrangement can achieve equal performance but without the circuit cable spacing and also with one less duct footprint required. See diagram below:



Given the Promoter's intention to use of trefoil formation (per section 1.3.2.18 of its Statement of Reasons) then the cable will not need the 2m cable separation widths and also the footprint of a duct of circa 200mm can be saved. Using appropriate trench boxes/ sheet piles where ground conditions necessitate it, then the trench need only be some 500mm deep to perfectly adequately accommodate trefoil circuits. Accordingly, the Promoter's case for such wide trenches and trench separation widths is not sustainable.

For the above non-exhaustive reasons, the electrical separation reason falls away, and so we must again conclude that the excess permanent sterilised corridor is neither "*required"* or "*indispensable"* or "*necessary in the circumstances of the case for the accomplishment***"** of ongoing electrical safety of the Scheme but instead that the Promoter has merely sought to include this excess land merely it is "*convenient"* and "*desirable".* Again, section 122(2) of the Act as confirmed in Sharkey [13], does not support acquisition in those circumstances.

12.2.4. UNDERGROUND HEAT DISSIPATION / THERMAL INDEPENDENCE

"Thermal independence" was one of the reasons given to justify the excessive land corridor in point 6) of in the email of 11 August 2023 [29] for the need for such wide separation and permanently sterilised corridor. In point 10) the email also goes on to say:

> *"Underground cooling is not being proposed. The cable/ducts have a CBS bed and surround which aids thermal dissipation under normal working loads."*

And at point 8) of the email :

> *"The cables will be located within a plastic duct which will be surrounded by a cement bound fill material (CBS) with a minimum of 75mm to the sides, top and bottom of the duct. A duct marker board will be placed on top of the CBS followed by 100mm of as dug material then a layer of marker tape followed by the remainder of the as dug fill material up to the underside of the topsoil interface. The fill material will be compacted using proprietary compaction plant to replicate the surrounding material."*

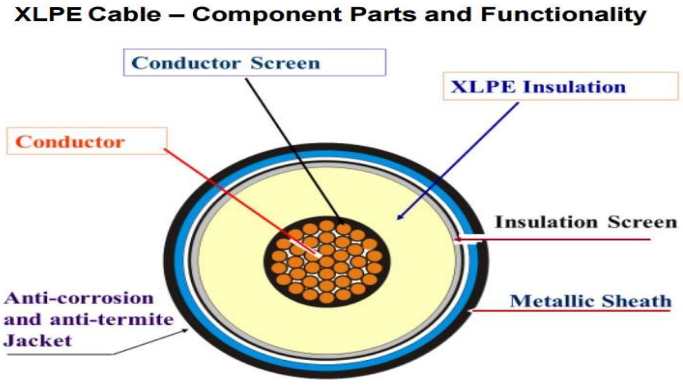
I have not been able to find any calculations submitted by the Promoter to explain the thermal conditions with the cables that seek to justify and support the trench separation and therefore such excessive easement widths.

Nevertheless, it is "electrical resistance" that gives rise to cable heating and excessive electrical resistance can cause cable overheating which historically has been a problem for underground cables and required significant heat dissipation arrangements. The primary cause of excessive resistance in cables is running currents through them that exceed or are close to the maximum capacity of the cable.

Section 1.3.2.18 of the Statement of Reasons advises that either 220kv or 275kv capacity cables will be used. Yet 400KV and 500KV capacity and above are common in many areas now for, instance, the main power supply into Manchester Airport and over Woodhead Pass as well as the Hinkley C Connection and Dorset undergrounding schemes referred to earlier. Increased diameter and capacity of the cable used reduces resistance and thereby overheating. For instance, running a 275kv circuit through a 400kv line would create considerably less resistance and heating. However, higher diameter cables are more expensive and so their deployment is a commercial decision for the Promoter who seems to have instead unilaterally, and without consultation, concluded that lower capacity, cheaper, cables spaced wider apart is their optimum solution for the Scheme regardless of the increased impact on landowners.

Modern XLPE or Cross Linked Polyethylene cables use cross-linked polyethylene as the insulating material. This type of insulation offers several advantages over traditional materials. The polyethylene is chemically or physically treated to create cross-links between polymer chains, enhancing the material's thermal and mechanical properties. It can withstand higher temperatures compared to non-cross-linked polyethylene. It typically has excellent heat dissipation properties and can withstand a maximum operating temperature of around 90°C under normal conditions and can

endure higher temperatures for short durations during fault conditions. It has high dielectric strength: and low dielectric losses leading to lower resistance and higher efficiency in power transmission.



In addition to deploying higher capacity and XLPE cables further efficiencies and thermal benefits can be gained by utilising the latest Cement Bound Sand cable bedding for example, “Thermocrete” or “Powercrete” over the cheaper cable bedding i.e. “Thorocrete”. All these factors can reduce the resistance and ensure effective heat dissipation in the cables thereby lowering the heat generated and retained so that less land needs to be affected.

In the absence of any reasoned grounds or calculations justifying such excessive land in the Order area, we must again conclude that commercial reasons for choosing methods and specifications which the Promoter deems “cheaper” whilst at the same time intensifying the impact on the Objector by unnecessarily taking more land is neither *“required*” or “*indispensable*” or “*necessary in the circumstances of the case for the accomplishment*” and ongoing thermal independence of the Scheme but instead that the Promoter has merely sought to include this excess land merely it is *convenient* and *desirable*. Again, section 122(2) of the Act as confirmed in Sharkey [13], does not support lawful acquisition of excessive land in these circumstances.

12.2.5. REVIEW OF THE AMOUNT OF LAND THAT COULD POTENTIALLY BE LAWFULLY “REQUIRED” IN LINE WITH THE ACT

Sections 12.2.1 to 12.2.4 above show how the wide 30m permanent easement area requested is not justifiable and has only been included for its desirability and convenience which seems to have become embedded as custom and practice in projects such as this Scheme. It is understood that the 30m is broadly made up as follows:

30m EASEMENT WIDTH BREAKDOWN		
A sterilised protective corridor	6.5	m wide
First Trench	2.5	m wide
Separation strip	2	m wide
Second Trench	2.5	m wide
(Central) Haul Road (construction left-over)	3	m wide
Third Trench	2.5	m wide
Separation strip	2	m wide
Fourth Trench	2.5	m wide
A sterilised protective corridor	6.5	m wide
TOTAL	**30**	**Metres**

It will not be necessary to remind the Inspector that ”custom and practice” does not outweigh the strict legal position and so it is worth pragmatically considering what actual permanent easement

width could potentially be justified as "required" under the enabling legislation. These considerations have been tabulated below:

30m EASEMENT WIDTH BREAKDOWN			COMMENTARY	REVISED WIDTH "REQUIRED"
A sterilised protective corridor	6.5	m wide	12.2.2 above has demonstrated how this is unreasonable and over cautious	SAY 2.0m (if necessary at all)
First Trench	2.5	m wide	12.2.3 demonstrates how trefoil arrangement can reduce this by circa 2m	Say 1.25m (ample for trefoil arrangement (2 duct wide)
Separation strip	2	m wide	12.2.4 demonstrates modern cable technologies render this space obsolete also 12.2.2 demonstrates how it is unnecesary for health and safety as well	1.25m (adequate for thermal and EMF purposes see 12.2.3 & 12.2.4 earlier)
Second Trench	2.5	m wide	12.2.3 demonstrates how trefoil arrangement can reduce this by circa 2m	Say 1.25m (ample for trefoil arrangement (2 duct wide)
(Central) Haul Road (construction left-over)	3	m wide	This is a left over item from (ease of) consturciton process - as for 12.2.1 above it is merely for ease of constrcuition and neither required or necessary for the accomplishment of the Scheme	1.25m Standard spacing between circuits would be sufficient as cables can be laid with haul road to the side of the easement later handed back
Third Trench	2.5	m wide	12.2.3 demonstrates how trefoil arrangement can reduce this by circa 2m	Say 1.25m (ample for trefoil arrangement (2 duct wide)
Separation strip	2	m wide	12.2.4 demonstrates modern cable technologies render this space obsolete also 12.2.2 demonstrates how it is unnecesary for health and safety as well	1.25m (adequate for thermal and EMF purposes see 12.2.3 & 12.2.4 earlier)
Fourth Trench	2.5	m wide	12.2.3 demonstrates how trefoil arrangement can reduce this by circa 2m	Say 1.25m (ample for trefoil arrangement (2 duct wide)
A sterilised protective corridor	6.5	m wide	12.2.2 above has demonstrated how this is unreasonable and over cautious	SAY 2.0m (if necessary at all)
TOTAL	**30**	**Metres**	**TOTAL Maximum Easement Width Actually "Required" =**	**12.75 Metres**

In the event that the alternative route and arrangement options are proven to be inadequate and the Promoter's cables had to use the Plots then it is quite clear that the Scheme could be designed and constructed in such a way that a permanent sterilised corridor of only 12.75m was "*required*" or "*necessary for its accomplishment*". Any greater width than this would be merely for reasons of convenience, no doubt due to desirability and custom and practice however any greater width would not be sustainable in law.

13. WHETHER THERE IS A "COMPELLING CASE IN THE PUBLIC INTEREST" FOR THE LAND OR RIGHTS BEING TAKEN THAT OUTWEIGHS THE LOCAL IMPACT AND PRIVATE LOSS OF THE AFFECTED PARTY

The Promoter makes several references to Section 122(3) of the Act in the Statement of Reasons but has not made any attempt to explain how it has arrived at the conclusion that it has met the requirement of that test. Section 122(3) states as follows:

> *"(3)The condition is that there is a compelling case in the public interest for the land to be acquired compulsorily."*

Section 9.2.4 earlier explains the position in sections 13 and 14 of the Guidance to the Act and this is a common theme in all compulsory purchase acts and guidance i.e. that there must be a compelling case in the interest for compulsorily acquiring the land and that the public benefit must outweigh the private loss that would be suffered by those whose land is to be acquired.

The Promoter's submissions do not consider any private loss at all. On first contact the Objectors notified their agents that there were important proposals being advanced for the land that would be affected but they merely requested copies of the planning consent. On the flip side they do not explain how their

scheme will bring public benefits, they merely detail the scheme and leave readers to conclude for themselves that it is a benefit yet the scheme is not being undertaken for altruistic reasons, it is a private scheme for private profit.

Since the Promoter has not calculated or evidenced in anyway the public benefit nor the private loss then it has not made a case for the powers under 122(3) of the Act as it is statutorily required to do. Therefore it cannot rely on the powers being granted under Section 122.

Conversely the written representations of Robert Parry detail his vision for the Property in the absence of the Scheme. The Scheme will severely impact on Robert Parry's proposals and may even cause its catastrophic loss. This will be a severe loss to all the Objectors but also to the wider area due to the premium development he has in mind likely to generate a number of jobs and so on.

It is clear that when there are perfectly satisfactory and equally workable alternatives to impacting on the Plots and (see section 10 earlier) then there is no compelling case for impacting on the Property and that compulsory powers cannot be lawfully granted for this land.

14. WHETHER FUNDING IS IN PLACE

Demonstrating adequate funding is an essential part of the Order process and crucial towards establishing the basis of a compelling case in the public interest.

It also helps ensure that the proposed project is viable and can be implemented if approved. This requirement helps protect landowners and other affected parties from potential negative impacts of a project that may not have the financial backing to proceed once commenced.

Paragraph 26 of the Act Application Form Guidance states that

> "*A funding statement must contain sufficient information to enable the Secretary of State to be satisfied that, if it were to grant the compulsory acquisition request, the proposed* ***development is likely to be undertaken and not be prevented due to difficulties in sourcing and securing the necessary funding".*** (emphasis added)

In particular, sufficient immediate sources of funding should be demonstrated to show that the Promoter can meet any blight liabilities that could arise at any time. Evidence of funding sources and preferably firm unconditional offers of funding should also be demonstrated that show that all arising liabilities, especially land acquisition can be met once commenced. This is especially important with startup or a special purpose vehicle with very limited assets and trading history such as Mona Offshore Limited.

Other relevant information that would be expected to be provided would be as follows:

- Confirmation of secured funding sources, such as government grants, council budgets, or private sector investment;
- Financial statements or commitments from funding partners demonstrating their ability to provide the necessary funds;
- Contingency plans to address potential cost overruns or funding shortfalls;
- A timeline showing when funds will be available and how they align with the project schedule;
- Evidence that any conditions attached to funding have been or will be met within a reasonable timeframe; and
- For projects with multiple phases, proof of funding for the initial stages and a clear plan for securing funds for later phases.

The Promoter has clearly not demonstrated any of this – the Funding Statement (document D1) merely provides an estimate of project and compensation costs and the curriculum vitae of the two group companies that are the owners of Mona Special Purposes Vehicle and provides entirely unsubstantiated assertions and platitudes that the funding will be in place and the scheme will be viable:

> *"1.5.1.4 At or around FID (Final Investment Decision), the Shareholders are also **expected** to approve the financing plan of the Mona Offshore Wind Project. The Applicant **intends to meet the finance requirements** for the construction and operation of the Mona Offshore Wind Project through non-recourse Project Financing (where commercially sensible and prudent) from domestic and/or international investors on market terms."*[31]
> (emphasis added)

And

> *1.6.1.1 The Applicant is **confident that Mona Offshore Wind Project will be commercially viable** based on the assessments it has undertaken. The Secretary of State can be confident that funding will be available to meet the compulsory acquisition costs as they fall due.*
>
> *(*emphasis added)

From the above it is clear that, in the absence of the FID being made, the Promoter has not even decided to commit to the scheme and given that the new Chief Executive of one of its parent companies, Murry Auchincloss of BP, recently pledged "*more pragmatic' approach to BP's green targets*" whilst "*reversing the move away from fossil fuels*" and "*imposing a hiring freeze*" and "*halting new offshore wind projects.*" (The Guardian, 27 June 2024)[32] the FID may never even, in fact, favour proceeding with the Scheme.

There is also no written evidence of commitment from funders or copies of viability appraisals to support this Order.

The funding annexes are merely a land acquisition strategy and further budget and the two shareholder groups' annual accounts with no explanation as to their relevance or as to how Mona Offshore Wind Limited can rely on them. This information is therefore entirely irrelevant and no assurance at all as to funding or viability to either the Inspector or the Secretary of State because Mona Offshore Wind Limited is an entirely separate incorporated body and distinct to its ownership group holdings. The strict rules on lifting the corporate veil would apply in full and it is not sufficient to simply conject about its shareholders profitability and balance sheet, leaving the Secretary of State to form his own conclusion that the Promoter will be able to rely on drawdown from the Bank of BP and EnBW to meet any liabilities it incurs. This further jeopardises landowners and other parties affected by the scheme.

It is clear that there is insufficient evidence provided to satisfy the Secretary of State that, if the Order was granted, it is ever likely to be undertaken. The Order should be rejected on this ground alone.

Clearly funding is some way off being in place and possibly viability is lacking too. The Promoter will need a significant amount of time to resolve this issue and this could be the very reason underpinning the unreasonably long life that the Promoter is seeking to have the powers live for.

[31] MONA : section1.5.1.3 of the Promoter's Funding Statement February 2024 (document D1)
[32] BP imposes hiring freeze and halts new offshore wind projects: The Guardian: 27 June 2024

15. IMPEDIMENTS TO THE SCHEME

Section 1.14.1.1 of the Statement of Reasons summarises the position on how the Promoter has addressed 3rd party offshore and onshore licences and consents outside of the remit of the DCO process. In addition, Section 15 of the :Guidance on Compulsory purchase process and The Crichel Down Rules" Department for Levelling Up, Housing and Communities July 2019 states:

"15 The acquiring authority will also need to be able to show that the scheme is unlikely to be ***blocked by any physical or legal impediments to implementation****"* (emphasis added)

Physical and legal impediments are not considered by the Promoter at all as the Statement of Reasons goes on to say at 1.14.1.2 :

"None of these other consents or licences represents an impediment to the delivery of the Mona Offshore Wind Project."

A further serious impediment to the Scheme which again has not been considered by the Promoter, is whether or not the parent companies' directors, sitting on the Final Investment Committee (referred to in section1.5.1.3 of the Promoter's Funding Statement(31)) will vote in favour of the Scheme at the appropriate time. This is all the more concerning given the Promoters own current abrupt policy change towards windfarms meaning that they are moving to halt new offshore wind projects.(32)

16. OTHER MATTERS CAUSING DETRIMENT TO THE OBJECTORS

16.1. AMBIGUITY OF LOCATION OF THE FINAL CABLE CORRIDOR

The Promoter has also failed to clarify the whereabouts, within the extraordinary 100m width of working corridor, within the Property, that it will eventually seek to locate its 30m of permanent sterilised corridor that it asserts is required. This again is for the Promoter's own flexibility and convenience and there has been no consideration here either for giving the Objectors any certainty or clarity in order that they can plan and attempt to mitigate the impacts if at all possible.

16.2. TIMING OF COMMENCEMENT AND COMPLETION OF THE WORKS

Article 21 of the Promoter's draft Order is seeking to be able to serve either Notices to Treat or Vest up to 7 years past the date of confirmation of the Order.

Assuming, as the Promoter does, that the Order is confirmed in 2025 without any modifications or protections for the Objectors then the Promoter will be able to do nothing, right up until 2032 before serving a Notice to Treat or Notice to Vest or indeed needing to provide any detailed design or any information whatsoever to the Objectors. It could even abandon the project at that stage without any penalty whatsoever on itself.

Serving a Notice to Treat on the last day of the 7 year Order period will prolong the powers for a further 3 years (i.e. to 2035) before the Promoter has to serve a Notice to Enter and commence. The Objectors will be unable to recover any of the very real losses that they will have suffered over the preceding 10 year period of blight until they receive a Notice to Enter which of course the Promoter would still not be obliged to provide in any event.

The Promoter merely demands a 7 year period with no explanation or justification whatsoever as to why such a long time period is required. Yet clearly this is a highly pertinent matter that requires a thorough explanation due to the severe longstanding effect it will have on those affected.

Given the excessive amount of land included in this Order and it being blighted for so long, the Objectors will be entirely unable to move forward with their proposals for all this time. Once again, the Promoter's approach is wholly excessive and unreasonable and unfair and causes real suffering and loss to the Objectors.

If the Scheme is viable and the Promoter has the Order powers, the Final Investment Decision, the design, the funding, and the intention to proceed sufficiently that it can satisfy the Secretary of State to confirm the Order then what possible need can there be for having 7 year window to serve notice which can be further extended to 10 years by the strategic service of Notices.

The extraordinary amount of time that the Promoter is requesting is all the more surprising given how quickly it has developed a fully functioning NISP scheme from a standing start in February 2021 when it was awarded the Mona Lease and February 2024 when the scheme was submitted to PINS for consideration. If a 7 year period is required then clearly there are unresolved issues or impediments that the Promoter is not sharing in its Scheme documents.

The Objectors consider that this demonstrates that it is clearly premature to determine this Order at this time and that the Promoter should be instructed to withdraw the Order to give it adequate time and deal with and resolve the issues that require that unreasonable and excessive amount of time in the first instance.

In the alternative, and if the Order powers do somehow need to be live for that period of time and if the cables are to be located on this land at all then the Promoter needs to commit to laying them within the Property within a reasonable window of time following Order confirmation regardless of whether it does so elsewhere along the route. It is suggested that within 30 months of Order confirmation is a reasonable period for construction and reinstatement.

The Objectors also disagree with the Promoter's statements in 1.6.1.7 and 1.5.1.11 of the Statement of Reasons, for instance **"***the use of compulsory acquisition powers would be a proportionate and legitimate means of securing the necessary interests in land where they cannot be acquired through voluntary agreement*".

Contrary to the Promoter's assertion, the use of the powers is entirely disproportionate for the reasons to follow. The same is true for the amount of land included in the Order which is also not legitimate or necessary whether in reducing the amount of Property affected or removing the Objectors Property from the scheme altogether due to this land also being unnecessary as practicable and equally satisfactory alternatives are available to the Promoter and have yet to be evaluated.

16. CONCLUSION

From the moment that the Promoter made contact in June 2022, the Objectors requested that their land be excluded from the Promoters proposals. Unbeknown however, to the Objectors, this request could not be accommodated because the route had already been predetermined and instead, their requests fell on deaf ears. Later the Objectors queried why so much land was required and requested that this be reduced but again, for the same reasons, this also fell on deaf ears. The Promoter, having tied its own hands on the matter, has continued belligerently feigning to consult but entirely unable to take any account of the comments and concerns received in the process.

In addition to failures of consultation, the Promoter has also failed to give adequate consideration to reasonable alternatives or not considered them at all.

These written representations show how both the temporary and permanent land take are very excessive and cannot be claimed to be "required" or "necessary" for the accomplishment of the Scheme. Unnecessary land has therefore been included in the Order solely for the purposes of convenience and the Act does not permit lawful occupation and acquisition of such land or rights in them and the Order limits need to be materially reduced. Given the abundant number of satisfactory alternative routes and arrangements that have been inadequately considered or not considered at all, the Plots should be removed from the Order altogether.

Through no fault of their own the Objectors now find themselves faced with alarming prospect that the Promoter will be granted powers in respect of 60.21% of the Property and that the land could be blighted for that purpose for 7 years (extendable by a further 3 years with strategic notice serving. This will entirely prevent the Objectors from moving forward with any of their plans until possibly 2035 or even later i.e. after the Scheme has been constructed and the residual land handed back. Alternatively, in 2035 the Objectors may find that either the Promoter has abandoned the scheme altogether or may finally find what the detailed design actually is so they can pinpoint precisely where the permanently sterilised 30m wide route corridor is actually going to be located. Even then, the Objectors' scheme is unlikely to be viable.

The Promoter has not provided "*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."* Neither has the Promoter proved that funding is in place or that it has addressed physical and legal impediments to the Scheme. Moreover it will not even have committed to the Scheme itself until some future date when the Final Investment Decision is eventually made. This in itself is a severe risk due to the Parent Company's recent about turn on its windfarm policy.

Clearly the position is entirely unreasonable and unfair and the Objectors will suffer an unacceptable level of detriment in the event that the Order is confirmed without modification, by exclusion of the Plots. Accordingly, they have had no option but to submit their written representations in the strongest possible terms to point out the failings in the Promoter's case and appeal for matters to be reviewed impartially.

Robert Parry's proposals are submitted in his own written representation and are real and achievable if the land was freed from the Scheme then the proposals will be implemented and it will be a benefit for the wider community not just in terms of job creation but also by adding to the high quality offering of the locality so vital to helping anchor this part of North Wales as a tourism destination.

The alternative is that the land becomes merely a power transmittal receptacle serving the commercial purposes of remote shareholders and power users in other parts of the UK.

The Inspector is therefore requested to report to the Secretary of State that the Plots, namely, 06-102 to 06-105 are not required by the Promoter for the purposes of the accomplishment of the Scheme. Satisfactory and practicable alternative to them do exist which further render the Objectors' land unnecessary in the circumstances of this case and the case for the powers is not therefore compelling. Further, the Objectors and other potentially parties on the route alternatives have confirmed that they would be pleased to reasonably assist the Promoter with these practicable alternatives, subject to proper compensation of course.

Compulsory rights over the Plots within the Property are not therefore necessary and it would be an error in law to recommend their inclusion with the Order as Section 122 of the Act cannot be applied.

In light of the above the Inspector is invited to recommend modifying the Order to mitigate the impacts on the Objectors. This would be achieved by removing plots 06-102 to 06-105 from the Order prior to confirmation.

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Griffith Wynne Parry MRICS

Senior Consultant

The Brown Rural Partnership

Dated 7 August 2024