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To Applicant

Your Ref:

Our Ref: EN010142

Date: 8 August 2024

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Dear Caroline,

## **Planning Act 2008 - Section 89**

### **Application by TILLBRIDGE SOLAR LIMITED FOR A DEVELOPMENT CONSENT ORDER FOR THE TILLBRIDGE SOLAR PROJECT**

#### **Notice by Applicant of intention to submit a request for changes to the application**

Thank you for your e-mail dated 18 July 2024 with the attached letter and enclosures of the same date. The letter notifies the Examining Authority that the Applicant intends to submit a change request.

The letter and enclosures detail the Applicant's view of the proposed changes and the need, scale and nature of consultation to be carried out. The document has been published on the National Infrastructure Planning website here:

<https://infrastructure.planninginspectorate.gov.uk/document/EN010142-000473>

The letter identifies fifteen proposed changes and sets out details of these including reductions in the Order limits and highway access refinements. The letter implies that the change request will not involve any material increase or extension of the Order limits and does not require any additional Compulsory Acquisition of new plots of land and/or interests.

#### **Materiality of the proposed changes**

The Applicant has expressed a view that they consider the proposed changes will not be material to the application as there will be no increase in the order limits, the

purpose of the project substantially remains as originally proposed and that any environmental impact will be lesser than that originally assessed.

On receipt of the formal change request, the ExA will consider whether the changes constitute a materially different application.

To assist with this, the Applicant is reminded to consider Figure 2b of What to include in the Change Application of "Guidance Note AN 16: Nationally Significant Infrastructure Projects - Advice Note Sixteen: requests to change applications after they have been accepted for examination", and specifically to include the following:

- A confirmed/ updated description of the proposed change
- A confirmed/ updated statement setting out the rationale and pressing need for making the change
- A full schedule of all application documents and plans listing consequential revisions to each document and plan or a 'no change' annotation. The schedule should include an update of any consents/ licences required and whether (given the proposed change to the application) there will be any impediment to securing the consents/ licences before the Examination is concluded.
- Clean and track changed versions of the draft DCO showing each proposed change, and a revised draft Explanatory Memorandum. If drafting changes have been made to the draft DCO during the course of the Examination, applicants should check with the ExA which version of the draft DCO and draft Explanatory Memorandum should be used for this purpose.
- If the proposed change involves changes to the Order land, confirmation that the CA Regulations are not engaged including if appropriate a copy of the consent obtained from all persons with an interest in the additional land. If the CA Regulations are engaged applicants must provide the information prescribed by Regulation 5 of the CA Regulations (namely a supplement to the submitted Book of Reference, a Land Plan identifying the additional land, a Statement of Reasons as to why the additional land is required and a statement indicating how it is proposed to fund acquisition of the additional land (a Funding Statement)) and should clarify how it is considered that the procedural requirements of the CA Regulations can be met within the remaining statutory timescales. Clean and track changed versions of these documents should be provided.
- If the proposed change results in any new or different likely significant environmental effects, provision of other environmental information and confirmation that:
  - the effects have been adequately assessed and that the environmental information has been subject to publicity. Whilst not statutorily required, the publicity should reflect the requirements of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) and applicants should also submit copies of any representations received in response to this publicity with the change request.
  - any consultation bodies who might have an interest in the proposed changes have been consulted (reflecting the requirements of the EIA Regulations). Applicants should submit copies of any responses received from consultation bodies with the Change Application. Applicants should identify those consultation bodies who were consulted on the proposed changes but not on the original application.
  - Where consultation has been carried out (either voluntarily, at the direction of the ExA or pursuant to the requirements of the CA Regulations) a Consultation Report must be provided. The Consultation Report must confirm who has been

consulted in relation to the proposed change, explain why they have been consulted, and include the Applicant's consideration of the content of the consultation responses received. Copies of any consultation responses received by an applicant should also be included in the Consultation Report as an annex.

The Applicant is also advised that it is, of course, possible that on receipt of the change request the ExA may consider the proposed changes are not acceptable as a change. The Applicant is therefore asked to ensure that all documentation submitted to support the change request is submitted as a discrete and separate contained set of information with each document clearly identified in both the document heading and the file name as relating to the change request. If this documentation is provided alongside other changes to the Application that would otherwise be forthcoming those other changes to the original documentation not including the proposed changes as a result of the change request should also be submitted as separate versions and identified as such. This will in effect retain the ability of the Application to proceed if the change is not accepted and the documentation should clearly allow for that eventuality.

## **Consultation**

Regardless of whether the proposed changes are material the ExA needs to ensure that the examination is carried out having regard to fairness, part of that consideration will revolve around the extent to which appropriate and proportionate non-statutory consultation has or should be carried out before the change request is accepted.

The Applicant proposes to carry out a targeted consultation of the changes sought through the Change Application. The Applicant intends to consult with only those parties who it considers are directly affected by the proposed changes, including:

- Land interests specifically affected by and interested in the proposed changes; and
- Statutory undertakers whose utilities/infrastructure may be located in the vicinity of the proposed changes.

In addition, the Applicant is proposing to notify the relevant planning leads at each local authority of its intention to submit the Change Application. The Applicant will discuss the proposed reductions in Order limits with each relevant planning authority prior to the submission of the Change Application to ensure that the relevant authority understands the context in which the changes are proposed, and any potential concerns or queries can be discussed and resolved. The Applicant will also provide the opportunity to discuss any ongoing issues prior to the Change Application being submitted to the ExA following completion of the consultation period.

The ExA is of the view that this targeted approach appears to be reasonably proportionate given the localised nature of the proposed changes and the potential impacts arising from them but does reserve judgement on this view pending receipt of the formal change request where it will be able to review the detail of the changes and their extents. The ExA understands that the statutory undertakers will be consulted as part of this process but seeks to reaffirm that this will include the relevant highway authorities affected by the proposed changes to the highway access refinements, those local authorities, including parish councils, who will be affected by these changes and additionally persons with land interests adjacent to these changes where

traffic frequency might alter as a result for a distance of at least 1km either direction from the proposed access.

The Applicant is proposing a 14-day consultation period in respect of the Change Application.

The ExA considers that given the potential for officers of statutory undertakers, local authorities, Interested Parties and Affected Persons to be on vacation at this time of the year, this is likely to be too short and would advise that a typical 28-day consultation period is adhered to.

### **Effect on timetable**

The Applicant is proposing to submit its change request no later than 27 September 2024, so with a consultation period of 28 days this gives adequate time for those consultees identified above to be consulted prior to the change request submission.

Given the Relevant Representation period has closed on 1 August 2024 the Applicant should satisfy itself that it has adequately consulted all parties, described above, of the change, including any parties who may not have registered an interest in the originally submitted application who may now wish to become involved in the examination due to the changes.

The Rule 6 letter is likely to be sent to Interested Parties at least 28 days prior to the date of the Preliminary Meeting, which is provisionally scheduled to be held on 9 October 2024, pending the result of any change requested by the Applicant.

Therefore, it is unlikely that the ExA will be able to use this opportunity to brief Interested Parties of the potential change requested by the Applicant but may draw their attention to the Change Notification.

### **Next steps**

The Applicant is asked to ensure that the change request, that is intended to be submitted by 27 September 2024, responds fully to the points made above and contains sufficient information to enable the ExA to prepare further questions, if necessary.

If you have any questions about any of the matters raised in this correspondence, please contact the Case Team using the details provided in this letter.

Yours sincerely

*Nick Ely*

**Lead Panel Member of the Examining Authority**

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