

**Tillbridge Solar Project  
EN010142**

**Written Summary of Applicant's Oral Submissions  
at Compulsory Acquisition Hearing 1 (CAH1)  
EN010142/APP/9.32**

Infrastructure Planning (Examination Procedure) Rules 2010

**28 January 2025  
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Planning Act 2008

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## **Tillbridge Solar Project**

### **9.32 Written Summary of Applicant's Oral Submissions at Compulsory Acquisition Hearing 1 on 16 January 2025**

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Rev 00	28 January 2025	Deadline 4 submission

## 1.0 INTRODUCTION

- 1.1 This note summarises the oral submissions made by Tillbridge Solar Limited (the "**Applicant**") at Compulsory Acquisition Hearing 1 ("**CAH1**") held on 16 January 2025 in relation to the application for development consent ("**Application**") for the Tillbridge Solar Project (the "**Scheme**").
- 1.2 Where the Examining Authority (the "**ExA**") requested further information from the Applicant on specified matters, or the Applicant undertook to provide further information during the course of CAH1, that further information is either set out in this document or provided as part of the Applicant's Deadline 4 submissions.
- 1.3 This note does not purport to summarise the oral submissions of other parties, and summaries of submissions made by other parties are only included where necessary to give context to the Applicant's submissions, or where the Applicant agreed with the submission(s) made and so made no further submissions (this is noted within the document where relevant).
- 1.4 The structure of this note follows the order of the items listed in the detailed agenda published by the ExA on 6 December 2024 (the "**Agenda**"). Numbered agenda items referred to are references to the numbered items in the Agenda. The Applicant's substantive oral submissions commenced at Item 3 (Environmental Matters) of the Agenda. Therefore, this note does not address Items 1 and 2 on the Agenda as these were procedural and administrative in nature.

## 2.0 WRITTEN SUMMARY OF THE APPLICANT'S ORAL SUBMISSIONS

Agenda Item	Applicant's Response
<p><b>Item 3a – The Applicant's Case for Compulsory Acquisition and Temporary Possession</b></p>	<p>The ExA requested that the Applicant present and justify its case for compulsory acquisition and temporary possession in terms of the powers sought and their purposes, the relevant provisions of the <b>draft DCO [EN010142/APP/3.1(Rev05)]</b>, the applicable statutory and policy tests under the Planning Act 2008 (PA 2008) and related guidance, as well as consideration of alternatives and human rights.</p> <p>Mr Richard Griffiths, on behalf of the Applicant, stated that the Applicant is seeking powers of compulsory acquisition of the freehold of land (shown in pink on the <b>Land and Crown Land Plans [AS-040]</b>). The Applicant is also seeking compulsory acquisition of rights and imposition of restrictions over the land shown in blue on the Land and Crown Land Plans, noting that the Applicant will be also able to take temporary possession of the land shown in blue or pink.</p> <p>Schedule 9 of the <b>draft DCO [EN010142/APP/3.1(Rev05)]</b> sets out the purpose for which rights may be compulsorily acquired in the 'blue' land. Broadly, this is to create rights of access to the Scheme and to create rights to install, use and maintain the underground grid connection cables. Schedule 11 of the <b>draft DCO [EN010142/APP/3.1(Rev05)]</b> provides the purposes for which temporary possession may be taken over the 'green' land shown on the <b>Land and Crown Land Plans [AS-040]</b>. This land is required to be used to facilitate the construction of the Scheme, and to create temporary construction compounds.</p> <p>The purpose for which compulsory acquisition powers are sought is also set out in detail in the <b>Schedule of Negotiations and Powers Sought [REP1-017]</b>, which goes through the plots referred to in the <b>Book of Reference [REP1-015]</b> and sets out the purpose of acquisition with reference to the Work Numbers that are set out in Schedule 1 to the <b>draft DCO [EN010142/APP/3.1(Rev05)]</b>.</p> <p>The relevant power in the <b>draft DCO [EN010142/APP/3.1(Rev05)]</b> relating to compulsory acquisition is Article 21 (compulsory acquisition of land), which is subject to Article 22 (time limit for exercise of authority to acquire land compulsorily), Article 23 (compulsory acquisition of rights), Article 30 (temporary use of land for constructing the authorised development) and Article 44 (statutory undertakers).</p> <p>Mr Griffiths went on to explain that Section 122 of the PA 2008 provides the legislative context and allows the authorisation of compulsory acquisition powers through DCOs. Section 122 sets out the purpose for which land may be compulsorily acquired, being that the Applicant needs to demonstrate that the land is required for the authorised development or is required to facilitate or is incidental to the authorised development. The <b>Schedule of Negotiations and Powers Sought [EN010142/APP/4.4(Rev03)]</b> sets out the purpose for each of those plots by reference to the relevant works package of the authorised development, and the statutory test is therefore met for those plots.</p> <p>Section 122(3) of the PA 2008 requires that there is a compelling case in the public interest for the land or rights over land to be acquired compulsorily. This is set out in the <b>Statement of Reasons [REP1-013]</b>. Mr Griffiths outlined that, in short, the Applicant considers that it has demonstrated that there is a compelling case in the public interest for the Scheme as this is a nationally significant infrastructure project (NSIP) for renewable energy. The public interest in the Scheme includes the decarbonisation of the UK energy sector and the national electricity grid, as well as meeting the Government's net zero ambitions. National Policy Statement (NPS) EN-1 sets out the need to decarbonise the UK's energy sector by 2035 and to reach net zero by 2050. The Government's recently issued Clean Power 2030 Action Plan (December 2024) demonstrates that the UK needs to move faster towards its decarbonisation and net zero goals. Mr Griffiths highlighted that the Scheme has a connection date of August 2028, which is earlier than the already consented solar NSIPs,</p>

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	<p>thereby meeting this urgent need more quickly. Further details of the benefits and need for the Scheme are set out in the <b>Planning Statement [REP3-027]</b> and the <b>Statement of Need [APP-210]</b>.</p> <p>Mr Griffiths noted that the Applicant has considered how the Scheme will be constructed and operated, and has sought to acquire the minimum amount of land necessary to construct, operate and maintain and decommission the Scheme. Wherever practicable, compulsory acquisition of rights has been sought instead of compulsory acquisition of the freehold, that being a lesser power, and similarly where temporary possession powers are sufficient, for example, in respect of construction compounds, then only temporary possession powers are being sought rather than permanent rights.</p> <p>In terms of the Cable Route Corridor, the Applicant is seeking compulsory acquisition powers over a wider area than would actually be required, generally a width of 100m, so that the further survey work and micro-siting of the cable route can happen at the detailed design stage to determine where the cable will permanently be located. The working width for construction of the grid connection will be approximately 40m, with the final easement sought through compulsory acquisition powers being 10m wide. The Applicant will only seek to exercise compulsory acquisition powers over the land it actually requires for the installation of the cable, being the 10m width, once that detailed design is known. Mr Griffiths highlighted that this hierarchy of powers demonstrates that a proportionate approach has been taken, whereby the Applicant will not seek to compulsorily acquire more land or rights than what is actually required. Temporary possession powers will be utilised to enable survey work to be undertaken to identify the location of the final cable route, to ensure that permanent rights are sought over the minimum amount of land required for the cable. The Applicant has included Appendix A to its <b>Statement of Reasons [REP1-013]</b> which sets out the rules which the Applicant has used to determine the width of the Cable Route Corridor.</p> <p>Considering alternatives more generally, Mr Griffiths stated that the Application materials set out the site selection process and the Applicant's approach to alternatives in identifying the Principal Site and the Cable Route Corridor (which has been worked up in conjunction with the developers of other solar NSIPs in the area), as well as consideration of the different types of solar PV systems technology. This is set out in the <b>Design and Access Statement [AS-031]</b>, <b>Chapter 4: Alternatives and Design Evolution</b> of the <b>ES [APP-035]</b> and the <b>Planning Statement, Section 6.3 [REP3-027]</b>.</p> <p>As for alternatives to compulsory acquisition, Mr Griffiths set out how the Applicant has sought to acquire the land and rights necessary for the Scheme via voluntary negotiation and has secured voluntary option agreements with the landowners for the majority of the Principal Site. Negotiations are continuing in respect of the Cable Route Corridor, but it is not unusual for these negotiations to take longer than those in respect of the land required for the Principal Site. However, it remains necessary to include compulsory acquisition powers within the <b>draft DCO [EN010142/APP/3.1 (Rev05)]</b> over this land to ensure that the Scheme can be delivered without impediment. For example, if there are any unknown third party rights, or if the terms of the option agreement were not complied with. This is a standard approach for NSIPs to ensure deliverability.</p> <p>Lastly, Mr Griffiths explained that sections 127 and 138 of the PA 2008 relate to the impact of the Scheme on statutory undertakers and the impact of the Scheme on those with apparatus within the Order limits. Section 127 is triggered where a statutory undertaker has issued a relevant representation, and compulsory acquisition powers can only be included in a DCO where the Secretary of State is</p>

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	<p>satisfied that there will be no serious detriment to the statutory undertaker or the land can be replaced by alternative land. Section 138 applies to statutory undertakers as well as telecommunications code operators, whereby the Secretary of State may include powers to extinguish relevant rights or remove apparatus if necessary to ensure a project can go ahead. In respect of the Scheme, the Secretary of State can be satisfied that security will be provided to the relevant statutory undertakers through protective provisions. Mr Griffiths noted that the Applicant provided an update to the ExA on the status of the various sets of protective provisions at Issue Specific Hearing 3 (ISH3).</p> <p>Mr Griffiths concluded by setting out the Applicant's position that, for the reasons explained and set out more fully in the <b>Statement of Reasons [REP1-013]</b> and supporting documents, that the inclusion of powers of compulsory acquisition in the Tillbridge DCO for the purposes of the Scheme meets the conditions of Section 122 of the PA 2008, as well as the considerations in the Department for Communities and Local Government guidance related to compulsory acquisition.</p> <p>The ExA asked the Applicant to describe the approach taken to ensure affected persons' rights under the European Convention on Human Rights have been addressed. In response, Mr Griffiths outlined how the tests under the Human Rights Act 1998 (which are set out in Section 10 of the <b>Statement of Reasons [REP1-013]</b>) are met via the PA 2008 process in terms of the ability for people to participate in that process, and the provision of compensation for anybody that is affected by the exercise of compulsory acquisition powers. In respect of the Scheme, there have been various stages of consultation, including non-statutory and statutory, when land was identified as being required for the Scheme, conversations were commenced with affected persons prior to submission of the Application seeking to reach voluntary agreement, those discussions then informed the final location of the Order limits and have remained ongoing throughout the DCO process. The Applicant continues to liaise through its agents with those affected persons. Affected persons also have the ability to make representations, attend hearings and to inform the ExA of their position.</p> <p>In response to a point raised by Mr Derek Moffat, on behalf of 7,000 Acres (an Interested Party, but not an Affected Person), regarding the shared cable route corridor between Tillbridge, Gate Burton, Cottam and West Burton, Mr Griffiths highlighted that the four developers early on in their respective application processes discussed the location of the shared corridor and agreed through a cooperation agreement that they should work together to minimise environmental effects and the number of people who would be subjected to compulsory acquisition. In terms of the exercise of compulsory acquisition powers, the <b>draft DCO [EN010142/APP/3.1(Rev05)]</b> allows for the transfer of the benefit of the compulsory acquisition powers to another developer, should the four developers agree that one will install the cable for all four schemes. This is how the four DCOs work together to reduce the extent of environmental effects within the shared corridor, and such collaborative measures are being further promoted through discussions the developers are currently having regarding a further cooperation agreement relating to the discharge of requirements and detailed design, as well as the reciprocal protective provisions between the developers.</p>
<p><b>Item 3b – The Applicant's Update as a consequence of the Change Request</b></p>	<p>The ExA asked the Applicant to explain the implications of the Change Request in terms of the compulsory acquisition and temporary possession provisions sought and how they meet the tests of the PA 2008.</p>

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	<p>Mr Tom Atkins, on behalf of the Applicant, outlined that the Change Request, which was granted by the ExA in October 2024, amended the Order limits to reflect the outcome of negotiations with affected parties and to refine some minor extents of land falling within the Order limits.</p> <p>A total of 15 changes were made, which are set out in detail in the Applicant's <b>Change Request Report [AS-065]</b>:</p> <ul style="list-style-type: none"> <li>• Changes 1, 4 and 6 to 8 were reductions to the extent of public highway required for alterations to street layout and for powers associated with traffic regulation measures.</li> <li>• Changes 2 and 3 were reductions to the extent of land required for construction compounds.</li> <li>• Change 5 introduced two new construction access points off School Lane, with no change to the extent of the Order limits.</li> <li>• Changes 9 to 14 removed small areas of land from the Order limits.</li> <li>• Change 15 related to a minor change to divert construction and decommissioning traffic from an existing access to another existing track, with no change to the Order limits.</li> </ul> <p>These changes are all reflected in the latest versions of the <b>Land and Crown Land Plans [AS-040]</b> and <b>Works Plans [REP2-004]</b>, as relevant.</p> <p>In terms of the implications in terms of the powers sought through the DCO, Mr Atkins explained that Changes 1 to 4 and 6 to 14 related to the discrete removal of limited areas of land from the Order limits following requests by Affected Parties or as a result of further design iteration. These changes all involved reductions to the Order limits, with no additional interests/rights included in the Order limits, and therefore do not impact on additional land interests not previously identified. Changes 5 and 15 were minor changes to the layout of the Scheme following further technical considerations or in response to requests from Affected Parties. No amendments to the Order limits were made as part of these changes.</p> <p>Mr Atkins clarified that, to the extent that amendments were made to the <b>draft DCO [EN010142/APP/3.1(Rev05)]</b> as part of the Change Request, these were minor consequential amendments only, to update document references, plot numbers and reflect changes to accesses in order to correspond with the updated <b>Land and Crown Land Plans [AS-040]</b>, <b>Works Plans [REP2-004]</b> and <b>Streets, Rights of Way and Access Plans [AS-042]</b> (and other relevant documents) that were submitted as part of the Change Request. No changes were made to the compulsory acquisition or temporary possession powers or rights sought through the DCO, save for the fact the extent of land over which such powers are sought has now been reduced.</p> <p>In terms of the <b>Funding Statement [APP-018]</b>, no changes were made as a result of the Change Request. Given the minor extent of the changes to the Order limits, there was no need to update the cost estimate for the exercise of compulsory acquisition powers as the cost is already sufficiently covered by the existing funding position.</p> <p>Mr Atkins stated that, given that the Change Request involved only minor reductions in the Order limits, the Applicant maintains that, for the reasons explained by Mr Griffiths in relation to Agenda Item 3a and set out more fully in the <b>Statement of Reasons [REP1-014]</b> and supporting documents, the inclusion of powers of compulsory acquisition and temporary possession in the <b>draft DCO</b></p>

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	<p>[EN010142/APP/3.1(Rev05)] continues to satisfy the requirements of Section 122 of the PA 2008, as well as the considerations in the compulsory acquisition guidance.</p>
<p><b>Item 3c – Site Specific Matters</b></p>	<p>The ExA asked the Applicant to provide an update on the progress of negotiations with affected persons and the timetable for their conclusion.</p> <p>Mr Griffiths, for the Applicant, outlined the latest position for the negotiations with each of the affected parties identified in the Schedule of Negotiations and Powers Sought. This information is set out within the updated <b>Schedule of Negotiations and Powers Sought [EN010142/APP/4.4(Rev03)]</b> submitted at Deadline 4.</p> <p>Ms Liz Garbutt, speaking on behalf of Mr Nicholas Hill (an Affected Party), raised a number of matters regarding the impact of the easement which the Applicant is seeking to acquire over Mr Hill's land on his ability to operate and expand his agricultural business, including in respect of the planning permission he was granted to construct two farm storage buildings and permitted development rights (PDR). Addressing these points, Mr Griffiths highlighted that the four solar projects agree that the storage buildings can coexist with the cables for all four solar projects, including Tillbridge. Neither the Scheme nor the other three solar projects prevent Mr Hill from exercising his PDR, save for the restriction on activities on land located directly above the cables (which will be subject to the easement being sought). Any impediment to Mr Hill's ability to use his land in this regard goes to compensation, which is not relevant in the context of a compulsory acquisition hearing. Mr Griffiths also clarified that the easement that is being sought to be agreed by the Applicant is not a permanent easement, rather it will be time limited to the lifetime of the Scheme.</p> <p>In response to a subsequent query from the ExA regarding the potential infringement of Mr Hill's PDR, Mr Griffiths emphasised that in its Recommendation Report for the Cottam Solar Project, the ExA for that project concluded that no robust evidence was submitted that indicated that the project would have an unacceptable impact on the viability of Mr Hill's farming business. As such, unless new evidence is presented by Mr Hill in the context of this examination, which the Applicant has not seen to date, the position must remain the same, and any arguments relating to the impingement on PDR goes to compensation. The Secretary of State has already granted compulsory acquisition powers under two separate DCOs over the relevant land, namely Gate Burton and Cottam. If equivalent powers were not granted for this Scheme, this would result in additional affected persons being subject to compulsory acquisition and more environmental effects due to the need to find an alternative route for the cable. Mr Griffiths noted that the Applicant is continuing to seek to engage with Mr Hill, with the preferred position being to enter into a voluntary easement, and the main difference between the Applicant and Mr Hill is value.</p> <p>Mr Griffiths stated that, with respect to the purported infringement of Mr Hill's ability to develop his land as an agricultural business, this is ultimately a balancing act for the ExA and the Secretary of State. On the one hand, there is an agricultural business with some form of PDR (the extent of which has not been evidenced by Mr Hill to date) and points raised on behalf of Mr Hill regarding what he "would like to" or "may" do with his land. On the other hand, there is the Scheme, which is an NSIP that is going to contribute in a vital way to the Government's path to low carbon, renewable energy generation and the demonstrated urgent need for such infrastructure under EN-1.</p>



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	<p>In response to the ExA's request that the Applicant provide an update regarding unknown interests or rights over land within the Order limits, Mr Griffiths confirmed that the Applicant is continuing to undertake diligent inquiries and erect site notices to identify any such interests and will continue to update the Book of Reference as appropriate. An updated <b>Book of Reference [EN010142/APP/4.3(Rev03)]</b> has been submitted at Deadline 4.</p>
<p><b>Item 3d – Statutory Undertakers</b></p>	<p>The ExA asked the Applicant to summarise any outstanding matters arising from representations by statutory undertakers, including whether the relevant tests for the exercise of powers pursuant to sections 128 and 137 of the PA 2008 would be met in the event that agreement is not reached.</p> <p>Mr Griffiths, on behalf of the Applicant, explained that under section 138 of the PA 2008 the Secretary of State can authorise interference with apparatus where they are satisfied that such interference is necessary. The Applicant has set out the relevant plot numbers in the <b>Book of Reference [EN010142/APP/4.3(Rev03)]</b> and <b>Schedule of Negotiations and Powers Sought [EN010142/APP/4.4(Rev03)]</b>, which relate to Work Numbers, and therefore why the Applicant needs the land. At this stage, the Applicant is not certain whether interference with the apparatus and/or rights will be required, but it is necessary to have the ability to do so. All the plots identified are therefore required and so satisfy the test under section 138 of the PA 2008.</p> <p>Mr Griffiths then went through the application of section 127 of the PA 2008 to the various statutory undertakers whom the Applicant has identified through its land referencing may have interests, rights and/or apparatus within the Order limits and why, where section 127 does apply, the Secretary of State can be satisfied that there is no serious detriment to the relevant undertaking. This is set out in the updated <b>Schedule of Negotiations and Powers Sought [EN010142/APP/4.4(Rev03)]</b> submitted at Deadline 4, which has been amended to specifically identify whether section 127 is engaged or not for each of the listed statutory undertakers.</p> <p>Mr Griffiths noted that all statutory undertakers will have some form of protection under the <b>draft DCO [EN010142/APP/3.1(Rev05)]</b>, either through bespoke protection provisions or through the standard provisions included for the benefit of various types of statutory undertaker. The Secretary of State can therefore be satisfied that there will be no serious detriment in all cases.</p>
<p><b>Item 3e – Crown Land</b></p>	<p>In response to a query from the ExA regarding the extent of Crown interests within the Order limits, Mr Griffiths, for the Applicant, confirmed that there is a stretch of the River Trent which is subject to a Crown interest, in respect of which the Applicant requires the Crown's consent under section 135 of the PA 2008 in order to carry out works. The Applicant is engaged in active discussions with the Crown Estate's solicitors regarding obtaining the necessary consents. The Applicant remains hopeful that these will be provided before the end of the examination, as was the case for the Gate Burton and West Burton DCOs.</p> <p><b>Post-hearing note:</b> <i>Following the Hearing, the Applicant has received further correspondence from the solicitors acting for the Crown Estate. By way of update, the respective legal teams for the Applicant and the Crown Estate are currently negotiating the relevant consents pursuant to section 135(1) and (2) of the PA 2008. The parties remain cognisant of the dates set out in the examination timetable and aim to reach agreement in a timely fashion before the close of the Examination. This statement has been agreed by the solicitors acting for both parties.</i></p>

<b>Agenda Item</b>	<b>Applicant's Response</b>
<b>Item 3f – Funding</b>	The ExA asked the Applicant to advise of any updates to the <b>Funding Statement [APP-018]</b> . Mr Griffiths, for the Applicant, confirmed that no updates have been made to the Funding Statement since the Application was submitted. The changes made to the Application through the Change Request were so minor that any change in the estimated compensation made no overall difference.