
EAST YORKSHIRE SOLAR FARM

**East Yorkshire Solar Farm
EN010143**

**Applicant's Summary of Oral Submissions at the Compulsory
Acquisition Hearing and Post Hearing Notes**

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1. Introduction

- 1.1.1 A Compulsory Acquisition Hearing (**CAH**) was held at 14:00 on Tuesday 9 July 2024 at The Parsonage Hotel, Escrick.
- 1.1.2 Parties from the Examining Authority, Pinsent Masons LLP (the Applicant's legal advisers for the Application), DDM Agriculture (the Applicant's land agents for the Application), and two individual representatives were present at the Compulsory Acquisition Hearing. It is the Applicant's oral submissions that are summarised in this document.

Table 1-1 Applicant's Summary of Oral Submission and Post Hearing Notes

#	Agenda Item	Post-Hearing Notes
1.	Welcome, introductions and arrangements for the hearing	<p>The following parties were present at the hearing:</p> <ul style="list-style-type: none">• Simon Warder, the Examining Authority (the ExA).• Amy Stirling, Senior Associate at Pinsent Masons LLP, the solicitors for East Yorkshire Solar Farm Limited (the Applicant) for this matter.• Giles Johnston, Managing Director at DDM Agriculture, the land agents for the Applicant for this matter.• Ms Beckett, individual representative.• Mr Lunn, individual representative.
2.	The Applicant's case for Compulsory Acquisition (CA) and Temporary Possession (TP) a) The Applicant's overall approach to CA and TP in the context of the relevant tests under the Planning Act 2008 and DCLG Guidance b) The content of the Book of Reference, the Statement of Reasons, the Funding Statement	<p>The ExA asked the Applicant to summarise the overall approach to compulsory acquisition and temporary possession powers which have been included within the DCO application submitted by the Applicant. Ms Stirling responded that the application includes a request for the compulsory acquisition of land and rights in land, to the extent set out in Section 5 of the Statement of Reasons [APP-021]. This was confirmed in section 7 of the Cover Letter [APP-001] which accompanied the application and is supported by the Book of Reference [REP1-010] and the Land Plans [AS-004].</p> <p>Ms Stirling went on to say that Section 120 and Schedule 5 of the Planning Act 2008 (PA 2008) are relied upon for this purpose. Read together, these provisions provide that a DCO application can include a request for the compulsory acquisition of land and rights and can make provision for the payment of compensation.</p> <p>Ms Stirling added that Section 122 of the PA 2008 confirms that a DCO may authorise the compulsory acquisition of land only if the Secretary of State is satisfied that the land, or the rights to</p>

and the Schedule of Negotiations and Powers Sought the land, are required for the development to which the DCO relates, and the land is required to facilitate or is incidental to that development.

c) The need for CA and TP and the minimisation of need Ms Stirling confirmed that the Applicant's position is that they have demonstrated that the Section 122 tests are met through the application documentation. The land which is subject to compulsory acquisition and temporary possession powers is required for or is incidental to the development for

d) The consideration of alternatives of which this DCO is sought. Ms Stirling added that replacement land is not relevant to this Scheme.

e) The availability and adequacy of funds Ms Stirling noted that Section 122(3) of the PA 2008 also provides that the Secretary of State must be satisfied there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO. The Applicant's position is that there is a compelling case in the public interest in the Scheme – there is an established need for the Scheme as it is a solar PV project with

f) Potential impediments to the Proposed Development an output above 50 megawatts, and in accordance with the National Policy Statements (which are material considerations in the determination of this application), is designated as critical national

g) Human rights and the compelling case in the public interest priority infrastructure, with the need for the Scheme firmly established in the decarbonisation benefits and security of supply that the Scheme will bring. Ms Stirling made the case that the benefits of the Scheme will outweigh any limited private loss as a result of compulsory acquisition, which in any event would be compensated for in accordance with the well-established compulsory purchase compensation code.

Ms Stirling confirmed that Section 127 of the PA 2008 provides that the Applicant may include provisions for the compulsory acquisition of statutory undertakers' land, if the land can be purchased and not replaced, or the land can be replaced by other land belonging to or available for acquisition by the Applicant, each without serious detriment to the carrying out of the statutory undertakers' undertakings.

Ms Stirling noted that Section 127 also provides that the Applicant may include provisions for the compulsory acquisition of statutory undertakers' rights in the land, if the right can be purchased without serious detriment to the carrying out of the statutory undertakers' undertakings.

Ms Stirling confirmed that the Applicant's position is that this has been demonstrated and there are sufficient protective provisions, for each statutory undertaker affected, included within Schedule 14

of the draft DCO **[REP1-006]**. The Applicant continues to engage with various statutory undertakers in relation to the protections offered.

Ms Stirling then moved on to discuss the guidance related to procedures for the compulsory acquisition of land published by the Department for Communities and Local Government in September 2013 (**the CA Guidance**). The CA Guidance requires that the Applicant has a clear idea of how the Scheme will be used – Ms Stirling noted that the Applicant has demonstrated how the land would be used through its Works Plans **[APP-008]** and Land Plans **[AS-004]** and has brought this together in the Schedule of Negotiations and Powers Sought **[REP2-004]** on a plot-by-plot basis; how each plot will be used and why they are necessary for the development to take place or are incidental to that development.

Ms Stirling noted that the CA Guidance also requires that the public benefits in the Scheme outweigh the private loss. Ms Stirling reiterated the Applicant is confident this test is met, given that the public interest in decarbonisation and security of supply benefits outweigh any residual private harm from compulsory acquisition.

The CA Guidance also requires a reasonable prospect of funds being made available to fund the Scheme. Ms Stirling confirmed the Applicant has provided a Funding Statement alongside its DCO application **[APP-022]**, showing that the requisite funds can be made available for the construction and operation of the Scheme and importantly to meet any compulsory purchase compensation liability.

Ms Stirling noted that the CA Guidance requires that the compulsory acquisition powers are for legitimate purposes and the Applicant confirms that all the compulsory acquisition and temporary possession powers which have been sought are necessary for the delivery of the Scheme and are necessary for the national public interest in the critical national priority infrastructure which the Scheme will provide.

The ExA raised a question regarding the minimisation of need for compulsory acquisition and the land use efficiency of the proposal.

Ms Stirling responded that all land which is subject to solar PV land, which is included for Work No. 1, is under a voluntary option agreement, and there is no outright reliance on compulsory acquisition for the solar PV. The Applicant is seeking freehold acquisition of the solar PV plots in the normal way, for use in the unlikely event that the landowners who have entered into those voluntary option agreements are unable to honour them and grant the Applicant the relevant lease at the time.

3. **Individual objections and Mr Michael Axup issues**

Review of the status of CA and/or TP objections with regard to the following specific matters. In each case reference will be made to the Book of Reference [REP1-011] and the Schedule of Negotiations and Powers Sought [REP2-005].

The ExA noted that Mr Axup was not present for the hearing, but noted Mr Axup's relevant representation [RR-229] and written representation [REP1-099]. The ExA summarised Mr Axup's concerns regarding a lack of consultation and communication from the Applicant, as well as an allegation of trespass. The ExA confirmed the allegation of trespass would not be discussed, as that is a separate civil matter. The ExA understood that the Heads of Terms (HOTs) are broadly agreed and asked the Applicant for an update in relation to Mr Axup's plots (14/72, 14/68, 14/76).

Mr Johnston confirmed to the ExA that due to an administrative error, surveyors on behalf of the Applicant did enter Mr Axup's land [REP2-019], but no surveys were carried out nor were there any further efforts to access Mr Axup's land. Mr Johnston went on to say that the Applicant has been in regular communication with Mr Lunn's land agent, over a period of several months, both in respect of survey access and cable easement negotiations [REP1-099]. Mr Johnston noted that the HOTs are agreed and the parties remain in negotiations on commercial terms. Mr Johnston added that the Applicant is seeking agreement on cable easements from all affected landowners on a consistent basis.

The ExA asked Mr Johnston whether this approach means that there will be no agreed cable route until all parties have signed up to the consistent terms.

Mr Johnston replied by confirming that the Applicant is reaching agreement on a landowner-by-landowner basis and the fundamentals of those agreements are consistent across all landowners. Mr Johnston went on to say this is not causing any issues and a significant number of landowners have agreed HOTs already.

The ExA asked what timescales the Applicant has in mind for reaching agreement with Mr Axup.

Mr Johnston confirmed that the Applicant will seek to achieve agreement as rapidly as possible.

Mr Stephen Paul Lunn

The ExA asked for an update in relation to the status of negotiations with Mr Lunn, regarding the impacts of the Scheme on the relevant property interests (plots 10/43, 10/45, 10/46).

Mr Lunn was present and spoke on behalf of his wife, who Mr Lunn confirmed has been communicating with the Applicant. Mr Lunn provided a summary of the impacts of the Scheme on their property interests, relating to compulsory acquisition [RR-349]. Mr Lunn confirmed that there is no immediate direct concern regarding compulsory acquisition of their land, rather that the concerns relate to the impact on their land due to the works proposed under the Scheme.

The ExA asked where the relevant trees and hedges are located in relation to the land boundaries, and went on to ask the Applicant to confirm what works are being sought on these plots of land.

Ms Stirling confirmed that plots 10/43, 10/45 and 10/46 are unregistered public highway, namely Willitoft Road and Spaldington Road, and works in this area are limited to the highway to facilitate access to the site and will not encroach upon Mr and Mrs Lunn's property. Ms Stirling went on to say Mr and Mrs Lunn's property falls outside the Order limits and therefore compulsory acquisition powers are not sought or required over their property. Mr and Mrs Lunn are included in the Book of Reference [REP1-010] as presumed owners of the subsoil beneath the highway given (see Land Plan [AS-004]). Ms Stirling added the works which are being sought here are to facilitate access to the Scheme.

The ExA noted that the hedges and trees are potentially affected and asked the Applicant where they sit in relation to the boundary between Mr Lunn's property and the highway land.

Post Hearing Note

The Applicant has included land parcels 10/43, 10/45 and 10/46 **[AS-004]** as part of the Order to enable the Applicant to upgrade existing access locations and implement traffic management measures to ensure the safe access and egress of construction vehicles into Solar land parcels 2e and 2f respectively.

Regarding hedgerow and vegetation management, the Applicant is seeking to upgrade the following two existing field accesses.

On Willitoft Road, existing access 10/08, as depicted on the Streets, Rights of Way and Access Plans **[REP1-004]**, will be upgraded to allow access into Solar PV Area 2e. The access arrangements will require hedgerow removal for the widening of the access and to ensure suitable junction visibility for vehicles exiting south. The details of which are included on Drawing 60683115-HGN-DR-CH-0113 located in Appendix A2 of the Framework Construction Traffic Management Plan **[APP-115]**. The hedgerow lost to facilitate this access is designated HR38 in Annex C of the Hedgerow Report and is classified as 'Not Important' under the Wildlife and Landscape Criteria of Hedgerow Regulations **[APP-085]**. However, the Applicant proposes to plant new hedgerow to the rear of these visibility splays to minimise any impact of the access works as shown on Landscape Masterplan Sheet 5 contained in Annex A of the Framework Landscape and Ecological Management Plan **[REP1-063]**.

On Spaldington Road, existing access 10/18 as depicted on the Streets, Rights of Way and Access Plans **[REP1-004 and REP1-005]** will be upgraded to allow access into Solar PV Area 2f. This access arrangement will require hedgerow removal for the widening of the access to facilitate safe access and egress for construction vehicles. The details of which are included on Drawing 60683115-HGN-DR-CH-0114 located in Appendix A2 of the Framework Construction Traffic Management Plan **[APP-115]**.

Vegetation management refers to grassland which resides within verges of the junction visibility splays, this grassland will be maintained at a low height to ensure visibility for exiting vehicles and bankpersons to ensure safe egress onto the Local Road Network.

Regarding traffic management measures, the Applicant, in its Traffic Regulation Measures Plans **[AS-005, 006 and 007]** has identified areas of the existing local road network where bankperson

or traffic signal control may be required. The Applicant has provided such measures to provide the Construction Contractor with the flexibility it requires in order to ensure that the upgrade of accesses and their use during construction can be operated safely. However, the Applicant anticipates that the operation of these accesses during construction will largely be undertaken using banksperson control in order to ensure that construction vehicles exit safely, give way to road users and minimise the level of disruption that construction may introduce to the Local Road Network.

DB Hunt

The ExA asked for an update in relation to the status of negotiations with Mr Hunt, regarding the impacts of the Scheme on the relevant property interests (plots 18/105 and 18/106), noting that communications seem to be difficult with this landowner.

Mr Johnston confirmed that the Hunt family are represented by the same agent as the Axup family and, as such, HOTs are also now broadly agreed in this case and that negotiation of the commercial terms continues.

Mr Johnston, in response to the relevant representation **[RR-061]** relating to land drainage, stated that the landowner's land agent amended the original plan provided by the Applicant. The revised plan was subsequently accepted by the Applicant. Mr Johnston went on to say the Applicant has a requirement to repair or reinstate the drainage in the agreed HOTs, which the landowners land agent has agreed. The commercial negotiations are currently taking place on the basis of the revised plan.

Parkin, Laverack, Saunders

The ExA asked for an update in relation to the status of negotiations with these individuals, regarding the impacts of the Scheme on their property interests (plots 5/17, 5/18 and 5/19). The ExA noted that these negotiations are contingent on an agreement with Natural England relating to the mitigation areas, and asked how far the Applicant needs to progress with Natural England before negotiations with these individuals can be concluded.

Ms Stirling confirmed that in each case the land is required for mitigation and the HOTs are broadly agreed in line with the other landowners, subject to the outcome of the discussions with Natural

England. Ms Stirling noted that the current pink-footed goose mitigation land comprises 79.09 ha in arable rotation, with management of 15 ha per year to make it suitable for pink footed geese. Ms Stirling added that the Applicant is seeking confirmation from Natural England they are content with this.

Ms Stirling continued that golden plover mitigation was also updated at Deadline 2 and now comprises 28.75 ha of species-rich wet grassland. Ms Stirling added that the Applicant is seeking confirmation from Natural England they are content with this.

Ms Stirling confirmed that the Applicant is confident that the Applicant's proposals above will be accepted before Deadline 3, or at the latest Deadline 4, which will allow the HOTs to be completed and option agreements to be progressed.

Bingley

The ExA asked for an update in relation to the status of negotiations with Ms Bingley, regarding the impacts of the Scheme on Ms Bingley's property interests (plots 22/165). The ExA explained this was included as the Schedule of Negotiations **[REP2-004]** implies that less progress has been made on this plot.

Mr Johnston confirmed that Ms Bingley has not responded to requests to complete a land interest questionnaire, meaning the Applicant therefore has limited information available to it, but has continued to investigate land ownership as they are aware that part of this land has been identified by National Grid for the collector station for the England Green Link 2 (**EGL2**) project cable route and is seeking information from National Grid with regards to their interest in the land.

Mr Johnston went on to say that the Applicant received further information on 5 July 2024, where they were made aware that Ms Bingley may have retained an interest in part of this land (as National Grid only acquired part of the land), and are seeking confirmation. The Applicant will make further attempts to make contact with the landowner and National Grid to enable negotiations to progress.

The ExA asked if there is overlap between the land National Grid is seeking to acquire and the land this Scheme requires.

Mr Johnston stated that the Applicant anticipates there will be some overlap required for this Scheme and for the EGL2 project. The Applicant may therefore need some of Ms Bingley's land to seek a cable easement, but National Grid have acquired part of the freehold interest.

Ms Stirling added that the nature of the Applicant's interest is quite different in that the Applicant is only seeking a cable easement over the land and not to acquire part of the freehold as National Grid are seeking.

National Grid Electricity Transmission Plc (NGET)

The ExA asked for an update in relation to the status of negotiations with NGET, regarding the impacts of the Scheme on their property interests (plots 2/07, 2/08, 14/73, 14/74, 8/63, 15/94, 21/142, 21/149, 22/151, 21/152, 22/154, 22/155, 22/156, 22/164, 22/165, 22/170, 22/171, 22/172). The ExA asked the Applicant to update on the positions of the EGL2 as well as the protective provisions being sought for this Scheme and the side agreement.

Ms Stirling confirmed the Applicant is in regular communication with NGET over a form of protective provisions and side agreement between the parties, which would also cover the interaction between the Scheme and the EGL2 Project. Ms Stirling went on to say that negotiations are progressing well, and the Applicant hopes to reach agreement with NGET by Deadline 4.

Drax Power Limited (Drax)

The ExA asked for an update in relation to the status of negotiations with Drax, specifically how the interests of NGET and Drax interact, particularly around EGL2.

Ms Stirling confirmed that land owned by Drax includes a substation, where the Scheme will connect to. NGET are promoting EGL2 and NGET have a proposed convertor station next to Drax, with the

Scheme being the third endeavour. Ms Stirling went on to clarify that they are all separate entities proceeding with separate commercial endeavours.

Ms Stirling confirmed the Applicant is engaged with Drax in relation to a voluntary agreement for the interactions to enable the connection into the substation, and currently commercial terms are being discussed as well as the extent of the land which will be subject to the option agreement.

The ExA asked about expected timescales for this agreement. Ms Stirling stated that the Applicant will endeavour to enter into a voluntary agreement by the end of Examination. Ms Stirling assured that the Applicant's position is that there was no technical reason why the three projects cannot co-exist. There are ongoing discussions as to which project goes in which location and in what order, with commercial terms also being negotiated.

Network Rail Infrastructure Limited (NRIL)

The ExA asked for an update in relation to the status of negotiations with NRIL, regarding the impacts of the Scheme on their property interests (plot 15/83). The ExA noted that the main issue here relates to the effect of HGV movements on the level crossing and acknowledged receipt of the updated draft DCO and construction traffic management plan.

Ms Stirling confirmed that Applicant has agreed a form of protective provisions for the benefit of NRIL, which were included in Part 6 of Schedule 14 to the draft DCO submitted at Deadline 1. The Applicant and NRIL have also agreed a form of framework agreement between the parties.

Ms Stirling commented that the Applicant remains in good communication with NRIL and the parties are targeting Deadline 3 for completion of the framework agreement. Once this has occurred, the Applicant understands that NRIL will withdraw its objection to the Scheme.

Northern Powergrid (Yorkshire) plc (NPG)

The ExA asked for an update in relation to the status of negotiations with NPG, regarding the impacts of the Scheme on their property interests (plots 4/14, 4/25, 4/27, 6/34, 6/37, 9/40, 9/54, 9/55, 13/60,

8/63, 8/64, 8/66, 15/81, 16/91, 15/92, 15/93, 15/94, 18/96, 18/97, 18/100, 18/101, 18/102, 19/129, 6/29, 7/31, 6/33, 6/38, 10/41, 11/48, 11/50, 8/65, 8/67, 15/79 and 15/85).

Ms Stirling confirmed the Applicant and NPG are engaged on a form of bespoke protective provisions and side agreement, and the Applicant is confident that an agreed form will be reached at an early stage of the Examination. Standard protective provisions for the benefit of electricity, gas, water and sewerage undertakers have been included in Part 1 of Schedule 14 to the draft DCO.

The Applicant is continuing to engage with NPG and understands that NPG will withdraw its objection to the Scheme once the protective provisions have been agreed and included in the draft DCO.

National Gas Transmission plc (NGT)

The ExA asked for an update in relation to the status of negotiations with NGT, regarding the impacts of the Scheme on their property interests (plots 7/31, 11/47, 11/50, 13/69, 13/71, 15/79, 17/82, 19/129, 20/138).

Ms Stirling stated that the Applicant and NGT are engaged on a form of bespoke protective provisions and the Applicant is confident that an agreed form will be reached at an early stage of the Examination. Standard protective provisions for the benefit of electricity, gas, water and sewerage undertakers have been included in Part 1 of Schedule 14 to the draft DCO.

Ms Stirling confirmed that there is nothing significantly outstanding between the parties and understands that NGT will withdraw their objection to the Scheme once the protective provisions are agreed and included in the draft DCO.

Environment Agency (EA)

The ExA asked for an update in relation to the status of negotiations with EA, regarding the impacts of the Scheme on their property interests (plots 18/107, 18/108, 18/109, 18/110, 21/140, 21/41, 21/142) **[RR-107]** and noted their concerns with omissions from the Book of Reference **[REP1-011]**.

Ms Stirling responded confirming the Applicant updated the Book of Reference at Deadline 1 to include the farm tenancy owners. The Applicant has also further investigated the terms of the grazing licence and received further information on these from the EA. The Applicant will update the Book of Reference at Deadline 3 to refer to these grazing licence holders as occupiers.

The Crown Estate

The ExA asked for an update in relation to the status of negotiations with the Crown Estate, regarding the impacts of the Scheme on their property interests (plots 18/109, 21/141). The ExA also clarified that the Crown Land is included on the basis that the land is held by a party other than the Crown Estate.

Ms Stirling confirmed that the Crown Estate is the freehold owner of the seabed in the River Ouse and is included in the Book of Reference **[REP1-011]** as the Applicant needs to include the connection corridor. Ms Stirling noted that the Applicant is engaged with solicitors acting for the Crown Estate in relation to obtaining necessary Crown consents pursuant to s135(1) and (2) of the PA 2008 and is confident that these will be obtained during the course of Examination.

The Applicant has been in negotiations with the land agents for the Crown Estate – HOTs are broadly agreed; however, the Crown Estate is investigating their mines and minerals rights under the River Derwent (Plot 18/109) before finalising the agreement.

4. Any other CA or TP matters

Ms Beckitt asked why the Applicant is seeking compulsory acquisition of verges, hedges and trees and why the Applicant is not asking for permission from the Local Authority to gain permission to lay the cables. Ms Beckitt stated that the fact the Applicant is seeking compulsory acquisition of verges, hedges and trees suggests that it will pull down trees and remove hedges.

Ms Stirling responded by confirming that the Applicant is seeking powers of compulsory acquisition and temporary possession to allow it to lay the cables within highways, including the verges, and to facilitate the Scheme. Ms Stirling stated that this may, in certain circumstances, mean that certain verges, hedges and trees need to be removed. However, Ms Stirling confirmed that the

Applicant is committed to reinstating any hedges, verges or trees which are lost as a result of the Scheme.

Ms Stirling noted that all of the commitments in relation to ecological and landscape management are secured through the draft DCO, specifically through the Outline Design Principles Statement, which is secured by Requirement 5 of Schedule 2, and also through the Framework Landscape and Ecological Management Plan, which is secured through Requirement 6 of Schedule 2.

The ExA asked why the above requires compulsory acquisition, as opposed to a voluntary agreement with the local highway authority.

Ms Stirling responded by noting that many of these sections of land are unregistered public highway, meaning the local authority does not own the land, rather it manages the highway at the surface level of the road. This why the Applicant has included neighbouring properties as assumed orders of the subsoil, which is appropriate in the context of a DCO, as this is intended to be a 'one-stop shop' for all consents to allow nationally significant infrastructure projects to proceed without delay, by wrapping up all required consents and land rights in one place.

The ExA asked about the potential damage to water services or other utilities and if the Applicant has all the necessary information to identify and provide the relevant protection.

Ms Stirling confirmed the Applicant's land referencing team have carried out comprehensive utility searches within the entirety of the Order limits. Parts 1 and 2 of Schedule 14 of the draft DCO provide protective provisions for utility undertakers and telecommunications operators respectively.

5. **Other Matters** N/A

6. **Close** N/A