



Botley West Solar Farm

Consents and Licenses Required Under Other Legislation

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Approval for issue

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Glossary

Term	Meaning
The Applicant	SolarFive Ltd
The Project	The Botley West Solar Farm
The Site or Order Limits	The area of land encompassing the Project development and shown on the Site Location and Order Limits plan (Volume 2, Figure 1.1 of the ES).

Abbreviations

Abbreviation	Meaning
DCO	Development Consent Order
DESNZ	Department of Energy Security and Net Zero
PA 2008	The Planning Act 2008
PVDP	Photovolt Development Partners GmbH

Units

Unit	Description
ha	Hectares
km	Kilometres
m	Metres
MWe	Megawatt electrical

1 Introduction

1.1 Introduction

- 1.1.1 This document has been prepared by RPS for Photovolt Development Partners GmbH (PVDP) on behalf SolarFive Ltd (SolarFive) (the Applicant). This document supports the application seeking a Development Consent Order (DCO) that has been submitted to the Secretary of State (SoS) for the Department for Energy Security and Net Zero (DESNZ), under section 37 of the Planning Act 2008 (the 'PA 2008').
- 1.1.2 Botley West Solar Farm (the 'Project') involves the construction, operation, maintenance and decommissioning of a solar farm utilising ground-mounted photo-voltaic (PV) panels with an electrical output of 840MWe and will include the creation of access roads and habitat.
- 1.1.3 Connection is proposed into the National Grid transmission system via a new National Grid 400kV substation to be located close to the existing National Grid 400kV line that runs between Cowley and Walham. Further details of the Project are provided in Environmental Statement Chapter 6 – Project Description [EN010147/APP/6.3].

1.2 Purpose of this document

- 1.2.1 This document provides information on the additional consents and licences that are, or may be, required to construct and operate the Project. Section 37 of the PA 2008 governs the content of an application for a DCO, including the requirements for the necessary accompanying documents specified in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the 'APFP Regulations').
- 1.2.2 Regulations 5 and 6 of the APFP Regulations provide the statutory requirements for what must accompany a development consent application. Guidance issued by the Department for Communities and Local Government: 'Planning Act 2008: Application Form Guidance' (June 2013) (paragraphs 45 and 46) requires that:
- “Where the proposed development will also require other consents, licences, permits, etc, to enable it to be constructed and/or operational, and for which the Secretary of State is not the authorising body under the Planning Act, then the applicant must list and briefly describe these in Box 24. Reference should be made to any that have already been applied for, and a copy enclosed of any that the applicant may already be in the possession of.*
- The applicant should also, either in Box 24 or elsewhere in one of their application documents, set out whether there are, in principle, any reasons why such consents etc. might not be granted. In providing this information the applicant should reference responses received from the relevant authorising bodies regarding the likelihood of such consents etc. being granted.”*
- 1.2.3 This document lists those consents that the Applicant anticipates being required either within the draft DCO [EN010147/APP/3.1] or as consents and licenses to be sought separately. To the extent any further consents become

required due to unforeseen circumstances, the Applicant will keep the Examining Authority up to date on whether such further consents are intended to be wrapped into the draft DCO [EN010147/APP/3.1] or will be sought separately (as necessary).

2 Consenting Requirements

2.1 Incorporation within the draft DCO

2.1.1 Section 33 of the PA 2008 makes it clear that there is no requirement for certain principal conventional consents to be obtained where a DCO is required to authorise a project (as is the case for the Project).

2.1.2 Part 7 of the PA 2008, in particular section 120, makes it clear that the following can be included within a DCO:

- Ancillary matters (including those listed in Part 1 of Schedule 5 to the PA 2008);
- The application, modification or exclusion of statutory provisions for which the provision may be made in the DCO;
- Amendment, repeal or revocation of any local legislation, where thought necessary or expedient by the Secretary of State in consequence of or in connection with the DCO; and
- Incidental, consequential, supplementary, transitional or transitory provisions and savings.

2.1.3 Section 150 of the PA 2008 states that a requirement to obtain certain prescribed consents, or authorisations, under the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 can only be removed through powers in the DCO with the consenting body's agreement to any such disapplication.

2.1.4 From the above, it is clear that the intention of the PA 2008 is to encourage as many consents to be 'wrapped up' in a DCO as possible creating a 'one-stop-shop' approach for construction related consents.

2.1.5 The Applicant considers that the approach to including consents within a DCO should apply for both those that do, and those that do not, require the agreement of the relevant body under Section 150, in order for them to be captured as part of the DCO process and avoid the need for a separate consenting or permitting process. The Applicant envisages the approach being as follows:

- The DCO contains an express provision disapplying the requirement for the consent in question.
- In exchange, the DCO includes either 'protective provisions' for the benefit of the body concerned and/or the body has a role in the discharge of the DCO Requirements. Protective provisions are incorporated into the draft DCO [EN010147/APP/3.1] for the Project at Schedule 15 and Requirements at Schedule 2.

- Protective provisions are specifically stated to have effect unless otherwise agreed between the Applicant and body concerned.
- Compliance with the provisions is a matter as between the parties and can be enforced accordingly.
- Either way, the protective provisions provide a means for the body concerned to monitor, enforce compliance and to review the effectiveness of the approval regime enshrined in the protective provisions.
- The mechanism of approval being given under the protective provisions allows the body concerned to approach a project in two stages: (i) the DCO application stage, where the principle of the project is accepted by the body concerned and the detail of the protective provisions is negotiated; and (ii) the subsequent approval stages under the protective provisions which cannot be unreasonably refused when detailed matters going to construction can be properly considered.

2.1.6 This is a tried and tested approach, adopted in numerous local and public (hybrid) Acts, Harbour Act Orders, Transport and Works Act Orders for many decades, and which is now firmly established in the case of DCOs. For example, there is strong solar DCO precedent for this approach in the recent the **Mallard Pass Solar Farm Order 2024**; the **Gate Burton Energy Park Order 2024** and the **Cottam Solar Project Order 2024**.

2.2 Consents

2.2.1 The principal consent for the Project will be a DCO. The DCO process enables land acquisition, along with many consents and powers, to be dealt with at the same time. The DCO application may, however, need to be supplemented by other applications because:

- A particular consent cannot be contained in the DCO;
- A consenting authority declines to allow consent to be contained in the DCO pursuant to section 150 of the PA 2008; or
- It is not desirable or it is inappropriate to include consent within the DCO due to the stage of design development and the level of detail available at the time the DCO is made.

2.2.2 The majority of consents required are included, or addressed, within the draft DCO [EN010147/APP/3.1], as permitted by various provisions of the PA 2008, although discussions in some of these respects are continuing with the principal stakeholders. These fall into the following categories:

- Authorisation of all permanent and temporary works for the Project, which are described as the "authorised development" in Schedule 1 to the draft DCO (equivalent to planning permission). Article 3 is the principal power in this respect;
- Compulsory acquisition of land and of rights over land, and the temporary possession of the land. Articles 19 to 33 of the draft DCO provide these powers;

- Consent to carry out street works. Article 8 of the draft DCO provides this power;
- Consent to alter the layout of streets and to form new, or alter or improve existing accesses to the highway. Articles 9 and 10 of the draft DCO provide this power;
- Consent to temporarily or permanently stop up public rights of way. Articles 11 and 12 of the draft DCO provide this power;
- Consent to create permanent and temporary means of access. Article 14 of the draft DCO provides this power;
- Traffic regulation matters required during construction that are equivalent to Traffic Regulation Orders made under the Road Traffic Regulation Act 1984 and the Traffic management act 2004. Article 16 of the draft DCO provides this power;
- Land drainage consent(s) under section 23 of the Land Drainage Act 1991 for works affecting the flow in ordinary watercourses (disapplication of that requirement requires the consent of the relevant body). Article 6 provides this power;
- Flood risk activity permit(s) from the Environment Agency under the Environmental Permitting (England and Wales) Regulations 2016 in connection with drainage outfall installation (disapplication of that requirement requires the consent of the relevant body). Article 6 of the draft DCO provides this power; and
- Requirement of licence for felling under section 9 of the Forestry Act 1967. Article 6 provides this power.

2.2.3 Some of these consents are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. As a result, under Section 150 of the PA 2008, the relevant consenting body must agree to the inclusion of these consents within (i.e. disappplied by) the DCO. Where this applies, this is indicated in the list above. Discussions between the Applicant and these consenting bodies are ongoing, and the Applicant is confident that the necessary agreements will be obtained before or during the examination of its application, in exchange for the Applicant including in appropriate protective provisions in the DCO [EN010147/APP/3.1].

2.3 Other Consents and Licences

2.3.1 A summary of the additional consents likely to be required is set out in Table 1 below.

2.3.2 Table 1 lists the type of consent or licence required and the relevant consenting body, its purpose in relation to the Project and status of agreement with the relevant body. This document will be updated by the Applicant during the examination of the Application and documents that have been superseded will be clearly identified as such.

2.4 Agreement

- 2.4.1 Agreements with third parties may be required in parallel to the DCO process and may take a variety of forms, including alongside protective provisions.
- 2.4.2 The preparation of Statements of Common Ground (“SoCG”) with third parties to identify the matters, on which we are in agreement is a fundamental part of the DCO processes, working to narrow the focus for examining the Application concerned and to make the examination process more efficient. These will be continued to be progressed by the Applicant, with relevant parties, where appropriate.

Table 1 Summary of Additional Consents and Licences that may be required

Nature of Consent	Key Legislation	Consenting Authority	Purpose/function	Status
ECOLOGY				
European Protected Species (EPS) Licence	The Conservation of Habitats and Species Regulations 2017	Natural England	It is an offence to deliberately kill, capture or disturb European protected species, and to damage or destroy their breeding sites or resting places. EPS Licences can be obtained to allow persons to carry out activities that would otherwise be prohibited, without committing an offence. It is anticipated that an EPS Licence may be required for bats, great crested newt and dormice. As such, draft licences for these species will be provided to Natural England to enable the issuing of Letters of No Impediment to the SoS. Following pre-commencement surveys to ensure an up to date baseline, when the detailed design is being finalised, discussions of the final project details will be undertaken with Natural England. If necessary, clarification will be sought on the requirement for an EPS Licence and, if required, an application for a licence will be made with the principles of the licence based on those set out in the draft licences.	Requirements to be reviewed
Licence for work affecting badgers	Protection of Badgers Act 1992	Natural England	Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to kill, injure or take badgers or to interfere with a badger sett. Badger have been identified on site. As such, a draft licence for this species will be provided to Natural England to enable the issuing of a Letter of No Impediment to the SoS. A pre-construction walkover survey will be undertaken in order to assess badger status and current use of the Site. The pre-construction walkover survey will also allow any new excavated setts to be identified. Licences allowing works to proceed close to active badger setts or works that would cause disturbance as defined by Natural England, will be acquired where these are required with the principles based on those set out in the draft licence.	

Nature of Consent	Key Legislation	Consenting Authority	Purpose/function	Status
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WATER

Flood Defence Consent (for structures in, under or over a main river / permanent culverts)	Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	Flood Defence Consent would ordinarily be required pursuant to the 2016 Regulations and land drainage byelaws from the Environment Agency for main river and other flood defence crossings along the cable route.	Potential to disapply
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Land Drainage Consent (for structures in ordinary watercourses / permanent culverts)	Land Drainage Act 1991	Lead Local Flood Authority (LLFA)	Land Drainage Consent would ordinarily be required pursuant to the Land Drainage Act 1991 from the LLFA for the crossing of drainage ditches along the cable route.	Potential to disapply
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Water Discharge Activity Permit	Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	A water discharge activity permit is required to carry out discharges of sewage and trade effluent. Given the size of the development it is unlikely that the Regulatory Position Statement on Temporary dewatering from excavations to surface water can be met and therefore a permit will likely be required to discharge dewatering effluent or surface water run-off generated from areas of exposed soil during construction.	Not started
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NOISE

Section 61 consent Control of noise on construction sites	The Control of Pollution Act	Local Authority	To agree construction noise limits & construction working outside of the core hours	Not started
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HIGHWAYS

Nature of Consent	Key Legislation	Consenting Authority	Purpose/function	Status
Permit for transport of Abnormal Indivisible Loads (AIL)	Road Vehicles (Authorisation of Special Types) (General) Order 2003 or with authorisation from the Secretary of State under the Road Traffic Act 1988	Department for Transport, National Highways, Local Highway Authority or the police and bridge owners (if any) as appropriate	Required prior to movement / delivery of AILs	Not started
Notice of Street Works	Traffic Management Act 2004	Local Highway Authority	Permit schemes under the Traffic Management Act 2004 provide that the Applicant would need to book time on the highway through a permit. This may include the 'Oxfordshire Permit Scheme for Road Works and Street Works (2019)	Not started
Section 278 Agreement	Highways Act 1980	Local Highway Authority	Required to undertake works to the highway to the extent such works are not within the Order limits.	Not started