



# **Botley West Solar Farm**

## **Statement of Reasons**

**January 2025**

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## TABLE OF CONTENTS

	<b>Page</b>
1. INTRODUCTION.....	9
2. PURPOSE AND STRUCTURE OF THIS STATEMENT OF REASONS.....	11
3. DESCRIPTION OF THE PROJECT .....	13
4. DESCRIPTION OF THE ORDER LIMITS AND ORDER LAND .....	18
5. SOURCE AND SCOPE OF POWERS SOUGHT IN THE DCO .....	20
6. PURPOSE OF THE POWERS .....	27
7. JUSTIFICATION FOR THE COMPULSORY ACQUISITION POWERS .....	30
8. COMMUNICATIONS AND NEGOTIATIONS .....	39
9. HUMAN RIGHTS .....	43
10. SPECIAL CONSIDERATIONS .....	45
11. RELATED APPLICATIONS AND CONSENTS .....	47
12. FURTHER INFORMATION.....	48
13. CONCLUSION .....	49

## **1. EXECUTIVE SUMMARY**

### **1.1 Purpose and Structure of this Statement of Reasons (Section 2)**

1.1.1 This Statement of Reasons has been prepared on behalf of SolarFive Ltd (the 'Applicant'). It forms part of the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State for Energy Security and Net Zero (the 'Secretary of State'), under section 37 of 'The Planning Act 2008' (the 'PA 2008') to construct, operate and maintain and decommission the Botley West Solar Farm (the 'Project').

1.1.2 This Statement is required because the Application is seeking powers to:

- (a) acquire land compulsorily;
- (b) create and compulsorily acquire new rights over land and impose restrictions; and
- (c) extinguish or override existing rights over land.

1.1.3 The Applicant is also seeking powers to take temporary possession of land to construct and maintain the Project.

1.1.4 It is necessary for the decision-maker to be satisfied that there is a compelling case in the public interest for the inclusion of compulsory acquisition powers in the DCO. This Statement explains why it is necessary, proportionate and justifiable for the Applicant to seek powers of compulsory acquisition, and why there is a compelling case in the public interest for the Applicant to be granted these powers.

1.1.5 The matters addressed in this Statement are summarised in this executive summary. References to numbered sections or paragraphs are to sections or paragraphs of this Statement. Terms used in this Executive Summary are defined in the main body of this Statement.

### **1.2 Description of the Project (Section 3)**

1.2.1 The Project will comprise the installation of solar photovoltaic (PV) generating panels together with grid connection infrastructure to a new National Grid substation at a proposed site in Oxfordshire. The Project lies within the administrative areas of Oxfordshire County Council, West Oxfordshire District Council, Cherwell District Council and Vale of White Horse District Council.

1.2.2 A DCO is required for the Project as it falls within the definition and thresholds for a NSIP under sections 14(1) and 15 of the PA

2008. This is because it consists of a generating station in England which does not generate electricity from wind and has a gross electrical output capacity exceeding 50MW. The Project will be located within the 'Order limits' (as described below) and is the subject of the Application.

1.2.3 The Order limits comprise approximately 1,418 hectares (ha), with the majority of the Project lying within West Oxfordshire and overlapping with some of the Oxford Green Belt. The Project is described at Schedule 1 to the draft DCO **[EN010147/APP/3.1]** (the 'Order'), and the areas in which each component (the Work Nos.) may be constructed are shown on the Works Plans **[EN010147/APP/2.3]**.

1.2.4 In addition, Schedule 1 to the Order authorises such other works or operations as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance, and decommissioning of the Project but only within the Order limits and insofar as these works or operations are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement **[EN010147/APP/6.1 to 6.5]**.

1.2.5 This approach has been utilised in preference to more restrictive drafting, such as a requirement that ancillary works must be within the scope of work assessed by the environmental statement, in recognition of the recent Guidance on the Pre-application Stage for NSIPs (issued in April 2024 by the Ministry for Housing, Communities and Local Government). The Guidance notes the tendency for environmental statements to become excessively detailed and take an overly cautious approach that is ultimately inaccessible, cumbersome and counterproductive. The wording proposed in the Order therefore strikes an appropriate balance between the EIA regime and the Guidance, by retaining necessary flexibility for the detailed design of the authorised development, whilst ensuring that any ancillary development must remain within the *Rochdale Envelope* that has been assessed in the environmental statement.

1.2.6 It is anticipated that construction will start in July 2026 and end in June 2028, with operation anticipated to commence around October 2028.

### 1.3 **Description of the Order Limits and Order Land (Section 4)**

1.3.1 The Order limits comprise approximately 1,418ha, with the majority of the Project lying within West Oxfordshire and overlapping with some of the Oxford Green Belt.

- 1.3.2 The solar farm, whilst a single project, does not comprise one single area of land; rather it is dispersed over a wide area, separated by roads, open land, woodland, rivers and settlements. For ease of description, the Applicant has broadly divided the Project into three main sites, linked together by common electrical infrastructure, including electrical cabling: the Northern Site Area, the Central Site Area and the Southern Site Area (see Figure 1.2) **[EN010147/APP/6.4]**.
- 1.3.3 The Project extends from an area of land in the north, situated between the A4260 and the Dorn River Valley near Tackley and Wootton ('Northern Site Area'), through a central section, situated broadly between Bladon and Cassington ('Central Site Area'), and connecting to a section further south near to Farmoor Reservoir and north of Cumnor ('Southern Site Area'), where the Project will connect to the National Grid transmission network (collectively the 'Site Areas').
- 1.3.4 The Order Land (the area in which powers of compulsory acquisition are sought) means the land which is required for, or is required to facilitate, or is incidental to, or is affected by the authorised development shown on the Land Plans **[EN010147/APP/2.4]** which is within the limits of land to be acquired or used and described in the Book of Reference **[EN010147/APP/4.3]**. This land is coloured pink (land to be permanently acquired) or blue (land in which the undertaker can create and acquire new rights).
- 1.3.5 The Order limits means the limits shown on the Works Plans **[EN010147/APP/2.3]** within which the authorised development may be carried out and land acquired or used. This also includes the land over which the rights of temporary possession only can be exercised by the undertaker (as shown in green on the Land Plans **[EN010147/APP/2.4]**).
- 1.3.6 The powers in the Order enabling the acquisition of land, new rights over land and the imposition of restrictions over land and temporary use, relate to the Order land only, which is all the land within the Order limits.

#### 1.4 **Source and Scope of Powers Sought in the DCO (Section 5)**

- 1.4.1 Section 120 of the PA 2008 provides that an order granting development consent may make provision relating to, or matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development, which includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement.

- 1.4.2 Section 122 of the PA 2008 provides that an order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State, in respect of the Application, is satisfied that the land is required for the development to which the DCO relates and the land is required to facilitate or is incidental to that development.
- 1.4.3 The Secretary of State must also be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO [EN010147/APP/3.1].
- 1.4.4 The powers sought with the Application for the DCO are:
- (a) all interests in land, including freehold (article 19 of the Order) – shown edged red and shaded pink on the Land Plans [EN010147/APP/2.4];
  - (b) permanent acquisition of new rights (including restrictions) (article 22 of the Order) – shown edged red and shaded blue on the Land Plans;
  - (c) temporary use of land to permit construction or maintenance where the Applicant has not yet exercised powers of compulsory acquisition (articles 29 and 30 of the DCO) – shown edged red and shaded green on the Land Plans;
- 1.4.5 The Applicant considers that in the absence of these powers, the Order land may not be assembled, uncertainty will continue to prevail, and its objectives and Government's policies in relation to the timely delivery of new generating capacity and achieving ambitious net zero targets would not be achieved.
- 1.4.6 The Applicant has been seeking to acquire the relevant freehold interests, new rights and temporary use of land by private treaty, in order to ensure implementation of the Project. Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land, the rights and other interests in, on and over the land, the temporary use of land, as well as secure the removal of matters affecting the Order land that may impede the Project, by agreement wherever possible. This approach of seeking powers of compulsory acquisition in the Application for the DCO and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the Department for Communities and Local Government Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (2013) (the 'CA Guidance').
- 1.4.7 This Statement (alongside the Land and Rights Negotiations Tracker [EN010147/APP/3.6]) sets out the position in relation to the negotiations undertaken to date with affected owners. In

summary, at the time of writing, negotiations are ongoing with landowners in relation to the rights required in the Order land.

## **1.5 Purpose of the Powers (Section 6)**

1.5.1 The meaningful and timely contributions offered by the Project to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, will be critical on the path to Net Zero. Without the Project, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.

1.5.2 In the absence of powers of compulsory acquisition, it might not be possible to assemble all of the land within the Order land, uncertainty will continue to prevail and the Applicant considers that its objectives and those of Government policy would not be achieved.

## **1.6 Justification for the Compulsory Acquisition Powers (Section 7)**

1.6.1 Under section 122 of the PA 2008, compulsory acquisition powers may only be granted if the SoS is satisfied that the land is required for the Project (or is required to facilitate it or is incidental to it), and if there is a compelling case in the public interest for inclusion of the powers.

1.6.2 The CA Guidance related to procedures for the compulsory acquisition of land (DCLG, September 2013) also states that: there must be a clear idea how the land to be acquired is to be used and it must be no more than is reasonably required; there must be compelling evidence that the public benefits would outweigh the private loss from the acquisition; all reasonable alternatives to compulsory acquisition should have been explored; there are reasonable prospects of the required funds for the acquisition being available; and that the purposes for which the land is sought are legitimate and sufficient to justify interfering with the human rights of affected people.

1.6.3 This Statement, the Planning Supporting Statement [EN010147/APP/7.1] and the Explanatory Memorandum [EN010147/APP/3.3], set out the factors that the Applicant considers demonstrate that the conditions in section 122 of the PA 2008, and the considerations set out in the CA Guidance, are satisfied (with the exception of the availability of funding, which is demonstrated in the Funding Statement [EN010147/APP/4.2].

1.6.4 In particular these documents demonstrate that the Project would:

- (a) help meet the urgent need for new energy infrastructure in the UK, providing enhanced energy security and supporting UK Government priorities in relation to economic development and security of supply;
- (b) deliver additional renewable energy capacity, supporting the achievement of the UK Government's climate change commitments and carbon budgets;
- (c) minimise or mitigate adverse impacts to an acceptable degree; and
- (d) comply with NPS EN-1, NPS EN-3, and NPS EN-5 which the Secretary of State must have regard to under section 104 of the PA 2008.

## 1.7 **Communications and Negotiations (Section 8)**

1.7.1 In accordance with the requirements of the PA 2008, the Applicant undertook "diligent inquiry" through a land referencing process to identify parties within Categories 1, 2 and 3, as defined in sections 42 and 44 of the PA 2008. These include owners, lessees, tenants and occupiers of the land within the Order land. Category 2 includes parties that are interested in the land or have the power to sell, convey or release the land within the Order land. Category 3 includes parties that may be eligible to make a claim for compensation as a result of the construction or operation of the Scheme.

1.7.2 The current position in relation to the Applicant's engagement and negotiations with each landowner affected by the Project is explained in the Land and Rights Negotiations Tracker [EN010147/APP/3.6]. Detailed discussions are ongoing with landowners and occupiers in order to ensure that their concerns are taken into account and accommodated wherever possible. Negotiations are continuing with landowners and persons with interests in land affected by the Project. The Applicant and its advisors have been liaising with statutory undertakers whose apparatus may be affected by the Project.

## 1.8 **Human Rights (Section 9)**

1.8.1 Article 1 of the First Protocol to the European Convention on Human Rights ('ECHR') and Article 8 of the ECHR have been considered in respect of the proposals for the Project. The DCO has the potential to infringe the human rights of persons who own property or have rights in the land proposed to be acquired pursuant to the DCO.

1.8.2 The Applicant considers that there would be very significant public benefit arising from the making of the DCO, a benefit that



can only be realised if compulsory acquisition powers are granted. The purpose for which the land is sought (to build and operate the Project) is legitimate, necessary and proportionate.

## 1.9 Special Considerations (Section 10)

1.9.1 There is no special category land within or affected by the Order limits.

1.9.2 There is apparatus of statutory undertakers within the Order limits. The Applicant has included protective provisions within Schedule 15 of the Order and is seeking to agree these with each statutory undertaker whose apparatus would be affected by the Project.

## 1.10 Related Applications and Consents (Section 11)

1.10.1 The Applicant requires various other consents, as well as a DCO, in order to build and operate the Project. The Applicant is not aware of any reason why these and other consents required would not be granted and therefore does not consider that they represent an impediment to the Project proceeding. These are set out in the Consents and Licenses Required Under Other Legislation [EN010147/APP/5.2].

## 1.11 Further Information (Section 12)

1.11.1 Where powers of compulsory acquisition are exercised, owners of the relevant land or rights in land may be entitled to compensation under the Compensation Code, where a valid claim is made out. Any dispute in respect of the compensation payable would be referred to and determined by the Lands Chamber of the Upper Tribunal.

1.11.2 Owners and occupiers of property affected by the Project who wish to discuss matters of compensation should contact the land agents for the Project at [botleywest@ardent-management.com](mailto:botleywest@ardent-management.com).

1.11.3 Provision is made by statute for compensation for the compulsory acquisition of land. Helpful information is given in the series of booklets published by the Department for Communities and Local Government entitled "Compulsory Purchase and Compensation". Copies of these booklets are obtainable, free of charge, from:  
<https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>.

## 1.12 Conclusion

1.12.1 The power to acquire the Order land or rights over the Order land and the power to impose restrictions and make temporary use of land are required for the purposes of, to facilitate or are incidental

to, the Project and are no more than are reasonably necessary. Furthermore, there is a compelling case in the public interest for the powers to be granted.

## 1. INTRODUCTION

1.1 This Statement of Reasons has been prepared on behalf of SolarFive Ltd (the 'Applicant'). It forms part of the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State for Energy Security and Net Zero (the 'Secretary of State'), under section 37 of 'The Planning Act 2008' (the 'PA 2008').

### 1.2 The Project

1.2.1 The Applicant is seeking development consent for Botley West Solar Farm (the 'Project'), which in summary will comprise the construction, operation and maintenance, and decommissioning of a solar PV array electricity generating facility with a total capacity exceeding 50MW. The Project will also include associated development to support the solar PV arrays.

1.2.2 A DCO is required for the Project as it falls within the definition and thresholds for a Nationally Significant Infrastructure Project (NSIP) under sections 14(1) and 15 of the PA 2008. This is because it consists of a generating station with a gross electrical output capacity exceeding 50MW.

1.2.3 A full description of the Project is included in Chapter 6: Project Description of the Environmental Statement [EN010147/APP/6.3]. An overview of the Project and its environmental impacts is provided in the Non-Technical Summary of the Environmental Statement [EN010147/APP/6.2].

### 1.3 The Applicant

1.3.1 The Applicant and the proposed undertaker in the draft DCO [EN010147/APP/3.1] is SolarFive Ltd, an electricity generation licence holder under the Electricity Act 1989 and a company registered in England and Wales (company no. 12602740). SolarFive Ltd is the 'special purpose vehicle' (SPV) for the Project and currently has a grid connection offer date with National Grid Electricity Transmission (NGET) of October 2027.

1.3.2 SolarFive Ltd is jointly owned by the two founders of PVDP, a Berlin-based developer of solar farms. PVDP has been successfully developing solar assets in Europe and Japan for the last 18 years, with 1.0GW built to date. Further information on the Applicant's corporate structure is in the Funding Statement [EN010147/APP/4.2].

- 1.3.3 PVDP acts on behalf of SolarFive Ltd and, in liaison with its legal and technical consultant team, has helped to prepare and submit the DCO application, including the ES.

## 1.4 The Site

- 1.4.1 The Project will be located in the county of Oxfordshire, across an area of approximately 1,418ha. The Project location extends from an area of land in the north, situated between the A4260 and the Dorn River Valley near Tackley and Wootton (the 'Northern Site'), through a central section, situated broadly between Bladon and Cassington (the 'Central Site'), and connecting to a section further south near to Farmoor Reservoir and north of Cumnor (the 'Southern Site'), where the Project will connect to the National Grid transmission network. The name 'Botley West' is derived from the location of the grid connection point.
- 1.4.2 The Project lies within the administrative areas of Oxfordshire County Council, West Oxfordshire District Council, Vale and White Horse District Council and Cherwell District Council.
- 1.4.3 The Project is formed of three areas of solar installation (the Northern Site, the Central Site and the Southern Site) with interconnecting cables, which together would generate renewable power through photovoltaic panels. The Project aims to deliver approximately 840MWe of power to the National Electricity Transmission System ('NETS'), which would provide secure and clean energy of an equivalent level to meet the needs of approximately 330,000 homes.
- 1.4.4 The interconnecting cables being proposed are approximately 24.6km in length. Approximately 14.6km is located on farmland borders; 7.5km is located in public highway; and approximately 2.5km within trenchless crossings, such as those located under rivers, the railway line, main highway corridors, or under hedgerow and tree belt features.
- 1.4.5 The Project will connect to the National Grid, via a new National Grid 400kV substation, to be located close to the existing National Grid 400kV power line, which runs between Cowley, in Oxford, westwards to Walham in Gloucestershire. Discussions have been ongoing with NGET regarding the location and design for their substation based on their own assessment and evaluation work. Whilst, at the time of writing this Statement, a final decision has yet to be taken by NGET, it is likely that the NGET substation will be located in one of two possible locations;
- (a) On land within the Order limits, at the Southern Site, at the western most extremity, south of the Farmoor Reservoir; or

(b) On land near and to the West of the Applicant's Southern Site, south of the Farmoor Reservoir.

- 1.4.6 The area to be set aside for the NGET substation amounts to between 2.3ha to 3.8 ha. Within that area it is assumed that the substation itself will occupy a footprint of approximately 87m by 30m, with a likely maximum height of 12m, excluding connecting tower structures.
- 1.4.7 The Order limits is the area within which the Project may be carried out. The Order limits are shown on the Works Plans [EN010147/APP/2.3] and Land Plans [EN010147/APP/2.4].
- 1.4.8 The powers in the Order enabling the acquisition of land, new rights over land and the imposition of restrictions over land, relate to the Order land only which is within the Order limits. The Order land is shown on the Land Plans [EN010147/APP/2.4].
- 1.4.9 Information about the Order limits, including about the current land use and any environmental constraints, is provided in greater detail in Chapter 2: Existing Baseline of the Environmental Statement [EN010147/APP/6.3].

## 2. PURPOSE AND STRUCTURE OF THIS STATEMENT OF REASONS

- 2.1 This Statement has been produced pursuant to Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (the 'APFP Regulations') and the Department of Communities and Local Government guidance 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (September 2013) (the 'CA Guidance') and the Guidance on Compulsory purchase process and the Crichel Down Rules (updated 16 July 2019).
- 2.2 This Statement relates to the Application for a development consent order made by SolarFive Ltd to the Secretary of State under the PA 2008 for powers to construct, operate and maintain, and decommission the Project.
- 2.3 This Statement is required because the DCO sought for the Project would authorise the compulsory acquisition of land or interests in land.
- 2.4 This Statement explains why it is necessary to acquire land, acquire and/or create rights and impose restrictions over land, override, suspend or extinguish rights over land and to temporarily use land for the purposes of the Project, if necessary, by compulsion. It also explains the reasons for the inclusion of compulsory acquisition and related powers in the draft Order and sets out why there is a clear and compelling case in the public interest, in accordance with section 122 of the PA 2008.
- 2.5 The structure of this Statement is set out below and also addresses each of the requirements of the relevant guidance referred to above:

- 2.5.1 An introduction to the Applicant, the Project and the Site is set out in section 1.
  - 2.5.2 A description of the Project is set out in section 3.
  - 2.5.3 A description of the Order limits, its location and present use is set out in section 4.
  - 2.5.4 The legislation relied on and scope of powers sought are set out in section 5.
  - 2.5.5 The purpose of the powers including the need for the Project and policy support is set out in section 6.
  - 2.5.6 A statement of the justification for compulsory acquisition including reference to funding is included in section 7.
  - 2.5.7 How the Applicant has sought to engage with landowners and negotiate to acquire the relevant land by agreement in section 8.
  - 2.5.8 How regard has been given to the human rights legislation relevant to the determination of the Application is included in section 9.
  - 2.5.9 Any special considerations affecting the Order limits including special category land is included in section 10.
  - 2.5.10 Details of the other consents needed before the Project can be implemented are included in section 11.
  - 2.5.11 Any other information which would be of interest to someone affected by the Project, such as the telephone number and email address where further information on these matters can be obtained, is included in section 12.
- 2.6 This Statement is one of a number of documents accompanying the Application and submitted to the Secretary of State and should be read in conjunction with those documents. In particular:
- 2.6.1 Works Plans **[EN010147/APP/2.3];**
  - 2.6.2 Land Plans **[EN010147/APP/2.4];**
  - 2.6.3 Draft Development Consent Order **[EN010147/APP/3.1];**
  - 2.6.4 Explanatory Memorandum **[EN010147/APP/3.3];**
  - 2.6.5 Consents and Licenses Required Under Other Legislation **[EN010147/APP/5.2];**
  - 2.6.6 The Funding Statement **[EN010147/APP/4.2];**
  - 2.6.7 Book of Reference **[EN010147/APP/4.3];** and

## 2.6.8 Land and Rights Negotiations Tracker [EN010147/APP/3.6].

### 3. DESCRIPTION OF THE PROJECT

- 3.1 The Project will comprise the construction, operation, maintenance and decommissioning of a solar PV farm and associated infrastructure with a total capacity exceeding 50 MW, in parts of west Oxfordshire, Cherwell and Vale of White Horse districts. The Project will export electricity for connection to the National Grid at Botley West.
- 3.2 The Project is classed as a NSIP for the purposes of the PA 2008 and requires an application for a DCO. The application for development consent is being submitted to the planning inspectorate PINS, with the decision on whether to grant a DCO to be made by the Secretary of State, as required under the PA 2008.
- 3.3 The Project's solar arrays (comprising all the mounting structures, frames and foundations) will be connected by underground electrical cables within each section of the Site, and via underground electric cables to the substation at the grid connection point. The interconnecting cable route will largely follow the public highway, but some parts will cross land controlled by the Applicant.
- 3.4 The Project will also include associated development to support the solar PV arrays. The associated development element of the Project includes but is not limited to a new National Grid substation; the development of on-site substations; cabling between the different areas of solar PV arrays; temporary construction and decommissioning compounds; areas of landscaping and biodiversity enhancement; access provisions and areas for sensitive archaeological site protection and management.
- 3.5 The consent being sought is a temporary one. It is anticipated that the Project will be constructed, operated and decommissioned within 42 years. At the end of this period all above ground infrastructure (excluding the National Grid substation) and equipment will be removed, along with the cables beneath the main solar array areas, with the land reverting back to its previous agricultural use.
- 3.6 Cables located beneath the public highway or cables laid using horizontal directional drilling (HDD) are not, however, proposed to be removed following the decommissioning of the Project.
- 3.7 A full description of the Project is included in Chapter 6: Project Description of the Environmental Statement [EN010147/APP/6.3]. An overview of the Project and its environmental impacts is provided in the Non-Technical Summary of the Environmental Statement [EN010147/APP/6.2].
- 3.8 The DCO, if made, would be known as the Botley West Solar Farm Order 202[\*]. A draft of the DCO has been submitted with the Application [EN010147/APP/3.1] (the "Order").

3.9 The Project is described in Schedule 1 of the draft Order **[EN010147/APP/3.1]** where it is defined as the “authorised development” and is divided into works packages alongside the corresponding works numbers.

### 3.10 Works Packages

3.10.1 A detailed description of the Project can be found in Chapter 6: Project Description of the Environmental Statement **[EN010147/APP/6.3]**. It comprises a generating station of more than 50MW, being the NSIP, and is described in Work No. 1 in Schedule 1 to the Order.

3.10.2 The Project also includes Associated Development, which comprises Work Nos. 2 to 9 in Schedule 1 to the Order. This comprises the following elements:

- (a) **Work No. 2** – provides for the development of a new National Grid substation, including electrical equipment (including power transformers, gantries, switchgear, reactive compensation equipment, electrical protection equipment devices (disconnectors, circuit breakers), harmonic filters, cables and back-up generators), control buildings, lightning protection masts, communications masts, access, fencing and other associated equipment, structures or buildings. This scope of works has been agreed by National Grid as covering the works required for its substation and equipment.
- (b) **Work No. 3** – provides for the development of onsite substations and associated works, including Works 3A for the main substation and Works 3B for the six secondary substations; hardstanding, internal access road and parking areas; and on-site attenuation to collect and treat surface water before discharge.
- (c) **Work No. 4** – provides for works in connection with high voltage electrical cabling, access and construction compounds for the electrical cables including:
  - (i) works to lay up to and including 275kV electrical cables connecting Work No. 3B to Work No. 3A;
  - (ii) works to lay up to and including 400kV electrical cables connecting Work No. 3A to Work No. 2;
  - (iii) grid connection infrastructure, including works to lay up to and including 400kV electrical cables, to connect Work No. 2 to the National Grid network.

Work No. 4 also provides for other related works such as the laying down of internal access tracks, ramps, means of access, footways, roads; joint bays, link boxes, cable ducts, cable protection, joint protection, manholes; marker posts, underground cable marker, tiles and tape, communications chambers, fibre optic cables and lighting and other works associated with cable laying; fencing, gates, boundary treatment and other means of enclosure; tunnelling, boring and drilling works for trenchless crossings and open trench crossings; as well as temporary construction and decommissioning laydown areas.

- (d) **Work No. 5** – provides for sensitive archaeological site protection and management including habitat creation and management (including hedgerow removal and planting); creation of new permissive paths and fencing gates boundary treatment as well as other means of enclosure.
- (e) **Work No. 6** – provides for works related to electrical cabling including (but not limited to) electrical cables connecting Works No. 1 and 3b to one another, connecting solar panels to one another, connecting the substations to one another, connecting the solar stations and on-site substations, including tunnelling, boring and drilling works for trenchless crossings and open trench crossings; site establishments and preparation works including site clearance, earthworks, and excavations; alteration of the position of services and utilities; and works for the protection of buildings and land. It also includes other works associated with the construction, maintenance, operation or decommissioning of the Project.
- (f) **Work No. 7** – relates to the temporary construction and decommissioning compounds comprising areas of hardstanding; compacted ground or track matting; parking areas; site and welfare offices, canteens and workshops; security infrastructure, including cameras, perimeter fencing and lighting; areas to store materials, equipment, waste skips and spoil; site drainage and waste management infrastructure (including sewerage); and electricity, water, waste water and telecommunications connections.
- (g) **Work No. 8** – provides for works related to areas of landscape management and protection including measures to enhance the existing woodland and hedgerows; landscape and biodiversity mitigation and enhancement measures; community growing areas;



habitat creation and management including earthworks and landscaping; construction of drainage infrastructure and means of access; laying down of internal access tracks, means of access and crossing of watercourses; and fencing gates boundary treatment and other means of enclosure.

- (h) **Work No. 9** – relates to works to facilitate access to Work Nos. 1 to 8 including creation of accesses from the public highway; creation of visibility splays; works to improve and widen accesses across bridges; laying down of internal access tracks, means of access and crossing of watercourses; works to alter the layout of any street or highway; works to widen and surface the public highway and private means of access; and making and maintaining passing places.

### 3.11 Proposed Timing of Connection / Operational life

- 3.11.1 Subject to being granted consent and following a final investment decision, it is estimated that construction will start in July 2026 and end in June 2028, with operation anticipated to commence around October 2028. The Project is proposed to operate for 37.5 years from the date of final commissioning, at which point decommissioning would occur.
- 3.11.2 Full details of the proposed construction of the Project, including the proposed construction methods and phasing, can be found in Chapter 6: Project Description of the Environmental Statement **[EN010147/APP/6.3]** and the Outline Code of Construction Practice **[EN010147/APP/7.6.1]** accompanying the Application.
- 3.11.3 Details of the operational and decommissioning phases of the Project are also discussed within Chapter 6: Project Description of the ES **[EN010147/APP/6.3]** and within the Outline Operational Management Plan **EN010147/APP/7.6.2]** and Outline Decommissioning Management Plan **EN010147/APP/7.6.4]**, respectively.

### 3.12 Flexibility

- 3.12.1 The Applicant has undertaken extensive studies and assessments in order to obtain as much certainty as possible, however, a number of elements of detailed design for the Project cannot be confirmed until the tendering process for the design and construction of the Project has been completed. For example, due to the rapid pace of technological development in the solar photovoltaic (PV) industry, the Project could utilise technology which does not currently exist and therefore sufficient flexibility needs to be incorporated into the Application.

- 3.12.2 To address this flexibility required for the Project, a 'Rochdale Envelope' approach is used, this is set out in more detail in Chapter 4: Approach to Environmental Assessment of the Environmental Statement **[EN010147/APP/6.3]**. This involves assessing the maximum (and where relevant, the minimum) parameters for the Project where flexibility needs to be retained. The principles and justification for this approach are set out in section 4.3 of Chapter 4: Approach to Environmental Assessment **[EN010147/APP/6.3]**, and the maximum (and minimum) parameters assessed as part of the Rochdale Envelope form the Design Principles set out in the Outline Layout and Design Principles **[EN010147/APP/7.7]**. The DCO includes a requirement that detailed design of the Project must accord with the Outline Layout and Design Principles **[EN010147/APP/7.7]**.
- 3.12.3 This flexibility is essential to ensure the successful delivery of the Project.
- 3.12.4 One area where the Applicant requires flexibility is in respect of its Cable Corridor (as defined in the Contents, Glossary and Reference List **[EN010147/APP/6.1]**). There are four locations where alternative cable routes are possible within the wider Cable Corridor. These locations are shown on Figures 5.1 to 5.5 of Volume 2 of the ES **[EN010147/APP/6.4]**. The four locations in question are:
- (1) Northern Site between the Oxfordshire Way, and B4027, south east of Wootton;
  - (2) Area between the Northern and Central Sites on land to the east of Woodstock and in the vicinity of the Bladon roundabout on the A44;
  - (3) Central Site on land east of Burleigh Wood and around Bladon Heath; and
  - (4) Land between the Central and Southern Sites east and south of Eynsham around the Swinford Bridge.
- 3.12.5 Within these four areas the Applicant will, in due course, identify a preferred route within a narrower corridor for the cables once further legal, design and engineering investigations have been undertaken by the Applicant. In the meantime, for the purposes of the Environmental Statement **[EN010147/APP/6.1 to 6.5]**, the potential cable routes within the Cable Corridor as identified on Figures 5.1 to 5.5 have each been environmentally assessed in the relevant specialist topic chapters. This ensures that a robust 'reasonable worst case' assessment has been carried out across the full Cable Corridor.

3.12.6 The Applicant must also retain optionality in relation to the new National Grid substation that the Project will connect into. National Grid has carried out a site search and selection process for the new substation. That has identified two feasible locations: one on land under the control of the Applicant; and the other on land to the west of that in third party ownership, which National Grid is seeking to acquire. Those negotiations have not yet concluded. Assuming National Grid can acquire the land, it will obtain the necessary consents for the new substation. However, the acquisition of the land and subsequent consent process are likely to take several months to conclude. Furthermore, whilst there are no obvious impediments to these processes, there is no guarantee that the land will be acquired, and the necessary consents obtained, within a reasonable timeframe. The Applicant's application for the Project therefore includes all the necessary powers for National Grid, or the Applicant, to deliver the new substation on the land under the Applicant's control. The Applicant may take this approach because the new substation is capable of being "associated development" under the PA 2008. If National Grid is unable to secure the interests and consents required in relation to its alternative site, the new National Grid substation can be delivered through the powers in the Order and on the land secured by the Applicant. This approach of securing development consent for alternative components of a solar project, on the same parcel(s) of land, has precedent in the Cleve Hill Solar Park Order 2020. Paragraph 1.4.7 of the Explanatory Memorandum [EN010147/APP/3.3] sets out this in more detail.

3.12.7 The Applicant's environmental impact assessment has considered both uses of the land reserved in the Order for the new National Grid substation, and the cumulative impacts of solar development on that land and the development of the new substation on the alternative site identified by National Grid. This parallel consenting strategy for the new substation reduces potential impediments to the Project, whilst ensuring the environmental impacts are properly assessed, and the timely submission of consent applications.

#### **4. DESCRIPTION OF THE ORDER LIMITS AND ORDER LAND**

4.1 The Site boundary has an area of approximately 1,418 hectares (ha) and covers a wide area located within the administrative boundaries of Oxfordshire County Council, West Oxfordshire District Council, Vale and White Horse District Council and Cherwell District Council.

4.2 The Order Land (the area in which powers of compulsory acquisition are sought) means the land which is required for, or is required to facilitate, or is incidental to, or is affected by the authorised development shown on the Land Plans [EN010147/APP/2.4] which is within the limits of land to be acquired or used and described in the Book of Reference [EN010147/APP/4.3]. This land is coloured pink (land to be permanently

acquired) or blue (land in which the undertaker can create and acquire new rights).

4.3 The Order limits means the limits shown on the Works Plans [EN010147/APP/2.3] within which the authorised development may be carried out and land acquired or used. This also includes the land over which the rights of temporary possession only can be exercised by the undertaker (as shown in green on the Land Plans [EN010147/APP/2.4].

4.4 The Order limits or 'Site' comprises:

4.4.1 The Site Areas – including: (1) the Northern Site Area is located north of the town of Woodstock, west of Tackley and east of Wootton and comprises approximately 316 ha; (2) the Central Site Area is west of Kidlington and south of Woodstock and comprises approximately 870ha; and (3) the smallest of the three land parcels, comprising approximately 81ha, the Southern Site Area lies south-east of Farmoor Reservoir. The Site Areas largely comprise:

- (i) The Solar PV installation area (approximately 839ha, or 843ha if the National Grid substation is developed outside the Order limits). This is the area across each of the three Site Areas within the Order limits within which the solar PV panels and associated solar PV infrastructure, are to be located;
- (ii) The new National Grid substation area on the Southern Site – the area to be set aside for the new National Grid substation amounts to between 2.3ha to 3.8ha. Within that area it is assumed that the substation itself will occupy a footprint of approximately 87m by 30m, with a likely maximum height of 12m, excluding connecting tower structures; and
- (iii) The remainder of the Site will continue in its use for agriculture in the form of conservation grazing, and for other benefits including Biodiversity Net Gain, community food growing, surface water management, and improved public access. An area of up to 30ha is being provided for community food groups within the areas shown as providing 'opportunities for enhancement' on the Landscape, Ecology and Amenities Plan [EN010147/APP/7.3.3]; and

4.4.2 The cable route – the three Site Areas will be connected via 275kV underground cables. These 275kV cables are required to connect all the Site Areas to the main substation. The cable

route, from the first 33/275kV transformer in the Northern Site Area to the High Voltage Transformers (275/400kV) in the Southern Site Area is approximately 24.6km in length.

4.5 The Project will connect to a new National Grid Electricity Transmission system in the Southern Site Area, via a new National Grid 400kV substation, to be located close to the existing National Grid 400kV line that runs between Cowley in Oxford, westwards to Walham, in Gloucestershire. Discussions have been ongoing with National Grid regarding the location for their substation, based upon their own assessment and evaluation work. Whilst, at the time of writing this Statement, a final decision has yet to be taken by National Grid, it is likely that the new National Grid substation will be located in one of two possible locations:

4.5.1 On land within the Applicant's control, at its Southern Site, at the western most extremity, south of the Farmoor Reservoir.

4.5.2 On land near the Applicant's Southern Site, to the west of and adjoining that Site, south of the Farmoor Reservoir.

4.6 If the DCO powers are to be exercised, the substation is to be constructed by National Grid in the Southern Project Site between the B4017 and the B4044, the precise design and position of the substation will be decided by National Grid.

4.7 The Northern Site, Central Site and Southern Site do not include any statutory designations (e.g. Green Belt, National Parks, or Areas of Outstanding Natural Beauty). There are also no statutory ecological designations (SSSI, SPA, RAMSAR, LNR) within the Northern Site, Central Site or Southern Site.

4.8 For clarity, the Project does not incorporate any battery storage. Energy generated by the Project will be stored, as required, by Battery Energy Storage Systems (BESS) that are connected to the Grid elsewhere, including the EDF 50MW BESS located at Cowley substation.

## 5. **SOURCE AND SCOPE OF POWERS SOUGHT IN THE DCO**

5.1 The Order **[EN010147/APP/3.1]** contains powers to enable the acquisition of land, new rights over land and the imposition of restrictions that are required to construct, operate and maintain the Project. In addition, it contains powers sought for the possession and use of land on a temporary basis to facilitate the construction and maintenance of the Project. Where the necessary land and rights over land cannot be acquired by agreement with the requisite landowners and occupiers, the draft Order enables the acquisition of land and rights. These powers in the draft Order relate to the Order land only.

5.2 The Applicant has been seeking to acquire the relevant freehold interests and other rights over land required by agreement, in order to allow for the

construction, operation and decommissioning of the Project. Discussions with the relevant landowners are ongoing, with good progress made in relation to securing voluntary agreements over the Order land (see the Land and Rights Negotiations Tracker **[EN010147/APP/3.6]**). The Applicant will continue to endeavour to acquire the land, rights and other interests by agreement wherever possible. This approach of making the application for powers of compulsory acquisition in the Application and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the Guidance.

- 5.3 Notwithstanding where an agreement has been reached, it is necessary for the Applicant to be granted the compulsory acquisition powers included in the DCO so as to protect against a scenario whereby contracts are not adhered to or otherwise is set aside, for example: (i) the freeholder owners of the land within the Order land (where agreement has been reached) do not grant a lease of the land in accordance with the terms of the completed option agreements; or (ii) the contracting party dies, is subject to divorce proceedings, or is declared insolvent. In those circumstances, it would be in the public interest for the Project to proceed and the interests in question effectively converted into a claim for compensation. The Applicant also needs powers to extinguish and/or suspend rights and override easements and other rights in the Order land to the extent that they would conflict with the Project.
- 5.4 There are a number of plots within the Land plans **[EN010147/APP/2.4]** which are not registered at Land Registry. Following diligent inquiry, ownership of a number of these plots has been established, however, there are interests identified in the Book of Reference **[EN010147/APP/4.3]** where it has not been possible to identify ownership. The statement “Unregistered” and/or “Unknown” is given in the Book of Reference **[EN010147/APP/4.3]** when diligent inquiry has been carried out and it has still not been possible to obtain information. The Applicant has carried out searches and enquiries with the Land Registry, site visits and notices have been and will be erected on site to seek to identify unknown landowners or persons with an interest in the land.
- 5.5 The compulsory acquisition powers in the DCO will enable the Applicant to protect the Project, to mitigate impacts of the Project where necessary, and to ensure that access could be taken as necessary to facilitate the construction, operation and maintenance of the Project.
- 5.6 **Enabling Powers**
- 5.6.1 Section 120(3) of the PA 2008 provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development, which includes (among others):

- (a) the acquisition of land, compulsorily or by agreement (paragraph 1);
  - (b) the creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement (paragraph 2);
  - (c) the abrogation or modification of agreements relating to land (paragraph 3); and
  - (d) the payment of compensation (paragraph 36).
- 5.6.2 Section 122 of the PA 2008 provides that an order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State, in respect of the Application, is satisfied that the land is:
- (a) required for the development to which the DCO relates;
  - (b) required to facilitate or is incidental to that development; or
  - (c) replacement land for commons, open spaces etc.
- 5.6.3 The Secretary of State must also be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order. This is required by Section 122(3) of the PA 2008.
- 5.6.4 The application of these statutory conditions and tests to the DCO Application and to the Project is considered in the following sections of this document.

## 5.7 **Permanent Acquisition of Land**

- 5.7.1 The areas of the Order land over which compulsory acquisition powers are sought in respect of all interests (including freehold) are shown edged red and shaded pink on the Land Plans **[EN010147/APP/2.4]**. This land is described in more detail in the Book of Reference **[EN010147/APP/4.3]**.
- 5.7.2 In summary, the areas in which freehold acquisition is sought is the elements of the Site Areas to be used for the installation of solar PV panels and substations (including the onsite secondary substations, Project main substation and new National Grid substation) plus other associated development such as cabling. The Applicant has only included powers to compulsorily acquire the freehold interest in land where other powers (such as to acquire new rights or take temporary possession) would not be sufficient or appropriate to enable the construction, operation or maintenance of the Project.

5.7.3 Article 19 (compulsory acquisition of land) of the DCO is relied upon for this purpose. The article reflects the terms of the source of the compulsory acquisition powers in section 122 of the PA 2008, would provide the Applicant with the power to acquire so much of the Order land as is required for the Project, or such land as is required because it facilitates or is incidental to that development.

## 5.8 Temporary use

5.8.1 There will be situations where it will not be necessary for the Applicant to permanently acquire rights and interests, but instead be authorised to temporarily possess and use land. The land over which rights of temporary possession only are sought is shown edged red and shaded green on the Land Plans **[EN010147/APP/2.4]**. The Applicant is also seeking temporary use powers over all other land within the Order limits, in order to allow it to take temporary possession ahead of acquiring land or rights permanently (see further explanation below). This land is described in more detail in the Book of Reference **[EN010147/APP/4.3]**.

5.8.2 The reason for seeking temporary use powers over all other land within the Order land is that it allows the Applicant to enter on to land for particular purposes (including site preparation works) in advance of any vesting of the relevant land/rights. This enables the Applicant to only compulsorily acquire the minimum amount of land and rights over land required to construct, operate and maintain the Project, because, for example, the Applicant could exercise the temporary possession powers to undertake site investigation works to inform and minimise the land within the Cable Corridor over which permanent rights are needed.

5.8.3 Articles 29 and 30 of the DCO are relied upon in respect of all land within the Order limits. Article 30 allows the Applicant to take temporary possession of land for the purposes of maintaining the Project. As noted above, Article 29 permits temporary use in two ways in connection with the construction of the Project:

(a) Firstly, the land identified in Schedule 11 to the Order may only be temporarily possessed (i.e. the Applicant cannot acquire the land nor new rights over it), and possession can only be taken for the purposes set out in that Schedule for the particular plot. In summary, these plots are Plot 1-08; Plot 1-09 and Plot 5-11. These areas are shown shaded green on the Land Plans **[EN010147/APP/2.4]**; and

(b) Secondly, Article 29 permits the Applicant to take temporary possession of any other part of the Order land where it has not yet exercised powers of compulsory



acquisition. For example, this would allow the Applicant to initially take temporary possession of the whole width of the land required for the Cable Corridor. Once the Applicant has carried out the detailed surveys and installed the relevant apparatus (such as pipes or cables), the Applicant can then acquire new rights (pursuant to the powers set out above) within only a narrower strip in which permanent rights are required, within the wider construction corridor. This phased approach to occupation and acquisition allows the permanent rights corridor to be defined after construction, and to be only that which is necessary for the operation, maintenance and protection of the apparatus. Such an approach has precedent amongst other DCOs, including the **Longfield Solar Farm Order 2023**, the **Mallard Pass Solar Farm Order 2024**, the **Gate Burton Energy Park Order 2024** and the **Cottam Solar Project Order 2024**.

- 5.8.4 The wording of Article 29 provides that, amongst other things, the temporary possession powers in Article 29 do not allow the undertaker to take temporary possession of a garden belonging to a house. However, Article 29(2) has been amended to provide that this restriction does not apply in respect of Plot 6-23, because at least part of that plot is understood to include part of a garden of Burleigh Lodge. As a result, the temporary possession powers under Article 29 are required to be available for the undertaker to use over Plot 6-23, as the plot forms part of the Cable Corridor, and the Applicant may need to take temporary possession of this plot ahead of acquiring permanent rights over the plot (including access rights and cable rights, as set out in Schedule 9 of the DCO) in order to deliver the Cable Corridor to connect the Project to the National Grid substation. This is also shown on Sheet 6 of the Land Plans **[EN010147/APP/2.4]**. The need and justification for temporary possession powers over Plot 6-23 is that the temporary possession powers will allow the Applicant to enter on to the land for a particular purpose (for example, site investigation works to identify the minimum land required for the final cable placement) in advance of any vesting of the relevant rights. This will enable the Applicant to only compulsorily acquire the minimum amount of rights required over Plot 6-23 to construct, operate and maintain the Project, which may avoid the need to acquire any permanent rights over the garden.
- 5.8.5 The Land and Rights Negotiations Tracker **[EN010147/APP/3.6]** sets out the latest position in relation to negotiation of voluntary agreements with landowners. As part of these negotiations, landowners have been made aware that the DCO will seek temporary possession rights over all of their land included within the Order land.

5.8.6 Under Article 30, the Applicant is entitled to occupy the land for as long as necessary to carry out the relevant maintenance works. The Applicant must give the landowner and any occupier not less than 28 days' notice and on completion of the maintenance works must remove all temporary works and restore the land to the satisfaction of the landowner.

## 5.9 Other rights and powers

5.9.1 The land over which compulsory acquisition powers are sought for rights and the creation of new rights (including imposing restrictive covenants) is shown edged red and shaded blue on the Land Plans **[EN010147/APP/2.4]**. This land is described in more detail in the Book of Reference **[EN010147/APP/4.3]**. Article 22 of the draft Order is relied upon in respect of new rights. The new rights are set out in Schedule 9 to the draft Order and include access rights and cable rights.

5.9.2 In addition, the Applicant has included powers to ensure that easements and other private rights identified as affecting the land are extinguished or suspended, so as to facilitate the construction and operation of the Project without hindrance. Furthermore, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be extinguished in order to facilitate the construction and operation of the Project. Articles 23 and 26 of the draft Order are relied upon in respect of this land and apply in relation to all of the Order land (that is, all land edged red on the Land Plans **[EN010147/APP/2.4]**). With respect to land shaded green, in respect of which temporary possession only is sought, Article 23(3) makes clear that any private rights or restrictive covenants are only suspended for the period in which the Applicant is in lawful possession of the land (i.e. they would only be suspended temporarily).

5.9.3 The Order contains the following additional powers which may constitute an interference with land and/or rights over land and as such are captured in the Book of Reference **[EN010147/APP/4.3]**:

- (a) Article 8 – Street works: this article would confer authority on the Applicant to interfere with and execute works in or under any streets for the purposes of the authorised development;
- (b) Article 11 – Temporary closure of public rights of way: this article permits the Applicant to temporarily stop up, alter, divert or restrict the use of public rights of way for the purposes of the development, whilst ensuring that pedestrian access is maintained;

- (c) Article 12 – Permanent closure of public rights of way: this article permits the Applicant to permanently close and divert the public rights of way specified in Part 6 of Schedule 6 (i.e. the legal public right of way to be stopped up / extinguished);
- (d) Article 13 – Use of private roads: this article enables the Applicant to use any private road within the Order limits during construction or maintenance of the authorised development;
- (e) Article 14 – Access to works: this article allows works accesses to public highways to be created. It gives the Applicant a general power to form means of access;
- (f) Article 17 – Discharge of water: this article sets out the circumstances in which the Applicant is entitled to discharge water into a sewer, watercourse or drain, and its purpose is to establish statutory authority for doing so;
- (g) Article 18 – Authority to survey and investigate the land: this article gives the Applicant the power to enter certain land for the purpose of surveying and testing. It provides that the Applicant must give 14 days’ notice before exercising the powers of entry, and that compensation is payable or any loss or damage caused;
- (h) Article 21 – Incorporation of the minerals code: incorporates Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981. It has been included within the Draft DCO as mineral rights have been identified within the Order land and the mineral code provides a statutory process for dealing with the purchase of and compensation for minerals.
- (i) Article 26 – Power to override easements and other rights: this article permits the Applicant to override easements and other rights such that land vested in the Applicant would be discharged from all rights, trusts and incidents to which it was previously subject at the point of vesting, together with the benefit of restrictive covenants and instances where land subject to third party rights is acquired by agreement rather than through compulsory acquisition;
- (j) Article 38 – Felling or lopping of trees and removal of hedgerows: this article would permit any tree or shrub that is near the Project to be felled or lopped, or have its roots cut back by the Applicant if it is considered to obstruct the construction, operation or maintenance of

the Project or endanger anyone using it. Compensation is payable for any loss or damage caused; and

- 5.9.4 All the above-mentioned articles in the draft Order **[EN010147/APP/3.1]**, which would provide powers enabling the Applicant to acquire land permanently or to use land temporarily, are required to enable the construction, operation, maintenance and decommissioning of the Project.

## 6. **PURPOSE OF THE POWERS**

### 6.1 **The Need for the Project**

- 6.1.1 The Planning Supporting Statement **[EN010147/APP/7.1]** sets out the need for the Project as Critical National Priority infrastructure. A summary of the need for the Project is set out below.
- 6.1.2 Urgent and unprecedented action is needed on an international scale to meet the commitments established through the Paris Agreement to for urgent actions to decarbonise society and stop global warming. However, policies are not yet sufficient to deliver to those international commitments, and delivery is further behind policy.
- 6.1.3 The UK has legally binding targets to decarbonise and is developing new and enhancing existing policies to ensure that those targets are met in a secure and affordable fashion. However, policies are not yet sufficient to deliver to those national commitments, and delivery against those UK policies is further behind.
- 6.1.4 The position solar generation is taking within emerging government policy is increasing in both scale and importance. Not only for the benefits it delivers to decarbonisation, but also because of the need for secure and affordable energy supplies.
- 6.1.5 The UK Government is currently targeting 70GW of solar operational in the UK by 2035, including both ground mount and rooftop installations.
- 6.1.6 The Project will, if consented, contribute a significant generation capacity towards the Government's current targets.

### 6.2 **National Policy Support**

- 6.2.1 A more detailed explanation of the legislative and policy context of the Project is set out in Section 2 of the Planning Supporting Statement **[EN010147/APP/7.1]**, primarily in relation to the National Policy Statements (NPS) relating to energy, as set out below.

- 6.2.2 Section 104 of the PA 2008 provides the basis for deciding the DCO application, given there are national policy statements in place relating to solar development and energy transmission. As a result, the SoS must have regard to the provisions set out in section 104(2) of the PA 2008. This includes the NPSs, local impact report(s) to be prepared during Examination, and any other matters which the SoS deems to be both important and relevant to their decision. The Applicant considers that the following NPSs are all important and relevant to the SoS's decision:
- (a) Overarching National Policy Statement for Energy (EN-1) (NPS EN-1);
  - (b) National Policy Statement for Renewable Energy (EN-3) (NPS EN-3); and
  - (c) National Policy Statement for Electricity Networks Infrastructure (EN-5).
- 6.2.3 The Energy NPSs, and other national energy policy set out the government's aims to provide secure and affordable energy supplies whilst decarbonising the energy system. This is in order to enable the UK to achieve its legally binding commitment to reduce carbon emissions and achieve net zero carbon emissions by 2050; as well as provide a resilient and low cost energy network for the future. The UK Government recognises that the need to deliver these aims and commitments is immediate and therefore renewable energy NSIPs, including large scale solar projects, need to be delivered urgently.
- 6.2.4 The Project will deliver these policy aims, providing a significant amount of low carbon electricity over its lifetime; and providing resilience, security and affordability of supplies due to its large scale and proposed integration of energy storage. It will therefore be an essential step in the development of the portfolio of solar generation that is required to decarbonise its energy supply quickly whilst providing security and affordability to the energy supply. The Project will make a valuable contribution to adopted UK government policy and the achievement of world-leading decarbonisation commitments.
- 6.2.5 The Project will also deliver other more localised economic, social and environmental benefits. These include biodiversity net gain and encouraging local people to access apprenticeships and training and employment during the construction phase. With regard to biodiversity, the Project is expected to deliver an exemplary project and will be implemented in accordance with the Outline Landscape and Ecology Management Plan **[EN010147/APP/7.6.3]**.

- 6.2.6 The analysis of planning policy compliance in the Planning Supporting Statement **[EN010147/APP/7.1]** demonstrates that the need for the Project is supported by planning policy and other national energy and environmental policy and that the Project addresses relevant national and local planning policies through its design, avoiding and minimising adverse impacts where possible.
- 6.2.7 With the mitigation proposed, Chapter 21: Summary of Significant Effects **[EN010147/APP/6.3]** demonstrates that the Project will not have any significant adverse residual effects in relation to the historic environment, protected species or important ecological features (save as set out in 6.2.8 below), the water environment, ground conditions, traffic and transport, noise and vibration, climate change (where there are significant beneficial effects, as would be expected from Critical National Priority infrastructure such as the Project), socio-economics, human health, waste or air quality.
- 6.2.8 It is however acknowledged that Project will result in residual significant adverse effects upon agricultural land use and public rights of way (during construction), ecological features (in respect of wintering bird assemblage during construction only) and landscape and visual receptors (although by Year 15, such measures would not be significant).
- 6.3 The Applicant has carefully designed the Project to ensure landscape and visual impacts are minimised through sensitive siting of the largest Project components in the most well-screened areas of the Order land and a green infrastructure led landscape and ecological design set out within the Outline Landscape and Ecology Management Plan **[EN010147/APP/7.6.3]** and the Outline Layout and Design Principles **[EN010147/APP/7.7]**. Key features of the Project design include offsets and buffer zones in proximity to residential receptors, extensive landscape, protection, management and enhancement works throughout the Site including mitigation planting and protection buffer zones around existing hedgerows, trees, ponds and woodland. This limits the landscape and visual effects during the operational period to a small number of areas and receptors. In terms of the planning balance, the fact that these effects are localised; will be reversed following decommissioning at the end of the Project's operational life; and that NPS EN-1 and EN-3 acknowledge that adverse effects are likely, given the scale of energy NSIPs, the national benefits of the Project outweigh these localised effects.
- 6.4 The construction of the Project would lead to the permanent loss of small areas of agricultural land that are assessed to comprise approximately 5.5ha of the best and most versatile agricultural land, as set out in Chapter 17: Agricultural Land Use and PRoW **[EN010147/APP/7.3]**. The benefits of the Project outweigh any reversible loss of the agricultural use of a small proportion of BMV land, and the benefits from the creation of

wildlife habitat outweigh the agricultural impacts to Grade 3a land, particularly noting that NPS EN-3 states that land type should not be the predominating factor in determining the suitability of a site for solar development.

- 6.5 As described in the Planning Supporting Statement **[EN010147/APP/7.1]**, whilst it has not been possible to avoid all impacts these have been minimised, where possible, through careful and sensitive design and detailed mitigation strategies. When considered against the NPS and NPPF, the Project accords with relevant policies, and with regard to specific policy tests, the national and local benefits of the Project are considered on balance to outweigh its adverse impacts. The Project is also considered to be broadly consistent with relevant local planning policy, and accords with the relevant criteria which concern renewable and low carbon energy schemes. Therefore, it is considered that development consent for the Project should be granted.
- 6.6 To ensure that the Project can be built, operated and maintained, and so that the Government's policy in relation to the timely provision of new generating capacity is met within a reasonable timescale, the Applicant requires the acquisition of a number of property interests in third party ownership, and has therefore applied for the grant of powers to facilitate acquisition and/or creation of new rights and interests, and to extinguish rights over land.
- 6.7 In the absence of powers of compulsory acquisition, it might not be possible to assemble all of the land within the Order limits, uncertainty will continue to prevail and the Applicant considers that its objectives and those of Government policy would not be achieved.

## **7. JUSTIFICATION FOR THE COMPULSORY ACQUISITION POWERS**

### **7.1 The Matters to which the Secretary of State must have regard**

7.1.1 As noted above, under Section 122 of the PA 2008, a DCO which includes compulsory acquisition powers may be granted only if the conditions in Sections 122(2) and 122(3) are met. The conditions to be met are that:

- (a) the land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development (Section 122(2)) (see paragraph 7.2 onwards below); and
- (b) there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the DCO (Section 122(3)). The Secretary of State must be persuaded that the public benefits from the compulsory acquisitions will outweigh the private loss suffered by those whose land is to be acquired (see Sections 7.3 and 7.4 below).

- (c) In respect of the Section 122(2) condition, the 'Guidance related to procedures for the compulsory acquisition of land' (at paragraph 11 of the CA Guidance) states that applicants 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 CA Guidance goes on to say that 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.
- 7.1.2 In respect of the Section 122(3) condition, the CA Guidance (at paragraph 13) states that 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. At paragraph 14, the CA Guidance states that 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.
- 7.1.3 Further, paragraphs 8 to 10 of the CA Guidance also set out a number of general considerations that the applicant must demonstrate to the satisfaction of the SoS when justifying an order authorising compulsory acquisition. These are as follows:
- (a) that all reasonable alternatives to compulsory acquisition (including modifications to the Project) have been explored – see section 7.5 below in relation to how the Applicant has given regard to alternatives to compulsory acquisition;
  - (b) that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate - see the remainder of this section, and Section 7.4 below;
  - (c) that the Applicant has a clear idea of how they intend to use the land which it is proposed to acquire - Section 3 above describes the Project, and Section 5, alongside the Land and Rights Negotiations Tracker **[EN010147/APP/3.6]**, describes the nature of the interest sought and the purposes for which areas are to be acquired or used;
  - (d) that there is a reasonable prospect of the requisite funds for the acquisition becoming available - see Section 7.9 below and the Funding Statement **[EN010147/APP/4.2]**; and



- (e) that the purposes for which compulsory acquisition of land powers are included in the Order are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected – see Section 9.

7.1.4 This Statement sets out the factors that the Applicant considers demonstrate that the conditions in Section 122 of the PA 2008, and the considerations set out in the CA Guidance, are satisfied.

## 7.2 Use and Quantum of the Order Limits

7.2.1 At paragraph 11, the Guidance states that there must be no doubt in the decision maker's mind as to the purposes to which the land to be acquired is to be put. It should be demonstrated that the land is needed for the authorised Project and that it is no more than is reasonably required for that Project. Any land that is incidental to or is required to facilitate the development should also be limited to that which is no more than reasonably necessary and it should be made clear to the decision maker that this is the case.

7.2.2 In designing the Project and determining the land to be subject to compulsory acquisition and temporary possession powers, as demonstrated in section 7.4 to 7.7 below, the Applicant has considered alternatives and modifications to the Project to minimise the potential land take.

7.2.3 Section 3 sets out the Project and a summary of the Project for which rights in the Order land are required. The Land and Rights Negotiations Tracker **[EN010147/APP/3.6]** summarises the purpose for which rights in the Order land are sought.

7.2.4 The proposed interference with the rights of those with an interest in the land is for a legitimate purpose because the Applicant requires the land for the development of the Project and can satisfy the conditions set out in section 122(2) of the PA 2008. The land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development.

7.2.5 The scope of the powers of compulsory acquisition proposed in respect of the land within the Order land goes no further than is needed. All the land included within the Order land is needed to achieve the identified purpose of delivering the Project. The Land and Rights Negotiations Tracker **[EN010147/APP/3.6]** shows the powers being applied over each plot and the requirement for each plot of land demonstrating the assessment that has been carried out on each plot; each plot over which freehold acquisition is required, and the works for which each plot of land is required. Steps have been taken to ensure that the interference with the

rights of those with an interest in the affected land is no more than is necessary to deliver the benefits associated with the Project.

### 7.3 Public benefits

7.3.1 Section 6.1 sets out the need for the Project which would ensure meaningful and timely contributions to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, which is critical on the path to Net Zero. Without the Project, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.

7.3.2 In addition to meeting the urgent national need for secure and affordable low carbon energy infrastructure, the Project will deliver other benefits, many of which have been maximised and will be delivered as a result of the Project's careful design. These include:

- (a) The provision of biodiversity net gain, as set out in the Biodiversity Net Gain Report **[EN010147/APP/6.5]**;
- (b) Employment during the construction and operational phases. The construction phase is estimated to create up to around 199 local direct full time equivalent (FTE) jobs. It is also anticipated that the operational and maintenance phase would create circa 162 direct FTE jobs.
- (c) A Skills, Supply Chain and Employment Plan (Appendix 15.2 of the Environmental Statement) **[EN010147/APP/6.5]** will be prepared prior to the commencement of construction. This will set out measures that the Applicant will implement in order to advertise and promote employment opportunities associated with the Project in construction and operation locally.

7.3.3 Further information in relation to these project benefits can be found in the Planning Supporting Statement **[EN010147/APP/7.1]**.

### 7.4 Impacts and Private Loss

7.4.1 In order to deliver the benefits of the Project set out above, the Applicant requires the use of compulsory acquisition powers. This will result in a private loss by those persons whose land or interests in land is compulsorily acquired. Appropriate compensation would be available to those entitled to claim it

under the relevant provisions of the national Compensation Code thereby minimising the private loss.

- 7.4.2 Compensation is payable for the compulsory acquisition of land or rights and for loss or damage caused by the exercise of any power of temporary use of land. Any dispute in respect of the compensation payable is to be determined by the Lands Chamber of the Upper Tribunal.
- 7.4.3 As shown in the Land and Rights Negotiations Tracker [EN010147/APP/3.6], the Applicant has taken pro-active steps to engage with these persons through formal consultation and informal engagement to understand the direct and indirect impacts on them. This has helped to shape the proposals and, where possible enabled changes to designs to minimise the private loss.
- 7.4.4 All relevant environmental, social and economic benefits and adverse impacts have been assessed and are reported on in the Application documents, most notably the Environmental Statement.
- 7.4.5 Whilst the Project as a whole would, in common with any national infrastructure project, result in some adverse effects to the environment and local community, it is considered that these (considered individually or collectively) would not outweigh the important nationally significant benefits of contributing towards the urgent national need for secure and affordable low carbon energy infrastructure.
- 7.4.6 The Project is a NSIP and the public benefits associated with the Project are set out in section 7.3 above. The Applicant considers that there is a compelling case in the public interest for the power to compulsorily acquire land and rights over land (together with the imposition of restrictions) to be included in the Order. Compensation is payable to all affected landowners and occupiers.
- 7.4.7 There is also a compelling case in the public interest for the power to extinguish, suspend or interfere with private rights to the extent necessary to deliver the Project. The extent of the Order limits is no more than is reasonably necessary for the construction, operation and maintenance of the Project and therefore any interference with private rights is proportionate and necessary. Compensation is payable to anyone whose rights are extinguished, suspended or interfered with.

## 7.5 **Alternatives to Compulsory Acquisition**

- 7.5.1 The Applicant has considered all reasonable alternatives to compulsory acquisition: negotiated agreements, alternative sites

and modifications to the Project have been considered prior to making the Application. The Applicant's use of compulsory acquisition powers is intended to be proportionate. Where practicable, lesser powers of temporary possession will be used. A summary of the negotiation to date is provided in the Land and Rights Negotiations Tracker [EN010147/APP/3.6].

## 7.6 Alternatives to the Project

- 7.6.1 Whilst the Applicant has considered the 'do nothing' scenario in Chapter 5: Alternatives [EN010147/APP/6.3] for completeness and in response to consultee comments, the Applicant does not consider this to be a reasonable alternative to the Project as it would not deliver the proposed renewable electricity generation capacity, a key principle for consideration of alternatives as set out in NPS EN-1.
- 7.6.2 The location and extent of land and rights has been carefully considered and designed in order to take the minimum amount of land required whilst ensuring that the Project continues to meet the project benefits. The rights sought are therefore proportionate and necessary.
- 7.6.3 None of the alternatives or modifications considered for the Project would obviate the need for powers of compulsory acquisition powers and temporary possession over the Order land.
- 7.6.4 The Applicant therefore considers that all reasonable alternatives have been considered prior to the making of the Application and such consideration has included reasonable factors at relevant stages, such as consultee comments, technical feasibility, economic factors and the minimisation of environmental and visual impacts and land take.
- 7.6.5 Further details on the consideration of alternatives are set out in Chapter 5: Alternatives [EN010147/APP/6.3] of the Environmental Statement.

## 7.7 Site Selection

- 7.7.1 The site selection for the Project and the proposed design and layout of the Project has been influenced by the factors at paragraphs 2.10.18 to 2.10.48 of NPS EN-3.
- 7.7.2 The Project site evolved over a period of several years, beginning in July 2019. From the outset, the general location, overall size, and then the precise project boundaries, have been influenced by the availability of a suitable grid connection, voluntary landowner negotiations, commercial viability, national planning policy, and environmental constraints.

- 7.7.3 In 2019, as part of the Applicants general site search exercise, discussions were held with National Grid to identify where their priorities lay in order to meet demand and manage the UK electricity supply network. Following a review of the Transmission Network Usage System (TNUoS), managed by National Grid as the Electricity System Operator (ESO), and regulated by Ofgem, it was clear that the Southeast remained an area where demand was greatest.
- 7.7.4 The Applicant's focus was to then look for suitable and available land in the Southeast to develop a solar farm. At this point, whilst scale was not a determinative factor, the scale of all solar farms determines their viability, and generally the larger the solar farm the more viable it becomes.
- 7.7.5 The next stage in the site selection process was to find a substation into which a connection could be made – one which had capacity to accept a connection for a new generating station. The connection of a proposed electricity generation plant to the electricity network is an important consideration for applicants wanting to construct or extend a generation plant (NPE EN-1, paragraph 4.11.1). Generally, land close to a suitable substation costs less to connect to than one further away. Power loss also drops away the greater the distance involved – the connection infrastructure, which is funded by the developer, is also expensive and so the desire is to locate a site in close proximity to a substation wherever possible.
- 7.7.6 A review of substations commenced in October 2019. The Applicant looked at approximately 19 substations to establish their ability to accept new connections, as well as whether land might be available next to or close to relevant substations to construct a solar farm. Their investigations revealed that several substations had capacity. Figure 5.6: Substation Locations in Volume 2 of the ES [EN010147/APP/6.4] shows the locations of the 19 substations examined by the Applicant as well as indicating those with capacity as well as their location in proximity to Green Belt and National Landscape designations.
- 7.7.7 There was one substation in particular where the Applicant considered that it offered good potential to deliver a solar farm at scale. This was at Cowley in South Oxfordshire District. National Grid confirmed there was space at the substation to accommodate a new connection, were supportive of the Applicant to pursue the connection, and this was also relatively close to landowners who were also willing to offer land to build a solar farm. The substation at Northfleet in East London, just outside the Green Belt, also had grid capacity but was not taken forward by the Applicant as the site was land-locked with no reasonable prospect of securing land in close proximity for a solar development at scale.

- 7.7.8 Whilst the Cowley substation is located within the Green Belt, all other substations examined with headroom capacity, were also located within the Green Belt, meaning that development of a project in the vicinity of any of the four substations with capacity, would also fall within the Green Belt. A site without any impact on Green Belt therefore, was not available to the Applicant.
- 7.7.9 The Applicant then focused on securing land in the Cowley substation location.
- 7.7.10 Ongoing discussions with NGET regarding connection then led the Applicant towards searching for suitable land under or in close proximity to the 400kV line to the west of Cowley. NGET confirmed there was capacity if a connection could be made under those lines. Given expressions of interests for connections by the Applicant and other renewable developers in the area, NGET also began to investigate building a new substation somewhere beneath this 400kV line.
- 7.7.11 In February 2020 the Applicant began negotiations with a willing landowner, with significant land interests in the area; Blenheim Estate (Blenheim). Blenheim initially offered 200 ha, but that land was approximately 15km from the 400kV line. More land was needed closer to the 400kV line, which was eventually offered by Blenheim and by another landowner in the area that NGET were contemplating building a new substation. The land packages were relatively disjointed and required additional land areas to facilitate cabling to connect them.
- 7.7.12 After negotiations with many other landowners in the area, the Applicant secured land at Denman's Farm, immediately under the 400kV line to the west of Botley. Over the next year further land became available from willing landowners. However, in order to develop a scheme that was likely to be acceptable in environmental terms, the Applicant employed environmental consultants to assist in the feasibility of delivering a solar farm in this general location. Refinements in the land considered suitable began to be evaluated, and a series of design principles established (see Chapter 6: Project Description **[EN010147/APP/6.3]** and the Outline Layout and Design Principles **[EN010147/APP/7.7]** for more detail) to guide where the infrastructure could be accommodated.
- 7.7.13 This environmental assessment work was the start of an iterative process that has continued through to mid-2024. In February 2021, following the start of the feasibility and evaluation stage, a Point of Connection (PoC) application was made to National Grid for 840MW. This PoC was signed in June 2021.
- 7.7.14 Over this time, therefore, the general location, overall size, and then the precise project boundaries, have been influenced by the

availability of a suitable grid connection, voluntary landowner negotiations, commercial viability, national planning policy, and environmental constraints.

7.7.15 The Site and its overall scale is considered to be suitable having regard to the following:

- (a) proximity to the Cowley Substation and the National Electricity Transmission System (NETS) with a confirmed connection offer;
- (b) land availability;
- (c) the ability to avoid or minimise planning and environmental constraints including:
- (d) the effect upon the Blenheim Palace World Heritage Site;
- (e) its visual effects, being located on relatively low-lying land with the development interspersed with existing trees, hedgerows, open land, and other features, with the opportunity to enhance existing planting to assist in screening the development;
- (f) its location avoiding where possible permanent adverse effects upon best and most versatile agricultural land;
- (g) its ability to secure significant biodiversity gains on land that is relatively low in ecological value;
- (h) its location beyond key landscape and environmental designations e.g. National Landscapes, Conservation Areas, setting of heritage assets, SPA's, SAC's, SSSI's; and
- (i) its location in an area of low flood risk.

7.7.16 For a full a summary of the process that the Applicant went through leading up to the selection of the Site, its scale, together with a description of the alternative design and layout options that have been considered as part of the design evolution, having regard to relevant environmental effects amongst other considerations such as land negotiations, and technical and commercial feasibility, see Chapter 5: Alternatives [EN010147/APP/6.3].

## 7.8 Commercial Negotiations with Affected Parties

7.8.1 The Applicant has made good progress in discussions with the relevant landowners for the Solar PV Site, and has secured agreements with all freehold landowners. However, the Applicant requires certain rights to be suspended, overridden or

extinguished within the Order land so as to ensure there are no impediments to the construction, operation and maintenance of the Project, and negotiations remain ongoing in respect of these impacts.

7.8.2 To date, heads of terms for the cable easements have been issued to all affected parties except for one landowner (The Warden and Scholars of the House or College of Scholars of Merton in the University of Oxford, or 'Merton'), following initial meetings and discussions with those parties on the potential cable route options through the consultation process. It is anticipated that voluntary agreements will be entered into over the course of Examination. Further detail on the negotiations can be found in the Land and Rights Negotiations Tracker **[EN010147/APP/3.6]**.

7.8.3 Despite these ongoing negotiations, it is necessary for the Applicant to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third-party interests or encumbrances affecting such land, rights and interests may be acquired, overridden or extinguished pursuant to the draft Order, thereby ensuring that the Project can be constructed, operated and maintained.

7.8.4 Further details on the status of these negotiations are set out in the Land and Rights Negotiations Tracker **[EN010147/APP/3.6]**.

## 7.9 **Availability of Funds for Compensation**

7.9.1 The Funding Statement **[EN010147/APP/4.2]** confirms that the Applicant has the ability to procure the financial resources required for the Project, including the cost of acquiring any land and rights and the payment of compensation, as applicable.

7.9.2 The Applicant is not aware of any interests within the Order land in respect of which a person may be able to make a blight claim at this stage, but in the event this did occur the Applicant has sufficient funds to meet any compensation due.

7.9.3 The Applicant therefore considers that the Secretary of State can be satisfied that the requisite funds for payment of compensation will be available at the appropriate time.

## 8. **COMMUNICATIONS AND NEGOTIATIONS**

### 8.1 **Diligent Inquiry and Land Referencing**

8.1.1 In accordance with the requirements of the PA 2008, the Applicant undertook diligent enquiry through a Land Referencing process to identify parties with Category 1, 2 and 3 interests as defined in sections 42 and 44 of the PA 2008. Category 1 interest include landowners, lessees, tenants and occupiers of land with



the Order Limits. Category 2 includes parties that have an interest in land or have the power to sell, convey or release land within the Order Limits. Category 3 includes parties who the Applicant thinks would or might, if the Order sought by the application were made and fully implemented, be entitled to make a relevant claim for compensation under section 10 of the Compulsory Purchase Act 1965 and/or Part 1 of the Land Compensation Act 1973 and/or section 152(3) of the PA 2008.

8.1.2 The Applicant was required to identify individuals in one or more of the above categories set out in sections 44 and 57 of the PA 2008. This was carried out by undertaking diligent enquiry to identify parties within the above three categories, as defined in section 44 and 57 of the PA 2008. Such interests are listed in the Book of Reference [EN010147/APP/4.3] and have been consulted with regard to the Project. At the time of submission, the environmental consultants for the Project have confirmed that the Project is not expected to give rise to any environmental effects that would give rise to a successful claim for a person with a Category 3 interest within the Order land.

## 8.2 Diligent Inquiry Methodology and collation of data

8.2.1 The Land Referencing limits were set to include all land and rights required to construct and operate the Project. Ardent Management Limited, a professional Land Referencing firm, were employed by the Applicant to undertake diligent enquiry to identify these land interests. The following processes and methodology were undertaken as part of the Land Referencing to identify and consult with those with an interest in land affected by the Project throughout the pre-application process.

8.2.2 The first copy of Land Registry data was acquired in both a digital shapefile format and digital copies of the Official Copy Registers and Title Plans in April and May 2023. All detail with regard to freehold, leasehold, mortgagee, beneficiary, other charges and restrictive covenants information was extracted and analysed, and stored in a Land Referencing database.

8.2.3 The Land Registry data was updated periodically in November 2023 prior to Statutory Consultation, in May 2024 prior to the Targeted Consultation and in August 2024 prior to finalising the Book of Reference [EN010147/APP/4.3]. This was done to maintain the currency of the data and to ensure that any new interests were noted, and consulted as part of the diligent inquiry. An update of the Land Registry was carried out prior to the preparation of the Book of Reference as part of the DCO application.

8.2.4 Adopted highways plans were acquired from Oxfordshire County Council. Information was also obtained regarding special

category land (including open space, common land, fuel and field garden allotments); and any information relating to extant planning permissions. Information was received in a variety of formats and entered into the GIS and Land Referencing systems as appropriate. Where necessary, further enquiries were made to address any changes, anomalies, or gaps within this data. Statutory undertakers that were believed to have a possible interest in the area were contacted to identify their interests. Information received was entered into the GIS and Land Referencing system as appropriate and where necessary further enquiries were made to address changes, anomalies or gaps.

- 8.2.5 Where companies were affected by the Project, Companies House was used to ensure all correct addresses were being used. Throughout consultation, the registered address was used unless otherwise requested by the affect party.
- 8.2.6 Any other data or existing information, or stakeholder data gained by the Applicant as a result of property negotiations or s42 consultation was included with the Land Referencing system accordingly.

### **8.3 Land referencing**

- 8.3.1 Land Referencing is carried out in two forms, non-contact and contact referencing. Non-contact referencing is desktop based, and uses information derived from HMLR, and uploaded to the Land Referencing system. This process is followed contact-referencing in the form of a written letter being sent to persons identified as having an interest in land or a potential claim, as well as a Land Interest Questionnaire (LIQ) which asked the persons to confirm if details on their land as found on the Land Registry were correct, or if there was additional information that might be of interest to the Applicant.
- 8.3.2 Where landownership could not be identified, contact referencing was used to identify persons with interests in land, including posting of notices on or as near as possible to unregistered land, door knocking at properties and diligent inquiry to try and confirm ownership of the land. This process was repeated during the Statutory Consultation processes and will continue under s56 of the PA 2008 and any other Examination notice requirements.
- 8.3.3 LIQs were first issued in May 2023 with further requests sent to land interests as they were identified through the pre-application process as part of the ongoing Land Referencing process. Where appropriate, chaser letters, calls and emails were used to improve the response rate and to gather information on land interests. Where required, and if letters were not delivered via post, they were hand delivered to ensure land interests were given the full amount of time to respond. This process will

continue through the DCO Examination, should any new interests be found during that time.

#### **8.4 Consultation and negotiation with Landowners**

- 8.4.1 The Applicant has been seeking to acquire the relevant freehold interests, new rights and temporary use of land by private treaty, in order to ensure implementation of the scheme. The current position in relation to the Applicant's engagement and negotiations with each landowner affected by the scheme is explained in the Land and Rights Negotiations Tracker [EN010147/APP/3.6] and the Consultation Report [EN010147/APP/5.1].
- 8.4.2 It has not yet been possible to acquire all of the land, the temporary use of land and the rights required by agreement at the point of DCO application, however agreements with all of the freehold landowners have been secured in relation to the main site.
- 8.4.3 Heads of terms for the cable easements have been issued to all affected parties except for Merton, following initial meetings and discussions with those parties on the potential cable route options through the consultation process. These heads of terms are currently in negotiation. Further details can be found in the Land and Rights Negotiations Tracker [EN010147/APP/3.6], and it is hoped that all land agreements can be secured by way of agreement. However, the Applicant requires certain rights to be suspended, overridden or extinguished within the Order land so as to ensure there are no impediments to the construction, operation and maintenance of the Project.
- 8.4.4 Negotiations will continue with landowners and persons with interests in land affected by the Project. For example, the Applicant is engaging with Merton and intends to issue heads of terms imminently. Nonetheless, it is necessary for the Applicant to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third-party interests or encumbrances affecting such land, rights and interests may be acquired, overridden or extinguished pursuant to the draft Order, thereby ensuring that the Project can be constructed, operated and maintained.

#### **8.5 Consultation with Statutory Undertakers**

- 8.5.1 The Applicant and its advisors have been liaising with statutory undertakers whose apparatus may be affected by the scheme. A summary of these negotiations and correspondence can be found within Table 1 and Table 3 in the Land and Rights Negotiations Tracker [EN010147/APP/3.6].

## 9. HUMAN RIGHTS

- 9.1 The Human Rights Act 1998 incorporated into UK law the European Convention on Human Rights ('the Convention'). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.
- 9.2 The following Articles of the Convention are relevant to the Secretary of State's decision as to whether the Order should be made so as to include powers of compulsory acquisition.
- 9.2.1 Article 1 of the First Protocol to the Convention – protects the rights to peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest.
- 9.2.2 Article 6 – entitles those affected by the compulsory acquisition powers sought in the draft Order to a fair and public hearing of any relevant objections they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the decision-making process.
- 9.2.3 Article 8 – protects private and family life, home and correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.
- 9.3 The Secretary of State, as the decision maker, is under a duty to consider whether the exercise of powers interacts with the rights protected by the Convention.
- 9.4 The Order has the potential to infringe the human rights of persons who own property or have interests in the land proposed to be acquired pursuant to the Order. Such an infringement is authorised by law so long as:
- 9.4.1 the statutory procedures for making the Order are followed and there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order; and
- 9.4.2 the interference with the convention right is proportionate.
- 9.5 In relation to Article 1, in preparing the Application, the Applicant has considered the potential infringement of the Convention rights in consequence of the inclusion of compulsory acquisition powers within the Order and has sought to minimise the amount of land over which it requires powers of compulsory acquisition. As set out in section 7.3 above and in more detail in the Planning Supporting Statement **[EN010147/APP/7.1]** the Applicant considers that there would be very significant public benefits arising from the grant of the Order. The benefits are only realised if the Order is accompanied by the grant of powers of

compulsory acquisition, and the purpose for which the land is sought (to build and operate the Project) is legitimate. The Applicant has concluded on balance that the significant public benefits outweigh the effects upon persons who own property within the Order land. For those affected by expropriation or dispossession, compensation is payable in accordance with the statutory compensation code.

- 9.6 In relation to Article 8, the Order limits do not include, and the Project does not require, the outright acquisition of any residential dwelling-houses. Consequently, as dwelling-houses will not be directly affected, it is not anticipated that the Convention rights protected by Article 8 will be infringed. In the event that such rights were to be infringed, such interference would be justifiable on the basis that it would be lawful and in the public interest.
- 9.7 In relation to Article 6, there has been opportunity to make representations regarding the preparation of the Application. In accordance with Part 5 of the PA 2008, the Applicant has consulted with persons set out in the categories contained in Section 44 of the PA 2008, which includes owners, lessees, tenants and occupiers within the Order limits and those with an interest in the Order limits. The Applicant has also consulted with those persons who may be able to make a relevant claim under Section 10 of the Compulsory Purchase Act 1965, Part 1 of the Land Compensation Act 1973 or s152(3) of the PA 2008.
- 9.8 Furthermore, representations can also be made in response to any notice given under Section 56 of the PA 2008 for consideration at examination of the Application by the Examining Authority and in any written representations procedure which the Examining Authority decides to uphold or at any compulsory acquisition hearing held under Section 92 of the PA 2008.
- 9.9 Should the Order be made, any person aggrieved may challenge the Order in the High Court if they consider that the grounds for doing so are made out pursuant to Section 118 of the PA 2008.
- 9.10 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. In relation to matters of compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), which is an independent judicial body, to determine the compensation payable.
- 9.11 For the above reasons, any infringement of the Convention rights of those whose interests are affected by the inclusion in the Order of powers of compulsory acquisition, is proportionate, necessary and legitimate and is in accordance with national and European law. For the reasons set out in Sections 7 and 8 of this Statement, the Applicant considers that there is a compelling case in the public interest for the exercise of such powers of compulsory acquisition.

9.12 The Applicant considers that the Order strikes a fair balance between the public interest in the Project going ahead and the interference with the rights that will be affected. The Applicant considers that it would, therefore, be appropriate and proportionate for the Secretary of State to make the Order, including the grant of compulsory acquisition powers.

## 10. **SPECIAL CONSIDERATIONS**

### 10.1 **Special Category Land – Crown Land**

10.1.1 The Order land does not include Crown Land.

10.1.2 The Applicant has identified, as shown in See Plots 13-01 and 13-03 in the Book of Reference [EN010147/APP/4.3], a restriction on title number BK120529 for the benefit of the Secretary of State for the Environment (“Defra”). The Applicant had recognised this land as ‘Crown Land’ on a precautionary basis for the purposes of the DCO submission on the basis that Defra is a Government Department. The Applicant continued to liaise with Defra post-submission to seek a consent under section 135 of the Planning Act 2008 (PA 2008) on that precautionary basis.

10.1.3 However, Defra has confirmed since submission that consent under section 135 is not required in respect of the restriction. The Applicant’s understanding, following its discussions with Defra, Thames Water (as the freeholder of that title) and the Environment Agency, is that the restriction is a regulatory constraint under section 156 of the Water Industry Act 1991. Therefore, the Applicant’s view is that the land does not constitute ‘Crown Land’ under section 227 of the PA 2008. The Applicant has therefore removed reference to Crown Land from its application.

### 10.2 **Other Special Category Land**

10.2.1 There is no open space, common land or fuel or field garden allotments included or affected by the Order limits.

### 10.3 **Statutory Undertaker’s Land and Apparatus**

10.3.1 The interests held by each Statutory Undertaker identified by the Applicant as having a right to keep or access apparatus within the Order limits are identified in the Book of Reference [EN010147/APP/4.3].

10.3.2 Section 127(2) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of statutory undertakers' land to the extent that matters set out in section 127(3) are satisfied. Those matters are:

- (a) the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
- (b) if purchased, the land can be replaced by other land belonging to or available for acquisition by the undertakers without serious detriment to the carrying on of the undertaking.

10.3.3 Section 127(5) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of a right over statutory undertaker's land by the creation of a new right over land to the extent that matters set out in section 127(6) are satisfied. Those matters are:

- (a) the right can be purchased without serious detriment to the carrying on of the undertaking; or
- (b) any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of the other land belonging to or available for acquisition by them.

10.3.4 Article 31 of the DCO gives the Applicant the authority to acquire land and rights from Statutory Undertakers, and to extinguish or suspend their rights, and to remove or reposition their apparatus, subject to the provisions of Schedule 15 which contains protective provisions for their benefit. The protective provisions provide adequate protection for Statutory Undertakers' assets. The Applicant therefore considers that the Statutory Undertakers will not suffer serious detriment to the carrying on of the undertaking as a result of the compulsory acquisition powers sought over the Order land being granted. The tests set out in sections 127(3) and 127(6) of the PA 2008 are therefore satisfied.

10.3.5 Various statutory undertakers and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the Order limits. Statutory undertakers and other apparatus owners that are known to have equipment on, in or over the Order limits are included in the Book of Reference [EN010147/APP/4.3]. Section 138 of the PA 2008 applies if a development consent order authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a 'relevant right', or there is 'relevant apparatus' on, under or over the land. The draft Order includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to statutory undertakers, in connection with the delivery of the Project. The exercise of such powers will be carried out in accordance with the protective provisions contained in Schedule 15 to the DCO. The protective provisions

are in the process of being agreed with the relevant statutory undertakers and electronic communications apparatus owners, and will accordingly set out constraints on the exercise of the powers in the DCO, with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests, whilst enabling the Project (i.e. the development authorised by the DCO) to proceed. The Applicant therefore considers that the test set out in section 138 of the PA 2008 is satisfied.

10.3.6 With respect to the current status of negotiations with each Statutory Undertaker, in summary, the Applicant is in negotiations with Network Rail, Thames Water, Southern Gas Networks and the Environment Agency regarding bespoke protective provisions. In the meantime, the Applicant has included a draft set of those bespoke provisions at Parts 4 to 7 of Schedule 15 of the DCO [EN010147/APP/3.1]. The Applicant has also reached out to the other Statutory Undertakers with apparatus within the Order limits to share a set of standard protective provisions that the Applicant considers suitable given the nature of the interactions, save that the Applicant is aware that bespoke protective provisions are likely to be required for NGET (following its consultation feedback). The current status of all engagement or negotiations (where appropriate) with the Statutory Undertakers in respect of protective provisions can be seen in Table 3 of the Land and Rights Negotiations Tracker [EN010147/APP/3.6]. The Applicant will continue to seek agreement to any bespoke protective provisions that are required. In any event, the Applicant has included standard protective provisions at Parts 1 to 3 of Schedule 15 of the DCO [EN010147/APP/3.1] for the protection of electricity, gas, water and sewerage undertakers; for the protection of operators of electronic communications code networks; and for the protection of drainage authorities, in order to ensure the assets of those parties receive adequate protection under the Order.

10.3.7 There are no other relevant special considerations in respect of the Order limits.

## 11. RELATED APPLICATIONS AND CONSENTS

11.1 The Applicant requires various other consents, as well as a DCO, in order to build and operate the Project. The Consents and Licenses Required Under Other Legislation [EN010147/APP/5.2] sets out the additional consents that may be required and when they will be applied for. The key consents are identified below and reference should be made to Consents and Licenses Required Under Other Legislation [EN010147/APP/5.2] for the full list and the position as regards the need for and obtaining each consent:

11.1.1 European Protected Species (EPS) Licence;



- 11.1.2 Licence for work affecting badgers;
  - 11.1.3 Flood Risk Activity Permit or 'Flood Defence Consent';
  - 11.1.4 Land Drainage Consent;
  - 11.1.5 Water Discharge Activity Permit;
  - 11.1.6 Section 61 (consent Control of noise on construction sites);
  - 11.1.7 Permit for transport of Abnormal Indivisible Loads (AIL);
  - 11.1.8 Notice of Street Works; and
  - 11.1.9 Section 278 Agreement(s).
- 11.2 The Applicant is not aware of any reason why these and other consents required would not be granted and therefore do not consider that they represent an impediment to the Project proceeding.

## 12. **FURTHER INFORMATION**

### 12.1 **Negotiation of Sale**

- 12.1.1 Owners and occupiers of property affected by the Order who wish to negotiate a sale or discuss matters of compensation should contact the land agents for the Project at [botleywest@ardent-management.com](mailto:botleywest@ardent-management.com).

### 12.2 **Compensation**

- 12.2.1 Provision is made by statute for compensation for the compulsory acquisition of land. Helpful information is given in the series of booklets published by the Department for Communities and Local Government entitled "Compulsory Purchase and Compensation" listed below:

- (a) Booklet No. 1 – Compulsory Purchase Procedure;
- (b) Booklet No. 2 – Compensation to Business Owners and Occupiers;
- (c) Booklet No. 3 – Compensation to Agricultural Owners and Occupiers
- (d) Booklet No.4 – Compensation for Residential Owners and Occupiers; and
- (e) Booklet No.5 – Reducing the Adverse Effects of Public Development: Mitigation Works.

12.2.2 Copies of these booklets are obtainable, free of charge, from: <https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>.

### 13. **CONCLUSION**

- 13.1 The Applicant submits, for the reasons explained in this Statement, that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Project meets the conditions of Section 122 of the PA 2008, as well as the considerations in the CA Guidance.
- 13.2 The acquisition of land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is no more than is reasonably required to facilitate or is incidental to the Project. Furthermore, the land identified to be subject to compulsory acquisition is no more than is reasonably necessary for that purpose and is proportionate, as is shown in the Order [EN010147/APP/3.1], the Works Plans [EN010147/APP/2.3] and other information both in this Statement and in other documents accompanying the Application.
- 13.3 Furthermore, there is a compelling case in the public interest for the land or rights over the land to be compulsorily acquired given the meaningful and timely contributions offered by the Project to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life.
- 13.4 The need for the Project is clearly set out in NPS EN-1, NPS EN-3 and NPS EN-5. These demonstrate that there is a compelling case in the public interest for the land, and rights over land and imposition of restrictions, to be acquired compulsorily.
- 13.5 All reasonable alternatives to compulsory acquisition have been explored. Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land, the temporary use of land, the rights and other interests by agreement, as well as secure the removal of matters affecting the Order land that may impede the Project, wherever possible.
- 13.6 Given the national and local need for the Project and the support for it found in policy, as well as the suitability of the Order limits (for the reasons outlined above), compulsory acquisition of the land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights is justified.
- 13.7 The proposed interference with the rights of those with an interest in the Order land is for a legitimate purpose, namely the construction and operation of the Project which is an NSIP, and is necessary and proportionate to that purpose. The Applicant considers that the very substantial public benefits to be derived from the proposed compulsory

acquisition would decisively outweigh the private loss that would be suffered by those whose land or interests are to be acquired, and therefore justifies interfering with that land or rights.

- 13.8 The Applicant has set out clear and specific proposals for how the Order land will be used.
- 13.9 An explanation has been provided as to how it is expected that the construction of the Project and the acquisition of the land or rights over the land will be funded, as well as compensation in respect of the exercise of powers of compulsory acquisition, which demonstrates that there is a reasonable prospect of the requisite funds being available. Further detail is provided in the Funding Statement **[EN010147/APP/4.2]**.
- 13.10 Articles 1, 6 and 8 of the First Protocol to the Convention have been considered. The Applicant considers that the very substantial public benefits to be derived from Project would outweigh the private loss that would be suffered by those whose land is to be acquired or whose rights would be interfered with.
- 13.11 It is therefore submitted that the Order be made and any compulsory acquisition powers and powers of temporary possession sought within the Order be granted.