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31 January 2025

**Planning Act 2008: Applicant's Section 51 Response**

**Application ref: EN010147**

**Application by Photovolt Development Partners (PVDP) on behalf of SolarFive Ltd (the Applicant) for a Development Consent Order for Botley West Solar Farm**

Dear Mr Raywood,

Following the notification of the decision to accept the application for the Botley West Solar Farm for examination [PD-002], we would like to thank you for the initial observations and advice received under section 51 of the Planning Act 2008 by letter dated 13<sup>th</sup> December 2024 [PD-003]. Set out below, and enclosed, is the Applicant's response ("s51 Response"). Specifically, the letter addresses the following matters in the same order that they appeared in the letter dated 13<sup>th</sup> December 2024:

1. Consultees identified on a precautionary basis;
2. Location Plan;
3. Operational Development Areas Plans (Doc 7.3.2); Landscape, Ecology & Amenities Layer Plan (Doc 7.3.3); Temporary Facilities Plans (Doc 7.3.4);
4. Statement of Reasons (4.1); and Planning Supporting Statement (7.1); and
5. Minor errors and omissions.

In our response, we also address the cross references made by PINs to comments in the s55 acceptance checklist [**PD-001**].

### **Consultees identified on a precautionary basis**

In accordance with PINS' advice, the Applicant has served notice of the accepted application under s56(2)(a) of the PA 2008 on all six of the bodies listed in Box 6 of the section 55 checklist, including Steeple Barton Parish Council, CNG Services Limited, Advanced Electricity Networks Ltd, Aidien Ltd, Aurora Utilities Ltd and Green Generation Energy Networks Cymru Ltd.

### **Location Plan**

In accordance with PINS' advice, the Applicant has submitted a standalone Location Plan (EN010147/APP/8.2) as part of this s51 Response. The Applicant has marked the Order Limits boundary in a distinguishable manner by using a redline boundary for the Order Limits and grey shading to show the full extent of the proposed development area.

### **Operational Development Areas Plans (Doc 7.3.2), Landscape, Ecology & Amenities Layer Plan (Doc 7.3.3) and Temporary Facilities Plans (Doc 7.3.4)**

In accordance with PINS' advice, the Applicant has amended each of the above-mentioned plans to ensure that the scale used is 1:2500 at A0 in accordance with Regulation 5(4A) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("APFP Regulations"). The plans are submitted as part of this s51 Response.

The Applicant will ensure that any other new or updated plans submitted into the Examination – including the other plans submitted with this s51 Response – are at an appropriate scale, in accordance with the APFP Regulations.

### **Statement of Reasons (4.1) and Planning Supporting Statement (7.1)**

The Applicant notes the suggestion from PINS to submit a standalone 'Statement of Need' document. As PINS has acknowledged, this is not a statutory requirement. The Applicant took the view at the time of submission that a further standalone document was not necessary due to the unequivocal need case established in the latest National Policy Statements (November 2023). The Applicant's need case is therefore set out in the Applicant's Statement of Reasons [**APP-021**] and Planning Supporting Statement [**APP-225**].

However, in recognition of PINS' advice, the Applicant will prepare a standalone document to address the specific matters raised by PINS in its s51 Advice letter, to supplement the need case in the existing application documents. That new document will be submitted in due course.

### **Minor Errors and Omissions**

The Applicant acknowledges the minor errors and omissions mentioned in Box 30 of the s55 acceptance checklist. The Applicant has completed a detailed review of the relevant documents and has submitted updated versions of its application documents alongside this s51 Response as it considers appropriate, in light of those comments.

In response to PINS' specific comments:

- The Applicant has submitted an updated version of the Guide to the Application [**APP-004**] along with this s51 Response and has cross-checked the references to the APFP Regulations to ensure that the references and revision numbers are accurate.
- The Applicant will ensure that any new plans or updated plans submitted into the Examination show clear and consistent shading/patterns to ensure that the colours and patterns are easily distinguished/differentiated. For the plans submitted with this s51 Response, the Applicant has adjusted the transparency of certain hatches in the layer settings where they overlap to improve differentiation and enhance visibility.
- The Applicant has reconsidered its application documents and considers that it already sufficiently explains where optionality is required. For example, where there is optionality being sought in respect of the new National Grid substation, the Applicant has demonstrated that optionality on Sheet 13A and Sheet 13B of the Works Plans [**APP-006**], with an explanation of that optionality in paragraph 1.4.7 of the Explanatory Memorandum [**APP-017**]. Alternatively, where optionality is required in respect of the Cable Corridor, this optionality is shown on Figures 2.4A, 2.4B, 2.4C and 2.4D [**APP-062**] and Figures 5.1 to 5.5 [**APP-119**] to [**APP-123**]. If there is a specific area that the ExA wants further clarity on, then please let us know.
- The Applicant will continue to cross reference its labelling where appropriate to ensure consistency across its application documents.
- The Applicant has submitted an updated version of the Land Plans [**APP-007**] alongside this s51 Response to reflect the comments by PINS. For instance:
  - (a) Areas of grey have been removed that were contained within the Order Limits boundary. The area is now shown in the same style as the base mapping.
  - (b) Further insets have been added to the Land Plans on Sheets 3, 9 and 11.
  - (c) The insets on Sheet 3 have been adjusted to show the relevant plots more clearly.
  - (d) The scale of inset 9b has been adjusted to show plot 9-07 more clearly.
  - (e) Inset 11h has been created to show more of the extent of plot 11-06 - what was inset 11h on the application plans is now 11j.

The Applicant does not propose to amend the description of land within the key. As explained in paragraph 5.8 of the Statement of Reasons [**APP-021**], the land over which temporary use powers only are sought is shaded green. The only plots where temporary use powers only are sought are Plots 1-08; 1-09 and 5-11, as shown on the Land Plans [**APP-007**] and captured in Schedule 11 of the draft DCO [**APP-015**]. Where land is shaded pink, the Applicant is seeking powers over the freehold. Where land is blue, the Applicant is seeking powers for permanent rights. The reason the descriptions also refer to temporary use for blue and pink plots is because the Applicant is also seeking temporary use powers over all other land within the Order limits. This is to allow the Applicant to take temporary possession ahead of acquiring land or rights permanently. This does not need to be reflected on the Land Plans because the description sufficiently captures this point and it is appropriate for the Land Plans to only show the highest powers of acquisition being sought (i.e. pink or blue).

The approach is precedent, for example, on the Gate Burton Energy Park solar DCO application.

- There is no need for a separate schedule for Crown Land in the Development Consent Order [APP-015]. The Order land does not include Crown Land. The Applicant has identified, as shown in plots 13-01 and 13-03 in the Book of Reference [APP-023], 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 as 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. 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 by submitting updated versions of the draft DCO [APP-015], Explanatory Memorandum [APP-017], Statement of Reasons [APP-021], Book of Reference [APP-023] and Land and Rights Negotiations Tracker [APP-020]. The Applicant has also submitted a Schedule of Changes to the DCO (EN010147/APP/8.3) and Schedule of Changes to the Book of Reference (EN010147/APP/8.4) to explain those changes.
- The Applicant appreciates that it is for the benefit of all parties that documents are consistent across the application and examination documentation and that suitable quality assurance processes are applied. The Applicant will ensure that suitable processes are implemented going forwards. For completeness, whilst the Grid Connection Statement [APP-019] was omitted in error from the draft s55 Checklist, it is included in the Guide to the Application [APP-004] (which has been updated as part of this s51 Response submission). The Applicant has updated the Guide to the Application to ensure that all of the appropriate documents forming part of the application has been accurately captured.

### Other Updated Documents

As various documents are being updated as part of this s51 Response, the Applicant also proposes to use this opportunity to make some other minor alterations to the Project as a result of ongoing refinements to the Project. These include:

#### a) **Small reduction in redline (0.015 ha).**

The Applicant has removed a small area of land (plot 6-17) amounting to 0.015 ha from its redline boundary. The area affected is shown in the ‘Project Refinements Plan’ at Appendix A of this Cover Letter and has also been reflected in each of the new and updated plans submitted alongside this s51 Response. For example, see Sheet 6 of the updated Land Plans and the updated Works Plans.

The reason for the reduction is to remove a vehicular access point that was initially designed to be used for construction and operation, in favour of using an alternative existing vehicular access further south. However, the landowner of plot 6-17 does not wish for the Applicant to use this access point and so, following further landowner engagement, the Applicant is willing to remove this plot from the Project. The Applicant will use the

alternative vehicular access further south, which will still allow unimpeded access to the norther most field using breaks in the existing hedgerows. This access has the added benefit of avoiding further hedgerow loss that may otherwise arise if plot 6-17 was retained.

**b) Replace two areas of solar installation for further archaeological protection and management (0.47ha total).**

As shown in the Project Refinements Plan at Appendix A of this Cover Letter, the Applicant has also marginally reduced its area of proposed solar installation in two areas and instead propose to provide archaeological protection and management instead. The first area measures 0.3 ha and the second area measures 0.17 ha only, resulting in a total affected area of 0.47 ha.

This refinement simply extends the approach taken pre-application and is agreed in principle agreed with Mr Richard Oram, the County archaeologist, in order to protect underground archaeology. This alteration has therefore been reflected in the updated Masterplan documents and Works Plans submitted with this s51 Response. Most notably, see Sheet 6 of the Works Plans where the relevant areas have had Work Nos. 1 (solar installation) and Work Nos. 6 (cabling and other miscellaneous works) replaced by Work No. 5 (archaeological protection).

For completeness, the removal of solar panels in these small areas of land will not alter the position of electrical infrastructure.

The Applicant has reviewed the environmental effects arising from the refinements referred to above and concludes that no new or materially different environmental effects would arise to those already reported within the Applicants' Environmental Statement. In fact, the relevant topic leads for landscape, ecology and archaeology confirm that some minor benefits to biodiversity net gain and landscape effects may be expected as a result of the amendments discussed at (a) above, as well as providing a heritage benefit. However, these benefits would not necessarily be significant enough to constitute a change in the conclusions on significance contained in the Environmental Statement.

The Applicant is aware of the PINS' Guidance: '*Nationally Significant Infrastructure Projects: Changes to an application after it has been accepted for examination*' (August 2024) and has considered the proposed adjustments in light of that guidance. Notably, this guidance does not specify a clear threshold or criteria for when an amendment to a DCO application will require a formal change request requiring further procedure. The guidance therefore leaves broad discretion for Applicants and ultimately PINS to determine whether amendments to application documents should go through the full 'Change' process or not.

The Applicant's position is that none of the adjustments referred to at (a) or (b) above constitute a change requiring further procedure, on the following basis:

- There is no change to the area figures specified in the existing application documents (i.e. the total site area remains approximately 1,418 ha and the installation area of solar panels remains approximately 839 ha (to the nearest whole number));
- There are no changes anticipated to the environmental conclusions already reported; and
- There are no new land interests.

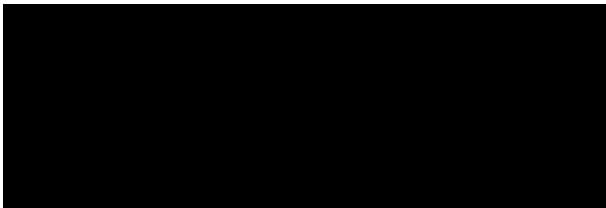
However, the Applicant acknowledges that where new information may constitute a change to the application, but the Applicant has not provided a change notification (Step 1 of the change process in the guidance), the ExA may ask for the information to be included with a change

notification before deciding whether and how to examine the new information. If the ExA does require this, the Applicant would appreciate being told at the earliest opportunity.

Finally, the Applicant has included a table listing all of the documents submitted with this s51 Response submission at Appendix B of this Cover Letter.

We trust this letter, tables and attached documents represent a comprehensive response to the initial observations and advice offered by PINS. If we can be of any assistance, please contact me using the details provided below.

Yours sincerely,



Mr Christopher Lecointe

(On behalf of the Applicant)

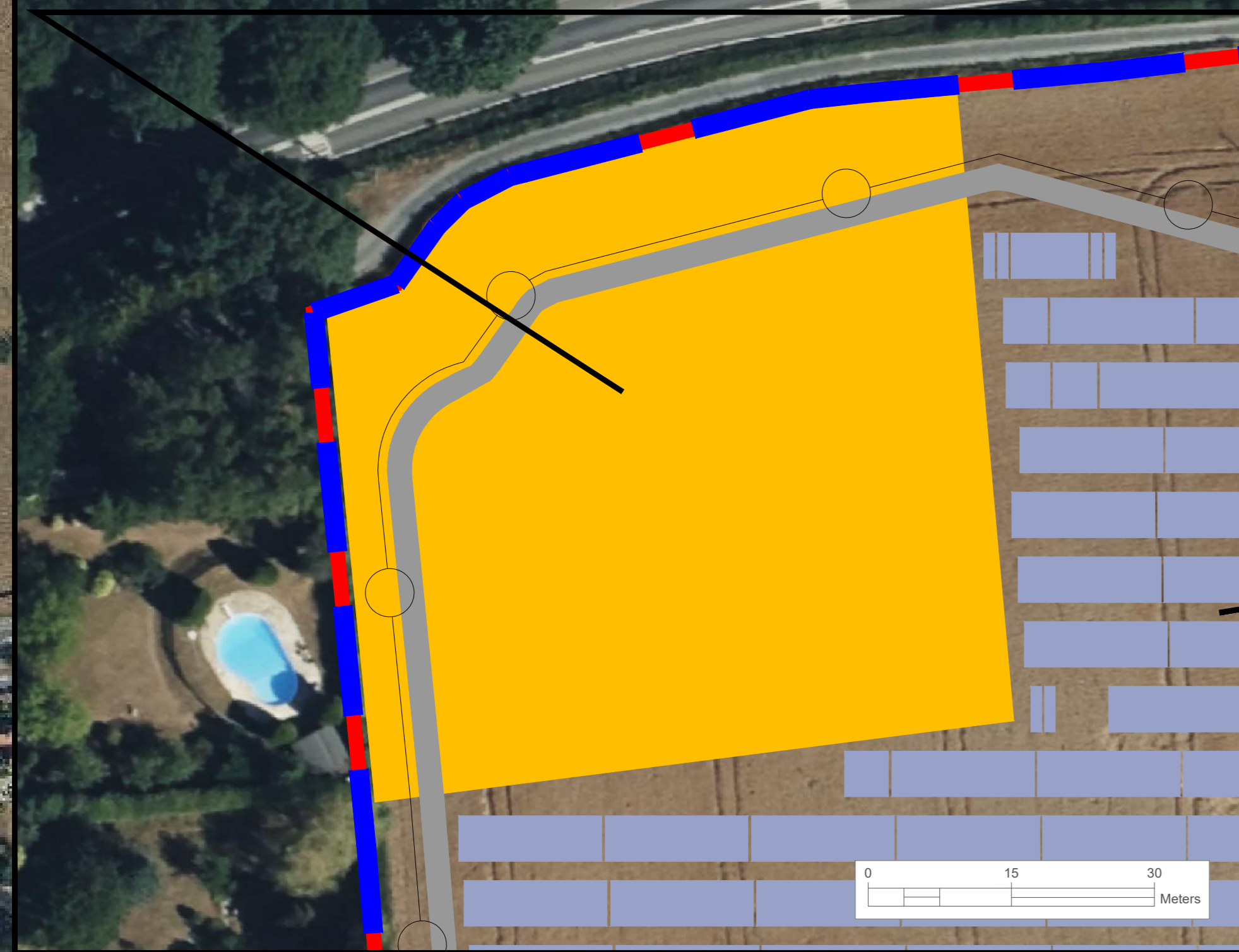
Photovolt Development Partners GmbH (PVDP) on behalf of SolarFive Ltd.

## **APPENDIX A**

### **Project Refinements Plan**



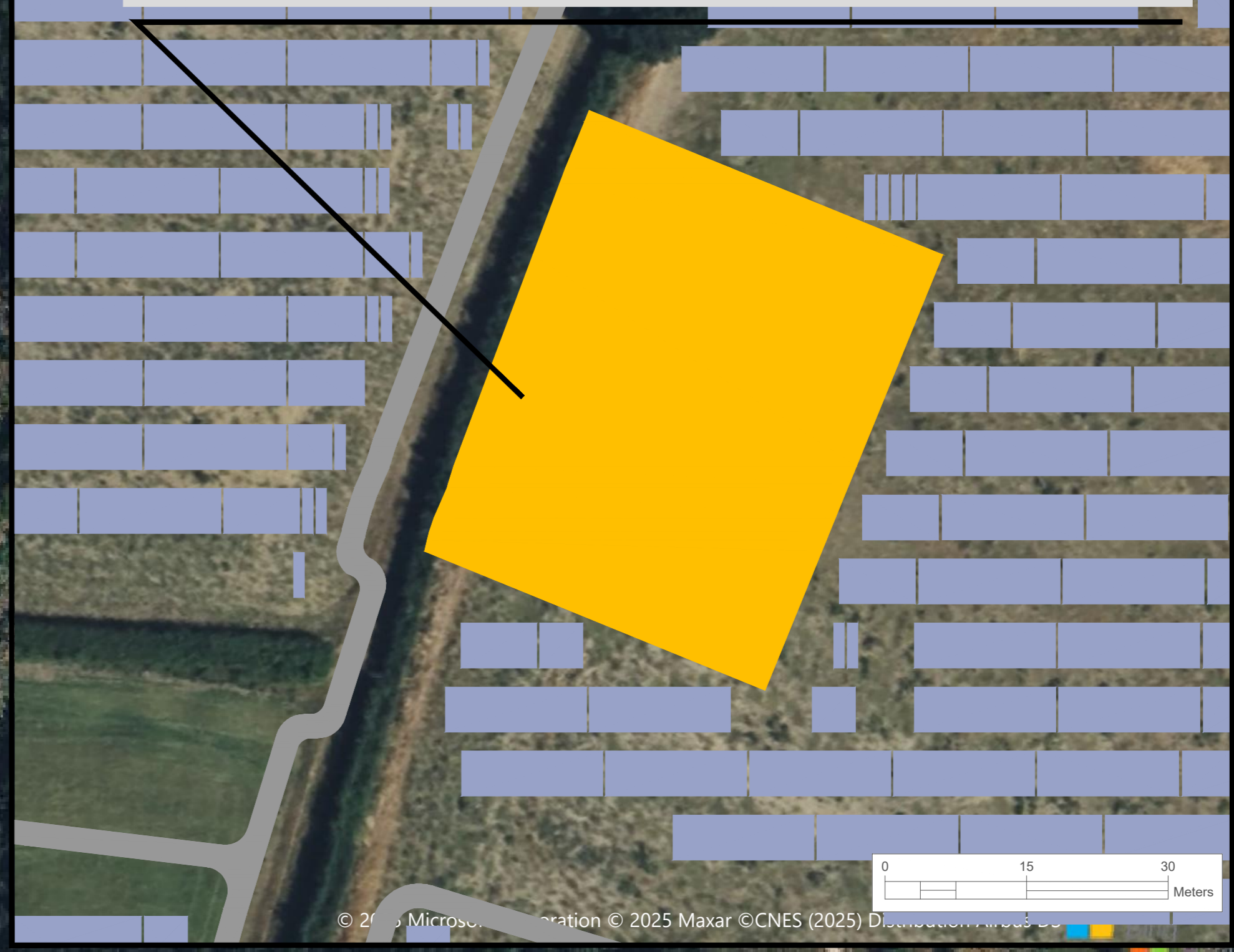
(1) Replace solar installation area for further archeological protection and management (0.30ha)



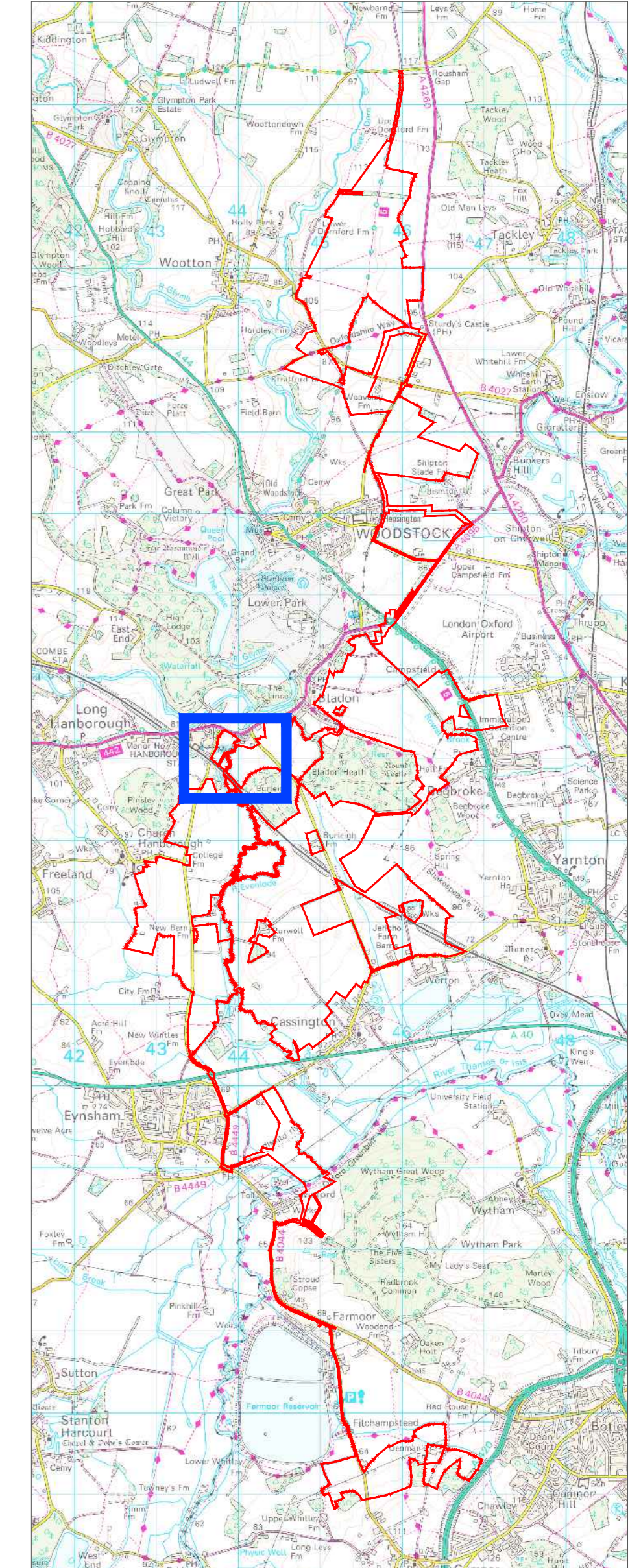
(3) Small reduction in redline (0.015 ha)



(2) Replace solar installation area for further archeological protection and management (0.17ha)



- Legend
- Order Limits DCO Submission [---]
  - Order Limits Rev.1. s51 Response [---]
  - Proposed Infrastructure and Land Use Elements \***
  - Areas for sensitive archaeological site protection and management [■]
  - Solar Panels [■]
  - Maintenance Road [—]
  - Fence [---]
  - Access Gate [M]
  - PCS [|]
  - Indicative 33kV Cable Route [—]
  - Project Refinements**
  - (1) Replace solar installation area for further archeological protection and management (0.30ha) [■]
  - (2) Replace solar installation area for further archeological protection and management (0.17ha) [■]
  - (3) Small reduction in redline (0.015 ha) [■]



\* The location of the proposed infrastructure and land use elements are shown indicatively only.

A: s51 Response		Status	Illustrative
Project		Botley West Solar Farm	
Id.	Changes	Date	Name
	Edit	31.01.2025	V. Guskova
	Check	31.01.2025	H.Trabelsi
Drawing No		Appendix A	
A	Created	31.10.2024	V.Guskova

APFP Regulation: 5(2)(j)

Scale: 1:1250 at A0

Title: **s51 Response - Project Refinements**



## APPENDIX B

### Documents submitted with the s51 Response

<b>Document</b>	<b>Version</b>
Cover Letter	<i>New</i>
Guide to the Application (Clean and Tracked)	Rev 1
Location Plan	<i>New</i>
Operational Development Areas Plan	Rev 1
Landscape, Ecology and Amenities Layer Plan	Rev 1
Temporary Facilities Overview Plan	Rev 1
Land Plans	Rev 1
Draft Development Consent Order (Clean and Tracked)	Rev 1
Schedule of Changes to the DCO	<i>New</i>
Explanatory Memorandum (Clean and Tracked)	Rev 1
Statement of Reasons (Clean and Tracked)	Rev 1
Book of Reference (Clean and Tracked)	Rev 1
Schedule of Changes to the BoR	<i>New</i>
Land and Rights Negotiation Tracker (Clean and Tracked)	Rev 1
Figure 1.2 Masterplan Overview	Rev 1
Illustrative Masterplan	Rev 1
Hedgerow Removal Plans	Rev 1
Streets, Access and Rights of Way Plans	Rev 1
Works Plans	Rev 1
Traffic Regulation Measures Plans	Rev 1