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For and on behalf of
Warley Green Limited

WRITTEN REPRESENTATION
Unique Reference Number: 20035563

**Application by National Highways for an Order Granting Development Consent for the
Lower Thames Crossing**

**Response to the Examining Authority's Written Questions and Requests for Information
(ExQ1) in light of the Applicant's submission at D4**

**Prepared by
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October 2023





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APPENDICES

Appendix 1 Site Location Plan

1.0 INTRODUCTION

1.1 This Representation has been prepared by DLP Planning Ltd on behalf of Warley Green Limited ('the client') in relation to the Application by National Highways for an Order Granting Development Consent for the Lower Thames Crossing ('the Project').

1.2 This Representation is to be read in conjunction with our previous submissions (unique reference 20035563):

- Relevant representation submitted on 23rd February 2023 (RR-1131);
- Deadline 1 Written Representation submitted on 21st July 2023 (REP1-431).

1.3 Our client continues to seek assurances that any works relating to the DCO, or Order Limits, would not prejudice the consented development for a solar farm and energy storage facility at Land adjacent Fen Farm Judds Farm and Part of Bulphan Fen, Harrow Lane, Essex (known as the Bulphan Fen solar farm).

Background

1.4 Warley Green Limited is a wholly owned subsidiary of Verdant, which is jointly owned by DIF Capital Partners (DIF) and ib Vogt (IBV).

1.5 The Bulphan Fen Solar Farm is part of a portfolio of Verdant sites with a total capacity of 720MW of solar and battery storage. The extant permission applies to land sited within the administrative boundaries of both the London Borough of Havering (ref. P0059.21) and Thurrock Council (ref. 21/00077/FUL). The solar development and energy storage facility is now progressing towards construction which is expected to complete by early 2024. The development will be fully implemented when the DCO works are expected to begin in 2024.

1.6 As stated in our previous representations, our client is broadly supportive of the proposed scheme but welcomes further discussions with National Highways to address the concerns as set out in previous representations.

1.7 This Written Representation responds to the Examining Authority's Written Questions and Requests for Information (ExQ1) in light of the Applicant's submission at D4, where they are considered to be of relevance to our clients' interests.

2.0 AIR QUALITY AND DUST

ExQ1: Air Quality: Q5.1.10 Monitoring – Construction Phase; Q5.2.8 Additional Monitoring Sites. Biodiversity: Q11.10.3 Dust control

- 2.1 As stated in our previous submitted representations (RR-1131 and REP1-431), our clients solar farm, which will be operational by November 2023, is partly located within the area identified as being most at risk of being impacted by construction dust (Figure 1: Construction Dust Study Area, Application Document 6.2 of Document APP-143). Gradual dust accumulation can reduce solar panel efficiency which translates to a decline in the amount of power produced and therefore, lost income for our client. In addition, dust deposition will incur large costs due to the necessary additional cleaning and maintenance required to ensure that the solar panels remain fully efficient.
- 2.2 Our previous representations sought details specific to dust control for the Bulphan Fen solar farm.
- 2.3 The assumption in the response from the Applicant is that the implementation of best practice guidelines on air quality and dust will be sufficient during both the construction and the operational phases of the project.
- 2.4 The Applicant proposes to delay preparation of a detailed air monitoring strategy until the details of the work to be undertaken on each specific site have been developed. The Applicant commits to preparing an air quality monitoring programme which is to be subject to approval by the Secretary of State in conjunction with the relevant local authorities (to be secured by Requirement 4 of the draft DCO as part of the environmental management plan (EMP)).
- 2.5 It is noted that the Applicant commits to dust monitoring being undertaken as part of the air quality monitoring programme to ensure that the dust control measures are effective in the control of dust emissions and impacts at receptors. The monitoring would include onsite and offsite inspections for dust.
- 2.6 Given the potential for dust disposition to impact negatively upon the operation of our client's solar farm and its location within an area identified as most at risk of being impacted by construction dust, our client would welcome engagement with the Applicant during its preparation of the detailed air monitoring strategy and would wish to comment on the

submission version of the air monitoring strategy. Our client would welcome the inclusion of their site as an offsite receptor for the monitoring of dust.

- 2.7 As a minimum our client would wish to see a plan showing the location of waste, plant and materials storage areas, the proposed delivery area, the location of hoarding and the location of stockpiled materials (which could give rise to dust). Machinery and dust causing activities should be located away from sensitive receptors as far as possible. The contractor must be required to liaise with and notify the landowner and client respectively regarding the proposed programme and associated timescales of works.
- 2.8 As part of the EMP required under Requirement 4 of the draft DCO, in relation to air quality our client would wish to see as a minimum: both quantitative and qualitative monitoring surveys (including regular visual inspections for dust); monitoring of a range of particulates; clear quality control/record keeping of monitoring data; frequent reporting of monitoring data, and a clear reporting and complaints procedures (including contact details for the site manager) to ensure that any unacceptable levels of dust accumulation can be reported and actioned for timely investigation (and mitigation) by the contractor.

3.0 DRAINAGE AND FLOODING

ExQ1: Road drainage, water environment and flooding: Q10.2.1 Surface water flood risk; Q10.4.2 Maintenance of Drainage Works; Q10.6.1 Water discharge.

- 3.1 Our Written Representation (REP1-431) sought clarification that the development of the Project is not likely to increase the chance of flooding at the solar farm and energy storage facility site.
- 3.2 Our client notes that the Environment Agency consider that the post-development flood modelling scenarios for the Mardyke river (in Flood Risk Assessment APP-472) show that there is no differential in flood depths either side of Highway embankments where these sit within flood inundation areas as flood flow conveyance is maintained through the flood plain.
- 3.3 Warley Green Limited welcomes the requirement of the Applicant to prepare a construction phase drainage plan.
- 3.4 In relation to access to the Mardyke river during operation, allowances have been secured within the application to enable the future maintenance of watercourses via a bankside access track which shall be incorporated into the design of the crossings, the width of which would be subject to consultation with the Environment Agency. Given the proximity of the Mardyke river to the client's permitted solar farm our client would wish to be consulted on any proposals for future maintenance that may affect the solar farm and to understand the detail and location of the proposed crossing of Mardyke.

4.0 PHYSICAL EFFECTS OF DEVELOPMENT AND OPERATION

ExQ1: Q12.2.8 Utility diversions

- 4.1 In response to the request for the applicant to provide a Utility Diversions Assessment, it is noted that the Applicant considers that it would not be meaningful to separate out the effects of the utility diversions alone, as they would not occur in isolation.
- 4.2 Our client's interest in this particular question was actually in relation to understanding how any planned works for indicative temporary utility tunnel work that may occur during construction of the Project (specifically along Clay Type Road) may have implications on the length of time proposed for the road closure. As noted in our previous representations, Application Document 2.8 'Streets Subject to Temporary Restrictions of Use Plans (Volume C)' (Sheet 41, 42 and 43) explains that temporary road closure alteration, diversion or restriction of Clay Tye Road may occur during construction of the Project. The closure of Clay Tye Road will have implications for the operational visits associated with the solar farm and energy storage facility once it is operational (from November 2023)
- 4.3 As requested previously, our client seeks an understanding of the length of time proposed for the road closure. National Highways are advised that, in order to attend the site in case of emergency, Warley Green Limited will require access to the Bulphan Fen solar farm at all times.

5.0 THE ACQUISITION AND TEMPORARY POSSESSION OF LAND AND RIGHTS (CA & TP)

ExQ1: Q15.1.1 CA & TP: Due Diligence and Monitoring of General CA & TP Objections

- 5.1 It is noted that the applicant has produced ExQ1.15.1.1: Schedule of CA and TP Objections: LTC [Document Reference 9.77] to respond to this question. In reference to our client (Warley Green Limited), Document Reference 9.77 cites that “the Applicant understands that the landowner does not object to the CA in relation to their interests”.
- 5.2 The Objections Schedule aggregates data from multiple sources including the Written Representations. Whilst the landowner of the solar farm may not raise an in-principle objection, our client (Warley Green Limited) has a number of queries that were raised in the Written Representation (REP1-431) and which we would welcome further discussions with National Highways to address the concerns as set out.
- 5.3 For the avoidance of doubt, our client would welcome discussion with National Highways regarding the following concerns (raised in this and/or previous representations made on behalf of Warley Green Limited):
- The monitoring and control of dust accumulation within the vicinity of the Bulphan Fen solar farm;
 - Works proposed to facilitate access to the river Mardyke;
 - The anticipated duration of the temporary closure of Clay Type Road;
 - Confirmation as to whether there is potential for downtime to the National Grid connection as a result of the proposed development;
 - The implications of any proposed works in relation to the Linear Work Centreline (Application Document 2.17 Works Plans, Volume C, Sheet 38) and footpath 136 (Application Document 2.7 Rights of Way and Access Plans, Volume C, Sheet 38) for the soft landscaping scheme approved by Thurrock Council in association with the Bulphan Fen solar farm.

ExQ1: Q15.1.3 Statutory Undertakers: Land or Rights: Monitoring; Q15.1.4 Statutory Undertakers: Extinguishment of Rights and Removal of Apparatus etc.: Monitoring

- 5.4 It is noted that the Applicant has produced ExQ1.15.1.3: PA2008 s127 Statutory Undertakers' Land/ Rights: LTC [Document Reference 9.79] and ExQ1.15.1.4: PA2008 s138 Statutory Undertakers' Rights and Apparatus: LTC [Document Reference 9.80] to respond to these questions.
- 5.5 It is understood that discussions are ongoing between National Grid Electricity Transmission's (NGET) legal representatives and the Applicant's solicitors with particular regard to NGET's rights of access to inspect, maintain, renew and repair any apparatus connected to any such line for the purpose of carrying electricity and that NGET's access to inspect and maintain such apparatus must not be restricted.
- 5.6 It is noted that the Applicant is confident that agreement on all matters will be reached during the Examination period.
- 5.7 We believe that NGET requirements regarding the rights of access to inspect, repair and renew are closely associated with the proposed change under EC02 which is located in close proximity to the client's solar farm and requires an access from Fen Lane. On reviewing the proposed changes submitted, it is noted that 2.2 Land Plan Volume C (Sheets 21 to 49) and specifically Sheet No 41 does not show the proposed revision to the land plots south of Fen Lane (as set out in TR010032/exam/10.27 Second Change Application (8 September 2023) necessary to provide this access and/ or an amendment to the land designation from 'temporary possession of land' to 'temporary possession of land and permanent acquisition of rights'.
- 5.8 As such the client is unable to ascertain with any degree of certainty the impact that the proposed change may have the permitted solar farm. We await the relevant representation period for proposed changes to ascertain further details in this regard.

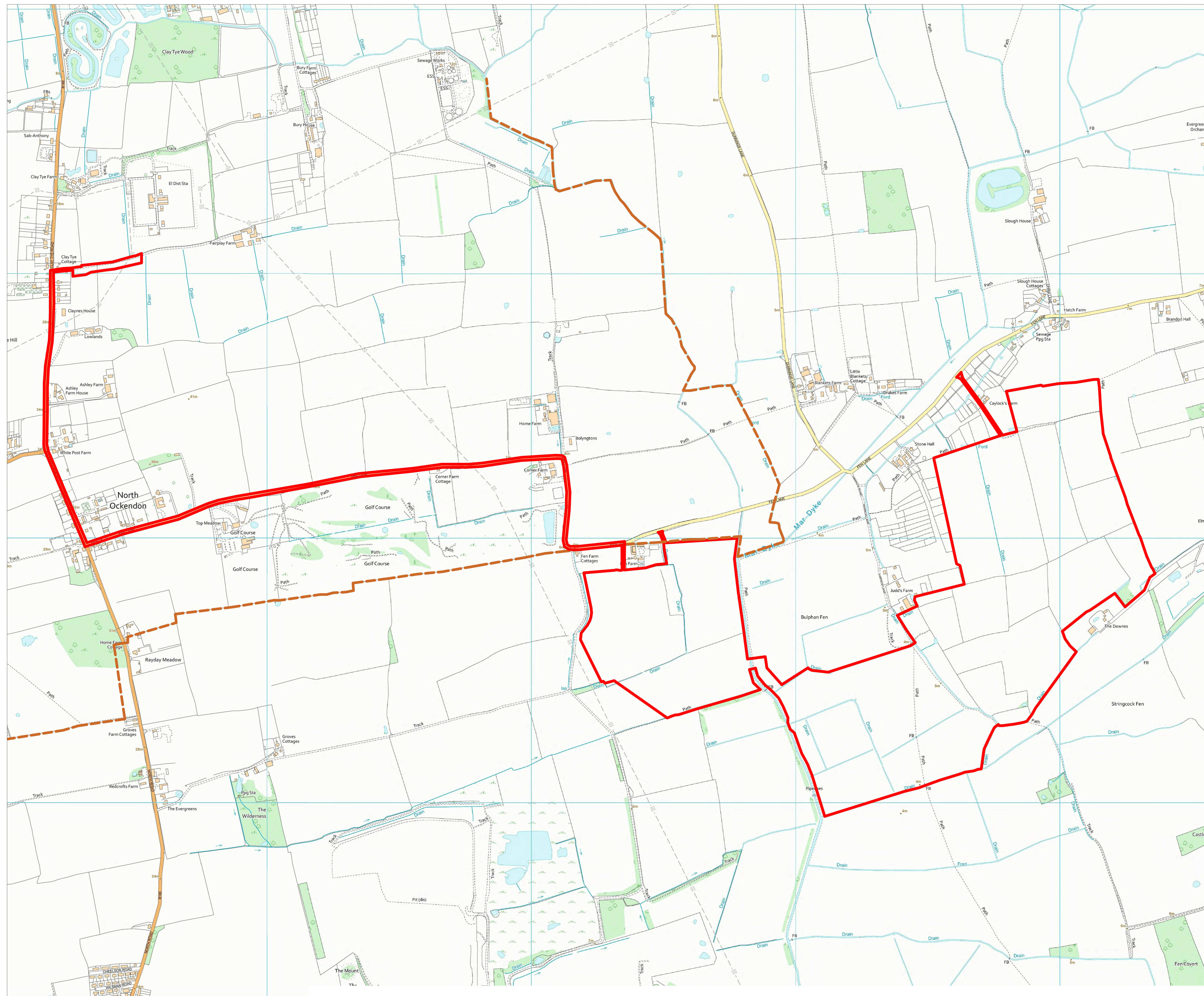
6.0 CONCLUSION AND NEXT STEPS

- 6.1 We are of the view that the concerns raised can be addressed through communication from National Highways (NH) to ensure that any works directly related to the DCO, or Order Limits, would not prejudice the consented solar farm and energy storage facility development. Despite the submission of RRs and WRs, to date, our client has received no contact or engagement from National Highways.
- 6.2 As stated previously, and reiterated within this response, our client would welcome discussions with National Highways to address the concerns as set out above and in our representations dated 23 February 2023 and 21st July 2023 (RR-1131 and REP1-431).
- 6.3 In the event that the Examining Authority feel that it would be beneficial, we would be open to attending any relevant Issue Specific Hearings to represent the interests of Warley Green Limited.



G5117/2
Warley Green Limited
Application by National Highways for an Order Granting
Development Consent for the Lower Thames Crossing
October 2023

Appendix 1
Site Location Plan



General Notes

Key

- Site Application Boundary
- Administrative Boundary

REVISED	DATE	MODIFICATION

PROJECT NAME:
Bulphan Fen Solar Farm

DRAWING TITLE:
Consolidated Location Plan

DRAWING No: **BF1.0** REVISION: **v.b**

SCALE: **1:5000** FORMAT: **A0** DATE: **22 Dec 2020**
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