



# Longfield Solar Farm

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Consents and Agreements Position Statement

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# 1. Consents and Agreements Position Statement

## 1.1 Introduction

- 1.1.1 This document has been prepared by Longfield Solar Energy Farm Limited (**"the Applicant"**). It forms part of the application (**"the Application"**) for a development consent order (**"DCO"**) that has been submitted to the Secretary of State for Business, Energy and Industrial Strategy (**"the Secretary of State"**) under section 37 of the Planning Act 2008.
- 1.1.2 Longfield Solar Farm is a proposed solar farm which will generate renewable energy for exporting to the National Grid (**"the Scheme"**).
- 1.1.3 It will comprise the construction, operation, maintenance and decommissioning of a solar photovoltaic (**"PV"**) electricity generating facility and Battery Energy Storage System with a total capacity exceeding 50 MW. The Scheme will have export connection to the National Grid and it also includes upgrades, modifications and an extension to the existing substation at Bulls Lodge. Further details on the Scheme are provided in Environmental Statement Chapter 2 - The Scheme [EN010118-APP-6.1.2].

## 1.2 Purpose of this document

- 1.2.1 The purpose of this document is to provide information on the additional consents and licences that are or may be required to construct and operate the Scheme.
- 1.2.2 Section 37 of the Planning Act 2008 (**"PA 2008"**) governs the content of an application for a DCO, including the requirements for the necessary accompanying documents specified in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (**"APFP Regulations"**).
- 1.2.3 Regulations 5 and 6 of the APFP Regulations provide the statutory requirements for what must accompany a development consent application. Guidance issued by the Department for Communities and Local Government: 'Planning Act 2008: Application Form Guidance' (June 2013) (paragraphs 45 and 46) requires that:

*"Where the proposed development will also require other consents, licences, permits, etc, to enable it to be constructed and/or operational, and for which the Secretary of State is not the authorising body under the Planning Act, then the applicant must list and briefly describe these in Box 24. Reference should be made to any that have already been applied for, and a copy enclosed of any that the applicant may already be in the possession of.*

*The applicant should also, either in Box 24 or elsewhere in one of their application documents, set out whether there are, in principle, any reasons why such consents etc. might not be granted. In providing this information*

*the applicant should reference responses received from the relevant authorising bodies regarding the likelihood of such consents etc. being granted."*

- 1.2.4 This document lists those consents which the Applicant currently anticipates could be required. Further consents may be required as the project develops due to unforeseen circumstances and the Applicant will keep the Examining Authority up to date with any such developments.

### **1.3 Consenting requirements incorporated within the draft DCO**

- 1.3.1 Section 33 of the PA 2008 makes it clear that there is no requirement for certain principal conventional consents to be obtained where a DCO is required to authorise a project (as is the case for the Scheme).
- 1.3.2 Part 7 of the PA 2008, in particular section 120, makes it clear that the following can be included within a DCO:
- Ancillary matters (including those listed in Part 1 of Schedule 5 to the PA 2008);
  - The application, modification or exclusion of statutory provisions for which the provision may be made in the DCO;
  - Amendment, repeal or revocation of any local legislation, where thought necessary or expedient by the Secretary of State in consequence of or in connection with the DCO; and
  - Incidental, consequential, supplementary, transitional or transitory provisions and savings.
- 1.3.3 Section 150 of the PA 2008 states that a requirement to obtain certain prescribed consents, or authorisations, under the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 can be removed by the DCO with the consenting body's agreement.
- 1.3.4 From the above, it is clear that the intention of the PA 2008 is to encourage as many consents to be 'wrapped up' in a DCO as possible creating a 'one-stop-shop' approach for construction related consents.
- 1.3.5 The Applicant believes that the approach to including consents with a DCO should apply for both those that do, and those that do not, require the agreement of the relevant body under section 150 in order for them to be included in the DCO. The Applicant envisages the approach being as follows:
- The DCO contains an express provision disapplying the requirement for the consent in question.
  - In exchange, the DCO includes 'protective provisions' for the benefit of the body concerned.
  - These protective provisions are specifically stated to have effect unless otherwise agreed between the Applicant and the body concerned.
  - Compliance with the provisions is a matter as between the parties and can be enforced accordingly.

- Either way, the protective provisions provide a means for the body concerned to monitor, enforce compliance and to review the effectiveness of the approval regime enshrined in the protective provisions.
- The mechanism of approval being given under the protective provisions allows the body concerned to approach a project in two stages (i) the DCO application stage, where the principle of the project is accepted by the body concerned and the detail of the protective provision is negotiated and (ii) the subsequent approval stages under the protective provisions which cannot be unreasonably refused but when detailed matters going to construction can be properly considered.

1.3.6 This is a tried and tested approach adopted in numerous local and public (hybrid) Acts, Harbour Act Orders, Transport and Works Act Orders for many decades and which is now firmly established in the case of DCOs.

## 1.4 Consents

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

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

1.4.2 The majority of consents required are included, or addressed, within the draft DCO, as permitted by various provisions of the PA 2008. These fall into the following categories:

- Authorisation of all permanent and temporary works for the Scheme which are described as the "authorised development" in Schedule 1 to the draft DCO (equivalent to planning permission). Article 3 is the principal power in this respect;
- Compulsory acquisition of land and of rights over land, and the temporary possession of land. Articles 19 to 32 of the draft DCO provide these powers;
- Consent to carry out street works. Article 8 of the draft DCO provides this power;
- Traffic regulation matters required during construction that are equivalent to Traffic Regulation Orders made under the Road Traffic Regulation Act 1984;
- Consent to alter the layout of streets and to form new, or alter or improve existing, accesses to the highway. Articles 9, 10 and 12 provide this power;
- Land drainage consent(s) under section 23 of the Land Drainage Act 1991 for works affecting the flow in ordinary watercourses (disapplication of that

requirement requires the consent of the relevant body, and this has been agreed with the lead local flood authority and appropriate protective provisions have been included in the draft DCO). Article 6 provides this power;

- Flood risk activity permit(s) from the Environment Agency under the Environmental Permitting Regulations (England and Wales) 2016 in connection with drainage outfall installation (disapplication of that requirement requires the consent of the relevant body and the Environment Agency has provided this, and the parties have agreed protective provisions in this respect). Article 6 provides this power;
- Water activity permit(s) from the Environment Agency under the Environmental Permitting Regulations (England and Wales) 2016 for temporary construction and permanent operational discharges (disapplication of that requirement requires the consent of the relevant body and the Environment Agency has provided this, and the parties have agreed protective provisions in this respect). Article 6 provides this power;
- Trade effluent consent under the Water Industry Act 1991 for the purposes of discharging trade effluent from welfare facilities during construction (disapplication of that requirement requires the consent of the relevant body). Article 6 provides this power; and
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- Requirement of licence for felling under section 9 of the Forestry Act 1967. Article 6 provides this power.

1.4.3 Some of these consents are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. As a result, under section 150 of the PA 2008, the relevant consenting body must agree to the inclusion of these consents within (i.e. disappplied by) the DCO. Where this applies, this is indicated in the list above. Where required, the Applicant has had discussions with the consenting bodies and the draft DCO has been updated (in particular with amendments to Article 6 and the inclusion of appropriate protective provisions) to reflect agreements reached during the examination of its application.

## 1.5 Other consents and licences

- 1.5.1 A summary of the additional consents and licences likely to be required, but which are not appropriate for inclusion in the DCO, is set out in Table 1-1.
- 1.5.2 Table 1-1 lists the type of consent or licence required, the relevant consenting body, any agreement that has been reached with that body, actions to be undertaken and the status of the relevant application (e.g. whether the consent or licence has been granted or the anticipated application submission date).

## 1.6 Agreements

- 1.6.1 Agreements with third parties may be required in parallel to the DCO process and may take a variety of forms. A legal agreement pursuant to section 106 of the Town and Country Planning Act 1990 has been negotiated between the Applicant and the host local authorities. The Agreement is in agreed form

(provided at Deadline 7) and is expected to be completed before the end of the Examination. The section 106 agreement is in two parts. Schedule 1 contains an obligation pursuant to section 106 of the Town and Country Planning Act 1990 and which flows from the output of the environmental impact assessment work and, as such, is to be taken into account in the planning balance. That part secures the skills, supply chain and employment plan, and the skills and education contribution. Schedules 2 and 3 contain covenants under section 111 of the Local Government Act 1972 only. This includes securing the payment by the Applicant of a community benefit fund. This fund is a voluntary commitment by the Applicant and, as such, is not required to make the authorised development acceptable in planning terms. Schedule 2 also includes support for membership of neighbouring agricultural land in a yield enhancement scheme and Schedule 3 includes obligations on the Applicant to provide funding for the host local authorities for work undertaken in discharging requirements – both these obligations are also voluntary. For this reason Schedules 2 and 3 are not secured under section 106 of the Town and Country Planning Act 1990 and the Applicant's position is they should not be taken into account in the planning balance.

- 1.6.2 A section 278 agreement may be required under the Highways Act 1980 in connection with visibility splays to facilitate construction access in the location of Grid Connection Route crossing Waltham Road. The Applicant is in discussions with the local highway authority with respect to a highways agreement which sets up a framework within which the parties can deliver the highways works consented by the Order (if made) – for example dealing with any approval of details by the local highway authority, inspection and completion of works, maintenance etc.
- 1.6.3 A fundamental part of the DCO process is the preparation and agreement of Statements of Common Ground (SoCG) with third parties to identify the matters on which we are in agreement, in order to narrow the focus for examining the Application concerned and to make the examination process more efficient. These have been progressed by the Applicant throughout the examination and final versions submitted to the Examination.



**Table 1-1: Summary of Additional Consents and Licences Likely to be Required**

Nature of Consent/Licence	Key Legislation	Consenting Authority	Status/Comment
1. <b>Electricity Generation Licence</b>	Electricity Act 1989	Office of Gas and Electricity Markets (OFGEM)	Required for electricity generation under the Scheme in the areas specified in Schedule 1.  The generation licence was granted on 9 May 2022.
2. <b>Water abstraction or impoundment licence</b>	Water Resources Act 1991 (as amended by the Water Act 2003), Environment Act 1995, Water Resources (Abstraction and Impounding) Regulations 2006	Environment Agency	If groundwater pumping / dewatering is required then applications will be made by the contractor before the abstraction or impoundment commences as appropriate.
3. <b>Bilateral Connection Agreement</b>  To connect the Project to the NETS	N/A - Commercial Agreement	National Grid	The Applicant accepted a grid connection offer, received from National Grid Electricity System Operator Limited (NGESO) in August 2019. Engagement with NGESO has continued since 2019, and in 2022 due to grid constraints the applicant signed an ATV to move the grid connection offer to 2028. Review is ongoing whether this connection offer could be earlier than 2028.
4. <b>Permit for transport of abnormal loads</b>  For delivery by road of loads that fall outside standard practice (if required)	Road Vehicles (Authorisation of Special Types) (General) Order 2003 or with authorisation from the Secretary of State under the Road Traffic Act 1988	Department for Transport, Highways Agency, Local Highway Authority or the police and bridge owners (if any) as appropriate	Appropriate applications and notifications, in accordance with the Construction Traffic Management Plan [EN010118-APP-Appendix 13B], will be made by the contractor in advance of the delivery of abnormal load.
5. <b>Section 61 consent</b> Control of noise on construction sites	Control of Pollution Act 1974	Essex County Council	Any applications required will be made by the contractor before construction commences.

<b>6.</b>	<b>Health and Safety related consents</b>	Health and Safety at Work Act 1974 and subsidiary legislation	Health and Safety Executive (HSE)	Applications to be made by the contractor before construction commences as appropriate.
<b>7.</b>	<b>Protected species licence</b>	Protection of Badgers Act 1992	Natural England	It is not expected that protected species licences will be required.