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To the Applicant  
(By email only)

Your Ref:

Our Ref: EN010127

Date: 21 December 2022

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Dear Ms Price

## **Planning Act 2008 (as amended) – Section 51**

### **Application by Mallard Pass Solar Farm Limited for an Order Granting Development Consent for the Mallard Pass Solar Project**

#### **Advice following issue of decision to accept the application for examination**

On 21 December 2022 the Secretary of State decided that the application for the above project satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA2008). The Planning Inspectorate's acceptance checklist and the application documents have been published and made available on the project page of our website.

In undertaking checks at the acceptance stage, the Inspectorate has made some initial observations in relation to the application. This letter comprises advice to the Applicant provided under section 51 of the PA2008 in respect of these initial observations. The Applicant should pay attention to its content and consider how appropriate action might be taken in response.

#### **Section 44(4) of the Planning Act 2008 ("the Act")**

Part 2 of the Book of Reference (Doc 4.3) lists those "Category 3" persons whom the Applicant thinks would or might be entitled to make a "relevant claim" and therefore are consultees in relation to sections 42 and 44 of the Act. Chapter 9 of the Consultation Report and part 10 of the Applicant's Section 55 Acceptance of Applications Checklist refer briefly to the identification of section 44 consultees.

However, there is not an explanation of the criteria and methodology used for identification of these parties, particularly in respect of potential claims under Part 1 of the Land Compensation Act 1973. The Applicant should consider the extent to which the identification of Category 3 consultees is robust and fully documented in an updated Book

of Reference to ensure that potential Interested Parties are aware of the Examination process going forward.

### **Draft Development Consent Order (Doc 3.1) (DCO) – Protective Provisions**

Schedule 15 of the draft DCO sets out protective provisions for the benefit of statutory undertakers whose equipment may be affected. Paragraph 5.15.3 of the Explanatory Memorandum explains that provisions for Anglian Water, Cadent Gas and Network Rail are not yet included in the Order as the parties have yet to reach an agreed starting point. In order that all the Protective Provisions can be examined from the onset of the Examination, the Applicant should ensure that the missing Protective Provisions are added to the draft DCO at the earliest opportunity within the pre-examination period.

### **Proposed Development Parameters**

Appendix 5.1 of the Environmental Statement (Doc 6.2) (ES) sets out the Proposed Development Parameters to be secured via a requirement in the draft Development Consent Order (DCO). Chapter 5 (Project Description) also sets out the maximum parameters that have been assessed within the ES of each design element with Tables 5-1 to 5-13 providing the basis of assessment for each element.

It appears that several of the parameters set out in the Tables within Chapter 5 are not included within the Proposed Development Parameters in Appendix 5.1. For example, the maximum length of elements of Work No. 1 and certain elements of Work No. 2. The maximum cable trench width for Work No. 4 is also inconsistent between the two documents. The use of terminology for components of Work No. 1 should also be checked for consistency and clarity between Chapter 5 of the ES and Appendix 5.1.

The Applicant should ensure that there is the necessary consistency between the relevant documents so that the maximum parameters of the development proposed to be secured by the draft DCO can be clearly understood and assessed.

### **Minor errors and omissions**

Additionally, there are minor errors and omissions set out below, as reflected in Box 30 of the acceptance checklist:

### **Access and Rights of Way Plans (Doc 2.4) and Traffic Regulation Measures Plans (Doc 2.7)**

For clarity and to help understanding, existing public footpaths (public rights of way) should be marked and the plans more clearly notated to reflect the proposals, including differentiating works to footpaths and roads.

### **Works Plans (Doc 2.2) Hedgerows Plans (Doc 2.5), Location, Order Limits and Grid Coordinates Plans (Doc 2.6)**

Sheets 1 and 3 are missing areas which, albeit outside of the Order limits, are close enough to the Order limits to warrant inclusion.

## **ES Non-Technical Summary (Doc 6.4)**

It appears that paragraph 2.8.1 should refer to Figure 4 (Indicative Cable Crossing Locations) rather than Figure 3.

## **ES Landscape and Visual (Figure 6.8.9)**

Landscape and Visual – Representative Viewpoint 9 (Figure 6.8.9) is missing from the Applicant's documents.

## **Accessibility of documents online**

Advice Note 6 paragraph 6.4 advises that all documents should be optimised for web viewing and not exceed 50MB. The Applicant should review the plans submitted to ensure they are optimised for web viewing.

Please pay close attention to the advice set out in this letter and act on it accordingly. It is requested that you action these points before the commencement of the Relevant Representation period. This will contribute towards a more efficient Examination and give any future Examining Authority comfort that the documentation is complete and accurate.

We trust you find this advice helpful, however if you have any queries on these matters please do not hesitate to contact our office using the contact details at the head of this letter.

Yours sincerely

*Karl-Jonas Johansson*

**Karl-Jonas Johansson**  
**Case Manager**

This communication does not constitute legal advice.

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