

Stonestreet Green Solar

Closing Statement

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Table 1: Glossary

Abbreviation	Definition
ABC	Ashford Borough Council
BNG	Biodiversity Net Gain
CNP	Critical National Priority
DCO	Development Consent Order
ExA	Examining Authority
KCC	Kent County Council
LIR	Local Impact Report
MW	Megawatts
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
SoS	Secretary of State

1 Executive Summary

1.1 Purpose

- 1.1.1 The purpose of this Closing Statement is to provide EPL 001 Limited's (the Applicant) final position on key planning matters in relation to Stonestreet Green Solar (the Project), to aid the Examining Authority (ExA) and the Secretary of State (SoS) in their decision making.
- 1.1.2 It does not introduce new material. Instead, it summarises the Applicant's position on key matters by way of cross references to documents already submitted into the Examination. It also considers compliance with Section 104 of the Planning Act 2008 (PA 2008) and the relevant National Policy Statements (NPS) which guide decision-making on Development Consent Order (DCO) applications.
- 1.1.3 There is a clear and urgent need for energy nationally significant infrastructure projects (NSIPs) such as that applied for. The Overarching National Policy Statement for Energy (NPS EN-1) establishes this urgent need, with paragraph 3.2.6 of NPS EN-1 stating that the SoS should assess all DCO applications for the types of infrastructure covered by this NPS on the basis that the government has demonstrated that there is a need for such infrastructure which is urgent, and paragraph 3.2.7 stating that the SoS has determined that substantial weight should be given to this need when considering DCO applications. Paragraph 4.2.4 goes further and explains that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure, which paragraph 4.2.5 confirms includes renewable generation (such as the Project). These policies are central to the assessment of the application for the Project. They mean that the Project has very strong, in principle support.
- 1.1.4 The Project is a necessary part of the future generation mix, and as such will make a valuable contribution to delivering the key objectives of national policy in NPS EN-1 and the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3), in particular achieving energy security and net zero. The rapid deployment of a significant increase in solar capacity is also acknowledged as a fundamental part of the National Energy System Operator's (NESO) and the UK Government's Clean Power 2030 advice and Action Plan.
- 1.1.5 In the case of the Project, these benefits include:
- A meaningful contribution to the UK's legally binding net zero commitment, with the Project able to generate an amount equivalent to 397% of the electricity currently (in 2022) generated from photovoltaics in Ashford, 225% of the electricity currently (in 2022) generated from photovoltaics in the areas of Ashford Borough Council (ABC) and Folkestone and Hythe District Council, 35% of the electricity (2022) generated from solar in Kent and 1% of the electricity (2022) generated from solar in the UK.
 - An additional source of domestic energy security that reduces the market

price of electricity by generating power so that more expensive and more carbon intensive generation (such as gas) are not required to generate as much, reducing the overall cost of electricity to consumers.

- Provision of battery energy storage, co-located with the solar generation which maximises the efficiency of land use and grid capacity and allows the Project to maximise the usable output from intermittent generation which will reduce the overall amount of generation capacity required whilst also providing the opportunity to deliver grid balancing to the local electricity network.
- A range of ecological enhancement measures that will result in a biodiversity net gain (BNG) of at least 100% for habitat units and at least 10% for hedgerow and river units.
- Significant additional tree planting.
- A reduction in nitrate emissions to the East Stour River as a result of the removal of the Site from intensive arable agricultural use.
- The creation of new public rights of way to provide new facilities for active travel, recreation and links between communities and developments. The Project will provide new access routes that will support wider connections between Ashford and the Otterpool Park development on attractive and safe, well-maintained paths.
- An average of 132 direct full time equivalent (FTE) jobs could be created over the 12-month construction period of which 98 are expected to be taken up by residents within the region. The direct construction employment will generate circa £6.2m in Gross Added Value (GVA) within the regional construction economy (based on average GVA per head in the construction industry).
- It is anticipated that the decommissioning phase would require a similar level of employment and generate a similar scale and character of workforce spending and supply chain effects as the construction phase.
- The operational phase of the Project would support four direct FTE jobs consisting of operational and maintenance roles for the Project's photovoltaic ('PV') panels and other structures, where relevant.

1.1.6 These benefits of the development are considered to carry substantial weight.

1.1.7 There is a future commitment to a community benefit package, but this is not a material planning consideration which the SoS should take into account.

1.1.8 Overall, the urgent need for the Project, which attracts substantial weight, along with the other benefits which together also attract substantial weight, and the limited number of residual significant adverse impacts, which have been mitigated appropriately in accordance with policy, mean that the planning balance is overwhelmingly in favour of the grant of development consent.

1.1.9 NPS EN-1 affirms in paragraph 4.1.3 that "*Given the level and urgency of need for infrastructure of the types covered by the energy NPSs set out in Part 3 of this NPS, the Secretary of State will start with a presumption in favour of granting consent to*

applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused".

- 1.1.10 The presumption in favour of granting consent to applications for energy NSIPs in NPS EN-1 paragraph 4.1.3 applies, as there are no more specific and relevant policies in the relevant NPSs that indicate (let alone "clearly indicate" in the words of paragraph 4.1.3) that consent should be refused.
- 1.1.11 The Project benefits from considerable, current, significant policy support. Not only does national policy establish an urgent need for new, low carbon energy generation, it specifically identifies solar as a key part of the Government's strategy for decarbonisation of the energy sector. The Project is also compliant with the National Planning Policy Framework (NPPF) and other important and relevant planning policies.
- 1.1.12 Whilst the Applicant has worked hard to avoid, minimise and mitigate / compensate any significant effects (in line with the mitigation hierarchy and policy), it is inevitable for a project of this scale that there would be some residual effects and that is recognised in the NPS. The residual impacts of the Project are not unacceptable in terms of NPS EN-1.
- 1.1.13 The residual adverse effects are very limited for a project of this scale and nature, have been mitigated where possible and are far outweighed by the significant need and benefits of the Project.
- 1.1.14 The urgent need for the Project and public benefit contribute to the compelling case in the public interest for the granting of the compulsory acquisition powers sought, which are necessary to ensure delivery of the Project.
- 1.1.15 It is clear that even without Critical National Priority (CNP) policy the planning balance comes down firmly in favour of granting consent, but in any event CNP policy provides further policy support for the Project. Applying that policy and having regard to the limited number, level and extent of residual significant adverse effects, this is clearly not a "most exceptional case" (NPS EN-1 paragraph 4.1.7) whereby the residual effects outweigh the urgent need for CNP infrastructure. Further, as is demonstrated in the documentation submitted by the Applicant in support of the application, none of those residual effects would present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero or present an unacceptable risk to, or unacceptable interference to offshore to navigation, or onshore to flood and coastal erosion risk and therefore the exceptions to this policy do not apply to the Project.
- 1.1.16 Accordingly, applying the provisions of section 104 of the PA 2008, the Project would be in accordance with relevant NPSs and legislation, would bring significant benefits under a range of national, international and local policy considerations, and:
 - would not lead to the UK being in breach of any of its international

obligations;

- would not lead to the SoS being in breach of any duty imposed on the SoS by or under any enactment;
- would not be unlawful by virtue of any enactment; and
- the benefits of the proposed development outweigh any adverse impacts;

1.1.17 There is a clear and compelling case in favour of the DCO being made. The Project accords with the relevant NPSs which have effect.

1.1.18 Section 104 of the PA 2008 states that applications must be determined in accordance with the relevant NPS, in this case being NPS EN-1, NPS EN-3 and the National Policy Statement for electricity networks infrastructure (NPS EN-5). As set out in the **Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#) and the **Planning Statement Addendum (Doc Ref. 8.9)** [\[REP2-035\]](#) and summarised in this document, the Project complies with the relevant NPSs and none of the exceptions in sections 104(4) to (8) of the PA 2008 apply. Accordingly, pursuant to section 104(3), the application should be determined in accordance with NPS EN-1, NPS EN-3 and NPS EN-5 by granting consent and making the DCO as proposed, without delay, to ensure this critical NSIP proceeds as swiftly as possible.

2 Introduction

2.1 Purpose of this Closing Statement

- 2.1.1 The purpose of this Closing Statement is to provide the Applicant's final position on key planning matters in relation to the DCO application for the Project, to aid the ExA and the SoS in their decision making.
- 2.1.2 This statement does not introduce new material. Instead, it draws together information already submitted for examination and seeks to provide clarity on the Applicant's final position on matters raised during the Examination, with reference to the previous submissions the Applicant has made. References are made to the Examination Library references published by the ExA on 14 May 2025. It also considers compliance with section 104 of the PA 2008 and the relevant NPSs which guide decision-making on DCO applications.
- 2.1.3 This Closing Statement should be read alongside the DCO application and all documents and statements submitted by the Applicant during the Examination. In particular, reference should be had to the **Planning Statement (Doc Ref. 7.6)** [[APP-151](#)] and the **Planning Statement Addendum (Doc Ref. 8.9)** [[REP2-035](#)] which set out the assessment of the Project against all relevant planning policies.

2.2 Structure

- 2.2.1 This statement is structured as follows:
- Section 1 provides an executive summary of this Closing Statement.
 - Section 2 outlines the key legislation, national and local policy, identifies the Local Impact Reports (LIR) that have been submitted in respect of the Project and summarises the environmental, habitats, water and transboundary effects of the Project.
 - Section 3 outlines the Project design, including its evolution, explains how the Rochdale Envelope has been applied and sets out the approach to the Project management plans.
 - Section 4 summarises the key issue specific topics that arose from the Application and during the Examination.
 - Section 5 summarises relevant matters in relation to compulsory acquisition.
 - Section 6 summarises the changes made to the draft DCO during the Examination, and summarises the outstanding matters.
 - Section 7 provides a conclusion.

2.3 The Project

- 2.3.1 The Project comprises the construction, operation and maintenance, and decommissioning of solar PV arrays and energy storage, together with associated

infrastructure and an underground cable connection to the existing National Grid Sellindge Substation.

2.3.2 The Project will include a generating station (incorporating solar arrays) with a total capacity exceeding 50 megawatts (MW). The agreed grid connection for the Project will allow the export and import of up to 99.9 MW of electricity to the grid. The Project will connect to the existing National Grid Sellindge Substation via a new 132 kilovolt (kV) substation constructed as part of the Project and cable connection under the Network Rail and High Speed 1 (HS1) railway.

2.3.3 The Project qualifies as an NSIP under the PA 2008 due to its capacity exceeding 50 MW and therefore requires a DCO from the SoS for Energy Security and Net Zero.

2.4 Statutory and Policy Framework

2.4.1 This section summarises the statutory and policy framework for the Project. Individual applicable legal and policy requirements on the specific planning issues are identified in the **Planning Statement (Doc Ref. 7.6)** [[APP-151](#)].

Key Legislation

Planning Act 2008

2.4.2 Section 104 of the PA 2008 states that in deciding an application for a DCO, the SoS must have regard to:

- any NPS which has effect in relation to development of the description to which the application relates (section 104(2)(a));
- the appropriate marine policy documents (if any) (section 104(2)(aa));
- any local impact report (section 104(2)(b));
- any matters prescribed in relation to development of the description to which the application relates (section 104(2)(c)); and
- any other matters which the SoS thinks are both important and relevant to their decision (section 104(2)(d)).

2.4.3 There are no marine policy documents that apply to the Project under section 104(2)(aa) of the PA 2008.

2.4.4 The host authorities are Kent County Council (KCC) [[REP1-087](#)], and ABC [[REP1-078](#)], each of whom has submitted a LIR.

2.4.5 The main documents that may be considered important and relevant to the SoS's decision pursuant to section 104(2)(d) of the PA 2008 include:

- the adopted Development Plan and other relevant planning policy documents;
- the NPPF; and

- Planning Practice Guidance.

National Policy Statements

- 2.4.6 The following NPSs have effect in relation to development of the description to which the DCO application for the Project relates (section 104(2)(a)):
- Overarching National Policy Statement for Energy (EN-1)
 - National Policy Statement for Renewable Energy Infrastructure (EN-3)
 - National Policy Statement for Electricity Networks Infrastructure (EN-5)
- 2.4.7 On 24 April 2025 the Government published for consultation draft revised versions of NPS EN-1, NPS EN-3 and NPS EN-5 (2025 amendments). Paragraph 1.6.3 of revised draft NPS EN-1 states that *"The 2025 amendments will...have effect only in relation to those applications for development consent accepted for examination after the final publication of those amendments". As the DCO application for the Project was accepted for examination in 2024, the 2025 amendments will therefore not have effect. However, paragraph 1.6.3 goes on to state that "any emerging draft NPSs (or those designated but not yet having effect) are potentially capable of being important and relevant considerations in the decision-making process. The extent to which they are relevant is a matter for the relevant Secretary of State to consider within the framework of the Planning Act 2008 and with regard to the specific circumstances of each Development Consent Order application."*
- 2.4.8 The 2025 amendments provide further weight in support of the Project, given the immediate nature of the grid connection agreement and the ability of the Project to contribute to the delivery of Clean Power 2030, which is strongly supported by the new draft NPSs, including the recognition in draft NPS EN-1 that meeting the solar and other renewable capacity targets in the Clean Power 2030 Action Plan *"will require deployment at a sharply accelerated scale and pace"* (paragraph 2.3.6) and noting that *"Solar energy is at the heart of our Clean Power 2030 Mission"* (draft NPS EN-3 paragraph 2.10.2).

Other Important and Relevant Matters

- 2.4.9 Other important and relevant matters include national policies and guidance, which have been considered by the Applicant as set out in Section 3 of the **Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#).

The Development Plan

- 2.4.10 The Local Planning Authority is ABC and the County Council is KCC, both of which are host authorities for the purposes of the DCO application.
- 2.4.11 The Development Plan Documents relevant to the Project are set out in Section 3.3 of the **Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#).

2.5 Local Impact Reports

- 2.5.1 LIRs were submitted into the Examination at Deadline 2 by KCC [[REP1-087](#)], and ABC [[REP1-078](#)] that identify positive, neutral and negative effects arising from the Project.
- 2.5.2 The issues raised are considered in the context of section 104 of the PA 2008 in relation to specific planning issues in Section 4 of this Statement.

2.6 Environmental Impact Assessment

- 2.6.1 The Project falls within Schedule 2, paragraph 3(a) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) as an industrial installation for the production of electricity.
- 2.6.2 Due to the nature, size and location of the Project, it has the potential to have significant effects on the environment and therefore is considered environmental impact assessment (EIA) development. Accordingly, the Applicant submitted an Environmental Statement (ES) with the DCO application in line with the EIA Regulations. The **Guide to the Application (Doc Ref. 1.5 (G))** [[REP6-002](#)] lists the documents that comprise the ES.
- 2.6.3 The Applicant submitted an **EIA Scoping Report (Doc Ref. 5.4)** [[APP-059](#), [APP-060](#), [APP-061](#)] in support of a request for an EIA Scoping Opinion to the SoS on 19 April 2022. The **Scoping Opinion (Doc Ref. 5.4)** [[APP-062](#)] was issued by the Planning Inspectorate on behalf of the SoS on 30 May 2022.
- 2.6.4 A **Non-Technical Summary (Doc Ref. 5.1)** [[APP-023](#)] of the ES was also submitted by the Applicant, alongside a **Summary of Significant Effects (Doc Ref. 5.2)** [[APP-042](#)]
- 2.6.5 The Applicant has had substantive discussions with ABC, KCC, Natural England (NE), the Environment Agency (EA), Historic England and National Highways on the EIA. Please refer to the following sections of the Statements of Common Ground which confirm that the EIA methodology is accepted and has been agreed by these statutory bodies in their respective roles and is in compliance with EIA legislation:
- Sections 2.3, 2.4 and 2.7 of the **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))**
 - Sections 2.1, 2.3, 2.4 and 2.5 of the **Signed Statement of Common Ground with the Environment Agency (Doc Ref. 8.3.2(C))** [[REP4-015](#)]
 - Sections 2.1 and 2.2 of the **Signed Statement of Common Ground with Historic England (Doc Ref. 8.3.3(C))** [[REP4-017](#)]
 - Sections 2.2, 2.3, 2.6, 2.8 and 2.9 of **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(E))**
 - Row 1 of Table 2-1 of **Signed Statement of Common Ground with National Highways (Doc Ref. 8.3.6(B))** [[REP3-036](#)]
 - Section 2 of **Signed Statement of Common Ground with Natural England (Doc Ref. 8.3.7(C))** [[REP4-021](#)]

2.7 HRA

2.7.1 To support the SoS with their duties under the Conservation of Habitats and Species Regulations 2017 and in accordance with planning policy, an **Information for Habitats Regulations Assessment ('IHRA')** (Doc Ref. 7.19) [APP-164] was submitted with the DCO application. The scope of the IHRA includes:

- Stage 1: a screening assessment to assess if the proposal is likely to have a significant effect on a European site's conservation objectives, both alone or in combination with other plans or projects in the absence of mitigation; and
- Stage 2: an Appropriate Assessment to assess the implications of the proposal for the qualifying features of a European site, in view of the site's conservation objectives, and identify ways to avoid or minimise any effects.

2.7.2 The **IHRA (Doc Ref. 7.19)** [APP-164] concludes that the Project would not result in an adverse effect on the integrity of a European site.

2.7.3 Section 2.7 (row 2.7.4) of the **Statement of Common Ground with Kent County Council (Doc Ref.8.3.4(D))** [REP6-006] and Section 2.1 of the **Signed Statement of Common Ground with Natural England (Doc Ref. 8.3.7(C))** [REP4-021] confirm that both agree the Project would not result in a likely significant effect on the integrity of a European designated site.

2.8 Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

2.8.1 **ES Volume 4, Appendix 10.3: WFD Assessment (Doc Ref. 5.4(A))** [AS-013] demonstrates that the Project watercourse crossings will not affect the geomorphology, ecology or water quality of the watercourse. Table 2-6 (Water Framework Directive Assessment) of the **Signed Statement of Common Ground with the Environment Agency (Doc Ref. 8.3.2(C))** [REP4-015] demonstrates that the Project is consistent with the Water Framework Directive.

2.9 Transboundary Effects

2.9.1 **ES Volume 2, Chapter 6: EIA Methodology (Doc Ref. 5.2(A))** [REP1-020] paragraphs 6.3.8 and 6.3.9 state "*As outlined within the Scoping Report, Schedule 4, paragraph 5 of the EIA Regulations requires that the description of the likely significant effects in the ES should cover transboundary effects with European Economic Area States ('EEAS'). The Scoping Report concluded that the Project would not have any significant transboundary effects on any other EEAS. Within the Scoping Opinion, the Planning Inspectorate agreed with the assessment provided within the Scoping Report that concluded the Project was unlikely to have any significant transboundary effects either alone or cumulatively. The Applicant and design team re-evaluated this position at the ES stage, which reconfirmed that there are no potential transboundary pathways of effect.*"

3 Project Design

3.1 Introduction

- 3.1.1 The Project comprises the construction, operation and maintenance, and decommissioning of solar PV arrays and energy storage, together with associated infrastructure and an underground cable connection to the existing National Grid Sellindge Substation.
- 3.1.2 The Project will include a generating station (incorporating solar arrays) with a total capacity exceeding 50 MW. The agreed grid connection for the Project will allow the export and import of up to 99.9 MW of electricity to the grid. The Project will connect to the existing National Grid Sellindge Substation via a 132 kV substation constructed as part of the Project and cable connection under the Network Rail and HS1 railway.
- 3.1.3 The location of the Project is shown on **ES Volume 3, Figure 1.1: Site Location Plan (Doc Ref. 5.3)** [\[APP-043\]](#). The Project will be located within the Order limits (the land shown on the **Works Plans (Doc Ref. 2.3)** [\[APP-009\]](#) within which the Project can be carried out). The Order limits plan is provided as **ES Volume 3, Figure 1.2: Order Limits (Doc Ref. 5.3)** [\[APP-043\]](#). Land within the Order limits is known as the 'Site'.
- 3.1.4 It is anticipated that the Project will be operational for a 40-year period, and this has been assessed in the EIA and reported in the ES. Once the Project ceases to operate it will be decommissioned.
- 3.1.5 The Order limits are approximately 192 hectares (ha) and are divided into Works that are defined by Schedule 1 of the **Draft DCO (Doc Ref. 3.1(G))**. A summary of the Works is set out below.
- Work No. 1: a ground mounted solar PV generating station with a gross electrical output capacity of over 50 MW;
 - Work No. 2: balance of system and BESS;
 - Work No. 3: project substation and associated works;
 - Work No. 4: works to lay high voltage electrical cables and extend Sellindge Substation to facilitate grid connection;
 - Work No. 5: associated works;
 - Work No. 6: works to provide site access;
 - Work No. 7: construction and decommissioning works;
 - Work No. 8: works to create, enhance and maintain green infrastructure, boundary treatments and crossing structures; and
 - Site Wide Works: further associated development in connection with and in addition to Work Nos. 1 to 8.

- 3.1.6 The location of the works listed above is shown on the **Works Plans (Doc Ref. 2.3)** [\[APP-009\]](#).
- 3.1.7 A description of the proposed works is provided in **ES Volume 2, Chapter 3: Project Description (Doc Ref. 5.2)** [\[APP-027\]](#).

3.2 Site Selection, alternatives and design evolution

- 3.2.1 In considering alternatives and identifying and selecting the Site, the Applicant has been guided by factors set out below and also by the technical and environmental requirements of a large-scale solar development project:
- Solar irradiance and site topography;
 - Available electricity grid connection;
 - Proximity to residential dwellings;
 - Agricultural land classification (ALC) and land type;
 - Accessibility;
 - Public rights of way (PRoW) network;
 - Landscape;
 - Ecological and geological designations;
 - Visual amenity;
 - Flood risk;
 - Cultural heritage; and
 - Availability of land.
- 3.2.2 Thorough consideration has been undertaken for selecting the Site. The Applicant identified and selected the Site following a process to identify land which is suitable from a technical, environmental and planning perspective. This has been detailed in **ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref 5.2)** [\[APP-029\]](#) and **Appendix 2: Sequential and Exception Test Report of the Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#).
- 3.2.3 The EA and ABC have confirmed that the Project has passed both the Sequential and Exception Tests, as set out in **Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))** [\[REP6-004\]](#) and **Signed Statement of Common Ground with the Environment Agency (Doc Ref. 8.3.2(C))** [\[REP4-015\]](#).
- 3.2.4 As set out in the **Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#), the design of the Project has evolved since 2020 as part of an iterative, mitigation by design process in accordance with the Guidelines for Landscape and Visual Impact Assessment (Third Edition, 2013) (GLVIA3) and the NPSs. An iterative design process has been employed to identify a robust, proportionate and deliverable mitigation strategy as part of the Project. Mitigation measures have been developed in response to policy

requirements, relevant guidance, the physical characteristics of the Site and views to and from the Site from the wider landscape.

3.2.5 **ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2) [APP-029]** and the **Design Approach Document (Doc Ref. 7.4) [APP-149]** provide further details regarding how the design evolved throughout the pre-application stage.

3.2.6 In summary, consideration of alternatives and design evolution has been carried out in line with policy requirements and in the context of the clear and urgent need for the Project.

3.3 Rochdale envelope

3.3.1 The development of the Project has been an iterative process, including environmental assessment and rounds of non-statutory and statutory consultation.

3.3.2 The detailed design for the Project will be confirmed following the grant of the DCO for the Project and completion of Archaeological Management Strategy (AMS) intrusive survey works. Flexibility is required as the technologies proposed are rapidly evolving and to allow the Project to utilise the best available technology available at that time to maximise the benefits the Project will deliver. The need for flexibility in design, layout and technology in DCO applications is recognised in Section 4.3: Environmental Effects/Considerations of NPS EN-1 and paragraphs 2.6.1 to 2.6.3 and paragraphs 2.10.70 to 2.10.72 of NPS EN-3.

3.3.3 Section 3.3 of **ES Volume 2, Chapter 3: Project Description (Doc Ref. 5.2(A)) [REP1-018]** describes the Rochdale Envelope, which comprises:

- the description of the "authorised development" for the Project (as set out in Schedule 1 to the **Draft DCO (Doc Ref. 3.1(G))**);
- the **Works Plans (Doc Ref 2.3(B)) [REP1-003]** (which set out spatially the areas in which the "work numbers" comprising the Project (as described in Schedule 1 to the **Draft DCO (Doc Ref. 3.1(G))**) can be carried out); and
- the **Design Principles (Doc Ref. 7.5(A)) [REP1-042]**.

3.3.4 Requirement 4 of Schedule 2 to the **Draft DCO (Doc Ref. 3.1(G))** secures that the detailed design of the Project that is submitted for approval by the local planning authority must accord with the Design Principles (Requirement 4(2)), and that the Project must then be carried out in accordance with these approved details (Requirement 4(3)).

3.3.5 Together, these three documents provide the parameters of the Rochdale Envelope, within which the Project must be carried out, and they are secured through the **Draft DCO (Doc Ref. 3.1(G))**.

3.3.6 The ES has assessed the effects of the Project within this Rochdale Envelope. Development within the Rochdale Envelope will not create new or different likely significant effects compared to what has been assessed.

3.4 Management Plans and Design Principles

- 3.4.1 The outline management plans submitted with the DCO application provide a framework from which final, detailed management plans will be developed after the DCO is granted, to avoid, minimise or mitigate any likely significant effects on the environment. The management plans are secured by DCO requirements.
- 3.4.2 As set out in the **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))**, **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(E))**, **Signed Statement of Common Ground with the Environment Agency (Doc Ref. 8.3.2(C))** [\[REP4-015\]](#) and **Signed Statement of Common Ground with Natural England (Doc Ref. 8.3.7(C))** [\[REP4-021\]](#) the Environmental Management Plans¹ and the requirements set out in Schedule 2 of the **Draft DCO (Doc Ref. 3.1(G))** have been agreed, confirming that they provide robust and effective controls for the Project.
- 3.4.3 The use of design principles is an effective way of defining and controlling aspects of the Project where details are being reserved for subsequent determination. The Design Principles are intended to provide the guiding principles for the detailed design of the Project following the grant of development consent.

¹ Outline CEMP (Doc Ref. 7.8(A)) [\[REP1-044\]](#), Outline CTMP (Doc Ref. 7.9(C)) [\[REP3-018\]](#), Outline LEMP (Doc Ref. 7.10(B)) [\[REP3-020\]](#), Outline OMP (Doc Ref. 7.11(A)) [\[REP1-050\]](#), Outline DEMP (Doc Ref. 7.12) [\[APP-157\]](#), Outline DTMP (Doc Ref. 7.13(C)) [\[REP3-022\]](#), Outline OSWDS (Doc Ref. 7.14(C)) [\[REP4-013\]](#), Outline RoWAS (Doc Ref. 7.15(A)) [\[REP1-056\]](#), Outline BSMP (Doc Ref. 7.16(A)) [\[REP5-019\]](#), AMS (Doc Ref. 7.17(A))

4 Key Issue Specific Topics

4.1 Overview

4.1.1 This section summarises the key issue specific topics that arose from the DCO application and during the Examination. The section is structured so that, in respect of each topic, a summary is provided on the topic, then where applicable residual matters of disagreement at the end of the Examination are identified, and then the Applicant's position on any such residual matter is set out.

4.1.2 Issues covered in this section are set out below:

- Principle of development, including scale and capacity
- Site selection and alternatives
- Public rights of way
- Landscape and Visual
- Biodiversity
- Historic Environment
- Agricultural land
- Battery / fire safety
- Traffic and highways
- Water

4.2 Principle of development, including scale and capacity

Summary

4.2.1 The need for large-scale solar projects is set out in Section 5 of the **Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#) and is established in NPS EN-1. The principal need for large-scale solar projects is centred on the significant contribution they can make to the three important national energy policy aims including Decarbonisation, Security of supply and Affordability.

4.2.2 In relation to generation capacity, the output generating capacity has been set out within **ES Volume 2, Chapter 15: Climate Change (Doc Ref. 5.2)** [\[APP-039\]](#) at paragraphs 15.6.13 to 15.6.15, anticipated with a range of c.144MW to c.165MW. The anticipated generating capacity is greater than the agreed grid connection export capacity of 99.9MW, as set out in the **Grid Connection Statement (Doc Ref. 7.3)** [\[APP-148\]](#). This is a standard approach to maximise the renewable energy that is generated and exported to the electricity grid. A detailed response to this point is set out in the **Response to Additional Submission made at Procedural Deadline A (Doc Ref. 8.1)** [\[REP1-060\]](#).

- 4.2.3 The Applicant notes that consultation feedback raising points in respect of the sizing of the Project and its generating capacity has been responded to in the **Consultation Report – Appendix M: Regard had to Consultation Responses Received outside of Statutory Consultation (Doc Ref. 6.2)** [\[APP-144\]](#) (see in particular the response on Themes 2 and 3 at pages 4 – 7).
- 4.2.4 In response to discussion about generating capacity at Issue Specific Hearings 1 and 2, the Applicant's oral submissions are recorded in its **Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 1 and Response to Action Points (Doc Ref. 8.5.3)** [\[REP1-073\]](#) and **Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 2 and Response to Action Points (Doc Ref. 8.5.5)** [\[REP1-075\]](#).
- 4.2.5 At Issue Specific Hearing 3, the ExA also raised questions about the effect on the Project's generating capacity if the Project were to be designed around the PRoW. Please refer to Q5.0.3 in the **Responses to Examining Authority's Second Written Questions (Doc Ref. 8.16)** [\[REP5-024\]](#) for the Applicant's detailed response on this matter.

Residual matters of disagreement at the end of the Examination

- 4.2.6 KCC agree with all matters in relation to the principle of development as recorded in Table 2-1 of the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))** [\[REP6-006\]](#). The Applicant notes that ABC support the Project's commitment to reducing the reliance on fossil fuels and agree that the Project has been designed to mitigate environmental impacts as far as possible and has been designed to respond sensitively to local context. This is set out in the **Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))** [\[REP6-004\]](#).
- 4.2.7 The Applicant remains in disagreement with ABC in relation to the scale of development. The Applicant has responded to this in Table 2-1 ref. 2.1.3 of the **Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))** [\[REP6-004\]](#).

Applicant's position on residual matters

- 4.2.8 The Project responds to, and the principle of development gains strong support from, the urgent need for renewable energy derived from a combination of key government policies. The Project has been designed with the aim of maximising the amount of renewable energy that can be generated from the Site area, whilst minimising any identified adverse environmental effects.
- 4.2.9 As the Applicant explained in row 9 of Table 1-1 of the **Response to Additional Submission made at Procedural Deadline A (Doc Ref. 8.1)** [\[REP1-060\]](#), the anticipated generating capacity is greater than the agreed grid connection export capacity of 99.9MW, as set out in the Grid Connection Statement (Doc Ref. 7.3) [\[APP-148\]](#). This is a standard approach. In almost all cases the installed generating capacity of solar panels will be higher than the export capacity in the grid connection agreement. If a Battery Energy Storage System ('BESS') is co-located with solar

panels, typically the sizing is around 1.4 to 1.8 times larger than the connection agreement, depending on site specific matters. Applying this to the Project results in a generating capacity of c.140-180MW, which broadly accords with the range specified in the Application documents above. This approach is taken because solar is an intermittent form of energy generation. Designing projects with a generating capacity that is higher than the grid connection export capacity maximises the renewable energy that is generated and exported to the electricity grid. There is a significant shortage of grid capacity across the country, leading to long delays before grid connections are made available to operators, and this has been identified as a limiting factor in achieving the Government's policy ambitions regarding renewable energy deployment. In light of that shortage, it would be contrary to policy not to seek to maximise the existing grid capacity that is available to the Project (i.e. by ensuring that use of the Project's grid connection capacity of 99.9MW is maximised).

- 4.2.10 In terms of the overall footprint of the Site, the land take is consistent with paragraph 2.10.17 of NPS EN-3 which recognises that a solar farm requires around two to four acres per megawatt. A reduced scale proposal to the Project is not considered by the Applicant to be a reasonable alternative. This is because a smaller Project would not be capable of delivering the same generation capacity as the current proposal and would therefore not meet the Project requirements. This approach was endorsed in the Secretary of State's decision letter for the Sunnica Energy Farm DCO (dated 12 July 2024).
- 4.2.11 As set out in paragraph 6.2.7 of the **Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#), paragraph 3.2.6 of NPS EN-1 states that the SoS should assess all DCO applications for the types of infrastructure covered by this NPS on the basis that the government has demonstrated that there is a need for such infrastructure which is urgent. Paragraph 3.2.7 of NPS EN-1 states that the SoS has determined that substantial weight should be given to this need when considering DCO applications. Accordingly, substantial weight should be given to the need for the Project in the present case. Paragraph 5.10.26 of NPS EN-1 identifies that reducing the scale of a project can help to mitigate the visual and landscape impacts of a proposed project but could result in a reduction in function, for example electricity generation output. It goes on to recognise there may be exceptional circumstances where mitigation could have a very significant benefit and warrant a small reduction in function such that the landscape and/or visual effects may outweigh the marginal loss of function.
- 4.2.12 In this context, a reduction to the scale of the Project is not one of the exceptional circumstances anticipated by the NPS, or considered to be a reasonable alternative, given the objective of maximising the energy generation potential of the Project and making best use of the Applicant's grid connection offer. The Applicant does not consider that a reduction in scale in this case would have a significant benefit in terms of reducing visual and landscape impacts, a matter which ABC's independent landscape advisor's, LMS, agreed². Further, the associated loss in function would be more than a "marginal loss". Accordingly paragraph 5.10.26 of NPS EN-1 does not support reducing the scale of the Project.

² Row 2.3.2 of the **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))**

- 4.2.13 Further details on this are set out in Section 5.4 of **ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2(A))** [\[AS-010\]](#). This approach was recently endorsed in paragraph 4.17 in the SoS's Decision Letter for the Sunnica Energy Farm (12 July 2024).

4.3 Site Selection and alternatives

Summary

- 4.3.1 Site alternatives to the Project have been tested, and the site selection process and the consideration of alternatives are set out in **ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2(A))** [\[AS-010\]](#). The **Design Approach Document (Doc Ref. 7.4)** [\[APP-149\]](#) explains the approach taken and the decisions made to arrive at the final Project design. These documents set out how the site selection process for the Site was undertaken and the consideration of alternatives. The process included a number of changes to the layout of the Project to ensure that infrastructure is located away from residential properties and that impacts are minimised where possible.
- 4.3.2 The main reasons for the choice of the Site with regard to these influencing factors is described in **ES Volume 4, Appendix 5.2: Site Selection Influencing Factors (Doc Ref. 5.4)** [\[APP-067\]](#). Appendix 2 of the **Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#) applies the Sequential and Exception Test to the Project and confirms that there are no suitable and reasonably available sites appropriate for the Project in areas with a lower risk of flooding.
- 4.3.3 The Sequential and Exception Test Report has been reviewed by both the EA and ABC who have confirmed that the Project has passed both the Sequential and Exception Tests, as set out in **Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))** [\[REP6-004\]](#) and **Statement of Common Ground with the Environment Agency (Doc Ref. 8.3.2(B))** [\[REP3-028\]](#). ABC also agree that the Applicant has considered two alternative sites, both of which have been discounted for operational and project viability reasons.

Residual matters of disagreement at the end of the Examination

- 4.3.4 The Applicant does not consider there to be any residual ongoing points of discussion with the Statement of Common Ground parties in relation to site selection and alternatives.
- 4.3.5 It is noted that some interested parties (IPs) have raised matters in relation to the site selection process, as stated in the **Responses to Deadline 6 Submissions (Doc Ref. 8.21)**. The Applicant considers the site selection process that has been used for the Project is appropriate and is in accordance with the EIA Regulations.

Applicant's position on residual matters

- 4.3.6 The Applicant considers that the site selection and consideration of alternatives has been robust and is wholly in accordance with the relevant tests set out in the NPSs.

No statutory bodies have raised objection on this matter. The Project complies with the good design policies set out in both NPS EN-1 and NPS EN-3.

4.4 Public rights of way

Summary

- 4.4.1 **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#) assesses the likely effects on the views of PRow users. **ES Volume 2, Chapter 12: Socio-economics (Doc Ref. 5.2(B))** [\[REP1-024\]](#) sets out the likely effects on users of the PRow during the construction, operational and decommissioning stages of the Project.
- 4.4.2 On the overall approach to the design of the Project in relation to PRow and the byway open to all traffic (BOAT), the **Outline Rights of Way and Access Strategy (RoWAS) (Doc Ref. 7.15(A))** [\[REP1-056\]](#) sets out the diversions, closures and enhancements to PRows. The details of the alternatives that have been considered and how the PRow strategy has evolved through public consultation and bilateral engagement are provided in Section 5.7 of **ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2(A))** [\[AS-010\]](#).
- 4.4.3 The Project includes buffers to PRow, to include new hedgerow planting, reinforcement of existing hedgerows, new woodland planting areas and new grassed areas, as set out in paragraph 8.6.23 of **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.8(a))** [\[AS-012\]](#). These measures are considered appropriate and sufficient. At ref. 2.8.1 of Table 2.8 of the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(C))** [\[REP4-019\]](#), KCC has confirmed that the assessment adequately considers the impact of the proposed Project on the PRow network and the necessary mitigation to limit the impact.
- 4.4.4 Requirement 10 in Schedule 2 to the **Draft DCO (Doc Ref. 3.1(G))** secures that no phase of the Project incorporating any part of a PRow which is to be temporarily closed or permanently stopped up pursuant to article 18 of the Draft DCO may commence until a RoWAS for the phase has been submitted to and approved by the local planning authority, such approval to be in consultation with KCC. The RoWAS(s) must be generally in accordance with the **Outline RoWAS (Doc Ref. 7.15(A))** [\[REP1-056\]](#) and must be implemented as approved.

Residual matters of disagreement at the end of the examination

- 4.4.5 The Applicant has been in detailed discussions with KCC and ABC on these matters since 2022. The Applicant and KCC agree on the majority of PRow matters. The disagreement is limited to the level of impact (see Table 2.3 of the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))** [\[REP6-006\]](#)). KCC's Relevant Representation, Written Representation and LIR all refer to substantial adverse impacts on PRows, although there is no methodology, substantive evidence or transparent framework provided by KCC in any of these documents that leads to that conclusion, as explained below.

Applicant's position on residual matters

- 4.4.6 The Applicant has considered the social and community impacts in relation to the users' enjoyment, health and wellbeing. These effects have been assessed in relevant chapters of the ES, and are summarised in **ES Volume 2, Chapter 12: Socio-Economics (Doc Ref. 5.2(B))** [\[REP1-024\]](#) from paragraph 12.7.58 (for construction effects) and from paragraph 12.7.105 (for operational effects). Based on the assessment sets out in the ES, the Applicant considers that the proposals comply with the policies in NPS EN-1 (paragraph 5.11.30) and NPS EN-3 (paragraphs 2.10.40-2.10.45).
- 4.4.7 The Applicant has sought from the outset to maximise the generating capacity of the Project, and therefore the benefits that can be delivered, at the same time as avoiding unacceptable harm to the environment.
- 4.4.8 The Applicant's approach is set out in the **Design Approach Document (Doc Ref. 7.4)** [\[APP-149\]](#) in particular Objective 1 (*Design the Project to optimise the amount of renewable energy that can be generated in the Site area to help decarbonise electricity generation and achieving net zero carbon emissions, in line with the Government's commitments*) and Objective 8 (*Retain existing PRow and connectivity where possible and seek opportunities to enhance the local network*).
- 4.4.9 The proposed diversions to the PRow network enable the Project to optimise the amount of renewable energy the Site can deliver, and in doing so maximise the Project's contribution to meeting the UK's legally binding decarbonisation commitments. They also ensure an efficient use of the land and the grid connection capacity which, as the ExA and SoS are aware, is in short supply and has been recognised by the Government as a critical barrier to achieving Clean Power 2030.
- 4.4.10 NPS EN-3 paragraph 2.10.40 identifies and acknowledges that solar NSIP developments may affect the provision of PRow, with the subsequent paragraphs (NPS EN-3 2.10.40-2.10.45) setting out how applicants should have regard to these matters in terms of approach to project design. In accordance with NPS EN-3 the Applicant has sought to minimise impacts on PRow recreational use where possible and has included a number of new PRow which will improve the connectivity of the network, in particular through the introduction of a more direct route between Otterpool Park (towards the east) and Ashford (towards the west) as KCC and ABC had previously indicated to the Applicant that this was a key strategic network aim for the local network.
- 4.4.11 NPS EN-3 paragraph 2.10.42 requires the design and layout of the Site to ensure continued recreational use of PRow. The proposed changes to the network meet this requirement. **ES Volume 2, Chapter 12: Socio-Economics (Doc Ref. 5.2(B))** [\[REP1-024\]](#) identifies adverse effects, but these are assessed as negligible to minor adverse (not significant). In particular, and as further explained by Mr Humphrey orally in Issue Specific Hearing 3 (see the **Written Summary of Oral Submission from Issue Specific Hearing 3 and Responses to Action Points (Doc Ref. 8.14.1)** [\[REP4-030\]](#)) in so far as the diversions lengthen any routes, the increases are limited and do not give rise to significant effects.

- 4.4.12 In relation to the BOAT (AE 396) no significant adverse effects are identified (**ES Volume 2, Chapter 12: Socio-Economics (Doc Ref. 5.2(B))** [\[REP1-024\]](#)). The BOAT is currently not passable due to extensive vegetation and the Applicant has committed under paragraph 8.2 of the **Outline RoWAS** [\[REP1-056\]](#) to clear and maintain access to this link as part of the Project. As this is the only route within or around the Site suitable for horse riding, opening this up is a local benefit.
- 4.4.13 KCC has reviewed and has not raised any concern with the assessment presented in **ES Volume 2, Chapter 12: Socio-Economics (Doc Ref. 5.2(B))** [\[REP1-024\]](#). Importantly, it is noted that KCC explicitly confirmed at Issue Specific Hearing 3 (see the **Written Summary of Oral Submission from Issue Specific Hearing 3 and Responses to Action Points (Doc Ref. 8.14.1)** [\[REP4-030\]](#)) that PRow connectivity will be maintained post implementation of the proposed diversions, and as such KCC agrees the Project complies with the NPS requirement in relation to amenity and connectivity.
- 4.4.14 With respect to the visual impact of the Project on PRow users, the primary consideration in the assessment of effects is the scale of visual change. The Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA3) (paragraph 6.39) defines scale of visual change as follows:
- *“loss of, or addition of, features in the view and changes in its composition, including the proportion of the view occupied by the proposed development;*
 - *the degree of contrast or integration of any new features or changes in the landscape with the existing or remaining landscape elements and characteristics in terms of form, scale and mass, line, height, colour and texture; and*
 - *The nature of the view of the proposed development...”*
- 4.4.15 The approach set out in **ES Volume 4, Appendix 8.2: LVIA Methodology (Doc Ref. 5.4(A))** [\[AS-016\]](#) is consistent with GLVIA3 in that it provides criteria for assessing the scale of visual effects based on the change in the composition of views with consideration of:
- *“The angle of view in relation to the main activity of the receptor;*
 - *The distance of the viewer from the Project;*
 - *The extent of the area over which the changes will be visible; and*
 - *The degree of visual intrusion of the Project in the view”* (Appendix 8.2, paragraph A1.35).
- 4.4.16 Visual effects would take place when there are new physical components, such as the PV structures, hedgerows, or changes to existing views of open agricultural land. The diversion of a PRow in itself is not considered as a visual effect; the visual effect is the result of the introduction of the PV arrays and associated infrastructure.

Such an effect would occur at the PRow receptors with or without the PRow diversions. Therefore, whilst the experience of the Site by users would be altered as a result of having different vantage points within the Site, there would be no change in the composition of views as a result of the PRow diversions, and therefore no scale of visual change and no resultant visual effect.

- 4.4.17 On the basis of the above, the diversions do not lead to any additional visual impacts compared to retaining the current PRow network and therefore designing the Project around the existing PRow would result in the same reported landscape and visual effects.
- 4.4.18 KCC has not disagreed with the landscape and visual assessment undertaken (as set out in **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#)), whether in respect of landscape and visual effects on PRow users or otherwise. The landscape and visual assessment in **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#) is also broadly agreed with ABC, and notably ABC's expert landscape advisor (Mr Withycombe of Land Management Services) who attended Issue Specific Hearing 3 (see the **Written Summary of Oral Submission from Issue Specific Hearing 3 and Responses to Action Points (Doc Ref. 8.14.1)** [\[REP4-030\]](#), Agenda item 5), only noting that the assessment showed some significant visual effects in EIA terms, which is accepted and to be expected on a project of national significance.
- 4.4.19 It is important to note therefore that all assessments in relation to PRow impacts in the ES are agreed with KCC. However, in its written representation KCC suggests it believes the Project will result in a "substantial adverse impact" to the PRow network, being the highest possible level of harm that could be ascribed. As set out by the Applicant in response to KCC's written representation (Table 3-2 (PRow) of **Responses to Deadline 1 Submissions (Doc Ref. 8.8)** [\[REP2-034\]](#)) and orally at Issue Specific Hearing 3 (see paragraph 1.4.77 of the **Written Summary of Oral Submission from Issue Specific Hearing 3 and Responses to Action Points (Doc Ref. 8.14.1)** [\[REP4-030\]](#)), the Applicant maintains its position that KCC's conclusion of a substantial adverse effect cannot be justified and is without foundation. When provided the opportunity to justify its position at Issue Specific Hearing 3 the KCC Public Rights of Way Officer was unable to do so, referring instead to a "*substantial impact on experience and enjoyment*". Given KCC's failure to justify its written representation position by reference to (i) an accepted methodology, or (ii) further written evidence from a suitably qualified expert, despite repeated opportunities in writing³ and orally at Issue Specific Hearing 3 to do so, it is the Applicant's view that the ExA and SoS should not afford such a statement any weight in the decision-making process.
- 4.4.20 A number of IPs have asked the Applicant to consider a layout that retains the existing PRow network. The proposals allow the maximum level of renewable energy to be generated by the Project whilst also minimising to the extent possible effects on PRow and fully complying with the relevant policy requirements in NPS

³ (Table 3-2 (PRow) of **Responses to Deadline 1 Submissions (Doc Ref. 8.8)** [\[REP2-034\]](#))

EN-1 and NPS EN-3, thereby meeting the stated Project objectives as set out in **Design Approach Document (Doc Ref. 7.4)** [\[APP-149\]](#).

- 4.4.21 As a result, there is no requirement to consider an alternative scheme design, nor would such an alternative be important or relevant to the SoS's decision.
- 4.4.22 As set out in **Responses to Examining Authority's Second Written Questions (Doc Ref. 8.16)** [\[REP5-024\]](#), NPS EN-3 paragraphs 2.10.40-2.10.45 identify and acknowledge that solar NSIPs may affect the provision of PRoW and detail how applicants should have regard to this in terms of approach to project design. The Applicant has sought to minimise impacts on PRoW recreational use where possible and has included a number of new PRoWs which will improve the connectivity of the network, including in areas identified by KCC and ABC. The re-introduction of wide pathways through areas identified for solar generation (as opposed to the paths following existing field boundaries) would materially reduce the generating capacity of the Project and therefore reduce the Project benefits and its contribution to achieving Government targets, including Clean Power 2030, but would not result in any significant reduction in adverse effects. The Applicant does not consider it necessary, proportionate or in accordance with policy to undertake such a further design process given that the evidence and assessments, which are not disagreed by either local authority, show the scheme for which development consent is sought to be acceptable in planning terms on its merits.
- 4.4.23 The Applicant's position in relation to this is supported by NPS EN-1.
- 4.4.24 Paragraph 4.3.22 states that "*consideration of alternatives should be carried out in a proportionate manner*" and that "*only alternatives that can meet the objectives of the proposed development need to be considered*".
- 4.4.25 Paragraph 4.3.23 states that "*the Secretary of State should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity (including energy security, climate change, and other environmental benefits) in the same timescale as the proposed development*". It is clear that there is no such realistic prospect were wide pathways introduced within fields of generating capacity as is proposed by IPs, given the reduction in generating capacity this would give rise to.
- 4.4.26 The Applicant notes ABC's submission to the ExA dated 13 May 2025 that seeks funding under a section 106 (s106) Agreement from the Applicant in the event that a DCO is made by the SoS. This submission was only shared with the Applicant on 13 May 2025 (the day before the final Examination deadline) and outlines a request for funding by ABC to be documented under a s106 to allow the upgrading of a new PRoW within the Site to an all-weather specification together with further non-specified funding for off-Site PRoW. No copy of the proposed draft s106 Agreement has yet been shared, let alone agreed, with the Applicant. This is despite the Applicant having entered into a Planning Performance Agreement with both parties, which has allowed extensive engagement with those parties since 2022.

- 4.4.27 The Applicant notes that there is no reference to a s106 or any funding of off-Site works in either the Agreed SOCG with ABC or the Agreed SOCG with KCC. The Applicant noted it was aware that ABC and KCC were considering off-Site enhancement proposals at the Issue Specific Hearing 3 (25 February 2025) but noted that nothing had been presented and that the basis or justification for such agreement is unclear. No conversations regarding a s106 Agreement (including the scope of or justification for such agreement) have taken place between the Applicant and the local authorities following this hearing.
- 4.4.28 The Applicant considers the Project is fully compliant with NPS EN-1 and NPS EN-3. The Applicant therefore does not believe there is any basis to support a s106 Agreement (as proposed by ABC) as it is not "*necessary to make the proposed development acceptable in planning terms*", which is one of the tests that paragraph 4.1.18 of NPS EN-1 confirms any development consent obligation must satisfy. The Applicant is also not aware of any similar s106 agreement being required in relation to PRowS on any previously consented NSIP solar project.
- 4.4.29 In summary:
- The Applicant's Project design does not result in any significant adverse effects on PRowS in terms of connectivity, accessibility and convenience (as set out in **ES Volume 2, Chapter 12: Socio-Economics (Doc Ref. 5.2(B))** [[REP1-024](#)]). The effects are negligible to minor adverse. KCC has agreed this assessment.
 - The Applicant's Project design results in some significant adverse effects on PRowS in visual terms, but the residual effects after mitigation do not exceed moderate adverse in any case, i.e. the lowest end of the 'significance' scale, as set out in **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [[AS-012](#)]. Further, even if the Project were redesigned to avoid any PRow diversions, that would not result in lower reported landscape and visual effects. KCC has not disagreed with the submitted landscape assessment and it is agreed with ABC and notably ABC's expert landscape advisor (Mr Withycombe of Land Management Services).
 - No significant adverse effects are predicted to the BOAT (AE 396). In fact, the clearance and maintenance of access of the BOAT would secure a local benefit.
 - Overall, the effects on PRowS are limited, especially relative to the scale of the Project and the significant benefits to which the Project gives rise.
 - The alternative of designing the Project around the existing PRow network would reduce the generating capacity of the Project and result in conflict with key policy requirements in NPS EN-1 paragraphs 4.3.22 and 4.3.23.
 - The s106 Agreement proposed by ABC is not "*necessary to make the proposed development acceptable in planning terms*".
- 4.4.30 In the light of all these matters, and the policy context which specifically recognises that nationally significant renewable energy development, including solar

development, is likely to impact on PRowWs, the alternative of redesigning the Project to avoid any PRow diversions should not attract any material weight.

- 4.4.31 The Applicant therefore considers its approach is in full compliance with NPS EN-1 and EN-3 in relation to PRowWs.

4.5 Landscape and Visual

Summary

- 4.5.1 **ES, Volume 2: Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#) presents an assessment of the likely significant effects on Landscape and Views in relation to effects arising from the construction, operation and maintenance, and decommissioning of the Project.
- 4.5.2 The scope of the assessment in **ES, Volume 2: Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#) was discussed with statutory consultees and the Planning Inspectorate. Table 8.1 of **ES, Volume 2: Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#) provides a summary of the EIA Scoping Opinion (**ES Volume 4, Appendix 1.2: EIA Scoping Opinion (Doc Ref. 5.4)**) [\[APP-062\]](#).
- 4.5.3 The landscape and visual impact assessment (LVIA) methodology was reviewed and approved by ABC's appointed landscape consultants, Landscape Management Services, as part of the 2022 Consultation. Representative viewpoint photographs for the 38 viewpoints are provided in **ES Volume 4, Appendix 8.10: LVIA Visualisations (Doc Ref. 5.4(A))** [\[AS-014\]](#) to support this assessment including winter and summer baseline annotated viewpoint photographs (TGN 06/19 Type 1). The scope and methodology of the Applicant's LVIA, as well as the study area and the sensitive receptors identified, are agreed with ABC as stated in Table 2-3 of the **Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))** [\[REP6-004\]](#).
- 4.5.4 No landscape receptors are anticipated to experience significant effects as a result of the construction and decommissioning phases of the Project. Once operational, at Year 1 following completion, three landscape receptors are considered likely to experience significant adverse effects as a result of the Project. The Open Fields of the Site and the Overall Character of the Site will be subject to major-moderate adverse effects, while the Aldington Ridge landscape character area (LCA) will experience a moderate adverse effect. However, following establishment of proposed planting at Year 15, those three receptors are considered likely to experience a combination of moderate adverse and moderate beneficial effects which are significant. Two further landscape receptors (Hedgerows and Canopy Trees) will be subject to significant moderate beneficial effects following establishment of proposed planting.
- 4.5.5 Three visual receptors are considered likely to experience significant effects during the construction phase of the Project. These are users of PRow within/adjacent to the Site (two receptor groups) and users of PRow AE401, Collier's Hill. At Year 1 of the operational phase, 19 visual receptors are considered likely to experience

significant moderate adverse effects as a result of the Project, with one receptor judged to experience a moderate-major effect, which are significant. The majority of these receptors are in close proximity to, or within the Site. Following establishment of mitigation planting at Year 15, the number of visual receptors experiencing significant effects will reduce to four, all of which are moderate adverse. During the decommissioning phase, one receptor has been identified as likely to experience significant effects as a result of the Project: Users of PRoW AE401, Collier's Hill will be subject to a temporary moderate adverse visual effect. The remainder of receptors will experience effects that are moderate-minor, minor, minor-negligible, negligible or nil (no effect) as a result of the decommissioning phase of the Project.

- 4.5.6 Full explanatory commentary on the magnitude and significance of effects for the receptors is set out in **ES Volume 4, Appendix 8.8: Landscape Effects Table (Doc Ref. 5.4)** [\[APP-080\]](#) and **ES Volume 4, Appendix 8.9: Visual Effects Table (Doc Ref. 5.4)** [\[APP-081\]](#).
- 4.5.7 A summary of Cumulative Effects is contained in section 8.12 of **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#). The cumulative assessment identified that the majority of receptors are unlikely to experience significant cumulative effects. During the construction phase, no landscape receptors will experience significant effects, however one visual receptor will experience a temporary significant moderate adverse effect (Users of PRoW within / adjacent to the Site). During the operational phase at year 1, no landscape receptors will experience significant cumulative effects. During the decommissioning phase, no significant effects on any landscape and visual receptors have been identified.
- 4.5.8 ABC and KCC are satisfied that the **Outline Landscape and Ecological Management Plan (LEMP) (Doc Ref. 7.10(B))** [\[REP3-020\]](#) would secure the necessary controls in relation to the landscape mitigation that the Applicant proposes as set out in row 2.3.6 in the **Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))** [\[REP6-004\]](#).
- 4.5.9 The landscape proposals have been consulted upon and evolved following feedback from consultees, including substantial increases in the quantum of planting. This has included responding to requests from NE, ABC and the Kent Downs National Landscape Team. The Applicant notes that the Kent Downs National Landscape Team have not objected to the Project.
- 4.5.10 As set out in **Responses to Deadline 1 Submissions (Doc Ref. 8.8)** [\[REP2-034\]](#), submitted at Deadline 2, item WR 12-16 (page 33 - 38), the Applicant has had regard to the provisions of section 85(A1) of the Countryside and Rights of Way Act 2000 and related '*Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes*' published by the Department for Environment, Food & Rural Affairs on 16 December 2024. The Applicant confirms that, as far as is reasonably practical, the Project has sought to avoid harm to the Kent Downs National Landscape through measures that have been embedded in the design of the Project or secured as additional mitigation (see in particular section 5.8 of **ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref. 5.2(A))** [\[AS-](#)

[010](#) and **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [[AS-012](#)]. Taking into account the nature of the Project and its residual effects (in particular that no likely significant effects have been identified on the Kent Downs National Landscape or its setting during any stage of the Project), it is not considered that there are any other appropriate, reasonable and proportionate measures which should be taken to further the statutory purposes of the National Landscape. The SoS (as relevant authority) can therefore be content that the duty in section 85 has been complied with.

- 4.5.11 The Applicant has also had regard to paragraph 5.10.34 of NPS EN-1, which concerns the duty to seek to further the purposes of nationally designated landscapes, including AONBs, stating: *"The duty to seek to further the purposes of nationally designated landscapes also applies when considering applications for projects outside the boundaries of these areas, which may have impacts within them. The aim should be to avoid harming the purposes of designation or to minimise adverse effects on designated landscapes, and such projects should be designed sensitively given the various siting, operational, and other relevant constraints. The fact that a proposed project will be visible from within a designated area should not in itself be a reason for the Secretary of State to refuse consent"*. For the same reasons as set out above, the Applicant considers that the SoS can be satisfied that there is compliance with this policy.

Residual matters of disagreement at the end of the Examination

- 4.5.12 A number of IPs have raised matters in respect of landscape, but the Applicant does not consider these matters to be well-founded or supported by any expert opinion. The Applicant notes that NE agrees with the Applicant on all matters, and substantive agreement has been reached with ABC on all matters except for a matter in relation to the cumulative effects and landscape strategy, explained in further detail below.
- 4.5.13 As noted in row 2.3.10 (page 38) of the **Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))** [[REP6-004](#)], ABC's position is that the *"Cumulative Effects Table 8.12 from the ES only considers the Upper Stour Valley LCA (not the East Stour Valley). Both the East Stour Solar Farm development and the Project would affect parts of the Upper Stour Valley LCA. ABC therefore consider that the small/medium magnitude of change does not reflect the geographical extents of the LCA affected by both schemes"*. As set out in more detail below, the Applicant disagrees with this. It is not supported by independent work undertaken by Landscape Management Services on ABC's behalf, or any evidence that has been set out in a way that would be consistent with GLVIA3 (Table 3.1).
- 4.5.14 ABC does not agree with the landscape strategy and contend should include more planting and tree belts. The Applicant notes that the Landscape Strategy was amended during the pre-application stage to incorporate a greater amount of landscape and tree planting, which was in direct response to ABC's request for an increased level of tree planting. However ABC has agreed that the **Outline LEMP**, which secures the landscape strategy, is capable of securing the proposed mitigation including the overarching principles for minimising, managing and / or

mitigating and enhancing the environmental effects of the Project. This is set out in rows 2.3.6 and 7 of the **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))**.

Applicant's position on residual matters

- 4.5.15 The Applicant notes that the limited number of landscape matters reflects the limited landscape effects of the Project. The only remaining residual landscape matters relate to the disagreement with ABC in relation to the landscape strategy and cumulative effects.
- 4.5.16 A summary of the cumulative effects is contained in section 8.12 of **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#). The assessment set out in **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#) has followed a transparent process in accordance with an agreed methodology and GLVIA3, with explanatory commentary detailing the sensitivity of receptors, the scale, extent and duration of change, and associated magnitude of effects, and the resultant significance of effects. This commentary, set out in **ES Volume 4, Appendices 8.8: Landscape Effects Table** [\[APP-080\]](#), **Appendix 8.9: Visual Effects Table** [\[APP-081\]](#) and **Appendix 8.12: Cumulative Effects Table (Doc Ref. 5.4(B))** [\[REP3-014\]](#), is a key part of the LVIA process.
- 4.5.17 As set out in row 2.3.10 of the **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))**, ABC contends that different effects should have been identified, however this is not supported by independent work undertaken by Landscape Management Services on ABC's behalf, or any evidence that has been set out in a way that would be consistent with GLVIA3 (Table 3.1).
- 4.5.18 The Applicant's approach to the assessment of landscape character receptors has remained consistent throughout, from EIA Scoping, Statutory Consultation through to the ES submitted as part of the DCO application. The selection of receptors that forms the basis of an LVIA is a key part of the scoping process and these are matters of agreement set out at row 2.3.2 of the **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))**.
- 4.5.19 The assessment assesses one set of combined landscape character receptors by reference to the County level assessment, as confirmed at paragraph 8.5.152 of **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [\[AS-012\]](#):

"The boundaries of LCAs from the County level and multiple Borough level landscape character assessments are broadly similar in extents and are similarly named, however only the County level assessment provides full coverage of the Site. On this basis, and in the interests of avoiding unnecessary duplication or double counting of effects, it is considered appropriate to assess the likely significant effects of the Project on one set of combined landscape character receptors by reference to the County level assessment. However, the characteristics and guidance set out in the three landscape character assessments have been considered as part of the assessment and design development of the Project".

- 4.5.20 This approach is consistent with Landscape Institute guidance (LITGN-2024-01: Notes and Clarifications on Aspects of Guidelines for Landscape and Visual Impact Assessment Third edition (GLVIA3))¹ which states (at paragraph 5(1)): *“It is not necessary to assess effects on every landscape character type or area identified by assessments at different levels for any development – the best scale of assessment for the project should be selected”*.
- 4.5.21 The County level LCAs have been used for the assessment of landscape effects, as previously agreed with ABC (see row 2.3.3 of the **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))**), in addition to the character of the Site itself and the National Landscape LCAs. This approach is considered to be robust and proportional to the scale and extent of the Project and in accordance with up-to-date best-practice guidance.

4.6 Biodiversity

Summary

- 4.6.1 An assessment of the effects of the Project on biodiversity including habitats, protected and notable species is provided in Section 9.7 of **ES Volume 2, Chapter 9: Biodiversity (Doc Ref. 5.2)** [\[APP-033\]](#) and **ES Volume 4, Appendix 9.7: Assessment of Effects (Doc Ref. 5.4(A))** [\[REP1-032\]](#).
- 4.6.2 Across all habitats and species the only significant adverse effects that are identified are for yellowhammer, skylark and brown hare due to temporary loss of habitat during the short and temporary construction phase and for Skylark during the operational phase due to the potential for loss of nesting area. In all cases the level of significance is local adverse.
- 4.6.3 17 beneficial effects of local significance have been identified during the 40 year operational phase, including on Backhouse Wood LWS, Backhouse Wood ancient woodland, notable habitats and plants and a range of species including GCN, reptiles, wintering and breeding birds and brown hare.
- 4.6.4 The Applicant is proposing extensive biodiversity and landscape mitigation proposals which have been developed by competent expert ecologists and are set out in **ES Volume 2, Chapter 3: Project Description (Doc Ref. 5.2(A))** [\[REP1-018\]](#). This includes securing at least 100% BNG for habitat units and at least 10% for hedgerow and river units as set out in the **Biodiversity Net Gain Assessment (Doc Ref. 7.1)** [\[APP-146\]](#). The proposed biodiversity and landscape enhancements are considered appropriate to mitigate the effects of the Project and are secured through Requirement 8 in Schedule 2 to the **Draft DCO (Doc Ref. 3.1(C))**.
- 4.6.5 During the Examination, comments regarding the management measures and survey related to Skylark have been made numerous times by IPs. Table 2-6 of the **Responses to Deadline 3 Submissions (Doc Ref. 8.13)** [\[REP4-029\]](#) notes that the minimum of 16sqm of the Skylark plots is in line with the available advice from the Royal Society for the Protection of Birds (RSPB), Rural Payments and NE. The Applicant also reiterates that Skylark plot effectiveness is to be monitored during the

operation of the Project. Further monitoring may be undertaken for specific species to monitor the success of habitat establishment measures. The results of such monitoring may result in additional or revised management recommendations, which will need to be incorporated into future detailed LEMP(s).

Residual matters of disagreement at the end of the Examination

- 4.6.6 A number of IPs have raised matters in respect of biodiversity but the Applicant does not consider these matters to be well-founded or supported by any expert opinion. The considered and reasoned view of both NE and KCC confirms that they are in full agreement on all matters related to biodiversity.

Applicant's Position on residual matters

- 4.6.7 All matters on biodiversity have been agreed with NE, as set out in the **Signed Statement of Common Ground with Natural England (Doc Ref. 8.3.7(C))** [[REP4-021](#)].
- 4.6.8 All matters on biodiversity including skylark and yellowhammer have been agreed with KCC as stated in Section 2.7 of the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(C))** [[REP4-019](#)].

4.7 Historic Environment

Summary

- 4.7.1 The scope, methodology and the study area of the Applicant's Cultural Heritage assessment is agreed with KCC as stated in in Table 2-6 of the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))** [[REP6-006](#)]. The Applicant's heritage receptor viewpoints set out in **ES Volume 2, Chapter 8: Landscape and Views (Doc Ref. 5.2(A))** [[AS-012](#)] is also a matter of agreement with KCC.
- 4.7.2 The conclusions of **ES Volume 4, Appendix 7.2: Heritage Statement** [[APP-072](#)] of less than substantial harm to designated heritage assets have been confirmed in the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(E))** and the **Signed Statement of Common Ground with Historic England (Doc Ref. 8.3.3(C))** [[REP4-017](#)]. The identified harm to significance to the heritage assets is likely to be less than substantial with the Applicant assessing the harm at the lowest level of the spectrum (except for Grade II* listed Stonelees for which the harm is assessed at the lower level of the spectrum as a result of a slight / moderate effect (not significant in EIA terms)). KCC agree with the level of harm and assessment presented in the **ES Volume 4, Appendix 7.2: Heritage Statement** [[APP-072](#)]. Historic England assesses the harm at the lower end of the spectrum, but the Applicant and Historic England agree that the difference in relative assessment level is not material.
- 4.7.3 An assessment of the effects of the Project on archaeology is provided in Section 7.7 of **ES Volume 2, Chapter 7: Cultural Heritage (Doc Ref. 5.2(A))** [[AS-011](#)] with supporting archaeological information provided in **ES Volume 4, Appendix 7.1:**

Archaeological Desk Based Assessment (Doc Ref. 5.4) [APP-070] and [APP-071] and the **Supplementary Archaeological Trial Trenching Report (Doc Ref. 8.23)**.

- 4.7.4 Targeted archaeological evaluation (trial trenching) was undertaken along the alignment of the Roman Road in the southwest of the Site and the results are reported in **ES Volume 4, Appendix 7.1: Archaeological Desk Based Assessment (Doc Ref. 5.4) [APP-070] and [APP-071]**. An **AMS (Doc Ref. 7.17(A))** sets out the approach to archaeological mitigation works in relation to the Project which will include further archaeological evaluation before the commencement of construction works.
- 4.7.5 62 trench locations were identified based on the potential for archaeological features using a combination of HER, LiDAR and geophysical survey results and agreed with the KCC Archaeologist. A **Supplementary Archaeological Trial Trenching Report (Doc Ref. 8.23)** has been submitted at Deadline 8 to outline the results of the investigative works and confirms the findings of no significant effects in the ES. The **AMS (Doc Ref. 7.17(A))** has been updated to include the results of the investigative works completed to date and the future approach to management of risk to potential archaeology within the Site. The Applicant has now reached agreement on this matter, as set out in Section 2.6 of **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(E))**.
- 4.7.6 Requirement 9 in Schedule 2 to the **Draft DCO (Doc Ref. 3.1(G))** secures that no phase of the Project may commence until certain specified details for that phase have been submitted to and approved by the local planning authority, such approval to be in consultation with Kent County Council.

Residual matters of disagreement at the end of the Examination

- 4.7.7 A number of IPs have raised matters in respect of cultural heritage, but the Applicant does not consider these matters to be well-founded or supported by any expert opinion. The considered and reasoned view of both Historic England and KCC confirms that the Project is not expected to give rise to any significant effects on heritage assets.

Applicant's Position on residual matters

- 4.7.8 As set out in the **Planning Statement** (Section 6.13), the Project has been very carefully designed to take account of heritage assets and potential impacts on their settings. The Project has been designed so that the generation equipment and associated structures will be sited and mitigation included to minimise the effects of the Project on the setting of heritage assets. The Project has complied with relevant planning policy by minimising harm to heritage assets through sensitive design and protecting as much of their significance as practicable during the life of the Project. In addition, the Project will be decommissioned, and land restored in the future. After decommissioning, the Project would not have any significant effect on the significance of heritage assets, thereby helping to preserve them for future generations.

- 4.7.9 The **Heritage Statement (ES Volume 4, Appendix 7.2 (Doc Ref. 5.4))** [\[APP-072\]](#) concludes that the Project would cause harm to a number of non-designated heritage assets in close proximity to the Site. The identified harm to significance would be less than substantial, at the lowest end of the spectrum.
- 4.7.10 The **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(E))** confirms that KCC considers that the **AMS (Doc Ref. 7.17(A))** and archaeological mitigation is now acceptable.

4.8 Agricultural land

Summary

- 4.8.1 A soil survey of the Site has been undertaken in line with industry standard methodology and guidelines published by NE as reported in **ES Volume 4, Appendix 16.1: Soils and Agricultural Land Report (Doc Ref 5.4)** [\[APP-122\]](#). It confirms that approximately 20% of the land within the Order Limits is BMV agricultural land, with the remaining 80% being non-BMV agricultural land. The predominant agricultural land classification (ALC) grading within the Site is Subgrade 3b (143.47 ha), with the remaining agricultural land comprising Subgrade 3a land (36.69 ha) and Grade 2 land (1.95 ha). The total area of BMV land within Site is 38.64 ha.
- 4.8.2 The use of BMV land and the degree of impact on the BMV land are matters of agreement with NE as stated in rows NE6 and 2.6.1 in Section 2.6 of the **Signed Statement of Common Ground with Natural England (Doc Ref. 8.3.7(C))** [\[REP4-021\]](#). Natural England confirms, noting that less than 1% of infrastructure works are expected to be sited on BMV land, that the overall impact from the Project to BMV agricultural land is limited. ABC also confirms in Table 2-1 at row 2.2.4 of the **Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(B))** [\[REP6-004\]](#) that it considers the Project would have a neutral local impact.
- 4.8.3 Section 6.2 in **ES Volume 4, Appendix 1.1: Scoping Report (Doc Ref. 5.4)** [\[APP-059\]](#) sets out that effects related to agricultural land and soils have been scoped out of the assessment because no significant effects are anticipated. This approach has been accepted by the Planning Inspectorate as confirmed in **ES Volume 4, Appendix 1.2: EIA Scoping Opinion (Doc Ref. 5.4)** [\[APP-062\]](#).
- 4.8.4 After decommissioning the Site will be returned to the control of the landowners and it is expected they would return those areas of the Site that are currently in arable use back to arable use, except for limited areas of established habitat. The details of decommissioning works and environmental management measures would be subject to agreement with the local planning authority before they commence. This is secured through Requirement 14 in Schedule 2 to the **Draft DCO (Doc Ref. 3.1(G))**.

Residual Matters of disagreement at the end of the Examination

- 4.8.5 A number of IPs have raised matters in respect of agricultural land, but the Applicant does not consider these matters to be well-founded or supported by any expert

opinion. The considered and reasoned view of NE and ABC confirms that the Project would not result in any significant harm to the availability of agricultural land.

- 4.8.6 The Applicant does not consider there to be any residual ongoing points of discussion in relation to BMV land.

Applicant's position on residual matters

- 4.8.7 Overall, in accordance with national and local policy the inclusion of some BMV land within the Project is justified and the impacts on BMV land have been minimised by the siting of the Project and its design. The benefits of the Project outweigh the loss of BMV land, particularly noting that NPS EN-3 paragraph 2.10.29 states that land type should not be the predominating factor in determining the suitability of a site for solar development.
- 4.8.8 As set out in Section 6.8 of the **Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#), the Project will result in the temporary loss of 0.12% of all BMV agricultural land in Ashford Borough during the Project lifetime. Only approximately 20% of the land within the Site is BMV and all but a very small amount of the BMV is the lowest category of BMV (Grade 3a) within only 1.95ha of Grade 2, and no Grade 1 at all. Within this context, the loss of BMV due to the Project is not considered to have a material impact on the overall supply of over 32,000 ha of BMV land in Ashford Borough and would therefore not have a material impact on food security in the wider region.

4.9 Battery / fire safety

Summary

- 4.9.1 The design for the Project employs a distributed approach with four individual containerised Battery Energy Storage System (BESS) Units located at any one Inverter Station, with a maximum of two Inverter Stations (and therefore eight units) being located in any one area of the Site. The indicative site plan in the **Illustrative Project Drawings – Not for Approval (Doc Ref 2.6(B))** [\[REP3-004\]](#) also shows a standard minimum spacing of six metres between BESS units to avoid the risk of fire propagation between BESS Units, and which is secured in the **Design Principles (Doc Ref. 7.5(A))** [\[REP1-042\]](#). The BESS design details are set out in **ES Volume 2, Chapter 3: Project Description (Doc Ref. 5.2 (A))** [\[REP1-018\]](#) and justification is provided for the Applicant's design choice in **ES Volume 2, Chapter 5: Alternatives and Design Evolution (Doc Ref 5.2(A))** [\[AS-010\]](#).
- 4.9.2 Section 16.7 of **ES Volume 2, Chapter 16: Other Topics (Doc Ref. 5.2)** [\[APP-040\]](#) assesses the risk of major accidents or disasters as a result of the Project. The assessment concludes that, given the proposed mitigation and best practice measures proposed, and the low risk of an event occurring for this type of development, no significant effects are likely.
- 4.9.3 The noise assessment made reasonable worst-case assumptions in relation to the number of BESS units based on the **Illustrative Project Drawings – Not for Approval (Doc Ref. 2.6)** [\[REP3-004\]](#). The assessment considers the combined

effects of all the Project components. Figures 14.3 and 14.4 of **ES Volume 3, Chapter 14: Noise Figures 14.1 – 14.4** [\[APP-057\]](#) illustrate the predicted noise levels for the Project and do not result in significant effects on any receptor. This is confirmed by ABC, as set out in **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))**.

- 4.9.4 The Applicant has consulted with Kent Fire and Rescue (FRS) on the proposed layout, fire access and firefighting arrangements. The **Outline Battery Safety Management Plan (BSMP) (Doc Ref. 7.16)** [\[APP-161\]](#) and the **Outline Operational Surface Water Drainage Strategy (OSWDS) (Doc Ref. 7.14(C))** [\[REP4-013\]](#) provide details of the design and fire prevention measures proposed, and confirm that the commitments meet, or exceed, the National Fire Chiefs Council (NFCC) Guidance where applicable. The Applicant updated the Outline BSMP at Deadline 5 to secure additional controls that ensure the document continues to comply with the NFCC 2024 draft guidance (noting this was first published after the application had been submitted) and international best practice.
- 4.9.5 The Applicant has also consulted with the Environment Agency and KCC (in its role as Lead Local Flood Authority (LLFA)) in relation to the approach to firewater impacts in the unlikely event of a fire occurring. The position had been agreed with both parties via their respective Statements of Common Ground (please refer to the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))** and the **Statement of Common Ground with the Environment Agency (Doc Ref 8.4.2(C))** [\[REP4-015\]](#)). ABC has also confirmed in its **Local Impact Report** [\[REP1-078\]](#) that the Project will have a neutral impact in relation to major accidents and disasters. As such, the Applicant considers that any relevant matters related to BESS have been adequately examined.
- 4.9.6 The Applicant made the following updates at Deadlines 4 and 5:
- The Applicant submitted a Battery Fire Plume Assessment as Appendix 2 of the **Written Summary of Oral Submissions from Issue Specific Hearing 4 and Responses to Action Points (Doc Ref. 8.14.2)** [\[REP4-031\]](#) that demonstrates that a single worst case scenario BESS fire no effects on receptors that exceed Public Health England guidance levels would be experienced.
 - The Applicant also updated the Outline BSMP at Deadline 5 to secure additional controls that ensure the document continues to comply with the NFCC 2024 draft guidance (noting this was first published after the application had been submitted) and international best practice.
 - The Applicant has committed in the **Design Principles (Doc Ref. 7.5(C))** [\[REP5-017\]](#) to increase the buffer from BESS to any residential receptor from 150m to 200m.
- 4.9.7 A number of concerns have been raised by IPs over health impacts from BESS, fire safety and water capacity throughout the examination.
- 4.9.8 The Applicant has also substantively responded on all issues relating to BESS and has reiterated and explained the need for the proposed scale of BESS in the **Written**

Summary of Oral Submissions from Issue Specific Hearing 4 and Responses to Action Points (Doc Ref. 8.14.2) [\[REP4-031\]](#).

Residual matters of disagreement at the end of the Examination

- 4.9.9 A number of IPs have raised general matters in respect of battery safety, but the Applicant does not consider these matters to be well founded or supported by any expert opinion. The considered and reasoned view of the relevant statutory bodies (ABC, KCC, the EA and Kent FRS) none of which have raised an objection in relation to BESS or fire safety. It is noted that some IPs have noted concerns in relation to fire safety and whether the Project complies with the NFCC Guidance. As noted in 1.6.44 of **Written Summary of Oral Submission from Issue Specific Hearing 4 and Responses to Action Points (Doc Ref. 8.14.2) [\[REP4-031\]](#)**, the suggestions made have not been considered matters of concern in any decision made by the SoS on any other solar/BESS DCO.

Applicant's position on residual matters

- 4.9.10 Kent FRS have raised no concerns regarding the Project, despite having been consulted and being the statutory body with expertise and responsibility for fire safety. Their non-objection indicates they are content with what is proposed. The Applicant has also consulted with the EA and KCC (in its role as LLFA) in relation to the approach to firewater impacts in the unlikely event of a fire occurring. The position has been agreed with both parties via their respective Statements of Common Ground (please refer to the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))** and the **Statement of Common Ground with the Environment Agency (Doc Ref 8.4.2(C)) [\[REP4-015\]](#)**).
- 4.9.11 ABC also confirmed in its **Local Impact Report [\[REP1-078\]](#)** that the Project will have a neutral impact in relation to major accidents and disasters. Further, ABC agree at paragraph 1.1.5 that matters in relation to emergency planning are agreed with the Applicant.
- 4.9.12 Please refer to Table 2-9 of the **Responses to Examining Authority's Second Written Questions (Doc Ref. 8.16) [\[REP5-024\]](#)** which provides responses to the ExA's questions on BESS, including in respect of water capacity which the Applicant confirms will be provided on-Site in line with NFCC Guidance.
- 4.9.13 The Applicant considers that any relevant matters related to BESS have been adequately examined and there is no basis for BESS safety matters to carry any negative weight in the planning balance. The storage capacity provided by BESS, and its function to optimise the renewable energy generating capacity of the Site and the grid connection capacity, carries significant positive weight in the planning balance.

4.10 Traffic and highways

Summary

- 4.10.1 **ES Volume 2, Chapter 13: Traffic and Access (Doc Ref. 5.2(D))** [\[REP3-012\]](#) presents an assessment of the likely significant effects on Traffic and Access in relation to effects arising from construction only. It was agreed through the EIA Scoping Opinion **ES Volume 4, Appendix 1.2: EIA Scoping Opinion (Doc Ref. 5.4)** [\[APP-062\]](#) that operational and decommissioning traffic of the Project could be scoped out of further assessment within the EIA.
- 4.10.2 The scope and methodology of the Applicant's Traffic and Access assessment, as well as the extent of the study area, the scope of the traffic surveys, the baseline traffic data and the sensitive receptors identified along the construction traffic route are agreed with KCC as stated in Table 2-2 of the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))** [\[REP6-006\]](#). The extent of the study area has been agreed with National Highways and KCC as highway authorities responsible for the strategic road network (SRN) and the local road network (LRN), respectively. Refer to **ES Volume 3, Figure 13.1: Construction Traffic Route and Traffic Data Location Plan (Doc. Ref. 5.3)** [\[APP-056\]](#) and **ES Volume 3, Figure 3.1: Existing Access Network (Ref. Doc Ref. 5.3)** [\[APP-045\]](#).

Residual matters of disagreement at the end of the Examination

- 4.10.3 A number of IPs have raised matters in respect of highways, but the Applicant does not consider these matters to be well-founded or supported by any expert opinion. The considered and reasoned view of the relevant statutory highway authorities – KCC and National Highways – is that the Project would result in no unacceptable impacts in relation to traffic and highway matters, a view which is supported by the detailed and expert traffic and highways assessment produced by the Applicant and tested through the Examination; the Project gives rise to no significant traffic or highways impacts and the impacts are at most limited, involving a relatively modest number of traffic movements over a limited period of time, and benefitting from controls and mitigation in respect of routing, access, and timing, including use of an internal off-road haul road. This position is set out in the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))** [\[REP6-006\]](#) and **Statement of Common Ground with National Highways (Doc Ref 8.3.6(B))** [\[REP3-036\]](#).
- 4.10.4 National Highways confirm in row 3 and 4 of the **Signed Statement of Common Ground with National Highways (Doc Ref. 8.3.6(B))** [\[REP3-036\]](#) that the measures included in the Outline Construction Traffic Management Plan (CTMP) and Outline Decommissioning Traffic Management Plan (CTMP) are agreed. KCC confirm in row 2.2.7 of the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(D))** [\[REP6-006\]](#) that the measures included in the Outline CTMP, Outline DTMP and Outline RoWAS secures the controls required in relation to this matter.

Applicant's position on residual matters

- 4.10.5 The Applicant considers that the Project is in full accordance with all relevant policies in respect of highways and traffic.

4.11 Water

- 4.11.1 In light of the Flood Map for Planning (FMP) updated by the EA in March 2025, the **Flood Risk Technical Note (Doc Ref. 8.18)** [\[REP5-026\]](#) confirms that the assessment of flood risks and water environment effects provided in the DCO application remain valid and no updated/new assessments or amendments to the Project are required. Figures 10.2.8-10.2.10 in the **ES Volume 4, Appendix 10.2: Flood Risk Assessment (Doc Ref. 5.4(B))** [\[REP5-015\]](#) and Figure 10.4 in **ES Volume 3, Chapter 10: Water Environment Figures 10.1-10.8 (Doc Ref. 5.3(A))** [\[REP5-011\]](#) have been updated to reflect the new flood risk data.
- 4.11.2 A **Flood Risk Technical Note (Doc Ref. 8.18)** [\[REP5-026\]](#) was submitted at Deadline 5 that confirmed the updated data from March 2025 did not alter any of the conclusions in the ES.
- 4.11.3 Matters relating to water are agreed as set out in the **Signed Statement of Common Ground with the Environment Agency (Doc Ref. 8.3.2(C))** [\[REP4-015\]](#) and the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(E))** .

5 Compulsory Acquisition And Related Matters

5.1 Compulsory Acquisition Powers

5.1.1 The powers sought are:

- All interests in land, including freehold (Article 22 in the **Draft DCO (Doc Ref. 3.1(G))**) – shown edged red and shaded pink on the **Land Plans (Doc Ref. 2.1) [APP-007]** and **Crown Land Plans (Doc Ref. 2.2) [APP-008]**.
- Statutory authority to override easements and other rights (Article 24 in the **Draft DCO (Doc Ref. 3.1(G))**).
- Permanent acquisition of new rights and imposition of restrictive covenants (Article 26 in the **Draft DCO (Doc Ref. 3.1(G))**) - shown edged red and shaded blue on the **Land Plans (Doc Ref. 2.1) [APP-007]** and **Crown Land Plans (Doc Ref. 2.2) [APP-008]**.
- Extinguishment of rights (Article 27 in the **Draft DCO (Doc Ref. 3.1(G))**).
- All interests in land, including freehold, in respect of subsoil and airspace only (Article 29 in the **Draft DCO (Doc Ref. 3.1(G))**).
- Temporary use of land for carrying out and maintaining the authorised development (Articles 31 and 33 in the **Draft DCO (Doc Ref. 3.1(G))**).

5.2 Need for the Compulsory Acquisition of Land and Rights

5.2.1 The Applicant requires powers of compulsory acquisition to ensure that the Project can be constructed, operated (including maintenance) and decommissioned and so that the Government's policies in relation to the timely delivery of new renewable energy generating capacity and achieving the UK's net zero targets are met. The Applicant considers that, in the absence of these powers, there would remain a risk that the Order land would not be fully assembled and the Project would not be delivered, meaning that Government policy objectives would not be achieved.

5.2.2 The Applicant has sought to acquire the necessary land and rights by agreement. The **Statement of Reasons (Doc Ref. 4.2(A)) [REP1-010]** (alongside the **Schedule of Negotiations and Powers Sought (Doc Ref. 4.4(F))**) sets out the status of the negotiations undertaken with affected persons. The information in the Schedule makes clear that the Applicant has diligently pursued negotiations to acquire by agreement the interests required to deliver the Project over a considerable period of time, with voluntary agreements having been reached in relation to the majority of the land required to deliver the Project some months ago. There remains a small minority of land not yet subject to voluntary agreement, which the Applicant is still making progress to secure and will continue to attempt to secure voluntary agreements where possible. In addition, details of how the Applicant identified

persons with an interest in the affected land are set out in the **Consultation Report (Doc Ref. 6.1)** [\[APP-126\]](#).

- 5.2.3 As stated above, the Applicant has reached agreement with the majority of the freehold owners of the Site and is in advanced negotiations with the few remaining freehold owners where it is noted only easement rights are required. Whilst the Applicant is continuing to seek to acquire the land and rights by voluntary agreement, it requires the powers of compulsory acquisition sought in the Application in order to provide certainty that all the land required for the Project can be acquired in order to realise the Project's significant public benefits.
- 5.2.4 The Applicant has sought to use alternatives to compulsory acquisition in so far as possible but considers that compulsory acquisition is needed to achieve the Project objectives and the significant public benefits of the Project.
- 5.2.5 The Applicant also notes that no Affected Persons considered it necessary to attend either of the Compulsory Acquisition Hearings held during the Examination and no private landowner raised any objections to the compulsory acquisition powers sought by the Project. For further details, please refer to the **Written Summary of Oral Submissions at Compulsory Acquisition Hearing 1 and Responses to Action Points** [\[REP1-074\]](#) and the **Written Summary of Oral Submissions from Compulsory Acquisition Hearing 2 and Responses to Action Points** [\[REP4-033\]](#).

5.3 Justification for the Use of the Powers of Compulsory Acquisition

- 5.3.1 The principal justification for the use of powers of compulsory acquisition arises from the fact that the Project will deliver substantial benefits. These wider public benefits of the development are also considered to carry substantial weight.

5.4 Special Considerations

- 5.4.1 There are Crown interests within the Order land. The Order includes an article (Article 42 in the **Draft DCO (Doc Ref. 3.1(G))**) protecting the position of the Crown. The Applicant has been engaged in discussions with the SoS for Transport since 2022 in order to secure the rights and access necessary to carry out the relevant parts of the authorised development and to obtain the consent of the Crown to the inclusion of provisions applying in relation to Crown land. The consent of the SoS for Transport required pursuant to section 135 of the PA 2008, has not yet been received, but is anticipated to be received very shortly.
- 5.4.2 The land or apparatus of a number of statutory undertakers would be affected by the Project. General and bespoke protective provisions have been included within Schedule 13 the **Draft DCO (Doc Ref. 3.1(G))**. [The Applicant has progressed negotiations on bespoke protective provisions with Southern Water Services Limited, South Eastern Power Networks plc (UKPN), National Grid Electricity Transmission plc, National Grid Interconnectors Limited, Network Rail Infrastructure Limited and London St. Pancras Highspeed (HS1), and has reached agreement with all of them on the form of protective provisions to be included in the **Draft DCO (Doc**

Ref. 3.1(G)), as is detailed further in Table 3 of the Schedule of Negotiations and Powers Sought (Doc Ref. 4.4(F)).

5.5 Conclusion

- 5.5.1 Sections 1.8 and 1.9 of the **Statement of Reasons (Doc Ref 4.2)** [\[APP-020\]](#) set out that the Applicant considers that there are no impediments to delivery of the Project and that there is a compelling case in the public interest for the Applicant to be granted powers of compulsory acquisition that have 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 Order. The Applicant submits 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 government guidance entitled 'Planning Act 2008: procedures for the compulsory acquisition of land', and that these powers should therefore be included in the Order.

6 Draft Development Consent Order and Controls

6.1 Introduction

6.1.1 Various points relating to the drafting of the **Draft DCO (Doc Ref. 3.1(G))** were raised during the Examination, in particular in the following documents:

- **Written Summary of Oral Submissions from Issue Specific Hearing 1 and Responses to Action Points** [\[REP1-073\]](#);
- **Responses to First Written Questions (ExQ1)** [\[REP3-047\]](#) (specifically Table 2-4);
- **Written Summary of Oral Submissions from Issue Specific Hearing 3 and Responses to Action Points** [\[REP4-030\]](#); and
- **Responses to Examining Authority's Second Written Questions** [\[REP5-024\]](#) (specifically Table 2-4).

6.1.2. The **Explanatory Memorandum (Doc Ref. 3.3(G))** explains the justification for the inclusion of all of the powers in the **Draft DCO (Doc Ref. 3.1(G))**. The **Schedule of Changes to the Draft DCO (Doc Ref. 8.7(E))** sets out all of the changes made to the **Draft DCO (Doc Ref. 3.1(G))** during the Examination process. The Applicant has also submitted a track changes version of the **Draft DCO (Doc Ref. 3.1(G))** compared against the Application version so all of the changes can be seen in one consolidated document.

6.2 DCO Drafting

6.2.1 ABC have reviewed the **Draft DCO (Doc Ref. 3.1(G))** and the Applicant has reached full agreement on the matters set out within it. Section 2.8 of the **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))** confirms that all matters in relation to requirements have been agreed. KCC have also agreed to the relevant sections of the DCO, notably Schedules 2 and 8 of the **Draft DCO (Doc Ref. 3.1(G))**, as confirmed by the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(E))**.

Schedule 1 (authorised development)

6.2.2 Some IPs [\[PD1-004\]](#) have noted that the description of the "authorised development" in Schedule 1 to the **Draft DCO (Doc Ref. 3.1(G))** does not include an upper limit on the capacity of the BESS, such as that imposed in the Little Crow Solar Park Order 2022. The Applicant responded to this matter in the 'Project description' section of the **Response to Additional Submission made at Procedural Deadline A (Doc Ref. 8.1)** [\[REP1-060\]](#).

6.2.3 The reason for the imposition of the 90MW limit on the capacity of the BESS by the SoS in The Little Crow Solar Park Order 2022 is not clear to the Applicant from the

ExA's recommendation or the SoS's decision letter. The Applicant notes that this approach has not been included in any more recent solar DCOs, even where it has been considered during the examination phase (for example in relation to the West Burton Solar Project Order 2025 and the East Yorkshire Solar Farm Order 2025). The capacity cap in the Little Crow Solar Park Order 2022 is therefore an outlier.

- 6.2.4 The Applicant does not consider an upper limit on capacity is the appropriate way to control the impacts of the BESS as the impacts of the BESS are not directly related to its capacity and this would limit the benefits that the BESS could deliver as technology improves.
- 6.2.5 The ES includes embedded mitigation to any BESS impacts as outlined in detail and secured by the **Design Principles (Doc Ref. 7.5(C))** [\[REP5-017\]](#) and the **Outline BSMP (Doc Ref. 7.16(A))** [\[REP5-019\]](#).

Schedule 2 (Requirements)

- 6.2.6 Requirements have been discussed and agreed with the relevant statutory bodies including ABC, KCC, EA and NE. This is set out within the **Signed Statement of Common Ground with Ashford Borough Council (Doc Ref. 8.3.1(C))**, the **Signed Statement of Common Ground with the Environment Agency (Doc Ref. 8.3.2(C))** [\[REP4-015\]](#), and the **Statement of Common Ground with Kent County Council (Doc Ref. 8.3.4(E))**.

Requirement 14

- 6.2.7 An IP [\[REP2-039\]](#) has suggested that a decommissioning fund should be imposed. Please refer to the **Written Summary of Oral Submissions at Compulsory Acquisition Hearing 1 and Response to Action Points (Doc Ref. 8.5.4)** [\[REP1-074\]](#), in particular the Applicant's responses to Action Points 8 and 9.
- 6.2.8 Requirement 14 in Schedule 2 to the **Draft DCO (Doc Ref. 3.1(G))** provides that decommissioning works must commence no later than the 40th anniversary of the first export date and that prior to commencement of any decommissioning works a DEMP and DTMP must be approved by the local planning authority. As explained in Table 4-9 in Section 4.10 on page 260 of the **Response to Deadline 1 Submissions (Doc Ref. 8.8)** [\[REP2-034\]](#), breach of a requirement of a DCO is a criminal offence pursuant to section 161 of the PA 2008. Therefore, if the undertaker were to fail to decommission the Project or decommission the Project without obtaining the approval of the DEMP and DTMP in accordance with Requirement 14, this would amount to a criminal offence. This is considered to be a sufficient deterrent to ensure compliance.
- 6.2.9 The possibility of requiring security to be put in place for decommissioning costs was considered during the Examination of The Mallard Pass Solar Farm Order 2024. The ExA's Recommendation Report states at paragraph 7.4.73 that *"Whilst there were suggestions by Interested Parties for provision to be made for a financial bond, consistent with the other made DCO's for solar projects we do not consider this to be necessary given the controls that would already be in place via Requirement 18 [Decommissioning and restoration] of the DCO"*. As far as the

Applicant is aware, no solar DCO has imposed such a requirement, including the recently granted West Burton Solar Project Order 2025, Heckington Fen Solar Park Order 2025 and East Yorkshire Solar Farm Order 2025. There is nothing about the Project which would justify a different approach.

- 6.2.10 NPS EN-3 provides a clear policy framework for solar NSIPs, and paragraphs 2.10.65 to 2.10.69 deal with project lifetime and decommissioning. There is no reference within this policy to it being necessary for security to be put in place to cover the costs of decommissioning. Indeed, paragraph 2.10.68 notes that *"Solar panels can be decommissioned relatively easily and cheaply"*. Such a requirement would not meet the policy test within NPS EN-1 paragraph 4.1.16 that requirements should only be imposed that are, inter alia, necessary and reasonable.
- 6.2.11 On this basis, the Applicant does not consider that there is any justification for such a requirement to be imposed for the Project, nor any support in legislation, policy or precedent for doing so.

7 Conclusions

7.1 Legislative context

- 7.1.1 The application falls to be determined pursuant to section 104 of the PA 2008, where NPS EN-1, NPS EN-3 and NPS EN-5 are the relevant NPSs that have effect. These NPSs and other national energy policy set out the Government's objectives to provide secure and affordable energy supplies whilst decarbonising the UK's energy system, as necessary to address the legally binding commitments set out in the Climate Change Act 2008 to reduce carbon emissions and achieve net zero emissions by 2050.
- 7.1.2 The **Planning Statement (Doc Ref 7.6)** [\[APP-151\]](#) explains how the Project complies with the relevant prescribed matters, relevant planning policy and other matters that the Applicant considers are likely to be important and relevant to inform the SoS's decision as to whether to grant the DCO. This Closing Statement sets out where the Applicant has engaged with IPs through the course of Examination to resolve outstanding matters and to provide further information to aid the SoS in determining the application.

7.2 Need and benefit

- 7.2.1 There is a clear and urgent need for energy NSIPs such as that applied for. NPS EN-1 establishes this urgent need, with paragraph 3.2.6 of NPS EN-1 stating that the SoS should assess all DCO applications for the types of infrastructure covered by this NPS on the basis that the government has demonstrated that there is a need for such infrastructure which is urgent, and paragraph 3.2.7 stating that the SoS has determined that substantial weight should be given to this need when considering DCO applications. Paragraph 4.2.4 goes further and explains that there is a CNP for the provision of nationally significant low carbon infrastructure. These policies are central to the assessment of the application for the Project. They mean that the Project has very strong, in principle support.
- 7.2.2 The Project is a necessary part of the future generation mix, and as such will make a valuable contribution to delivering the key objectives of national policy in NPS EN-1 and EN-3, in particular achieving energy security and net zero. The rapid deployment of a significant increase in solar capacity is also acknowledged as a fundamental part of NESO's and the UK Government's Clean Power 2030 advice and Action Plan.
- 7.2.3 The designation of new nationally significant renewable energy infrastructure as a CNP means that, subject to any legal requirements, the urgent need for solar for achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy.
- 7.3 In the case of the Project, these benefits include:

- A meaningful contribution to the UK's legally binding net zero commitment, with the Project able to generate an amount equivalent to 397% of the electricity currently (in 2022) generated from photovoltaics in Ashford, 225% of the electricity currently (in 2022) generated from photovoltaics in the areas of ABC and Folkestone and Hythe District Council, 35% of the electricity (2022) generated from solar in Kent and 1% of the electricity (2022) generated from solar in the UK.
- An additional source of domestic energy security that reduces the market price of electricity by generating power so that more expensive and more carbon intensive generation (such as gas) are not required to generate as much, reducing the overall cost of electricity to consumers.
- Provision of battery energy storage, co-located with the solar generation which maximises the efficiency of land use and grid capacity and allows the Project to maximise the usable output from intermittent generation which will reduce the overall amount of generation capacity required whilst also providing the opportunity to deliver grid balancing to the local electricity network.
- A range of ecological enhancement measures that will result in a BNG of at least 100% for habitat units and at least 10% for hedgerow and river units.
- Significant additional tree planting.
- A reduction in nitrate emissions to the East Stour River as a result of the removal of the Site from intensive arable agricultural use.
- The creation of new PRow to provide new facilities for active travel, recreation and links between communities and developments. The Project will provide new access routes that will support wider connections between Ashford and the Otterpool Park development on attractive and safe, well-maintained paths.
- An average of 132 direct FTE jobs could be created over the 12-month construction period of which 98 are expected to be taken up by residents within the region. The direct construction employment will generate circa £6.2m in GVA within the regional construction economy (based on average GVA per head in the construction industry).
- It is anticipated that the decommissioning phase would require a similar level of employment and generate a similar scale and character of workforce spending and supply chain effects as the construction phase.
- The operational phase of the Project would support four direct FTE jobs consisting of operational and maintenance roles for the Project's PV panels and other structures, where relevant.

7.3.1 These benefits of the development are considered to carry substantial weight.

7.3.2 There is a future commitment to a community benefit package, but this is not a material planning consideration which the SoS should take into account.

7.4 Planning balance

- 7.4.1 The urgent need for the Project is established by the NPS and the benefits are set out above.
- 7.4.2 The **Planning Statement (Doc Ref 7.6)** [\[APP-151\]](#) sets out the key points for consideration by the SoS, with regard to the matters within NPS EN-1, NPS EN-3 and NPS EN-5.
- 7.4.3 The Applicant has sought to work collaboratively with the key stakeholders to develop and secure a comprehensive suite of measures that have sought to avoid, minimise and where necessary mitigate and compensate for the significant effects of the Project. However, as is recognised by paragraph 3.1.2 of the NPS EN-1 *'it will not be possible to develop the necessary amounts of such infrastructure without some significant residual adverse impacts'*. Paragraph 3.3.63 goes on to state:
- "Subject to any legal requirements, the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation Overarching National Policy Statement for Energy (EN-1) hierarchy. Government strongly supports the delivery of CNP Infrastructure and it should be progressed as quickly as possible."*
- 7.4.4 Paragraph 4.1.7 states that where *'there would still be residual adverse effects after the implementation of such mitigation measures, the Secretary of State should weigh those residual effects against the benefits of the proposed development. For projects which qualify as CNP Infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases. This presumption, however, does not apply to residual impacts which present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero. Further, the same exception applies to this presumption for residual impacts which present an unacceptable risk to, or unacceptable interference offshore to navigation, or onshore to flood and coastal erosion risk'*. (bold emphasis added)
- 7.4.5 The Project has been carefully considered and proposes Embedded Mitigation and further mitigation. As set out in Section 7.3 of the **Planning Statement (Doc Ref. 7.6)** [\[APP-151\]](#), whilst there has been a strong commitment to mitigating effects of the Project and effects have been reduced as far as reasonably possible, the ES finds however that the Project will have residual significant adverse effects in two respects.
- 7.4.6 Firstly, with regard to landscape and visual effects, three visual receptors are considered likely to experience significant effects during the construction phase of the Project. These are users of PRoWs within/adjacent to proposed solar PV areas (two receptor groups) and users of PRoW AE401, Collier's Hill. At Year 1 of the operational phase, 19 visual receptors are considered likely to experience moderate adverse effects as a result of the Project, with one receptor judged to experience a moderate-major effect, which are significant. The majority of these receptors are in close proximity to or within the Site. Following establishment of mitigation planting

at Year 15, the number of visual receptors experiencing significant effects will reduce to four, all of which are moderate adverse effects. One receptor has been identified as likely to experience significant effects as a result of the decommissioning phase: Users of PRow AE401, Collier's Hill will be subject to a temporary moderate adverse visual effect.

- 7.4.7 No landscape receptors are anticipated to experience significant effects as a result of the construction or decommissioning phases of the Project. However, once operational, at Year 1, three landscape receptors are considered likely to experience significant adverse effects as a result of the Project. The open fields of the Site and the overall character of the Site will be subject to major-moderate adverse effects, while the Aldington Ridge LCA will experience a moderate adverse effect. However, following establishment of proposed planting at Year 15, those three receptors are considered likely to experience a combination of moderate adverse and moderate beneficial effects which are significant. Two further landscape receptors (Hedgerows and Canopy Trees) will be subject to significant moderate beneficial effects following establishment of proposed planting.
- 7.4.8 National policy confirms that “*virtually all nationally significant energy infrastructure projects will have adverse effects on the landscape, but there may also be beneficial landscape character impacts from mitigation*” (NPS EN-1 paragraph 5.10.5). As noted above whilst the Project does result in some adverse effects there are also significant beneficial landscape effects as a result of the Project.
- 7.4.9 Secondly, with regard to biodiversity, through careful and sensitive design, the Project has minimised significant adverse effects on biodiversity, with only three adverse effects of local significance predicted during the construction phase on yellowhammer, skylark and brown hare but these are short-term, reversible effects. During the operational phase one adverse effect of local significance has been identified on skylark due to the removal of arable monoculture cropland. Skylark nesting areas within set back zones within the PV Arrays are anticipated to mitigate the adverse effects. A precautionary worst case position has been assumed in the ES such that a local significant adverse effect on skylark may remain, which is medium term and reversible. 17 beneficial effects of local significance have been identified, including on Backhouse Wood LWS, Backhouse Wood ancient woodland, notable habitats and plants and a range of species including GCN, reptiles, wintering and breeding birds and brown hare. No significant effects have been identified during decommissioning. Habitat enhancements associated with the Project will result in a BNG of at least 100% for habitat units, and at least 10% for hedgerow and water units.
- 7.4.10 Overall, the urgent need for the Project, which attracts substantial weight, along with the other benefits which together also attract substantial weight, and the limited number of residual significant adverse impacts which have been mitigated appropriately in accordance with policy, mean that the planning balance is overwhelmingly in favour of the grant of development consent.
- 7.4.11 In the event the ExA or SoS were to disagree that the benefits of the Project do not outweigh the limited number of residual adverse effects then the Critical National

Priority infrastructure policy (CNP policy) provides further policy support for the Project. Applying that policy and having regard to limited number, level and extent of residual significant adverse effects, this is clearly not a “most exceptional case” (NPS EN-1 paragraph 4.1.7) whereby the residual effects outweigh the urgent need for CNP infrastructure.

- 7.4.12 The presumption in favour of granting consent to applications for energy NSIPs in NPS EN-1 paragraph 4.1.3 applies, as there are no more specific and relevant policies in the relevant NPSs that indicate (let alone “clearly indicate” in the words of paragraph 4.1.3) that consent should be refused.

7.5 Conclusion

- 7.5.1 The Project benefits from considerable, current, significant policy support. Not only does national policy establish an urgent need for new, low carbon energy generation, it specifically identifies solar as a key part of the Government’s strategy for decarbonisation of the energy sector. The Project is also compliant with the NPPF and other important and relevant planning policies.
- 7.5.2 NPS EN-1 affirms in paragraph 4.1.3 that *‘Given the level and urgency of need for infrastructure of the types covered by the energy NPSs set out in Part 3 of this NPS, the Secretary of State will start with a presumption in favour of granting consent to applications for energy NSIPs. That presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused’*.
- 7.5.3 The benefits have been set out above and carry substantial weight.
- 7.5.4 Whilst the Applicant has worked hard to avoid, minimise and mitigate/ compensate any significant effects (in line with the mitigation hierarchy and policy), it is inevitable for a project of this scale that there would be some residual effects and that is recognised in the NPS. The residual impacts of the Project are not unacceptable in terms of NPS EN-1.
- 7.5.5 The benefits of the Project, particularly the delivery of new solar generating capacity and BESS, carry overwhelmingly greater weight than the residual adverse effects.
- 7.5.6 It is clear that even without CNP policy the planning balance comes down firmly in favour of granting consent, but in any event CNP policy provides further policy support for the Project. Applying that policy and having regard to the limited number, level and extent of residual significant adverse effects, this is clearly not a “most exceptional case” (NPS EN-1 paragraph 4.1.7) whereby the residual effects outweigh the urgent need for CNP infrastructure. Further, as is demonstrated in the documentation submitted by the Applicant in support of the application, none of those residual effects would present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero or present an unacceptable risk to, or unacceptable interference to offshore to navigation, or onshore to flood and coastal erosion risk and therefore the exceptions to this policy do not apply to the Project.

- 7.5.7 The urgent need for the Project and public benefit contribute to the compelling case in the public interest for the granting of the compulsory acquisition powers sought, which are necessary to ensure delivery of the Project.
- 7.5.8 Accordingly, applying the provisions of section 104 of the PA 2008, the Project would be in accordance with relevant NPSs and legislation, would bring significant benefits under a range of national, international and local policy considerations, and:
- would not lead to the UK being in breach of any of its international obligations;
 - would not lead to the SoS being in breach of any duty imposed on the SoS by or under any enactment;
 - would not be unlawful by virtue of any enactment; and
 - the benefits of the proposed development outweigh any adverse impacts.
- 7.5.9 There is a clear and compelling case in favour of the DCO being made. The Project accords with the relevant NPSs which have effect. None of sections 104(4) to (8) of the PA 2008 apply. Accordingly, pursuant to section 104(3), the application should be determined in accordance with the relevant NPSs by granting consent.

References

¹ Landscape Institute and Institute of Environmental Management and Assessment London (2013). Guidelines for landscape and visual impact assessment. London: Routledge.