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Ref: EN010135

Conner McNally  
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2nd Floor, Regis House  
45 King William Street  
London, EC4R 9AN

22 October 2025

Dear Mr McNally,

## **PLANNING ACT 2008**

### **APPLICATION FOR DEVELOPMENT CONSENT FOR THE STONESTREET GREEN SOLAR**

*[This decision was made by Parliamentary Under Secretary of State, Martin McCluskey MP, on behalf of the Secretary of State for Energy Security and Net Zero]*

#### **1. Introduction**

- 1.1. I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the Examining Authority’s (“ExA”) report dated 11 August 2025. The ExA consisted of one examining inspector, Graham Sword. The ExA conducted an Examination into the application submitted on 11 June 2024 (“the Application”) by EPL 001 Limited (“the Applicant”) for a Development Consent Order (“DCO”) (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for Stonestreet Green Solar (“the Proposed Development”). The Application was accepted for Examination on 9 July 2024. The Examination began on 19 November 2024 and closed on 19 May 2025.
- 1.2. On 4 September 2024, the Secretary of State issued a letter seeking information on several matters. On 17 September 2025, Interested Parties (“IPs”) were invited to comment on the responses to the information request.
- 1.3. The Order, as applied for, would grant development consent for the construction, operation and maintenance, and decommissioning of ground mounted solar photovoltaic panel arrays, on-site battery storage and associated infrastructure including a Grid connection via a single 132kV cable circuit from the Project Substation to Sellindge Substation [ER 1.3.7].
- 1.4. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers, set out in the draft Order submitted with Application [ER 6.1.1 et seq.].
- 1.5. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website<sup>1</sup> is a copy of the ExA’s Report of Findings and Conclusions and

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<sup>1</sup> <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010135>

Recommendation to the Secretary of State (“the ExA’s Report”). The ExA’s findings and conclusions are set out in Chapters 3 to 7 of the ExA Report, and the ExA’s summary of conclusions and recommendation is at Chapter 8. All numbered references, unless otherwise stated, are to paragraphs of the ExA’s Report [“ER \*.\*.”] or documents contained within the Examination library [e.g. “REPX-XXX”].

## **2. Summary of the ExA’s Report and Recommendation**

- 2.1. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA’s Report under the following broad headings:
- The principle of the development;
  - Biodiversity;
  - Heritage;
  - Landscape and visual;
  - Land and soils;
  - Noise;
  - Socio economics;
  - Transport including Public Rights of Way;
  - Water environment;
  - Safety and security; and,
  - Other planning matters
- 2.2. The ExA recommended that the Secretary of State should grant consent for the Stonestreet Green Solar Development Consent Order in the form attached at Appendix C of the ExA Report [ER 8.3.2].
- 2.3. This letter is intended to be read alongside the ExA’s Report and, except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the ExA Report, and the reasons for the Secretary of State’s decision are those given by the ExA in support of his conclusions and recommendations

## **3. Summary of the Secretary of State’s Decision**

- 3.1. Section 104(2) of the 2008 Act requires the Secretary of State, in deciding an application, to have regard to any relevant National Policy Statement (“NPS”). Subsection (3) requires that the Secretary of State must decide the application in accordance with the relevant NPS except to the extent that one or more of subsections (4) to (8) apply.
- 3.2. The Secretary of State has considered the overall planning balance and, for the reasons set out in this letter, has concluded that the public benefits associated with the Proposed Development outweigh the harm identified, and that development consent should therefore be granted.
- 3.3. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting consent for the proposals in the Application. This letter is a

statement of the reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations").

- 3.4. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

#### **4. The Secretary of State's Consideration of the Application**

- 4.1. The Secretary of State has considered the ExA's Report and all other material considerations, including written representations ("WR"), relevant representations ("RR"), responses to questions and oral submissions made during the Examination, RRs received after the close of the ExA's Examination and responses to the letters issued by the Secretary of State during the decision-making stage. 306 RRs were made in respect of the Application [ER 1.4.2]. The Secretary of State has had regard to the Local Impact Reports ("LIR") submitted individually by Ashford Borough Council ("ABC") and Kent County Council ("KCC"). The Secretary of State has also had regard to the environmental information as defined in regulation 3(1) of the EIA Regulations and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 104 of the 2008 Act. This includes policies set out in NPSs EN-1, EN-3 and EN-5, as designated on 17 January 2024 ("the 2024 NPSs"), which are "relevant" NPSs in respect of the Application for the purposes of s104(2) of the 2008 Act.
- 4.2. The Secretary of State addresses the 2024 NPSs where relevant within this letter. On 24 April 2025, further revised drafts to NPS EN-1, EN-3 and EN-5 were published ("the 2025 draft NPSs"). The Secretary of State has considered the 2025 draft NPSs, which are relevant considerations in respect of the Application. There is nothing in these which alters the Secretary of State's findings in respect of this Application. The Secretary of State has also had regard to the updated National Planning Policy Framework from December 2024. The most relevant update from the 2024 NPPF is paragraph 168, which stipulates that significant weight must be given by Local Planning Authorities to the benefits associated with renewable and low carbon energy generation when determining planning applications. The Secretary of State considers that the December update reinforces the government's commitment to low carbon energy and concludes that there are no new policies within the 2024 NPPF which alter his findings in respect of the Application. An updated NPPF was released on 7 February 2025 to correct cross-references from footnotes 7 and 8 and amend the end of the first sentence of paragraph 155 of the NPPF to make its intent clear. The Secretary of State had regard to these publications and finds that there is nothing contained within them which would lead him to reach a different decision on the Application.
- 4.3. The Secretary of State has had regard to the Clean Power Action Plan published on 13 December 2024, which outlines the steps to accelerate the government's progress towards delivering clean power by 2030. The Secretary of State also recognises the 15 May 2024 written ministerial statement ("WMS") on the use of BMV land as a relevant consideration in deciding this Application.
- 4.4. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- a. Heritage (Historic Environment) – moderate negative weight [ER 3.4.58];

- b. Landscape and visual – little negative weight [ER 3.5.84];
- c. Land and soils – little negative weight [ER 3.6.46];
- d. Noise – neutral [ER 3.7.43];
- e. Socio economics – neutral [ER 3.8.63];
- f. Transport including Public Rights of Way - little negative weight [ER 3.9.69];
- g. Safety and security – neutral [ER 3.11.52];
- h. Good design – neutral [ER 3.12.43];
- i. Waste and recycling – neutral [3.12.57];
- j. Air quality – neutral [3.12.67]; and
- Cumulative effects – little negative weight – [ER3.12.72].

- 4.5. The paragraphs below set out the matters where the Secretary of State has further commentary and analysis to add beyond that set out in the ExA report. This includes matters where the Secretary of State feels it is necessary to provide further detail on his rationale for agreeing with the conclusions of the ExA, and those matters where the Secretary of State disagrees with the conclusions of the ExA.

#### The Principle of Development

- 4.6. The ExA concludes that the combination of the urgent need for the Proposed Development and beneficial impacts on climate change bring very great weight for the making of the Order [ER 3.2.45]. The Secretary of State agrees with the ExA's view and considers that the need for the Proposed Development is established and notes the contribution the Proposed Development would make to the established need and targets for low carbon, renewable energy generation. The Secretary of State ascribes substantial positive weight to the need case. The ExA ascribed the need case very great positive weight. The difference in the terminology used by the Secretary of State is to ensure consistency to the policy set out in NPS EN-1 regarding substantial weight being ascribed to the need case, however the conclusions are different in terminology only and the weighting ascribed is the same in every other sense.
- 4.7. In Section 5.3. of the ExA report, the ExA ascribes very great weight to the urgent need for the Proposed Development [ER 5.3.6]. The ExA then goes onto ascribe great weight to the net reduction in GHG emissions that the Proposed Development will result in [ER 5.3.13]. For the avoidance of doubt, the Secretary of State considers that the climate change related benefits of the Proposed Development are intrinsic to the need for the Proposed Development, and therefore the Secretary of State has assigned a singular weighting of substantial positive weight to the need case in the planning balance.

#### Biodiversity

- 4.8. The Applicant set out that the Proposed Development would deliver a net gain of biodiversity over the life of the development. An assessment of this was undertaken and proposed gains calculated and presented in the submitted Biodiversity Net Gain ("BNG") Assessment [ER 3.3.24]. Paragraph 1.1.11 of the BNG Assessment [APP-146] states that the Proposed Development Scheme is predicted to result in a net gain of 186.65% for habitat units, 36.28% for hedgerow units, and 15.24% for watercourse units.
- 4.9. On the 4 September 2025, the Secretary of State invited the Applicant to comment on the proposed insertion of new sub-paragraphs (1)(a) and (b) in Requirement 8 of the draft Order. The insertion is shown in italics below and intends to secure the commitment already made

by the Applicant, which supports the conclusion on effects on biodiversity provided in the ES:

*8 - (1) The authorised development must not commence until a biodiversity design strategy has been submitted to and approved by the local planning authority, such approval to be in consultation with the Environment Agency, Kent County Council and the relevant statutory nature conservation body.*

*(a) The biodiversity design strategy must include details of how the strategy will secure a biodiversity net gain for all of the authorised development during the operation of the authorised development of at least 100% in area-based habitat units, at least 10% in hedgerow units, and at least 10% in watercourse units; calculated using the biodiversity metric published by the Department for Environment, Food & Rural Affairs on 12 February 2024, or such other biodiversity metric approved by the relevant planning authority in consultation with the relevant statutory nature conservation body.*

*(b) (b) The biodiversity design strategy must be substantially in accordance with the outline landscape and ecological management plan, must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.*

- 4.10. The Applicant responded on 12 September 2025, stating that it has reviewed the proposed change of sub-paragraphs 1(a) and (b) in Requirement 8 of the Order and is content with the suggested wording. The Applicant notes that the definitions of "biodiversity design strategy" and "biodiversity net gain requirement" in Article 2(1) of the draft Development Consent Order will need to be amended to reflect the amendments made to Requirement 8.

#### *The Secretary of State's conclusion*

- 4.11. The Secretary of State notes the comments from the Applicant and is content that the amendments made to the Order will ensure that the Proposed Development will result in a net gain of at least 100% in area-based habitat units, at least 10% in hedgerow units, and at least 10% in watercourse units. The Secretary of State ascribes moderate positive weight to biodiversity in the overall planning balance.

#### Heritage

- 4.12. The ExA identified a range of cultural heritage matters where adverse effects would be minor and cause less than substantial harm particularly where such matters could be minimised and/or mitigated to the extent that they do not weigh significantly against the Order being made. The ExA notes that the Applicant has adequately assessed the significance of the heritage assets, and the application meets the relevant requirements in NPS EN1, EN3, the NPPF and local development plan policy. The ExA notes that a number of interested parties cited adverse impacts on the setting of the Grade I Church of St Martin, the Grade II\* Church of St John the Baptist, Stoneless House and the scheduled (and unscheduled) Bronze Age barrows. However, having carefully examined the potential impacts on site, the ExA considers that the impacts would be minimally adverse, but nevertheless would cause moderate harm to the significance of the asset. [ER 3.4.52].

- 4.13. Whilst the ExA affords great weight to the conservation of those assets, the ExA concludes that the low level of less than substantial harm to designated heritage assets is outweighed by the benefits of the proposal in accordance with relevant policies in NPS EN1 and EN3. The ExA concludes that the public benefits of the proposal outweigh the harm to heritage assets [ER 5.4.12, ER 8.2.14].
- 4.14. On 26 August 2025, the Secretary of State received a post-examination submission from Richard Buxton Solicitors on behalf of the Kent Branch of the Campaign for the Protection of Rural England (“CPRE” Kent) which referred to potential harm to some heritage assets namely the Grade I Church of St Martin and Grade II Court Lodge and the Aldington Conservation Area in which they are the principal buildings in particular following a Town and Country Planning Act 1990 appeal heard by a Planning Inspector and decided on 8 July 2025 after the close of the Examination (reference APP/E2205/W/24/3352427) (“the Appeal”).
- 4.15. The Appeal was made by EDF Energy against the decision of Ashford Borough Council to refuse planning permission reference 22/00668/AS for the proposed construction of a solar farm with generating capacity up to 49.9MW, located on an immediately adjacent site to the Proposed Development. In particular, the conclusion of the Inspector in the refusal of the Appeal was that the Appeal scheme would cause harm to the significance of the Grade I Church of St Martin and Grade II\* Court Lodge and the Aldington Conservation Area, and that taking into account the importance of the heritage assets, there was not a ‘clear and convincing justification’ per NPPF para 213 for the harm to the designated assets. The Inspector concluded that the Appeal scheme was contrary to Local Plan Policies ENV10 and ENV13, and Neighbourhood Plan Policy AB10, and contrary to the development plan considered as a whole.

#### *The Secretary of State’s conclusion*

- 4.16. The Secretary of State has considered the conclusions of the ExA and notes the matters raised in the post-examination submission received on behalf of CPRE Kent. The Secretary of State notes the Appeal decision and has considered the impacts of the Proposed Development on heritage assets and concludes that whilst great weight is afforded to the conservation of heritage assets and their settings, the benefits of the Proposed Development outweighs the less than substantial harm to designated heritage assets. The Secretary of State therefore ascribes moderate negative weight to Heritage in the planning balance.

#### Water Environment

- 4.17. Following the March 2025 publication of the new Environment Agency (“EA”) flood and erosion risk data referenced in [AS-027], the Applicant submitted an updated Flood Risk Assessment at Deadline 5 [REP5-015]. On 4 September 2025, the Secretary of State invited the EA to comment on the updated assessment and confirm whether it is still in agreement with the assessment’s conclusions, in line with the signed statement of common ground [REP4-015].
- 4.18. The EA responded on 12 September 2025, stating:

*“Following our review of the submitted ‘Flood Risk Technical Note’ (Doc Ref. 8.18, Version 1, Deadline 5, April 2025), which considers the effects of the publication of our new flood and coastal erosion risk data on the construction, operation or decommissioning of the Project, we are satisfied that the updated information has*

*been fully evaluated. We can confirm we are still in agreement with the updated Flood Risk Assessment's conclusions, in line with the signed statement of common ground."*

*The Secretary of State's conclusion*

- 4.19. The Secretary of State is content the new flood risk and erosion data does not alter the conclusions in the Flood Risk Assessment ("FRA") and the Environmental Statement ("ES") and thereby ascribes neutral weight to water environment in the overall planning balance.

**5. Habitats Regulation Assessment**

- 5.1. The Secretary of State has undertaken a Habitats Regulations Assessment ("HRA") and has carefully considered the information presented during the Examination, including the Information to the Habitats Regulations Assessment [REP1-058] as submitted by the Applicant, the ES representations made by IPs and the ExA's Report.

- 5.2. The Secretary of State considers that when considered alone and in-combination with other plans or projects, the Proposed Development has potential to result in Likely Significant Effects ("LSE") due to water quality impacts, on the following sites:

- Stodmarsh SAC
- Stodmarsh SPA

Stodmarsh Ramsar site

- 5.3. The Secretary of State has undertaken an Appropriate Assessment in respect of the Conservation Objectives of the protected site to determine whether the Proposed Development, either alone or in-combination with other plans or projects, will result in an Adverse Effect on Integrity of these protected sites. Based on the information available to him and subject to the mitigation measures as secured in the final Order, the Secretary of State is satisfied that the Proposed Development, either alone or in-combination with other plans or projects, will not adversely affect the qualifying features of the protected site. The full reasoning is set out in the HRA which has been published alongside this decision letter.

**6. Compulsory Acquisition, Land Rights and Related Matters**

- 6.1. The ExA concluded [ER 6.6.12]:

- The application site has been appropriately selected;
- All reasonable alternatives to Compulsory Acquisition ("CA") have been explored;
- The applicant would have access to the necessary funds and the draft Order provides a clear mechanism whereby the necessary funding can be guaranteed;
- There is a clear need for all the land included in the Book of Reference to be subject to CA or Temporary Possession ("TP");
- There is a need to secure the land and rights required to construct, operate and maintain the proposed development within a reasonable timeframe, and the proposed development represents a significant public benefit to weigh in the balance;
- That in all cases relating to individual objections and issues, CA and TP is justified to enable implementation of the proposed development;

- The powers sought satisfy the conditions set out in s122 and s123 of the PA2008 as well as the CA Guidance; and,
- The powers sought in relation to SUs meet the conditions set out in s127 and s138 of the PA2008 and the CA Guidance.

#### *Section 135 Consent – Department for Transport (“DfT”) Crown Lands*

- 6.2. On 20 June 2025 the DfT confirmed that the Secretary of State for Transport has given consent pursuant to sections 135 (1) and 135 (2) of the Planning Act 2008 in respect of various plots of land.
- 6.3. For the avoidance of doubt, on 4 September 2025 the Secretary of State asked the Applicant and DfT to confirm if Crown consent has now been provided for all DfT Crown Land. The Applicant responded on the 12 September 2025, confirming Crown consent had been provided for all DfT Crown Land. The Applicant also confirmed that all necessary Crown consents and authorisations have been obtained. DfT did not respond.

#### *The Secretary of State’s conclusion*

- 6.4. The Secretary of State is satisfied with the confirmation received on Crown consent and authorisations regarding DfT Crown land, and considers this matter resolved.

#### *Voluntary Agreements in respect of KCC land interests*

- 6.5. On 4 September 2025, the Applicant and KCC were asked to provide an update on the status of their negotiations in respect of voluntary agreements for KCC land interests, related to flood storage and cable drilling.
- 6.6. On the 8 September 2025, KCC responded stating it is aware of the Proposed Development and has spoken to the Applicant’s agent. KCC confirmed it has appointed its agent to represent KCC’s interests, and the two agents are in the process of voluntary negotiations to agree terms. KCC advised that it is yet to receive full details of the rights, easements and land that are required by the Applicant and is awaiting a revised draft Heads of Terms to review. KCC advised that once it has reviewed this draft and is able to recommend terms, it will need to consult its members, including its Deputy Leader.
- 6.7. On 12 September 2025, the Applicant responded stating that it has continued to engage with KCC to progress this matter, and that KCC recently instructed an agent to act on its behalf and has not indicated that it is unwilling to enter into a voluntary agreement. Heads of Terms were shared with KCC’s agent, and the Applicant awaits any comments. The Applicant advised that it continues to seek engagement with KCC and will endeavour to do so in an effort to agree a voluntary agreement with KCC.
- 6.8. On 25 September 2025, KCC responded to the Secretary of State’s consultation letter dated 17 September 2025 stating:

*“Given that at County Council on Thursday 18th September KCC passed a motion on Rescinding Climate Emergency, its emerging strategic statement, and particularly concern over the use of agricultural land for large solar farm projects, its position now in respect of landowner responsibility matters is to cease any further discussion on any voluntary agreements on land disposals / granting of rights in land. We will be advising the applicant’s agents of same”.*



*The Secretary of State's conclusion*

- 6.9. The Secretary of state notes the response from KCC and the Applicant. The Secretary of State has carefully considered the analysis set out in the ExA's Report and the conclusions set out therein [ER 6.5.35]. The Secretary of State agrees and further agrees that there is a compelling case in the public interest for the powers sought by the Applicant to be acquired compulsorily and he considers that the Order secures land rights powers appropriately in relation to the relevant legislation and policy [ER 6.6.1, 6.6.8 and 6.6.9].

*Voluntary Agreements in respect of EA land interests*

- 6.10. On 4 September 2025, the Applicant and EA were asked to provide an update on the status of their negotiations in respect of voluntary agreements for EA land interests, related to flood storage and cable drilling.
- 6.11. On 12 September 2025, the Applicant responded stating that it and its agents had continued to engage with the EA. The Applicant shared Heads of Terms with the EA and received additional comments from the EA's agent on 3 September 2025. The Applicant will continue to liaise with the EA's agent to resolve these discussions allowing Heads of Terms to be agreed and a voluntary agreement to be finalised.
- 6.12. The EA responded on 12 September 2025 stating:

*'We have been engaging with the applicant's agents and have received heads of terms for the proposed voluntary agreement for the land and rights required from us. We have clarified the extent of the rights required at a site meeting and have now responded this week with a counter proposal on those terms. We hope to agree terms by the time the DCO decision is made, within the next 3 months, although it does depend if the applicant wishes to agree to the financial counter offer we have put to them.'*

*The Secretary of State's conclusion*

- 6.13. The Secretary of State notes the ongoing negotiations between the Applicant and EA and is satisfied with the Applicant's efforts to secure the agreements.
- 6.14. The Secretary of State has carefully considered the analysis set out in the ExA's Report and the conclusions set out therein. As with the KCC land interests, in respect of the EA, The ExA states that notwithstanding that the Applicant remains positive that consent will be gained shortly after the examination, the compelling need for the Proposed Development leads the ExA to consider that not being able to finalise these arrangements post recommendation should not be an impediment to authorising the acquisition of these land rights to enable grid connection for the Proposed Development. [ER 6.5.35]. The Secretary of State agrees, and further agrees that there is a compelling case in the public interest for the powers sought by the Applicant to be acquired compulsorily and he considers that the Order secures land rights powers appropriately in relation to the relevant legislation and policy [ER 6.6.1, 6.6.8, 6.6.9].

*Protective Provisions in respect of Statutory Undertakers (“SU”)*

- 6.15. The Applicant and the following SUs: South East Water, Colt Technologies Limited, Lumen Technologies Limited, and Open Reach Limited were asked to confirm the status of negotiations in relation to the proposed protective provisions.

*South East Water*

- 6.16. On 12 September 2025, the Applicant confirmed that there are limited South East Water assets within the order Limits, the majority of which are abandoned mains. The Applicant considers that South East Water’s assets are appropriately protected under the protective provisions in Schedule 13, Part 1 of the draft Development Consent Order. The Applicant confirmed that following the Secretary of State’s letter of 4 September, South East Water engaged with the Applicant and confirmed that provided any diversions are applied for at the appropriate time, then it has no objection to the Proposed Development.
- 6.17. South East Water responded on the 17 September 2025, confirming the same.

*The Secretary of State’s conclusion*

- 6.18. The Secretary of State notes from the ExA report that South East Water’s concerns related to the potential for the Proposed Development to be built over a distribution water main without a reasonable stand-off distance and had suggested that the mains must either be diverted or not be built over within a certain distance [ER 6.5.30]. Having considered the response from South East Water, the Secretary of State has therefore decided to retain the PPs for the benefit of South East Water into the Order, as per those provided in the draft Order.

*Colt Technologies Limited (“CTL”) and Lumen Technologies Limited (“LTL”)*

- 6.19. On 12 September 2025, the Applicant confirmed that on 24 August 2024, LTC, a CTL affiliate, emailed the Applicant in response to the section 56 notice, confirming that LTC and City of London Telecoms had no objections to the Proposed Development. In light of this confirmation and given the lack of engagement from CTL during the Application and Examination process, the Applicant assumes that CTL is content that its interests are adequately protected by Part 2 Protected Provisions in the Order. CTL and LTL did not respond to the Secretary of State’s letter of 4 September 2025.

*The Secretary of State’s conclusion*

- 6.20. The Secretary of State notes that, as set out in the ExA report, CTL and LTL did not object to the Proposed Development and did not engage in the Examination [ER 6.5.6], and thereby concludes that the PPs in Schedule 13, Part 2 are appropriate and would not cause CTL or LTL any serious detriment. Accordingly, those PPs have been included in the final Order.

*OpenReach limited (“OL”)*

- 6.21. On 12 September 2025, the Applicant confirmed that it has sought to engage with OL throughout the Application and Examination process, and that a copy of the Part 2 Protective Provisions in the Order was sent to OL on 14 February 2024. The Applicant confirmed that no response was received, and OL has not otherwise engaged with the Application. Given

the lack of engagement from OL, the Applicant has assumed that OL is content its interests are adequately protected by the Part 2 in the Order.

*The Secretary of State's conclusion*

- 6.22. 6.20. The Secretary of State notes that, as set out in the ExA report, OL did not object to the Proposed Development and did not engage in the Examination [ER 6.5.6], and thereby concludes that the PPs in Schedule 13, Part 2 are appropriate and would not cause OL any serious detriment. Accordingly, those PPs have been included in the final Order.

*Other Sus with ongoing negotiations in respect of PPs*

- 6.23. The Applicant has confirmed that there are no further ongoing negotiations in respect of the PPs.

*Easement Rights - Freehold Landowners*

- 6.24. At Compulsory Acquisition Hearings 1 and 2, the Applicant outlined that it had reached option agreements or signed Heads of Terms with the majority of the freehold owners of land within the order limits and was in advanced negotiations with the few remaining freehold owners where it is noted only easement rights are required. The ExA noted that the Applicant requires the powers of compulsory acquisition sought in order to provide certainty that all the land required for the Proposed Development can be acquired in order to realise the Proposed Development's significant public benefits [ER 6.3.4].
- 6.25. The Secretary of State asked the Applicant to provide an update to the negotiations with these freehold landowners. On 12 September 2025, the Applicant responded stating that:

*"The Applicant, its agent and its legal representatives have continued to liaise with impacted parties to formalise and finalise the remaining agreements.*

***Christopher Robert Price and Richard Cleveland Price*** – *The Applicant and these Affected Persons have agreed Heads of Terms, engaged legal advisers and are close to finalising legal agreements. The Affected Persons will require consent from third parties that hold existing land interests over the land before entering into legal agreements and the Applicant and its legal advisers have engaged with these parties and their legal advisers to assist. The Applicant is confident that legal agreements will be secured within four weeks.*

***Douglas John Wanstall, Geoffery Wanstall and Richard John Wanstall*** – *The Applicant and these Affected Persons have agreed Heads of Terms, engaged legal advisers and are close to finalising legal agreements. The Affected Persons will require consent from a third party that holds existing land interests over the land before entering into legal agreements and the Applicant and its legal advisers have engaged with this party and its legal adviser to assist. The Applicant is confident that legal agreements will be secured within four weeks."*

- 6.26. The Secretary of State has noted the response and agrees with the ExA's that each area of land affected by CA and TP is required for the carrying out of one or more of the works identified in Schedule 1 of the Order [ER 6.3.5]. The Secretary of State notes negotiations are still ongoing to finalise agreements with the following landowners: Christopher Robert Price and Richard Cleveland Price Landholdings; and Douglas John Wandstall, Geoffery

Wandell and Richard John Wanstall Landholdings. The Secretary of State is content that as the agreements are soon to be finalised, this would therefore not hinder the making of the Order.

### *The Secretary of State's conclusion*

- 6.27. The Secretary of State has carefully considered the analysis set out in the ExA's Report and the conclusions set out therein, and agrees that there is a compelling case in the public interest for the powers sought by the Applicant to be acquired compulsorily and he considers that the Order secures land rights powers appropriately in relation to the relevant legislation and policy.
- 6.28. The Secretary of State has no reason to believe that the grant of the Order would give rise to any unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

## **7. Secretary of State's Consideration of the Planning Balance, Conclusion and Decision**

- 7.1. The Secretary of State acknowledges the ExA's recommendation that the Proposed Development is acceptable in principle in planning terms for the currently designated NPSs and that the case for Development Consent is made [ER 5.4.15].
- 7.2. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- Heritage (Historic Environment) – moderate negative weight [ER 3.4.58];
  - Landscape and visual – little negative weight [ER 3.5.84];
  - Land and soils – little negative weight [ER 3.6.46];
  - Noise – neutral [ER 3.7.41];
  - Socio-economics – neutral [ER 3.8.63];
  - Transport including Public Rights of Way – little negative weight [ER 3.9.62];
  - Safety and security – neutral [ER 3.11.49];
  - Good design – neutral [ER 3.12.43];
  - Waste and recycling – neutral [3.12.57];
  - Air quality – neutral [3.12.67]; and
  - Cumulative effects – little negative weight [ER 3.12.72].
- 7.3. The paragraphs below summarise the planning balance weightings ascribed to those matters where the Secretary of State had further commentary and analysis to add.
- 7.4. The Secretary of State has ascribed substantial positive weight to the need case. The ExA ascribed the need case very great positive weight. The difference in the terminology used by the Secretary of State is to ensure consistency to the policy set out in NPS EN-1 regarding substantial weight being ascribed to the need case, however the conclusions are different in terminology only and the weighting ascribed is the same in every other sense.
- 7.5. Noting the responses received to the information request, the Secretary of State ascribes the matter of biodiversity moderate positive weight in the overall planning balance.
- 7.6. Noting the responses received to the information request, the Secretary of State has ascribed the matter of the water environment neutral weight in the overall planning balance.

- 7.7. For the reasons given in this letter, the Secretary of State concludes that the benefits of the Proposed Development outweigh its adverse impacts. Furthermore, the Secretary of State considers there is a compelling case in the public interest for the compulsory acquisition and temporary possession powers sought.
- 7.8. The Secretary of State concludes that development consent should be granted for the Stonestreet Green Sola. The Secretary of State does not believe that the national need for the Proposed Development as set out in the relevant NPSs is outweighed by the Development's potential adverse impacts, as mitigated by the proposed terms of the Order.
- 7.9. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the relevant Development Plans, the LIRs submitted by Ashford Borough Council and Kent County Council, the NPSs, draft NPSs, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 104 of the Planning Act 2008. The Secretary of State confirms for the purposes of regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.
- 7.10. The Secretary of State has therefore decided to accept the ExA's recommendation to make the order granting development consent including modifications set out in section 9 of this document.

## **8. Other Matters**

### Equality Act 2010

- 8.1. The Equality Act 2010 includes a public sector "general equality duty" ("PSED"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender; gender reassignment; disability; marriage and civil partnerships ; pregnancy and maternity; religion and belief; race; sex and sexual orientation.
- 8.2. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the Examination. There can be detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.
- 8.3. The Secretary of State has had due regard to this duty and has not identified any parties with a protected characteristic that might be discriminated against as a result of the decision to grant consent to the Proposed Development.
- 8.4. The Secretary of State is confident that, in taking the recommended decision, the Secretary of State has paid due regard to the above aims when considering the potential impacts of granting or refusing consent and can conclude that the Proposed Development will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that granting consent is not likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

## Natural Environment and Rural Communities Act 2006

- 8.5. The Secretary of State notes the “general biodiversity objective” to conserve and enhance biodiversity in England, section 40(A1) of the Natural Environment and Rural Communities Act 2006 and considers the application consistent with furthering that objective, having also had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when making this decision.
- 8.6. The Secretary of State is of the view that the ExA’s Report, together with the Environmental Impact Assessment considers biodiversity sufficiently to inform the Secretary of State in this respect. In reaching the decision to give consent to the Proposed Development, the Secretary of State has had due regard to conserving and enhancing biodiversity.

## **9. Modifications to the draft Order**

- 9.1. Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order:
- Amendment to the preamble of the draft Order to refer to section 83(1) of the Planning Act 2008 as the Examining Authority consisted of a single appointed person.
  - Amendment to the preamble of the draft Order to include section 140 of the Planning Act 2008 as part of the Secretary of State’s powers to authorise the development.
  - Amendments to Part 1 (Preliminary):
    - Amendments to the definitions in Article 2(1) including amendments to the definitions of biodiversity design strategy and biodiversity net gain units to reflect the amendments made to Requirement 8 in Part 2 (Requirements) for the reasons given in this decision letter.
    - Amendments to Article 2(8) to make clear that the development consent granted does not authorise works which are likely to give rise to any materially new or materially different environmental effects.
  - Amendments to Part 2 (Principal powers):
    - Amendment to Article 4(3) to make clear that the development consent granted does not authorise works which are likely to give rise to any materially new or materially different environmental effects.
    - Removal of Article 9 (Planning permission) because it is not considered necessary and creates potential ambiguity.
  - Amendment to Part 4 (Public rights of way):
    - Amendment to (previously) Article 18 to refer to temporary closure rather than temporary stopping up of public rights of way as is preferred by the Secretary of State (and consequential amendments to other provisions as required).
  - Amendments to Part 4 (Supplemental powers)
    - Removal of (previously) Article 20(9) for consistency with previous DCOs.

- Removal from (previously) Articles 20 and 21 of references to not unreasonably withholding consent, as this is covered by (previously) Article 47.
- Amendments to Part 6 (Powers of acquisition and possession of land):
  - Amendments to (previously) Article 27(3) and (4) to clarify the drafting.
  - Amendments to (previously) Article 31(3) to clarify that the undertaker may not remain in possession of land under (previously) Article 31 for longer than reasonably necessary.
- Amendments to Part 7 (Miscellaneous and general):
  - Removal of (previously) Article 40 (Human remains). The Secretary of State has considered the Applicant's justification for including this provision on the basis that the undertaker has not been able to conclusively rule out the presence of human remains within the Order Limits given the history of the area. The Secretary of State has removed similar articles from several orders where there is no clear justification for its use. The Secretary of State considers that this provision is only intended to deal with known and identifiable human remains, such as those within a burial ground, that can be publicised under the terms of the Article. Provision for any archaeological human remains should be dealt with within the written scheme of investigation. The Secretary of State will, for obvious reasons, want modern human remains that are not contained in public records or otherwise readily identifiable to be dealt with by the proper authorities, rather than being simply removed and reburied.
- Schedule 2 (Requirements)
  - Amendment to Part 1 Requirement 6 (Construction environmental management plan) and Requirement 12 (Operational management plan) and Requirement 14 (Decommissioning and site restoration) to add that approval shall also be in consultation with the relevant statutory nature conservation body.
  - Amendment to Part 1 Requirement 8 (Landscape and biodiversity) to ensure that the Proposed Development will result in a net gain of at least 100% in area-based habitat units, at least 10% in hedgerow units, and at least 10% in watercourse units.
  - Amendment to Part 1 Requirement 12(3) (Operational management plan) to clarify that the OMP must be maintained throughout the operation of the relevant part of the development to which the OMP relates.
  - Schedule 16 (Arbitration Rules)
- Amendment to paragraph 7 to reflect the Secretary of State's preference that the default position should be that any arbitration hearing and documentation is publicly accessible, rather than private as previously provided, subject to confidentiality or disclosure exceptions in sub-paragraphs (2) and (3).

- 9.2. In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments, changes in the interests of clarity and consistency, changes made for the purposes of standardised grammar and spelling, and changes to ensure that the Order has its intended effect. The Order, including the modifications referred to above is being published with this letter.

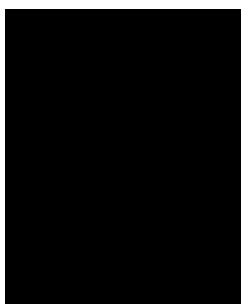
## **10. Challenge to decision**

- 10.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex A to this letter.

## **11. Publicity for decision**

- 11.0. The Secretary of State's decision on this Application is being publicised as required by section 116 of the Planning Act 2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
- 11.1. Section 134(6A) of the Planning Act 2008 provides that a compulsory acquisition notice shall be a local land charge. Section 134(6A) also requires the compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the Order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the Order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely,



Vicky Dawe

Director, Energy Development

22 October 2025



## **ANNEX A: LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS**

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order or decision is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010135>

**These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).**

## ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AA	Appropriate Assessment
ABC	Ashford Borough Council
AEoI	Adverse Effects on Integrity
AMS	Archaeological Management Strategy
BESS	British Energy Security Strategy
BNG	Biodiversity Net Gain
BoR	Book of Reference
CA	Compulsory Acquisition
CPRE	Campaign for the Protection of Rural England
CTL	Colt Technologies Limited
DCO	Development Consent Order
dDCO	Draft Development Consent Order
EA	Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	The Examining Authority
FRA	Flood Risk Assessment
HRA	Habitats Regulations Assessment
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest
KCC	Kent County Council
LIR	Local Impact Report
LSE	Likely Significant Effect
LTL	Lumen Technologies Limited
MW	Megawatt
NE	Natural England
NPS	National Policy Statement
NPS EN-1	National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NSN	National Site Network
NSIP	Nationally Significant Infrastructure Project
OL	OpenReach Limited
PA 2008	The Planning Act 2008
PSED	Public Sector Equality Duty
RIES	Report on the Implications for European Sites
RR	Relevant Representation
SAC	Special Area of Conservation
SoCG	Statement of Common Ground
SPA	Special Protection Area
SU	Statutory Undertakers
TP	Temporary Possession

WR	Written Representations
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