



# EAST PARK ENERGY

**East Park Energy**

**EN010141**

## **Explanatory Memorandum**

**Document Reference: EN010141/DR/3.2**

Infrastructure Planning (Applications: Prescribed Forms and  
Procedure) Regulations 2009: Regulation 5(2)(c)

**July 2026**  
Version P05

# EAST PARK ENERGY

Planning Act 2008

Infrastructure Planning (Applications: Prescribed  
Forms and Procedure) Regulations 2009

## Explanatory Memorandum

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|------------------------------------------------|--------------------|
| <b>APFP Regulation Reference:</b>              | Regulation 5(2)(c) |
| <b>Planning Inspectorate Scheme Reference:</b> | EN010141           |
| <b>Application Document Number:</b>            | EN010141/DR/3.2    |
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| Version | Date           | Status                         |
|---------|----------------|--------------------------------|
| P01     | September 2025 | DCO Submission                 |
| P02     | November 2025  | S51 Response – Post Submission |
| P03     | April 2026     | Deadline 1                     |
| P04     | May 2026       | Deadline 3                     |
| P05     | July 2026      | Deadline 5                     |

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## GLOSSARY

| Term                     | Description                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “1990 Act”               | The Town and Country Planning Act 1990 (as amended).                                                                                                                                                                                                                                                                                                                                                                    |
| “1991 Act”               | The New Roads and Street Works Act 1991.                                                                                                                                                                                                                                                                                                                                                                                |
| “2008 Act”               | The Planning Act 2008 (as amended) which is the legislation in relation to applications for NSIPs, including pre-application consultation and publicity, the examination of applications and decision making by the Secretary of State.                                                                                                                                                                                 |
| “APFP Regulations”       | The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) which set out detailed procedures that must be followed for submitting and publicising applications for NSIPs.                                                                                                                                                                                                 |
| “Applicant”              | BSSL Cambsbed 1 Limited.                                                                                                                                                                                                                                                                                                                                                                                                |
| “Application”            | The Application for a Development Consent Order made to the Secretary of State under Section 37 of the 2008 Act in respect of the Authorised Development, required pursuant to Section 31 of the 2008 Act because the Authorised Development comprises an NSIP under Section 14(1)(a) and Section 15 of the 2008 Act by virtue of it comprising the construction of a generating station in England of more than 50 MW. |
| “Application Documents”  | The documents submitted as part of the Application process indexed in the <b>Guide to the Application (Document Reference EN010141/DR/1.3)</b> including but not limited to the application form, a draft Order, the ES, the outline construction environmental management plan and associated plans which set out the parameters for the Authorised Development.                                                       |
| “Associated Development” | Defined under Section 115(2)(a) of the 2008 Act as development which is associated with the development for which development consent is required and that has a direct relationship with it. Associated Development should either support the construction or operation of the Principal Development, or help address its impacts. It should                                                                           |

| Term                                         | Description                                                                                                                                                                                                                                                        |
|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                              | not be an aim in itself but should be subordinate to the Principal Development.                                                                                                                                                                                    |
| “Authorised Development”                     | The development to which the Application relates and which requires a DCO, as described in Schedule 1 to the draft Order, comprising the Principal Development and Associated Development.                                                                         |
| “Book of Reference”                          | The <b>Book of Reference (Document Reference [EN010141/DR/4.3])</b> accompanying the Application defined in Regulation 7 of the APFP Regulations.                                                                                                                  |
| “Consultation Report”                        | The <b>Consultation Report (Document Reference [EN010141/DR/5.1])</b> accompanying the Application which explains the consultation undertaken by the Applicant in accordance with the 2008 Act.                                                                    |
| “DCO”                                        | A Development Consent Order made by the relevant Secretary of State pursuant to Section 103(1) of the 2008 Act to authorise an NSIP. A DCO does or can incorporate or remove the need for a range of consents which would otherwise be required for a development. |
| “Design Parameters and Principles Statement” | Design Parameters and Principles Statement ( <b>Document Reference [EN010141/DR/7.1])</b> accompanying the Application which sets out the parameters for the Authorised Development and explains the design principles adopted by the Authorised Development.      |
| the “draft Order”                            | The draft DCO submitted with the Application Documents.                                                                                                                                                                                                            |
| “EIA”                                        | Environmental impact assessment. The assessment of the likely significant environmental effects of the Authorised Development undertaken in accordance with the EIA Regulations.                                                                                   |
| “EIA Regulations”                            | The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) setting out how the EIA of NSIPs must be carried out and the procedures that must be followed.                                                                         |
| “ES”                                         | The <b>Environmental Statement (Document Reference [EN010141/DR/6.1], [EN010141/DR/6.2], [EN010141/DR/6.3] and EN010141/DR/6.4)</b> accompanying the Application documenting the findings of the EIA, including                                                    |

| Term                       | Description                                                                                                                                                                                                                                                  |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                            | updates to the ES which have been submitted during the examination of the Application.                                                                                                                                                                       |
| “Explanatory Memorandum”   | This document. It explains the intended purpose and effect of the draft Order and the authorisations and powers that the Application seeks.                                                                                                                  |
| “Land Plan”                | The <b>Land Plan (Document Reference [EN010141/DR/2.2])</b> showing the land to be used for the Authorised Development and to be certified as the “land plan” by the Secretary of State under article 39 of the draft Order.                                 |
| “LEMP”                     | Landscape and ecological management plan to be prepared in accordance with Requirement 4 of Part 1 of Schedule 2 of the Order).                                                                                                                              |
| “Local Planning Authority” | Bedford Borough Council and Huntingdonshire District Council (as appropriate).                                                                                                                                                                               |
| the “made Order”           | The East Park Energy Order, being the DCO that would be made by the Secretary of State authorising the Authorised Development.                                                                                                                               |
| “MW”                       | Megawatts.                                                                                                                                                                                                                                                   |
| “NSIP”                     | As defined under Section 14(1) of the 2008 Act.                                                                                                                                                                                                              |
| “Order Land”               | The land within the limits of land to be acquired or used and described in the Book of Reference.                                                                                                                                                            |
| “Order Limits”             | The limits shown on the Land Plan within which the authorised development may be carried out and land acquired or used.                                                                                                                                      |
| “PINS”                     | The Planning Inspectorate. A Government agency responsible for receiving and administering the acceptance and examination of applications for NSIPs on behalf of the Secretary of State.                                                                     |
| “Planning Statement”       | The <b>Planning Statement (Document Reference [EN010141/DR/5.3])</b> accompanying the Application which explains the national local policy support for the Authorised Development together with updates submitted during the examination of the Application. |

| Term                    | Description                                                                                                                                                                                                                                                 |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| “Principal Development” | The development to which the Application relates and which requires a DCO as described in Part 1 of Schedule 1 to the draft Order.                                                                                                                          |
| “Statement of Reasons”  | The <b>Statement of Reasons (Document Reference [EN010141/DR/4.1])</b> accompanying the Application which explains the national need for the Authorised Development and sets out the justification for the acquisition or interference with the Order Land. |
| “Secretary of State”    | The Secretary of State for Energy Security and Net Zero who will determine the Application.                                                                                                                                                                 |
| “Undertaker”            | The Applicant or such other person who takes the benefit of the DCO following the procedure within Article 5 of the draft Order.                                                                                                                            |
| “Works Plan”            | The <b>Works Plan (Document Reference [EN010141/DR/2.3])</b> which shown the Work Nos referred to in Part 1 of Schedule 1 to the draft Order.                                                                                                               |

The definitions included in Article 2 (interpretation) of the Order apply to the terminology used in this document. Where a specific term is not defined in this glossary the reader should refer to this Article.

## **1.0 SUMMARY**

- 1.1.1 This Explanatory Memorandum explains the purpose and effect of each article of, and the Schedules to, the draft Order, as required by Regulation 5(2)(c) of the APFP Regulations.
- 1.1.2 It forms part of the Application for a DCO that has been submitted to the Secretary of State under section 37 of the 2008 Act.
- 1.1.3 This Explanatory Memorandum also seeks to identify and explain departures from the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (S.I. 2009/2265) ('the model provisions'). Whilst the power for the Secretary of State to designate, and the requirement to have regard to, model provisions have been removed by the Localism Act 2011, it can be helpful to explain variations made in the draft Order compared to the model provisions.

---

## 2.0 PURPOSE OF THE ORDER

- 2.1.1 The Applicant is seeking development consent for the Authorised Development, which in summary comprises a solar generating station and all infrastructure required to transmit the power generated to the National Grid Eaton Socon substation. It will be located to the north-west of the town of St Neots and is across two administrative areas: Bedford Borough Council (a unitary authority) and Huntingdonshire District Council (a two-tier authority with Cambridgeshire County Council).
- 2.1.2 A detailed description of the Authorised Development is included in **ES Vol 1 Chapter 2: The Scheme [EN010141/DR/6.1]**.

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## **3.0    NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECT**

- 3.1.1    The Authorised Development is a NSIP under sections 14(1)(a) and 15(2) of the 2008 Act, as at the time of application, it consists of the construction of a generating station, being a ground mounted solar photovoltaic generating station with a capacity of over 50MW.
- 3.1.2    The DCO, if made by the Secretary of State, would be known as The East Park Energy Order 202[ ].
- 3.1.3    This Explanatory Memorandum should be read in conjunction with the suite of documents that accompanied the Application. In particular, the ES, the Works Plan, the Land Plan, the Consultation Report, the Planning Statement and the Statement of Reasons.

## 4.0 AUTHORISED DEVELOPMENT

4.1.1 A detailed description of the Authorised Development can be found in ES Chapter 2. It contains a generating station, battery energy storage system, substation and other works which are summarised below:

- a) **Work No. 1** – a ground mounted solar photovoltaic generating station;
- b) **Work No. 2** – a battery energy storage system;
- c) **Work No. 3** – an on-site substation (East Park Substation);
- d) **Work No. 4** – a 400 kV electrical cable connection from Work No. 3 to the Eaton Socon Substation;
- e) **Work No. 5** – works at the Eaton Socon Substation to create a new 400 kV generation bay;
- f) **Work No. 6** – internal cabling and ancillary infrastructure;
- g) **Work No. 6A** - operations and maintenance area;
- h) **Work No. 6B** – drainage lagoon;
- i) **Work No. 7** – temporary construction and decommissioning compounds and laydown areas;
- j) **Work No. 8** – works to create, enhance and maintain green infrastructure;
- k) **Work No. 9** – works to facilitate access;
- l) **Work No. 9A** – creation of visibility Splays outside the public highway; and
- m) **Work No. 10** – works to create an ‘agrisolar’ research area.

4.1.2 The East Park Substation will be used to control and operate the solar photovoltaic arrays, and to step up the voltage from the solar transformers (33 kV) to the voltage of the National Grid’s Eaton Socon Substation (400 kV), which is the Authorised Development’s point of connection.

4.1.3 Full descriptions of the works comprising the Authorised Development can be found within Schedule 1 to the draft Order.

4.1.4 The solar panels within the Agrisolar research area to be consented under Work No. 10 may generate electricity and will be connected to the on-site substation (Work No. 3) in the same way as Work No. 1. However, the main purpose for seeking consent for Work No. 10 is to provide a facility which will

enable the Applicant to collaborate with Rothamsted Research to test the soils underneath the panels in order to understand the impact to agriculture and ecosystems under photovoltaic panels and the best solar panel configuration and management. For this reason, the output of electricity generated by the Agrisolar research facility to be consented under Work No. 10 may not be as regular and constant as the solar panels to be consented under Work No. 1. Work No. 10 is therefore listed as Associated Development within the draft DCO.

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## 5.0 ASSOCIATED DEVELOPMENT

- 5.1.1 Guidance on associated development has been issued by the Department for Communities and Local Government titled “Planning Act 2008 - Guidance on associated development applications for major infrastructure projects” (April 2013).
- 5.1.2 In this guidance associated development is described as being *“typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project” (paragraph 6) and requiring “a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts. Associated development should not be an aim in itself but should be subordinate to the principal development” (paragraph 5).*
- 5.1.3 In some cases, there may be some overlap between the Principal Development and the Associated Development. All elements of the Authorised Development either constitute part of the Principal Development or are associated development within the meaning of section 115(2) of the 2008 Act, and so can properly be authorised by the made Order.
- 5.1.4 In addition to the specific Works Nos. described above, Schedule 1 of the draft Order includes a list of further associated development that may be undertaken in connection with Work Nos. 1 to 10. This further associated development includes such other works as may be necessary or expedient to deliver the Authorised Development. These items are broadly defined and may occur across the Order Limits as required, but only insofar as they do not give rise to any materially new or materially different environmental effects from those assessed in the ES.

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## **6.0 ANCILLARY MATTERS**

- 6.1.1 The draft Order also contains several ancillary matters, i.e. provisions which do not consist of development but are necessary to enable it.
- 6.1.2 The draft Order seeks to apply and modify statutory provisions, including in relation to the compulsory acquisition of land. It is for this reason that under section 117 and 120(5) of the 2008 Act the draft Order must be made by way of statutory instrument. The draft Order is therefore in statutory instrument form.
- 6.1.3 Other ancillary matters include the temporary closure of lengths of existing public rights of way and authorisation of the permanent use of motor vehicles on public rights of way in the vicinity of the Authorised Development, the imposition of traffic regulation measures (including the application of temporary speed limits and traffic signals), the creation of new points of access to works, and the modification of the application and disapplication of legislation.

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## 7.0 DEVELOPMENT PHASING

- 7.1.1 The Applicant wishes to retain the flexibility to construct the Authorised Development in phases. The proposed approach to phasing is described in ES Chapter 2 and illustrated indicatively in Appendix 2-1 (Indicative Construction Phasing and Resource Schedule) to ES Chapter 2. These phases will be carried out in accordance with the Authorised Development and the requirements set out in the made Order.
- 7.1.2 The solar generating station will operate for a maximum of 40 years and will be supported by the battery energy storage system comprising Work No. 2 and the East Park Substation comprising Work No. 3 and described in Schedule 1 to the draft Order.

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## 8.0 PARAMETERS IN THE DRAFT ORDER

- 8.1.1 The design parameters for the Authorised Development are specified and assessed in the ES. The ES captures the important parameters necessary to ensure the Authorised Development is not constructed in such a way that would exceed the worst-case scenario assessed in the ES. A Design Parameters and Principles Statement has been prepared, which is in accordance with the details found in the ES. The detailed design of the Authorised Development shall be in accordance with the Design Parameters and Principles Statement, and therefore the ES.
- 8.1.2 The Design Parameters and Principles Statement will be secured by a requirement of the made Order as proposed at Requirement 3 of Schedule 2 to the draft Order. This approach is intended to provide flexibility in the design of the Authorised Development, such that new technology can be engaged, whilst ensuring compliance with the ES.

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## **9.0 THE DRAFT ORDER**

- 9.1.1 The purpose and effect of the provisions of the draft Order are now explained in sequence. The Order consists of 48 operative provisions, each referred to as articles and 15 Schedules. The articles are considered below in numerical order (split between the different Parts of the Order), and Schedules are considered along with the article which introduces them or to which they relate.
- 9.1.2 Whilst the model provisions have been repealed, the draft Order is based on the model provisions as well as other development consent orders that have been made to date. The draft Order has been influenced by the following recent development consent orders among others: The Sunnica Energy Farm Order 2024, The Oaklands Farm Solar Park Order 2025, The Byers Gill Solar Order 2025 and The Heckington Fen Solar Park Order 2025. It has also been informed by the Ministry of Housing, Communities and Local Government and Department for Levelling Up, Housing and Communities guidance document “Planning Act 2008: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects” (April 2024) and the Planning Inspectorate guidance document “Nationally Significant Infrastructure Projects - Advice Note Fifteen: drafting Development Consent Orders” (March 2025).

## **9.2 Part 1 – Preliminary**

### **Article 1 – Citation and commencement**

- 9.2.1 Article 1 sets out the name of the Order and the date on which it comes into force.
- 9.2.2 This article did not appear in the model provisions. However, it is a standard article that is included in all development consent orders.

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## Article 2 – Interpretation

- 9.2.3 Article 2 provides for the interpretation of the rest of the Order, including the Schedules. It is a standard article and was included in the model provisions as article 1.
- 9.2.4 Where appropriate, some Schedules also contain provisions setting out what terms mean in that particular Schedule.
- 9.2.5 Article 2(1) makes alterations to the model provisions to accommodate departures from model provisions elsewhere in the Order, and to add required definitions, including:
- a) definitions of documents submitted as part of the Application and which are referred to in the draft Order have been added. These documents are more fully identified in the table in Schedule 15 to the draft Order.
  - b) the definition of "authorised development" means the development and Associated Development described in Schedule 1 to the Order, which is development within the meaning of section 31 of the 2008 Act as defined in section 32 of the 2008 Act. The definitions of "ancillary works" and "authorised project" from the model provisions have not been used in the Order, instead the concept of Associated Development is included in the definition of "authorised development" and is described in detail in Schedule 1, as it is considered that this drafting is more effective (and is common practice).
  - c) the definition of "building" differs slightly from the equivalent definition provided in section 235 of the 2008 Act, which refers to section 336(1) of Town and Country Planning Act 1990. For the purposes of the draft Order, this definition does not exclude plant or machinery comprised in a building. This ensures that provisions relating to buildings in the draft Order, in particular Article 19 (protective works to buildings) apply also to any plant or machinery comprised in buildings. This definition is taken from the model provisions, and is the standard definition of "building" used in development consent orders.

- d) the definition of "commence" is defined so as to exclude "site preparation works" (except where stated to the contrary). This exclusion is required to enable the Undertaker to carry out certain preparatory works prior to the submission of relevant details for approval under the requirements contained in Schedule 2 to the Order so that certain works can be carried out without "commencing" the authorised development. The works that are excluded from the definition of commencement are either de minimis or have minimal potential for adverse impacts. They may in some cases need to be carried out in order to comply with the pre-commencement requirements (for example, to inform assessments and proposals required to be submitted for approval). The Applicant should be permitted to carry out low impact preparatory works, and the manner in which they would be controlled, is addressed in Appendix 2-3 (Site Preparation Works) to ES Chapter 2.
- e) the definition of "local planning authority" differs from the equivalent definition provided in section 235 of the Planning Act 2008. For the purposes of the draft Order, the term is defined specifically to clarify that it is used to refer to the local planning authority for the area to which the relevant provision of the draft Order relates or, where the provision relates to a part that falls within the administrative areas of multiple local planning authorities, each of the relevant local planning authorities. This definition is necessary as the Order Limits cover the administrative areas of both Bedford Borough Council and Huntingdonshire District Council.
- f) a definition of "maintain" has been added to make clear what activities are authorised under Article 4 during the operation of the authorised development. The definition has been drafted to directly reflect the nature and context of the authorised development, which will need to be properly maintained, managed, and protected throughout its operational lifetime. The drafting, therefore, reflects this operational period and likely framework of maintenance that will be required while enabling technological and practice advancement and improvements within identified environmental performance standards. Therefore, some flexibility must be built-in to what maintenance of the authorised

development will involve, particularly to keep up with changing standards and controls and advances in technology.

- g) a definition of “Order limits” has been included which means the limits shown on the Land Plan within which the authorised development may be carried out and land acquired or used.

9.2.6 Paragraphs (2) to (7) of Article 2 have been added to provide clarity that all distances, directions and lengths are approximate; that references to numbered works are to the works as described in Schedule 1 and shown on the Works Plan; as to how the word "includes" is to be construed; that any statutory body includes that body's successor in title; how references to rights over land should be construed; and that all areas described in the Book of Reference are approximate. Paragraphs (2) to (7) are as found in Article 2 of the Byers Gill Solar Order 2025.

## **9.3 Part 2 – Principal Powers**

### **Article 3 – Development consent etc. granted by this Order**

9.3.1 Article 3(1) provides the principal power to construct and operate the Authorised Development within the Order limits. Schedule 1 describes the Authorised Development. Development consent is subject to the provisions of the draft Order, including the requirements listed in Part 1 of Schedule 2. This is based on article 2 of the model provisions.

9.3.2 Article 3(2) was not included in the model provisions but has been included in previous orders. For example, this article is as found in Article 5(2) of the A417 Missing Link Development Consent Order 2022 and Article 5(2) of the M5 Junction 10 Development Consent Order 2025. It provides that any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of the Order. Because the Order amends and disapplies various enactments that apply to and affect the authorised development, or would otherwise do so (including those enactments specified at Article 8 of the Order), this helps to clarify the interaction between the provisions of the Order and other legislation and ensures that the Order takes

precedence. The ability to include a power to apply, modify and exclude statutory provisions in a DCO is set out at section 120 of the 2008 Act.

- 9.3.3 Article 3(2) is also necessary to ensure that there are no local acts or other legislation that might hinder the construction and operation of the authorised development. Although the Applicant has included provision in Article 8 and Schedule 3 for the disapplication of some local legislation there is a risk that this list is not conclusive and so the Applicant has therefore taken a precautionary approach in including article 3(2). The inclusion of this provision ensures that the construction and operation of this NSIP will not be jeopardised by any incompatible statutory provisions which might exist.
- 9.3.4 In terms of the limits of the provision and how far “adjacent” extends from the Order limits within the meaning of Article 3(2), it is noted that article 20 (authority to survey and investigate the land) grants the Applicant the power to enter not only onto land within the Order limits, but also onto other land “which may be affected by the authorised development”. The extent of ‘adjacent’ land would therefore need to be judged on a case by case basis and in practice would be to the extent necessary for the construction and operation of the authorised development.
- 9.3.5 Article 3(3) requires that the works authorised by the Order are situated in the areas shown on the Works Plan **[APP-009]**. This is in order to provide certainty as to what has been consented by the Order, in respect of which areas of land. Article 3(3) should be read alongside Article 7 (limits of deviation), which deals with the application of limits of deviation to the Authorised Development.

## **Article 4 – Power to maintain the authorised development**

- 9.3.6 This article sets out the scope within which the Undertaker may maintain the Authorised Development. The definition of “maintain” is contained in Article 2(1). Article 4 was included in the model provisions as article 3.
- 9.3.7 Powers of maintenance are subject to the other provisions of the draft Order and any agreements made under the draft Order and do not authorise any

works which are likely to give rise to any materially new or materially different environmental effects compared to those identified in the environmental statement.

- 9.3.8 Article 4 is well precedented and has been included in recently granted orders. For example, Article 4 of the Byers Gill Solar Order 2025 and Article 4 of the Oaklands Farm Solar Park Order 2025.

### **Article 5 – Consent to transfer benefit of Order**

- 9.3.9 Article 5 allows the benefit of the made Order to be transferred or leased to others by the Undertaker. The exercise of any transferred benefits or rights is subject to the same restrictions, liabilities and obligations as would apply under the made Order if those benefits or rights were exercised by the Undertaker. The consent of the Secretary of State is required for a transfer or grant, except where it is made to a specified company in respect of a particular work or where the time limits for claims for compensation in respect of the acquisition of land or effects upon land under the Order have elapsed and such claims have not been made or are withdrawn or settled.
- 9.3.10 Article 5 is based on article 5 of the model provisions with some exceptions. For example, Article 5(2) and (3) refer to 'transfer or grant', which is considered to be more accurate than 'agreement'. Moreover, Article 5 allows a transfer or grant to a specified company to take place without the Secretary of State's consent, on the basis that it is appropriate for those companies to be able to carry out those works. In particular:
- a) Article 5(3)(c) makes provision for the transfer of powers relating to undertaking Work No. 4 and / or Work No. 5 to be transferred to National Grid Electricity Transmission PLC (company registration number 02366977) ("National Grid") without the consent of the Secretary of State. Elements of Work No. 4 and the entirety of Work No. 5 will need to be carried out on land owned by National Grid within and near to National Grid's Eaton Socon Substation, which is the Authorised Development's point of connection to the National Grid. It is therefore considered that it

may be necessary to transfer the power to carry out these works to National Grid.

- b) Article 5(3)(d) makes provision for the transfer of powers relating to undertaking Work No. 6 to be transferred to Anglian Water Services Limited (company registration number 02366656) ("**Anglian Water**") without the consent of the Secretary of State. As set out in ES Chapter 2, the Applicant has been in discussion with Anglian Water and it is expected that connection could be made to an existing Anglian Water pump house located close to the Main Site Access north of Site D on the B645 (grid reference: TL146638) to supply elements of the Authorised Development with water. It is therefore considered that it may be necessary to transfer the power to carry out these works to Anglian Water.
- c) Article 5(3)(e) makes provision for the transfer of powers relating to undertaking Work No. 6 to be transferred to Openreach Limited (company registration number 10690039) without the consent of the Secretary of State. It is considered that it may be necessary to transfer the power to carry out elements of Work No. 6 to Openreach Limited to enable utilities connections for the Authorised Development to be carried out.

9.3.11 The justification for these provisions is that in such cases, the transferee or lessee will either be of a similar regulatory standing to the undertaker so as to protect the provision for compensation for rights or interests in land that are compulsorily acquired pursuant to the Order, or there are no outstanding actual or potential compulsory purchase claims. The provision that the undertaker is able to transfer the Order to a holding company or subsidiary is to allow commercial flexibility for the undertaker in the event that it would be preferable that a connected corporate entity takes the benefit of all or part of the Order. Article 5(4) provides that where the consent of the Secretary of State is not needed, the undertaker must still notify the Secretary of State in writing prior to the transfer or grant of the benefit of the provisions of the Order. Article 6(6) to (7) provide further detail on the notification that is to be given.

9.3.12 Article 5(8) provides that where the undertaker has transferred the benefit of the Order or granted the benefit of the Order to a transferee or lessee then:

- a) the transferred benefit will include any rights that are conferred and any obligations that are imposed;
- b) the transferred benefit will reside exclusively with the transferee or the lessee and shall not be enforceable against the undertaker; and
- c) the benefits or rights conferred under sub-paragraph (2) of the article are subject to the same restrictions, liabilities and obligations as applies to the undertaker.

9.3.13 Article 5 has precedent in The Byers Gill Solar Order 2025, The Oaklands Farm Solar Park Order 2025, The Cleve Hill Solar Park Order 2020, The Little Crow Solar Park Order 2022 and The Longfield Solar Farm Order 2023.

### **Article 6 – Planning permission**

9.3.14 Article 6 permits certain development authorised by a planning permission granted under the Town and Country Planning Act that is within the Order limits to be carried out pursuant to the terms of the planning permission without breaching the Order.

9.3.15 Article 6 is not a model provision, but ensures that the undertaker does not breach section 161 of the 2008 Act in carrying out certain development pursuant to a grant of planning permission, provided that development is not of itself an NSIP or part of one, or required to complete or enable the use or operation of any part of the development authorised by the Order.

9.3.16 This article has been included in previous development consent orders. For example, Article 7 of the M5 Junction 10 Development Consent Order 2025, Article 8 of the North Lincolnshire Green Energy Park Order 2025, Article 7 of the M3 Junction 9 Development Consent Order 2024, Article 7 of the A38 Derby Junctions Development Consent Order 2023 and Article 7 of the A417 Missing Link Development Consent Order 2022.

### **Article 7 – Limits of deviation**

9.3.17 Article 7 requires that the numbered works authorised by the made Order are situated in the limits of deviation except where it is demonstrated by the

undertaker to the Secretary of State's satisfaction and following consultation by the undertaker with the local planning authority, that a deviation in excess of the limits of deviation would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement. The "limits of deviation" are defined as the limits for the scheduled works shown for each numbered work on the Works Plan.

- 9.3.18 The design of the Authorised Development is controlled via requirement 3 (detailed design approval) of Schedule 2 of the Order which requires approval of details of the Authorised Development's design and requires that the details submitted accord with the Design Parameters and Principles Statement. The Design Parameters and Principles Statement secures the parameters that are necessary to ensure that the Authorised Development is constructed, operated and decommissioned in such a way that the impacts and effects would not exceed the scenario assessed in the Environmental Statement. In addition to the Design Parameters and Principles Statement and Works Plan, the design of the Authorised Development is also controlled by approval and implementation of a LEMP (requirement 4).
- 9.3.19 Where the Design Parameters and Principles Statement does not include guidance or controls for an aspect of a numbered work, this is justified on the basis of the environmental impact assessment and having regard to the other controls in place via the various control documents secured by the requirements to the Order.
- 9.3.20 The Application seeks flexibility to undertake the Authorised Development within the above envelope, in particular within the maximum areas and parameters secured via the Works Plan and Design Parameters and Principles Statement. As set out in ES Chapter 2, the environmental impact assessment has assessed a reasonable worst case in accordance with the Works Plan, Design Parameters and Principles Statement, and other certified documents and plans such as the outline Landscape and Ecological Management Plan.

- 9.3.21 Any indicative development layouts that have been submitted to provide illustrative examples of the different design layouts have been considered for the Authorised Development that could be built out within the 'consent envelope' and are not sought to be secured.
- 9.3.22 The ability to deviate within the limits of deviation is important to ensure that if the precise 'as built' development is slightly different to that indicatively shown on the application plans, no question arises as to whether or not the works are permitted by the made Order. It also ensures that the undertaker has sufficient flexibility to design and construct the authorised development post consent, whilst avoiding any materially different environmental effects in comparison with those reported in the environmental statement.
- 9.3.23 While this Article is not a model provision and this specific formulation is not currently included in any existing orders, the principle of including limits of deviation in an order has become commonplace, particularly those including linear elements. For example, limits of deviation provisions have been included at Article 8 of the M5 Junction 10 Development Consent Order 2025, Article 6 of the HyNet Carbon Dioxide Pipeline Order 2024, Article 8 of the M3 Junction 9 Development Consent Order 2024 and Article 5 of the National Grid (Bramford to Twinstead Reinforcement) Order 2024.

## **Article 8 – Disapplication and modification of legislative provisions**

- 9.3.24 Article 8 provides (in reliance on section 120(5)(a) of the 2008 Act) for the disapplication in relation to the Authorised Development of certain requirements which would otherwise apply under general legislation. Section 120(5)(a) provides that an order granting development consent may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order.
- 9.3.25 Article 8 is derived from article 6 of the model provisions.
- 9.3.26 Paragraph (1)(a) – (c) disapplies sections 23 and 32 of the Land Drainage Act 1991 and the provisions of any byelaws made under section 66 of the Land

Drainage Act 1991. Section 23 of the Land Drainage Act 1991 would impose a requirement to obtain consent for the construction of culverts from the relevant lead local flood authority, while byelaws made under the Land Drainage Act 1991 may impose further requirements for approval. The Authorised Development involves the crossing of an ordinary watercourse, which would ordinarily require consent to be obtained from Bedford Borough Council and / or Cambridgeshire County Council as the two lead local flood authorities. To provide certainty that the Authorised Development can proceed, the draft Order disapplies the requirement for a separate statutory consent to be obtained in relation to these activities. Section 32 of the Land Drainage Act would allow the provisions of the Order relating to the drainage of land (including any provision affecting the powers or duties of any drainage body or other person with respect to the drainage of land) to be revoked, varied or amended by an order of the appropriate Minister made on an application by the Environment Agency (or direction of the Minister). The disapplication of this provision is therefore necessary as this would otherwise inappropriately allow the provisions of the Order relating to drainage to be revisited. This approach has precedent in recent development consent orders such as Article 6 of the Oaklands Farm Solar Park Order 2025, Article 6 of the Longfield Solar Farm Order 2023, Article 6 of the Mallard Pass Solar Farm Order 2024, Article 6 of the Cottam Solar Project Order 2024 and Article 6 of the Gate Burton Energy Park Order 2024. This disapplication is sought on the basis that protective provisions for the protection of drainage authorities are included in the draft Order at Part 3 of Schedule 13.

- 9.3.27 Paragraph (1)(d) disapplies the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw-making powers of the authority) to the Water Resources Act 1991 to provide certainty and ensure that the Authorised Development is not delayed or inhibited from construction or operation as a result of byelaws given the need for the Authorised Development to cross various watercourses. This disapplication is sought on the basis that protective provisions for the protection of drainage authorities are included in the draft Order at Part 3 of Schedule 13.

- 9.3.28 Paragraph (1)(e) disapplies the legislation listed in Schedule 3 in so far as the provisions still in force are incompatible with the powers contained within this made Order. Schedule 3 includes a list of historic legislation which relate to rivers and other watercourses (including Grafham Water reservoir) that may affect the Authorised Development if they are not disapplied. The list takes a precautionary approach because in some cases it is difficult to conclusively determine whether or not the provisions of the legislation are relevant to the Order given that the majority of the Acts considered did not append plans identifying the area of land that they apply to.
- 9.3.29 Paragraph (1)(f) provides for the modification of the Neighbourhood Planning Act 2017 insofar as it relates to the temporary possession land. This is on the basis that the temporary possession of land is dealt with by Articles 30 and 31, and the drafting of those provisions is well established, as explained in detail below. The 2017 Act contains untested provisions that differ from those in the draft Order and although they are not yet in force it is therefore necessary to disapply them in case they should come into force in the future. This approach has precedent in recent development consent orders such as Article 6 of The Byers Gill Solar Order 2025, Article 6 of The Sunnica Energy Farm Order 2024, Article 6 of The Cleve Hill Solar Park Order 2020, Article 6 of The Longfield Solar Farm Order 2023, Article 6 of The Mallard Pass Solar Farm Order 2024, Article 6 of The Cottam Solar Project Order 2024 and Article 6 of The Gate Burton Energy Park Order 2024.
- 9.3.30 Paragraph (2) provides for the modification of Regulation 6 of the Hedgerows Regulations 1997 so that removal of any hedgerow to which the Regulations apply is permitted for carrying out development which has been authorised by a DCO made pursuant to the 2008 Act. The Hedgerows Regulations allow a local planning authority to object to and prohibit interference with a hedgerow. The normal exception for development permitted by a planning permission does not apply to development authorised by a DCO and therefore this modification is necessary to extend the exception to development authorised by a DCO, which is necessary as the Authorised Development is anticipated to require the removal of a total of 84m of hedgerow, as described in ES

Chapter 2. This approach has precedent in Article 6 of the Oaklands Farm Solar Park Order 2025 and Article 6 of The Little Crow Solar Park Order 2022.

- 9.3.31 Paragraph (3) provides for the modification of Regulation 5 of the Management of Hedgerows (England) Regulations 2024, which is considered necessary to give legislative clarity that there is no conflict between the exercise of any functions which have been authorised by the Order and the Regulations, which sets out general maintenance requirements for important hedgerows (as defined in the 2024 Regulations). The definition of important hedgerows within the Management of Hedgerows (England) Regulations 2024 is wider than that under the Hedgerows Regulations 1997 and includes any hedgerow growing on land used for agriculture with a continuous length of 20m or more, or that joins two hedgerows. The Applicant notes that a similar amendment was made to the Regulations at Article 6(4) of the Outer Dowsing Offshore Wind Farm Order 2026.
- 9.3.32 Paragraph (4) in effect disapplies the Community Infrastructure Levy Regulations 2010, by making clear that any building comprised in the authorised development is to be deemed to be of a type that does not trigger liability for payment of the Community Infrastructure Levy. The provision is not intended to substantially alter the Authorised Development's liability for the Community Infrastructure Levy but is intended to clarify that the Authorised Development will not incur liability under the regime. Paragraph (4) has precedent in the Longfield Solar Farm Order 2023, the Mallard Pass Solar Farm Order 2024 and the Gate Burton Energy Park Order 2024.
- 9.3.33 Paragraph (5) applies section 9 of the Forestry Act 1967 to any felling required as a result of the Authorised Development. Section 9(1) of the 1967 Act provides that a Forestry Commission licence is required for felling growing trees. Section 9(4)(d) disapplies the requirement from felling required to implement development authorised by a planning permission – but not to development authorised by a DCO. Therefore, paragraph (5) extends the exception to any trees felled as a result of the Authorised Development, which is necessary given the extensive planting proposed as part of the Authorised Development, as further described in ES Chapter 2.

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## Article 9 – Defence to proceedings in respect of statutory nuisance

- 9.3.34 Article 9 provides that no one is able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise, if the noise is created in the course of carrying out construction or maintenance or decommissioning of the Authorised Development and for which notice has been given under section 60 or consent obtained under section 61 of the Control of Pollution Act 1974 or which cannot be reasonably avoided as a consequence of the Authorised Development. This approach has precedent in recent solar DCOs including Article 7 of The Oaklands Farm Solar Park Order 2025, Article 8 of The Byers Gill Solar Order 2025, Article 7 of The Gate Burton Energy Park Order 2024, Article 7 of The Cottam Solar Project Order 2024, Article 7 of The Mallard Pass Solar Farm Order 2024 and Article 7 of The Little Crow Solar Park Order 2022.
- 9.3.35 Section 158 of the 2008 Act confers statutory authority for the carrying out of development for which consent is granted by a DCO for the purpose of providing a defence in civil or criminal proceedings for nuisance. This provides a defence to proceedings brought in a magistrates' court under section 82(1) of the Environmental Protection Act 1990 in relation to certain nuisances set out in paragraph 79(1) of that Act. However, the view taken under the NSIP regime is that section 158 does not extend to a situation by which, if somebody considers that the local authority ought to be tackling a nuisance using its statutory nuisance powers, but it is not, that person may apply to the magistrates' court under section 82 of the Environmental Protection Act 1990. This article seeks to fill in a legislative gap by extending the effect of section 158.
- 9.3.36 As a matter of practice, those seeking development consent generally only seek to apply this article where there is a possibility of a statutory nuisance occurring. The Applicant has followed this approach, by seeking to restrict the application of this article so that it only applies to nuisances identified as potentially resulting from the Authorised Development, as set out in the

Statutory Nuisance Statement accompanying the application. This ensures that this article is focused only on those nuisances that may be of relevance. In respect of the Application, the article is therefore only applied in relation to the following statutory nuisances of sections 79(1)(a), (d), (e), (fb), (g) and (ga) of the Environmental Protection Act 1990. In summary these statutory nuisances are:

- (a) - any premises in such a state as to be prejudicial to health or a nuisance;
- (d) - any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;
- (e) - any accumulation or deposit which is prejudicial to health or a nuisance;
- (fb) - artificial light emitted from premises so as to be prejudicial to health or a nuisance;
- (g) - noise emitted from premises so as to be prejudicial to health or a nuisance; and
- (ga) - noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street.

9.3.37 The defence in this article is only available if the nuisance:

- a) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the Authorised Development and that nuisance is attributable to the carrying out of the Authorised Development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974; or
- b) is a consequence of the construction, maintenance or decommissioning of the Authorised Development and cannot reasonably be avoided; or
- c) is a consequence of the use of the Authorised Development and cannot reasonably be avoided.

- 9.3.38 It is considered that following the implementation of mitigation measures the construction, operational and decommissioning phases of the Authorised Development will not give rise to impacts that would constitute a statutory nuisance under the sections 79(1)(a), (d), (e), (fb), (g) and (ga) of the Environmental Protection Act 1990. Further detail is set out in the Statutory Nuisances Statement accompanying the Application. Given the mitigation measures and protections secured under the draft Order, it is considered appropriate and proportionate to make provision for a defence to any proceedings in respect of the statutory nuisance referred to above.
- 9.3.39 Article 9 is based on a model provision that has been amended to include reference to the decommissioning of the Authorised Development. It has also been amended to remove reference to Section 65 (noise exceeding registered level) of the Control of Pollution Act 1974, which has been repealed.

## **9.4 PART 3 – STREETS**

### **Article 10 – Street works**

- 9.4.1 Article 10 allows the undertaker to interfere with and execute works in or under the streets within the Order limits for the purposes of the Authorised Development. The authority given by this article is a statutory right for the purposes of sections 48(3) and 51(1) of the 1991 Act. Certain provisions of the 1991 Act apply to works carried out under this article. It is necessary because implementation of the Authorised Development will require works to be undertaken to streets. Schedule 4 sets out the streets that are subject to street works, and the nature of those works, thereby clarifying the extent of the powers. The authority given by this article is a statutory right for the purposes of sections 48(3) and 51(1) of 1991 Act. Certain provisions of the 1991 Act apply to works carried out under this article, subject to the provisions of Article 11 (application of the 1991 Act).
- 9.4.2 Article 10 is based on Article 8 of the model provisions and has precedent in recent solar DCOs including Article 9 of The Byers Gill Solar Order 2025,

Article 8 of The Oaklands Farm Solar Park Order 2025 and Article 8 of The Sunnica Energy Farm Order 2024.

### **Article 11 – Application of the 1991 Act**

- 9.4.3 Article 11 provides for the application of the 1991 Act to the Order.
- 9.4.4 Paragraphs (1) and (2) provide that certain works carried out under the authority of the Order are to be "major highway works" for the purposes of the 1991 Act. The effect of this is to clarify that the cost-sharing provisions relevant to the diversion of utility apparatus (which would apply to such works under the 1991 Act if carried out by the highway authority) will apply in respect of the works authorised by the Order, irrespective of who carries them out.
- 9.4.5 Paragraphs (3) to (5) apply certain provisions of the 1991 Act (listed in paragraph (4)) to streets which are to be temporarily closed, altered or diverted under the Order. This prevents any confusion as to whether works in respect of a temporarily affected street are 'street works' for the purposes of the 1991 Act and simplifies the implementation of the works by providing for a single process in respect of streets which are closed and those which are not.
- 9.4.6 Although not included in the model provisions, Article 11 is as substantially found at Article 10 of the Byers Gill Solar Order 2025. Article 11 also draws precedent from Article 10 of the Awel y Môr Offshore Wind Farm Order 2023, Article 12 of the A417 Missing Link Development Consent Order 2022 and Article 9 of the Hornsea Four Offshore Wind Farm Order 2023.

### **Article 12 – Power to alter layout, etc., of streets**

- 9.4.7 Article 12 allows the undertaker to alter the layout of or carry out any works in a street. Schedule 5 sets out the temporary and permanent alteration works to streets.
- 9.4.8 This article is necessary because, to construct, operate, maintain and decommission the Authorised Development, the Undertaker will need to alter street layouts for access to minimise disruption to the local highway network.

- 9.4.9 The powers conferred by paragraph (2) (which is a general power enabling the Undertaker to alter the layout of any street) require the consent of the street authority before they can be exercised, which is not to be unreasonably withheld or delayed pursuant to Article 44.
- 9.4.10 Paragraph (5) states that a street authority which fails to notify the Undertaker of its decision in respect of an application for consent within 28 days, or such longer period that may be agreed in writing between the street authority and the Undertaker, of the application being made is deemed to have given its consent. This time limit is considered necessary to remove the possibility for delay and provide certainty that the Authorised Development can be delivered by the Applicant in a timely fashion. As an NSIP, the Authorised Development should not be at risk of being held up due to a failure to respond to an application for consent.
- 9.4.11 This article substantially reflects Article 11 of The Byers Gill Solar Order 2025, Article 9 of The Oaklands Farm Solar Park Order 2025 and Article 9 of The Longfield Solar Farm Order 2023. The Applicant notes that the latter two orders do not include provision for deemed consent or the ability to alter the level, increase, or reduce the width of a carriageway with the consent of the street authority; however, these measures are considered necessary and appropriate for the reasons specified above.

### **Article 13 – Construction and maintenance of altered streets**

- 9.4.12 Article 13 provides that the permanent alterations to the streets listed in Part 1 of Schedule 5 must be completed to the reasonable satisfaction of the highway authority and, unless otherwise agreed, be maintained at the undertaker's expense for a period of 12 months from their completion. Thereafter, maintenance will be the responsibility of the highway authority (paragraph (1)). In respect of any footpath, cycle track or bridleway, any construction, diversion, or alteration must be completed to the reasonable satisfaction of the local highway authority and be maintained at the undertaker's expense for a period of 12 months from their completion. Paragraphs (3) and (4) provide that the temporary alterations to the streets

listed in Part 2 of Schedule 5 must be completed to the reasonable satisfaction of the street authority and maintained at the undertaker's expense, until the alterations have been restored to the reasonable satisfaction of the street authority and maintained at the undertaker's expense for a period of 12 months from the completion of the restoration. Thereafter, maintenance will be the responsibility of the street authority. The purpose of this Article is to define who will be responsible for the maintenance of altered streets following the carrying out of works and it is required to provide certainty as to who will be responsible for such maintenance.

- 9.4.13 Paragraphs (5) and (6) mirror the defence in section 58 of the Highways Act 1980 where the undertaker is subject to an action for damages and has taken such care as was reasonably required in the circumstances to secure that the street was not dangerous to traffic. Paragraph (7) provides that the provisions of this Article do not apply where the undertaker is the street authority for a street in which the works are being carried out.
- 9.4.14 Article 12 is as substantially found in Article 12 of The Byers Gill Solar Order 2025, Article 10 of The Sunnica Energy Farm Order 2024, Article 10 of the Longfield Solar Farm Order 2023 and Article 13 of the A417 Missing Link Development Consent Order 2022. It is considered that Article 12 is necessary to clarify the responsibilities of the undertaker in respect of streets that are altered as part of the Authorised Development.

## **Article 14 – Access to works**

- 9.4.15 Article 14 gives the Undertaker powers to form new or to improve existing means of access, set out in Schedule 7 of the Order, for the purposes of the Authorised Development. For clarity, Schedule 7 is split into Part 1 (permanent means of access to works) and Part 2 (temporary means of access).
- 9.4.16 This article also provides that other means of access or works can be provided in alternative locations where reasonably required subject to the prior approval of the planning authority, after consultation with the relevant highway

authority. In addition, Article 14 also requires the undertaker to restore any access that has been temporarily created under the Order to the reasonable satisfaction of the street authority.

- 9.4.17 Paragraph (2) states that a local planning authority which fails to notify the Undertaker of its decision (or refuses approval without giving any grounds for refusal) in respect of an application for consent within 28 days of the application being made is deemed to have given its consent. This time limit is considered necessary to remove the possibility for delay and provide certainty that the Authorised Development can be delivered by the Applicant in a timely fashion. As an NSIP, the Authorised Development should not be at risk of being held up due to a failure to respond to an application for consent.
- 9.4.18 Similar drafting is found in Article 15 of The Byers Gill Solar Order 2025, Article 10 of The Oaklands Farm Solar Park Order 2025, Article 12 of the Longfield Solar Farm Order 2023, Article 12 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 and Article 12 of the Hornsea Four Offshore Wind Farm Order 2023.

### **Article 15 – Temporary closure of streets and public rights of way**

- 9.4.19 Article 15 allows the undertaker to temporarily close, prohibit the use of, restrict the use of, authorise the use of, alter or divert any street or public right of way for the purposes of the Authorised Development, whilst ensuring that essential pedestrian access to and from premises along those public rights of way is maintained if necessary under paragraph (2). No permanent closure or diversion of public rights of way is required.
- 9.4.20 Paragraph (1)(b) and paragraph (3) allow the undertaker to use motor vehicles over public rights of way where there is no public right to use motor vehicles. This is necessary to enable the undertaker to access parts of the Authorised Development during its operation (such as for maintenance).
- 9.4.21 Under paragraph (4) where the Undertaker is not the street authority it is required to consult the street authority before temporarily closing, prohibiting

the use of, authorising the use of, restricting the use of, altering or diverting any street or public right of way specified in paragraph (3). In the case of any other streets or public rights of way where the Undertaker is not the street authority it is required to consent of the street authority is required. The street authority may attach reasonable conditions to any consent but must not unreasonably withhold or delay consent pursuant to Article 44.

- 9.4.22 Paragraph (5) provides that compensation is payable in respect of loss suffered by the suspension of any private rights of way. This provision is required so that persons who temporarily lose private rights of way because of the suspension of streets or public rights of way can be appropriately compensated.
- 9.4.23 Paragraph (6) provides an additional power to the undertaker which allows it to use any street or public right of way temporarily closed as a temporary working site (which is not in the model provision).
- 9.4.24 Paragraph (8) notes that the undertaker is not prohibited from temporarily closing a street or public right of way under this article more than once.
- 9.4.25 Paragraph (9) states that a street authority which fails to notify the Undertaker of its decision in respect of an application for consent within 28 days, or such longer period that may be agreed in writing between the street authority and the Undertaker, of the application being made is deemed to have given its consent. This time limit is considered necessary to remove the possibility for delay and provide certainty that the Authorised Development can be delivered by the Applicant in a timely fashion. As an NSIP, the Authorised Development should not be at risk of being held up due to a failure to respond to an application for consent.
- 9.4.26 Paragraph (10) provides that any authorisation given under paragraph (3)(b) to use motor vehicles on public rights of way constitutes lawful authority for the purposes of section 34 of the Road Traffic Act 1988 and is needed given the location of the public rights of way in and around the physical development required for the Authorised Development.

9.4.27 Similar drafting has been used in other made Orders, including Article 11 of The East Yorkshire Solar Farm Order 2025, Article 11 of the Gate Burton Energy Park Order 2024, Article 11 of the Cottam Solar project Order 2024, and Article 11 of The Longfield Solar Farm Order 2023. The deemed consent provision set out at paragraph (9) and the authorisation set out at paragraph (10) are not included in these previous DCOs but are considered necessary for the reasons set out above.

## **Article 16 – Agreements with street authorities**

9.4.28 Article 16 allows the Undertaker to enter into agreement with the street authority in respect of the strengthening, improvement, repair or reconstruction of any streets, the closure, restriction, alteration or diversion of streets, works authorised under article 10(1) (street works), Article 12(2) (power to alter layout, etc. of streets) and article 14 (access to works) and the adoption of works.

9.4.29 Article 16 is based on Article 13 of the model provisions. While the scope of Article 16(1) has been altered to align with the likely requirements of the Authorised Development (for example by removing reference to the construction of new streets and including reference to adoption of streets) Article 16(2) broadly follows the drafting of this article of the model provision.

9.4.30 Similar drafting has been used in other DCOs, including Article 16 of The Byers Gill Solar Order 2025, Article 12 of The Oaklands Farm Solar Park Order 2025 and Article 13 of The Sunnica Energy Farm Order 2024.

## **Article 17 – Traffic regulation measures**

9.4.31 Article 17(1)(a) provides the Undertaker with powers to temporarily impose new speed limits. Schedule 8 identifies the relevant roads and specifies the extents of the roads that will be subject to these temporary traffic regulation measures. These specific measures are required to safely regulate traffic during the construction of the Authorised Development. Article 15(1)(b) also provides the undertaker with the powers to temporarily place traffic signs and signals in the extents of the roads specified in Part 2 of Schedule 8.

- 9.4.32 Paragraph (2) of this article includes a general power that would authorise other temporary traffic regulation measures, for the purposes of the construction or decommissioning of the Authorised Development. The inclusion of this power is necessary to ensure the Undertaker has sufficient flexibility to respond to changing conditions on the road network during the lifetime of the Authorised Development. This general power may only be exercised with the consent of the relevant traffic authority, which ensures the use of the power is appropriately regulated.
- 9.4.33 Any provision made by the undertaker under Article 15(1) or Article 15(2) has effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the Road Traffic Regulation Act 1984 and is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004.
- 9.4.34 This article is common in orders granting permission for infrastructure projects where it is necessary in the interests of public safety during construction of the Authorised Development for the Undertaker to put in place some temporary restrictions on road usage. Similar drafting has been used in other DCOs such as Article 14 of The Mallard Pass Solar Farm Order 2024, Article 14 of The Gate Burton Energy Park Order 2024, Article 44 of The Sunnica Energy Farm Order 2024, Article 15 of The Cottam Solar Project Order 2024 and Article 14 of The Longfield Solar Farm Order 2023. The deemed consent at paragraph (8) is not included in these previous DCOs but is considered necessary for the reasons set out above.

## **9.5 PART 4 – SUPPLEMENTAL POWERS**

### **Article 18 – Discharge of water**

- 9.5.1 Article 18 is a model provision which enables the Undertaker to discharge water into any watercourse, public sewer or drain in connection with the construction and maintenance of the Authorised Development with the approval of the owner of the watercourse, public sewer or drain (such approval not to be unreasonably withheld pursuant to Article 44) and subject

to certain other conditions. The reference in the model provisions to section 85 of the Water Resources Act 1991 has been deleted as this section has been repealed and replaced with a reference to the Environmental Permitting (England and Wales) Regulations 2016 instead.

- 9.5.2 References to the harbour authority have also been removed as they are not relevant to the Order. Reference to the Homes and Communities Agency and a National Park Authority have also been removed as they are not considered to be relevant.
- 9.5.3 Paragraph (9) has been updated from the model provisions to reflect the current approach to the drafting of statutory instruments and so that if the Undertaker makes an application for consent under the provisions of the article but the relevant party does not provide notification of its decision within 28 days, or such longer period that may be agreed in writing between the relevant party and the Undertaker, of the Undertaker's application then consent will have been deemed to have been given.
- 9.5.4 Paragraph (9) is subject to paragraph (10), which provide that an application for consent under paragraph (3) or approval under sub-paragraph (4)(a) must include a statement that the provisions of paragraph (9) apply to the application. Paragraph (11) provides that if the statement required by paragraph (10) is not included in the application then the deemed consent provisions of paragraph (9) will not apply to the Application.
- 9.5.5 Similar drafting is found in Article 18 of The Byers Gill Solar Order 2025, Article 14 of The Oaklands Farm Solar Park Order 2025, Article 15 of the Longfield Solar Farm Order 2023, Article 14 of the Awel y Môr Offshore Wind Farm Order 2023 and Article 21 of the A417 Missing Link Development Consent Order 2022. It is noted that the deemed consent provision of Article 18(9) is found at Article 18 of the Byers Gill Solar Order 2025 (which also includes paragraphs (10) and (11)) and Article 14(9) of the Awel y Môr Offshore Wind Farm Order 2023.

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## Article 19 – Protective works to buildings

- 9.5.6 Article 19 is a model provision which is included in most made DCOs to date. Its purpose is to provide powers to the undertaker to enter any building and land within its curtilage to survey to determine whether protective works are needed and to carry out protective works to buildings within the Order Land, subject to a number of conditions including the service of 14 days' notice (except in cases of emergency) and the payment of compensation in the event that any loss or damage arises. Where the undertaker serves a notice stating the intention to carry out protective works or to enter a building or land within its curtilage there is ability for a counter notice to be served by the land owner/occupier within a period of 10 days from the day on which the notice was served. This Article is necessary for the Authorised Development as there are a number of buildings within the Order Limits.
- 9.5.7 Protective works can also be undertaken after the carrying out of the works forming part of the Authorised Development for a period of five years from the date of completion of the part of the Authorised Development carried out in vicinity of the building. This wording is a minor update from the model provision wording, as the undertaker considered that the phrase 'open for use' which is used in the model provision is not appropriate. This Article is required because there are buildings within, and in close proximity to, the Order Land that might feasibly require surveys and protective works as a result of the Authorised Development.
- 9.5.8 The Article also includes compensation provisions in relation to the consequences of the protective works being undertaken, but also where the protective works are undertaken but they are inadequate to protect the building or land from damage (within a period of five years from the date of final commissioning).
- 9.5.9 Article 19 is as substantially found in Article 19 of The Byers Gill Solar Order 2025, Article 15 of The Oaklands Farm Solar Park Order 2025. Similar drafting is also found at Article 16 of the Longfield Solar Farm Order 2023, Article 16

of the Awel y Môr Offshore Wind Farm Order 2023 and Article 22 of the A417 Missing Link Development Consent Order 2022.

## **Article 20 – Authority to survey and investigate the land**

- 9.5.10 Article 20 is a model provision that enables the undertaker to enter onto any land within the Order Limits or which may be affected by the authorised development for the purpose of carrying out monitoring or surveys, including bringing equipment onto the land and making trial holes. The power is subject to a number of conditions, including a requirement of at least 14 days' notice on every owner and occupier of the land and the payment of compensation in the event that any loss or damage arises. This power is essential to implementation of the Authorised Development, for example in verifying ground conditions or the presence of statutory undertakers' apparatus.
- 9.5.11 The model provision has been modified so that no trial holes are to be made:
- 9.5.12 in land held by or in right of the Crown without the consent of the Crown;
- a) in land located within the highway boundary without the consent of the highway authority; or
- b) in a private street without the consent of the street authority.
- 9.5.13 Paragraph (6), which provides for deemed consent in cases where there is no response to an application for consent under this article, was not included in the model provisions but is now a standard provision following its inclusion in numerous previous orders. For example, Article 20(6) is as substantially found in Article 20 of The Byers Gill Solar Order 2025, Article 16 of The Oaklands Farm Solar Park Order 2025 and Article 23 of the A417 Missing Link Development Consent Order 2022.
- 9.5.14 The Article applies section 13 of the Compulsory Purchase Act 1965 (refusal to give possession to acquiring authority) thereby providing an enforcement mechanism (by way of a warrant) where entry onto land under the Article is refused. This is considered necessary so that there is no delay in the implementation of the authorised development.

9.5.15 Article 20 is as substantially found in at Article 16 of the Oaklands Farm Solar Park Order 2025. Similar drafting is also found in Article 20 of The Byers Gill Solar Order 2025, Article 17 of the Longfield Solar Farm Order 2023, Article 10 of the Little Crow Solar Park Order 2022, Article 15 of the Awel y Môr Offshore Wind Farm Order 2023 and Article 23 of the A417 Missing Link Development Consent Order 2022.

## **9.6 PART 5 – POWERS OF ACQUISITION**

### **Article 21 – Compulsory acquisition of land**

9.6.1 This article authorises the acquisition of land by compulsory purchase. It grants the power to acquire the land that is required for the Authorised Development. This is subject to the other provisions of Part 5 of the draft Order, which are explained below.

9.6.2 Article 21 is based on Article 18 of the model provisions, with the following differences:

- a) The reference to replacement land has been removed.
- b) Paragraph (2) of the model provisions is omitted as the vesting of land is governed by the Compulsory Purchase (Vesting Declarations) Act 1981, which applies as though the Order were a compulsory purchase order by virtue of article 25 (application of the 1981 Act). Article 24 (private rights) also provides for all private rights over land subject to compulsory acquisition to be extinguished.
- c) Paragraph (3) relating to compensation for loss arising due to the extinguishment or suspension of a private right of way is omitted because that is dealt with separately in article 24(4) and (5).
- d) Paragraph (4) of the model provisions is omitted as Article 21 refers to all provisions of Part 5 of the draft Order, rather than just the acquisition of land limited to subsoil lying more than 9 metres beneath surface and temporary use of land for carrying out the authorised project.

9.6.3 The Applicant's justification for the use of compulsory acquisition powers is set out in the Statement of Reasons. As temporary compulsory acquisition is

not available under English law, it is not possible for the Applicant to compulsorily acquire land, or rights in land, for a temporary period.

- 9.6.4 Article 21 is as found in Article 17 of The Oaklands Farm Solar Park Order 2025. Similar drafting is found at Article 17(1) of The Sunnica Energy Farm Order 2024, Article 21(1) of The Byers Gill Solar Order 2025 and Article 24(1) of the A417 Missing Link Development Consent Order 2022.

### **Article 22 – Time limit for exercise of authority to acquire land compulsorily**

- 9.6.5 Article 22 is a model provision which imposes a time limit of 5 years for the exercise of powers of compulsory acquisition from the date on which the Order is made, via issuing notices to treat or executing general vesting declarations. The undertaker considers that 5 years is an appropriate time limit as it is consistent with the time limit for commencing the authorised development set out in Schedule 1 to the Order and has precedent in the majority of made DCOs to date.
- 9.6.6 Article 22(3) specifies that the applicable period for the purposes of section 4 of the 1965 Act (time limit for giving notice to treat) and section 5A of the 1981 Act (time limit for general vesting declaration) (as modified by this Order) is the period of five years beginning on the day on which this Order is made.
- 9.6.7 Article 22 is as found in Article 20 of The West Burton Solar Project Order 2025 and Article 18 of The Oaklands Farm Solar Park Order 2025. Similar drafting is included at Article 22 of The Byers Gill Solar Order 2025, Article 19 of the Longfield Solar Farm Order 2023 and Article 20 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

### **Article 23 – Compulsory acquisition of rights**

- 9.6.8 Article 23 allows for rights over land to be acquired as well as the land itself, and for new rights to be created over the Order land. This includes the power to impose restrictive covenants.

- 9.6.9 It provides for such rights as may be required to be acquired by the Undertaker over land which it is authorised to acquire under article 21. The public benefit of this is that it would allow the Undertaker to reduce the area of outright acquisition if possible and rely on rights instead.
- 9.6.10 Paragraph (2) provides that for the land described in Schedule 9, the Undertaker's powers of compulsory acquisition are limited to the acquisition of such rights, and the imposition of such restrictive covenants, as may be required for the purposes set out in that Schedule. The power to impose restrictive covenants will allow for the possibility of reducing the area of outright acquisition and thus enable a more proportionate exercise of compulsory powers.
- 9.6.11 Paragraph (3) provides that where the Undertaker only needs to acquire rights over land it is not obliged to acquire any greater interest in that land.
- 9.6.12 Paragraph (4) applies Schedule 10, which imposes modifications to the compulsory purchase and compensation provisions under general legislation. They do not affect the entitlement to compensation, but generally ensure that the compensation code applies to the additional categories of acquisition covered by the draft Order and the creation of new rights and the imposition of restrictive covenants. This is a consequence of the extension of land acquisition powers to these categories (done to allow lesser land interests to be acquired).
- 9.6.13 For the purpose of section 126(2) of the 2008 Act, the relevant compensation provisions are modified only to the extent necessary to ensure that they apply properly to the acquisition/creation of rights and the imposition of restrictive covenants, and not to affect the amount of compensation to which landowners would be entitled.
- 9.6.14 Paragraph (7) makes it clear that this Article is subject to Article 47 (Crown rights).
- 9.6.15 The Applicant's justification for the use of compulsory acquisition powers is set out in the Statement of Reasons. As temporary compulsory acquisition is

not available under English law, it is not possible for the Applicant to compulsorily acquire land, or rights in land, for a temporary period.

- 9.6.16 Similar drafting is found in Article 19 of The Oaklands Farm Solar Park Order 2025, Article 23 of The Byers Gill Solar Order 2025, Article 20 of the Longfield Solar Farm Order 2023, Article 21 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) and Article 20 of the Awel y Môr Offshore Wind Farm Order 2023.

## **Article 24 – Private rights**

- 9.6.17 Article 24 provides for the extinguishment of private rights over land that is subject to compulsory acquisition under the draft Order.
- 9.6.18 Paragraph (1) provides that insofar as the Undertaker acquires land under the draft Order all private rights and restrictive covenants over the land subject to compulsory acquisition will be extinguished.
- 9.6.19 Paragraph (2) provides that insofar as the Undertaker acquires new rights or imposes restrictive covenants over land under the draft Order, where the continuance of private rights over that land would be inconsistent with the exercise of the right being acquired or created then the private rights in question will be extinguished.
- 9.6.20 Paragraph (3) provides that all private rights over land which the Undertaker takes temporary possession of under the draft Order will be suspended and unenforceable for as long as the Undertaker remains in lawful possession of the land.
- 9.6.21 Paragraphs (4) to (7) make provision for compensation and for circumstances where rights are preserved.
- 9.6.22 Article 24 is based on Article 22 of the model provisions. It differs from the model provisions in the following respects:
- a) it applies to all private rights, not just private rights of way. This is to reflect the broad nature of private rights that may exist over the Order land;

- b) paragraph (2) is included to confirm that where land is subject to the acquisition or creation of rights or the imposition of restrictive covenants, any other rights in that land are extinguished if their continuance would be incompatible with the right or covenant being acquired or created by the Undertaker;
- c) paragraph (3) is included to clarify the position where the Undertaker takes temporary possession of land;
- d) paragraph (4) (paragraph 4 of the model provisions) is modified to include a reference to section 152 of the Planning Act 2008;
- e) sub-paragraph (6)(a)(i) is amended to also refer to the acquisition of rights or imposition of restrictive covenants; and
- f) paragraph (8) sets out what are considered to be 'private rights over land'. This is necessary to clarify the nature of the private rights to which this article applies.

9.6.23 Similar drafting is found in Article 20 of The Oaklands Farm Solar Park Order 2025, Article 24 of The Byers Gill Solar Order 2025, Article 20 of the Longfield Solar Farm Order 2023 and Article 21 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) 2022.

### **Article 25 – Application of the 1981 Act**

9.6.24 Article 25 applies (with minor modifications to ensure consistency between the terms of the Order and the Act) the provisions of the Compulsory Purchase (Vesting Declarations) Act 1981 to compulsory acquisition under the draft Order so the Undertaker has the option to acquire land via the vesting declarations procedure. Vesting declarations allow title in the land concerned to pass to the acquiring authority more quickly than using the notice to treat method. They also enable several parcels of land to be acquired under the same legal instrument and therefore more efficiently than under the notice to treat procedure.

9.6.25 This Article has been amended from the model provision to incorporate and reflect the changes brought about by the Housing and Planning Act 2016. The

modifications to the 1981 Act contained in this article can be summarised as follows:

- a) Paragraph (3) modifies section 1(2) so that section 1 applies to the Undertaker.
- b) Paragraph (4) modifies section 5 to remove the reference to situations where the compulsory purchase order is subject to special parliamentary procedure, as the draft Order is not subject to special parliamentary procedure.
- c) Paragraph (5) modifies the statutory reference in section 5B(1), on the basis that the 2008 Act contains equivalent provisions that apply in respect of development consent orders.
- d) Paragraph (6) modifies the statutory references in section 6(1)(b), on the basis that the 2008 Act contains equivalent provisions that apply in respect of development consent orders.
- e) Paragraph (7) modifies section 7(1)(a) to omit the words “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- f) Paragraph (8) modifies paragraph 1(2) of Schedule A1 to change the reference to compulsory purchase orders excluding land that is 9 metres or more below the surface from the counter-notice procedure to refer to Article 26(3) of the draft Order, which has the same effect in relation to the acquisition of subsoil only.
- g) Paragraph (9) clarifies that references to the Compulsory Purchase Act 1965 in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 of the 2008 Act and as modified by Article 28 of the draft Order, on the basis that both section 125 and Article 28 modify the provisions of the 1965 Act.

9.6.26 Vesting declarations are one of two ways of acquiring land that is subject to compulsory purchase (the other being by means of a notice to treat). They allow several parcels to be acquired at once and therefore more efficiently than under the notice to treat procedure.

9.6.27 The modifications to the 1981 Act do not have the effect of disapplying any control or power by another body but simply make modifications necessary to

allow the relevant terms of the 1981 Act to be properly applied in relation to the draft Order. These modifications are made in relation on section 120(5)(a) of the 2008 Act, which allows an order for development consent to modify statutory provisions.

- 9.6.28 Similar drafting is found in Article 21 of The Oaklands Farm Solar Park Order 2025, Article 30 of The HyNet Carbon Dioxide Pipeline Order 2024, Article 24 of The Mallard Pass Solar Farm Order 2024, Article 22 of The Gate Burton Energy Park Order 2024, and Article 21 of The Sunnica Energy Farm Order 2024.

### **Article 26 – Acquisition of subsoil only**

- 9.6.29 Article 26 is a model provision that permits the undertaker to acquire only the subsoil of land which is to be compulsorily acquired (either pursuant to Article 21 or Article 23), thereby giving the undertaker the ability to minimise the extent of interests acquired from landowners. This Article is appropriate in the context of the cables or pipes to be laid underground as part of the authorised development, where acquisition of the 'entire' freehold may not be required. It therefore enables the undertaker to minimise as far as possible to extent of interests to be acquired, thereby reducing the impact on landowners.
- 9.6.30 Article 26 is as found at Article 21 of the Oaklands Farm Solar Park Order 2025. Similar drafting is found in Article 25 of The Byers Gill Solar order 2025, Article 25 of The Cottam Solar Project Order 2024 and Article 25 of The Mallard Pass Solar Farm Order 2024.

### **Article 27 – Power to override easements and other rights**

- 9.6.31 Article 27 provides the Undertaker with the power to override easements and other rights and is supplementary to article 21 (compulsory acquisition of land) and article 23 (compulsory acquisition of rights). This article is necessary to give full effect to the Authorised Development.
- 9.6.32 Paragraph (2) defines the meaning of “authorised activity” for the purposes of this article and any authorised activity is authorised notwithstanding it may

interfere with any easement, liberty, privilege, right or advantage annexed to land and affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract.

- 9.6.33 Article 27 is not a model provision, but is required to clarify that erection, construction and operation of the Authorised Development is authorised by the draft Order if it is done in accordance with the terms of the draft Order, even if it involves interference with easements and other rights. This is necessary to ensure that the existence of easements and other rights over the Order Land does not compromise or prejudice delivery of the Authorised Development.
- 9.6.34 Paragraph (4) provides that compensation is payable under section 7 (measure of compensation in case of severance) or section 10 (further provision as to compensation for injurious affection) of the Compulsory Purchase Act 1965 for any such interference or breach. Given the provision for compensation, any interference with rights is considered proportionate and necessary.
- 9.6.35 Article 27 is as found at Article 23 of The Oaklands Farm Solar Park Order 2025, Article 27 of The Byers Gill Solar Order 2025 and Article 23 of The Sunnica Energy Farm Order 2024. Similar drafting has been included in a number of DCOs, including, Article 24 of The Longfield Solar Farm Order 2023, Article 26 of The Mallard Pass Solar Farm Order 2024 and Article 23 of The Gate Burton Energy Park Order 2024.

## **Article 28 – Modification of Part 1 of the Compulsory Purchase Act 1965**

- 9.6.36 Article 28 is intended to ensure consistency between the terms of the draft Order and the Compulsory Purchase Act 1965, as applied by section 125 of the 2008 Act.
- 9.6.37 This provision reflects changes introduced by the Housing and Planning Act 2016 and is required to ensure that Part 1 of the 1965 Act is applied correctly to compulsory acquisition authorised under the Order. Paragraphs (1) to (3)

amend the provisions of the Compulsory Purchase Act 1965 so they are consistent with the terms of the draft Order and paragraph (4) makes it clear that the notice periods introduced by the Housing and Planning Act 2016 do not apply to the temporary possession or use of land under Article 18 (Protective works to buildings), Article 30 (Temporary use of land for carrying out the authorised development) or Article 31 (Temporary use of land for maintaining the authorised development).

- 9.6.38 The modifications to the 1965 Act do not have the effect of disapplying any control or power by another body but simply make modifications necessary to allow the relevant terms of the 1965 Act to be properly applied in relation to the draft Order. These modifications are made in relation on section 120(5)(a) of the 2008 Act, which allows an order for development consent to modify statutory provisions.
- 9.6.39 Article 28 is as found at Article 24 of The Oaklands Farm Solar Park Order 2025. Similar drafting has been included in a numerous made DCOs including, Article 28 of The Byers Gill Solar Order 2025, Article 25 of The Longfield Solar Farm Order 2023 and Article 25 of The Gate Burton Energy Park Order 2024.

## **Article 29 – Rights under or over streets**

- 9.6.40 Article 29 is a model provision which has been included in the majority of made DCOs to date to enable the undertaker to enter on and appropriate interests within streets where required for the purpose of the authorised development without being required to acquire that land. It is therefore required in order to reduce the amount of land that needs to be compulsorily acquired for the purposes of the authorised development.
- 9.6.41 The purpose of this Article is to allow the undertaker to appropriate and use land above or below streets within the Order Land, without having to acquire the street or any right or easement in it. The exercise of this power without acquisition is prohibited in the circumstances set out in paragraph (3).

Paragraphs (4) and (5) provide for the payment of compensation in certain circumstances.

- 9.6.42 Article 29 is well preceded in other DCOs. For example, Article 29 of The Byers Gill Solar Order 2025, Article 25 of The Oaklands Farm Solar Park Order 2025, Article 26 of the Longfield Solar Farm Order 2023, Article 26 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022, and Article 26 of The Awel y Môr Offshore Wind Farm Order 2023.

### **Article 30 – Temporary use of land for carrying out the authorised development**

- 9.6.43 Article 30 allows any of the Order Land be occupied temporarily while the works are carried out. This is land which is required during site preparation works, construction and decommissioning of the Authorised Development but which is not required permanently. Article 30 also allows for the temporary occupation of any of the land intended for permanent acquisition that has not yet been acquired.
- 9.6.44 Paragraph (4) provides that the Undertaker must not, without the agreement of the owners of the land, remain in possession of land after the end of the period of one year beginning with the date of completion of that part of the Authorised Development for which temporary possession of the land was taken (unless the undertaker commences compulsory acquisition procedure). The Article also requires the undertaker to give 14 days' notice before taking possession, and to restore the land following the temporary works (paragraph 3).
- 9.6.45 Paragraph (1)(a)(ii) allows Article 30 to apply to land which may later be the subject of compulsory acquisition. This reflects a common approach to designing and building infrastructure projects, whereby possession is taken of a wider area required for the purposes of construction, and once the location of new apparatus is known definitively (after it has been built), then the final area of land required permanently is defined and acquired. This

allows a more proportionate approach to the extent of land acquisition. The Applicant has consulted with affected landowners as required by section 42 of the 2008 Act. This process of this consultation is detailed in the Consultation Report.

- 9.6.46 Paragraphs (6) to (8) make provision for compensation.
- 9.6.47 Article 30 is based on Article 28 of the model provisions, with the exception of paragraph (8) of Article 30, which has been removed as any permanent acquisition of rights and subsoil permitted by that paragraph is dealt with separately in the draft Order by way of Article 23 (compulsory acquisition of rights) and Article 26 (acquisition of subsoil only).
- 9.6.48 Article 30 is well preceded in other DCOs. It is as substantially found in Article 30 of The Byers Gill Solar Order 2025, Article 26 of The Oaklands Farm Solar Park Order 2025, Article 27 of the Longfield Solar Farm Order 2023 and Article 27 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

### **Article 31 – Temporary use of land for maintaining authorised development**

- 9.6.49 Article 31 provides for the temporary use of land for maintenance of the authorised development. There are clear limits on the length of time that the undertaker can use land in this way, provisions requiring 28 days' notice to be given and restoration of the land following the temporary possession. This Article is broadly based on the model provision and provides for the payment of compensation for that temporary use of the land under paragraphs (6) to (8).
- 9.6.50 The maintenance period has been adapted from the model provision to apply to the period 5 years beginning with the final commissioning of the part of the authorised development for which temporary possession is required as opposed to the date on which the project is opened for use as this is more appropriate for this type of development.

- 9.6.51 Article 31 is as substantially found in Article 31 of The Byers Gill Solar Order 2025, Article 27 of The Oaklands Farm Solar Park Order 2025, Article 28 of the Longfield Solar Farm Order 2023 and Article 28 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

### **Article 32 – Statutory undertakers**

- 9.6.52 Article 32 allows the Undertaker to extinguish rights of statutory undertakers and remove and reposition their apparatus. Reference is made to the Order land so that this power is not restricted to apparatus which has been specifically shown on the Land Plan and described in the Book of Reference. In practice it is impractical to show and describe all such apparatus and so a general power for the extinguishment of rights and the removal or relocation of apparatus belonging to statutory undertakers over or within any of the Order land is required.
- 9.6.53 Article 32 is required to clarify that the Undertaker may compulsorily acquire land, or rights in land, held by statutory undertakers, and may alter a statutory undertakers' rights in relation to apparatus within the Order Land. In recognition of the need to ensure the apparatus of statutory undertakers is appropriately protected, if the Undertaker does require to exercise these powers, how such powers can be exercised is governed by the protections set out in Schedule 13 (protective provisions). This power is required over the whole of the Order Land.
- 9.6.54 This article is based on article 31 of the model provisions. It differs from the model provisions in that sub-paragraph (c) is omitted as rights are referred to in sub-paragraph (a). Similar drafting has been used in other DCOs including Article 28 of The Oaklands Farm Solar Park Order 2025, Article 32 of The Byers Gill Solar Order 2025, Article 29 of the Longfield Solar Farm Order 2023 and Article 29 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

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## **Article 33 – Apparatus and rights of statutory undertakers in closed streets**

- 9.6.55 Article 33 provides that where a street is diverted or its use is temporarily prohibited or restricted under the made Order, any statutory undertaker whose apparatus is under, in, on, along or across the effected street has the same powers as if the Order had not been made, subject to Schedule 13 (protective provisions). This Article is required to ensure that any such powers or rights held by statutory undertakers in relation to apparatus are maintained. The protective provisions then set out the provisions which apply where the Authorised Development may have a direct or indirect impact on that apparatus.
- 9.6.56 Article 33 is included in the model provisions as Article 32, which has been amended to remove paragraphs (2) onwards to avoid duplication with Schedule 11 (protective provisions). Similar drafting has been used in other DCOs including Article 29 of The Oaklands Farm Solar Park Order 2025, Article 33 of The Byers Gill Solar Order 2025, Article 30 of the Longfield Solar Farm Order 2023 and Article 30 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

## **Article 34 – Recovery of costs of new connections**

- 9.6.57 Article 34 provides that if any statutory undertaker's apparatus is removed and this halts a supply from that apparatus to owners or occupiers of premises such that they have to seek a connection to other apparatus, then their reasonable costs in obtaining a new supply can be claimed from the Undertaker.
- 9.6.58 Article 34 is as found at Article 30 of The Oaklands Farm Solar Park Order 2025, Article 34 of The Byers Gill Solar Order 2025 and Article 31 of the Longfield Solar Farm Order 2023. Similar drafting is also found in Article 31 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

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## **Article 35 – Compulsory acquisition of land – incorporation of the mineral code**

- 9.6.59 Article 35 incorporates Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981 to any land acquired by the Undertaker that may contain mines and minerals.
- 9.6.60 The effect of this provision is that the Undertaker is prevented from acquiring the rights to any mines and minerals underneath the acquired land, unless expressly purchased, and provides mine owners with the ability to work the mines and extract minerals, subject to restrictions.
- 9.6.61 Article 35 is based on the model provisions. Similar drafting is included in other DCOs including Article 31 of The Oaklands Farm Solar Park Order 2025, Article 21 of The Mallard Pass Solar Farm Order 2024 and Article 47 of The Cottam Solar Project Order 2024.

## **9.7 PART 6 – OPERATIONS**

### **Article 36 – Operation of generating station**

- 9.7.1 Article 36 authorises the Undertaker to operate and use the solar generating station comprising the Authorised Development. Article 36(2) specifically preserves the need for the Undertaker to obtain any other operation consent that may be needed, in addition to the made Order.
- 9.7.2 This article was not included in the model provisions but it is considered to be a sensible addition to avoid any potential disagreement about whether the undertaker is authorised to operate, as well as construct, the Authorised Development. It has become common drafting in development consent orders including Article 32 of The Oaklands Farm Solar Park Order 2025, Article 5 of The Byers Gill Solar Order 2025, Article 4 of The Gate Burton Energy Park Order 2024 and Article 4 of The Mallard Pass Solar Farm Order 2024.

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## 9.8 PART 7 – MISCELLANEOUS AND GENERAL

### Article 37 – Removal of human remains

- 9.8.1 Article 37 prescribes a process for the removal and re-interment or cremation of any human remains present within the Order limits. It is necessary to cater for circumstances where previously unidentified remains may be identified during the construction of the Scheme and is considered to be relevant to the Authorised Development given the archaeology found to date in certain areas of the Order Limits.
- 9.8.2 Under paragraph (2) the undertaker is required to publish public notices of the intended removal of the remains. There is then a period of 56 days for any personal representative or relative of the deceased person to give notice to the undertaker that they intend themselves to carry out the removal, which if accepted by the undertaker will be carried out at the undertaker's cost.
- 9.8.3 Paragraph (11) explains that the notice procedure prescribed by this article does not apply where the remains were interred more than 100 years ago and no relative or personal representative of the deceased is likely to object to the remains being removed. This is to clarify that the notice procedure does not apply in respect of historical remains.
- 9.8.4 Paragraph (13) confirms that the removal of any remains under this article must be carried out in accordance with any directions given by the Secretary of State.
- 9.8.5 Paragraph (15) confirms that section 25 of the Burial Act 1857 (which makes it an offence to remove human remains unless the conditions in that section are complied with) does not apply to a removal carried out in accordance with this article.
- 9.8.6 A similar article was included in the model provisions as Article 17. It is also based on other recent DCOs such as Article 38 of The M5 Junction 10 Development Consent Order 2025 and Article 41 of The M3 Junction 9

Development Consent Order 2024, Article 17 of the Awel y Môr Offshore Wind Farm Order 2023 and Article 12 of the Little Crow Solar Park Order 2022.

### **Article 38 – Operational land for the purposes of the 1990 Act**

- 9.8.7 Article 38 is a model provision which is included in numerous made DCOs and has the effect of ensuring that the land on which the authorised development is constructed will be "operational land" under section 264(3)(a) of the 1990 Act. The effect is to ensure that planning rights attaching to the undertaker in relation to operational land have effect as they would do if planning permission had been granted for the authorised development.
- 9.8.8 Article 36 is as found in in Article 35 of The Byers Gill Solar Order 2025, Article 33 of The Oaklands Farm Solar Park Order 2025, Article 35 of the Longfield Solar Farm Order 2023 and Article 38 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

### **Article 39 – Certification of plans, etc.**

- 9.8.9 Article 39 is a model provision which lists various plans and other documents that are to be certified by the Secretary of State as true copies of those documents referred to in the made Order. The Article provide certainty as to which documents will be certified by the Secretary of State in relation to the Order. Article 39 is as found at Article 34 of the Oaklands Farm Solar Park Order 2025.

### **Article 40 – Service of notices**

- 9.8.10 Article 40 governs the proper services of notices under the made Order and is considered necessary by the Undertaker because it allows service by email with the consent of the recipient and deals with the situation of service on an unknown landowner.
- 9.8.11 This article was not included in the model provisions but it is based on those appearing in the Transport and Works (Model Provisions for Railways and

Tramways) Order 2006. This is now a common article in development consent orders, including Article 37 of The Byers Gill Solar Order 2025 and Article 35 of The Oaklands Farm Solar Park Order 2025.

### **Article 41 – Felling or lopping of trees or removal of hedgerows**

- 9.8.12 Article 41 is based on a model provision included in numerous made DCOs which provides that the undertaker may fell or lop or cut back the roots of any tree or shrub near any part of the authorised development to prevent it obstructing or interfering with the construction, maintenance, operation or decommissioning of the authorised development; constituting a danger for persons using the authorised development or obstructing or interfering with the passage of construction vehicles. Provisions relating to compensation are set out in paragraphs (2) and (3) and these are identical to the model provisions. Compensation is provided for if loss or damage is caused. The provision is required for safety reasons and its applicability is appropriately limited.
- 9.8.13 New paragraphs (4) and (5) have been inserted to provide the additional power for the Undertaker to remove hedgerows or part of them within the Order Limits that may be required for the purposes of carrying out the Authorised Development provided they are listed in Schedule 12. Schedule 7 lists those hedgerows within the meaning of the Hedgerow Regulations 1997 which are to be removed.
- 9.8.14 Paragraph (6) clarifies for the purpose of this article “hedgerow” has the same meaning as in the Hedgerow Regulations 1997 and includes “important hedgerows”.
- 9.8.15 Similar drafting is found in recent DCOs including Article 38 of The Byers Gill Solar Order 2025, Article 36 of The Oaklands Farm Solar Park Order 2025, Article 36 of the Longfield Solar Farm Order 2023 and Article 16 of The Little Crow Solar Park Order 2022.

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## Article 42 – Trees subject to tree preservation orders

- 9.8.16 Article 42 provides that the Undertaker may fell or lop or cut back the roots of any tree which is subject to a tree protection order to prevent it obstructing or interfering with the construction, maintenance, or operation of the authorised development. Compensation is provided for if loss or damage is caused. The effect of the Article is that the works it permits, where carried out to a tree protected by a tree protection order (“**TPO**”), are deemed to have consent, and its inclusion is therefore consistent with the purpose of DCOs being to wrap up all of the required consents for a project. The Article is a model provision included in numerous made DCOs save that it applies generally to any tree subject to a TPO made before and after the date of the Order coming into effect and either within or overhanging the Order Limits.
- 9.8.17 The Applicant is not aware of any TPO within the Order limits but this power is necessary to interact with any future TPO granted within the Order limits.
- 9.8.18 Article 42 is as found at Article 39 of The Byers Gill Solar Order 2025. Article 42 is also as substantially found at Article 37 of the Longfield Solar Farm Order 2023 with a slight change to the order, but not substance, of Article 37(1) except for the omission of a reference to decommissioning, which narrows the scope of the provision.

## Article 43 – Arbitration

- 9.8.19 Article 43 is an arbitration provision and is a departure from the model provisions. This drafting, and that in the associated Schedule 14, is preceded in Article 40 of The Byers Gill Solar Order 2025, Article 38 of The Oaklands Farm Solar Park Order 2025, Article 36 of the Longfield Solar Farm Order 2023 and Article 17 of The Little Crow Solar Park Order 2022. It is considered that this approach will provide greater certainty to all parties involved in the process and is preferential to the approach adopted in the model provisions.
- 9.8.20 Article 43 provides that differences under the made Order should be settled by arbitration unless another means of resolving a dispute is provided for in

the made Order, in accordance with the drafting presented in the draft Order. The arbitrator will be appointed by the parties within 14 days of receipt of a notice of arbitration or failing agreement within this time period then by the Secretary of State following an application by one of the parties.

- 9.8.21 It applies Schedule 14 to the draft Order which sets out further detail of the arbitration process
- 9.8.22 In addition, Article 43(2) provides that any matter for which the consent or approval of the Secretary of State is required under the made Order is not subject to arbitration.

### **Article 44 – Requirements, appeals, etc.**

- 9.8.23 Article 44 has the effect of providing that section 78 of the 1990 Act applies to the discharge of requirements included in Schedule 2 of the Order. This provides a formal process for dealing the requirements and means that the undertaker has a right of appeal to the Secretary of State if an application is made to discharge a requirement and that application is refused or not determined.
- 9.8.24 Article 44 is as found at Article 39 of The Oaklands Farm Solar Park Order 2025. Similar drafting is found in Article 41 of The Byers Gill Solar Order 2025, Article 18 of the Little Crow Solar Park Order 2022 and Article 43 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

### **Article 45 – Application of landlord and tenant law**

- 9.8.25 Article 45 is a model provision which is included in numerous made DCOs which would override landlord and tenant law so far as it would prejudice the operation of any agreement for leasing the whole of the Authorised Development or the right to operate the same or any agreement entered into by the Undertaker for the construction, maintenance, use or operation of the Authorised Development. This provision is required to ensure that landlord

and tenant law does not impede the construction, use or maintenance of the authorised development.

- 9.8.26 Article 45 is preceded in Article 42 of The Byers Gill Solar Order 2025, Article 40 of The Oaklands Farm Solar Park Order 2025, Article 34 of the Longfield Solar Farm Order 2023, Article 19 of The Little Crow Solar Park Order 2022 and Article 37 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

### **Article 46 – Protective provisions**

- 9.8.27 Article 46 gives effect to Schedule 13, which contains provisions protecting the interests of third parties. It was not included in the model provisions but is a standard article in development consent orders that include protective provisions.
- 9.8.28 Article 46 is as found at Article 41 of the Oaklands Farm Solar Park Order 2025.

### **Article 47 – Crown Rights**

- 9.8.29 Article 47 is not a model provision, but it reflects the terms of section 135 of the 2008 Act. Article 47 is as found at Article 43 of The Byers Gill Solar Order 2025 and is also preceded in Article 32 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 and Article 37 of the Awel y Môr Offshore Wind Farm Order 2023.

### **Article 48 – Funding**

- 9.8.30 Article 48 provides that the Undertaker may not exercise a number of powers prior to it putting into place a guarantee equal to liabilities upon the Undertaker to pay compensation under the relevant provisions (such sum to be approved by the Secretary of State) or an alternative form of security approved by the Secretary of State.
- 9.8.31 The relevant powers are article 21 (compulsory acquisition of land), article 23 (compulsory acquisition of rights), article 24 (private rights), article 26

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(acquisition of subsoil only), article 29 (rights under or over streets), article 30 (temporary use of land for carrying out the authorised development), article 31 (temporary use of land for maintaining the authorised development) and article 32 (statutory undertakers).

- 9.8.32 Article 48 provides that the funding guarantee or alternative form of security must be in a form which enables a person entitled to compensation to be able to enforce the guarantee or alternative form of security. The guarantee or alternative form of security is required to be in place for a maximum of 15 years from the date that the relevant power is exercised.
- 9.8.33 This article is well preceded and similar drafting is found in Article 45 of The Byers Gill Solar Order 2025, Article 42 of The Oaklands Farm Solar Park Order 2025, Article 44 of the Mallard Pass Solar Farm Order 2024 and Article 45 of the Awel y Môr Offshore Wind Farm Order 2023.

## 10.0 THE SCHEDULES

### 10.1 Schedule 1 - Authorised Development

- 10.1.1 Schedule 1 to the draft Order, with reference to individual work numbers (Work Nos.), which represent a different part of the Authorised Development, describes the Authorised Development in detail.
- 10.1.2 The Authorised Development has been separated into Work Nos. to enable the draft Order to refer to specific elements of the Authorised Development by citing the relevant Work No.
- 10.1.3 A summary of the individual Work Nos. can be found at paragraph 4 above.
- 10.1.4 Schedule 1 of the draft Order also includes a list of further associated development that may be undertaken in connection with Work Nos. 1 to 10. This further associated development includes such other works as may be necessary or expedient to deliver the Authorised Development. These items are broadly defined and may occur across the Order Limits as required, but only insofar as they do not give rise to any materially new or materially different environmental effects from those assessed in the ES.
- 10.1.5 The approach taken by Schedule 1 to the draft Order is well preceded in recent DCOs such as The Byers Gill Solar Order 2025, The Heckington Fen Solar Park Order 2025, The Oaklands Farm Solar Park Order 2025 and The Sunnica Energy Farm Order 2024.

### 10.2 Schedule 2

#### Part 1 - Requirements

- 10.2.1 Part 1 of Schedule 2 to the draft Order places requirements upon the Undertaker to ensure the Authorised Development, comprising each of the Principal Development and the Associated Development, is implemented within the parameters assessed in the ES and obliges the Undertaker to deliver the mitigation measures identified within the ES. In doing so, Part 1 of

Schedule 2 to the draft Order secures this mitigation and other measures outlined within the Application Documents.

10.2.2 The Applicant is of the view that each of the requirements in Part 1 of Schedule 2 are necessary and relevant to the implementation of the Authorised Development as they have been identified as a result of the findings within the ES and are enforceable and reasonable in all respects.

10.2.3 Where requirements are identified in the following paragraphs as requiring the submission of details post-consent for approval by the local planning authority, either alone or in consultation with a third party, this is a departure from the model provisions. The obligation to approve details in consultation with a third party rests with the local planning authority.

10.2.4 The requirements within Part 1 of Schedule 2 to the draft Order can be summarised as follows:

- a) **Requirement 1 – Time Limits:** This requirement provides that the Authorised Development must not commence later than five (5) years from the date the made Order comes into force. If proceedings are begun to challenge the validity of this Order before the end of the period referred to in sub-paragraph (1) the period will be extended by one year. Paragraph (2) of requirement 1 appears in requirement 1 of The Mona Offshore Wind Farm Order 2025.
- b) **Requirement 2 – Phases of authorised development and date of final commissioning:** This requirement requires the Undertaker to submit a written scheme setting out the phases of construction of the Authorised Development to the local planning authority prior to commencement of development. The Undertaker is obliged to implement the written scheme as approved by the local planning authority.
- c) **Requirement 3 – Detailed design approval:** This requirement provides that no phase of the Authorised Development may commence until the details contained within that requirement relating to each phase of the Authorised Development have been submitted to and approved in writing by the local planning authority.

The details submitted must include details of the topics listed and must be in accordance with Design Parameters and Principles Statement unless it can be demonstrated to the satisfaction of the local planning authority that the subject matter of the approval sought would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

- d) **Requirement 4 – Landscape and ecological management plan (LEMP):** This requirement provides that no phase of the Authorised Development can commence until a LEMP for that phase, which is in substantial accordance with the outline LEMP, which forms part of the Application Documents, has been submitted to and approved by the local planning authority. Paragraph (2) of requirement 4 requires the LEMP to be implemented by the Undertaker as approved by the local planning authority and maintained throughout the operation of the relevant part of the authorised development to which the plan relates. Paragraph (3) of requirement 4 provides that no site preparation works comprising site clearance are to be commenced until a LEMP covering the site preparation works which is in substantial accordance with the outline LEMP has been submitted to and approved by the local planning authority, which must be implemented as approved.
- e) **Requirement 5 – Construction environmental management plans (CEMP):** This requirement prevents the Undertaker from commencing any phase of the Authorised Development until a CEMP for that phase has been submitted to and approved by the local planning authority in consultation with the relevant statutory nature conservation body (defined by reference to regulation 5 of the Conservation of Habitats and Species Regulations 2017) and the Environment Agency. The CEMP to be submitted for the local planning authority's approval must be in substantial accordance with the outline CEMP submitted as part of the Application Documents. Paragraph (2) requires that the construction of any phase of the authorised development must be carried out in accordance with the approved CEMP for that phase. Paragraph (3) requires that the pre-commencement establishment of construction compounds, preparation of

land for construction, construction area fencing and installation of site drainage must only take place in accordance with a specific plan for such works which substantially accords with the outline CEMP which has been submitted and approved by the local planning authority in consultation with the Environment Agency. Paragraph (4) provides that for the purposes of requirement 5(1) only “commence” includes any site preparation works comprising site clearance.

- f) **Requirement 6 – Waste management plan:** This requirement provides that no phase of the Authorised Development may commence until a waste management plan for that phase has been submitted to and approved by the relevant planning authority, which must be in substantial accordance with the outline waste management plan to the extent that it is applicable. The authorised development must be carried out in accordance with the approved waste management plan for each phase and maintained in accordance with the approved plan throughout the relevant phase of the authorised development to which the plan relates.
- g) **Requirement 7 – Soil management plan:** This requirement provides that no phase of the Authorised Development may commence until a soil management plan for that phase has been submitted to and approved by the relevant planning authority for that phase in consultation with the Environment Agency and Natural England, which must be in substantial accordance with the outline soil management plan. The construction of each phase of the Authorised Development must be carried out in accordance with the approved soil management plan for that phase and maintained in accordance with the approved plan throughout the relevant phase of the authorised development to which the plan relates.
- h) **Requirement 8 – Construction traffic management plan (CTMP):** This requirement provides that no phase of the Authorised Development can commence until a CTMP for that phase, prepared in accordance with the outline CTMP, has been submitted to and approved by the local planning authority, in consultation with the highway authority (or authorities) for the highway(s) to which the CTMP for that phase relates. Paragraph (2) of requirement 8 requires the CTMP to be implemented by the Undertaker

as approved. Paragraph (3) ensures that commencement in the context of requirement 8 only includes site preparation works comprising site clearance.

- i) **Requirement 9 – Operational Environmental Management Plan (OEMP):** This requirement provides that no phase of the Authorised Development may commence until an OEMP, which is in substantial accordance with the outline OEMP submitted as part of the Application Documents, has been submitted to and approved by the local planning authority in consultation with the relevant statutory nature conservation body and the Environment Agency. Paragraph (2) requires the OEMP to be implemented as approved by the local planning authority and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.
- j) **Requirement 10 – Battery safety management plan (BSMP):** This requirement provides that prior to the commencement of Work No. 2, being the battery energy storage system, the BSMP must be submitted to and approved by the local planning authority in consultation with Cambridgeshire Fire and Rescue Service and the Environment Agency. In submitting the BSMP, the Undertaker is obliged to submit a BSMP that is either in substantial accordance with the outline BSMP, which forms part of the Application Documents, or detail such changes as are considered required. In the event changes are proposed to the submitted BSMP the local planning authority is required to consult with Cambridgeshire Fire and Rescue Service prior to approving the submitted BSMP. Paragraph (4) requires that the BSMP is implemented as approved and maintained throughout the construction, maintenance, operation and decommissioning of the authorised development.
- k) **Requirement 11 – Public rights of way:** This requirement provides that no phase of the Authorised Development can commence or decommissioning undertaken until a public rights of way management plan for any sections of public rights of way shown to be temporarily closed or diverted on the streets, access and rights of way plans for that phase has been submitted to and approved by the local planning authority in

consultation with the relevant highway authority. Paragraph (2) requires the public rights of way management plan to be implemented as approved and maintained throughout the relevant phase of the authorised development to which the plan relates unless otherwise agreed with the relevant planning authority in consultation with the relevant highway authority.

- l) **Requirement 12 – Operational noise:** This requirement provides that no phase of the Authorised Development can commence until an operational noise assessment is submitted to and approved by the local planning authority. The Undertaker must ensure the design as described in the operational noise assessment is implemented as approved by the local planning authority and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.
- m) **Requirement 13 – Fencing and other means of enclosure:** This requirement provides that no phase of the Authorised Development can commence until written details of all proposed permanent and temporary fences, walls or other means of enclosure of the connection works for that phase have been submitted to and approved by the local planning authority as part of the detailed design approval required by requirement 3(1). “Commence” for the purposes of requirement 13(1), includes any site preparation works.
- n) **Requirement 14 – Surface water management plan:** This requirement provides that no phase of the Authorised Development may commence until a surface water management plan for that phase has been submitted to and approved by the relevant planning authority for that phase in consultation with the lead local flood authority and the Environment Agency, which must be in substantial accordance with the outline surface water management plan submitted with the Application Documents. The surface water management plan must be implemented as approved and maintained throughout the relevant phase of the authorised development to which the plan relates for each phase unless otherwise agreed with the local planning authority in consultation with the relevant lead local flood authority.

- o) **Requirement 15 – Archaeology:** This requirement provides that no phase of the Authorised Development can commence until an archaeological written scheme of investigation (“WSI”) for that phase has been submitted to and approved by the local planning authority in consultation with the county archaeologist and Historic England. Paragraph (2) requires any archaeological works or programme of archaeological investigation carried out under the approved WSI to be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of the Chartered Institute for Archaeologists. Paragraph (3) requires any archaeological works or programme of archaeological investigation to be carried out in accordance with the approved WSI under paragraph (1).

This requirement also provides that no phase within the Authorised Development, or site preparation works for that phase, may commence until an archaeological mitigation strategy for that phase has been submitted to and approved by the local planning authority in consultation with the county archaeologist and Historic England, which must be in substantial accordance with the outline archaeological mitigation strategy submitted as part of the Application Documents. The strategy must be implemented as approved unless otherwise agreed with the local planning authority in consultation with the county archaeologist and Historic England.

- p) **Requirement 16 – Heritage enhancement strategy:** This requirement provides that no phase within the Authorised Development may commence operation until a heritage enhancement strategy for that phase, which is in substantial accordance with the outline heritage enhancement strategy submitted as part of the Application Documents, has been submitted to and approved by the local planning authority in consultation with the county archaeologist and Historic England. The plan must be implemented as approved unless otherwise agreed with the local planning authority in consultation with the county archaeologist and Historic England.

- q) **Requirement 17 – Construction hours:** This requirement prohibits construction works except between the hours specified in paragraph (1) (excluding public holidays and bank holidays). Paragraph (2) provides an exception to this and allows both emergency works and works which do not cause noise audible at the boundary of the Order limits to be carried out outside of the hours specified in Paragraph (1). Paragraph (3) requires the Undertaker to notify the local planning authority of any emergency works carried out within 72 hours of commencing the emergency works. Paragraph (1) allows alternative construction hours to be agreed with the local planning authority to allow for exceptional works.

**Requirement 18 – Decommissioning and restoration:** This requirement provides that within 3 months of the date the Undertaker decides to decommission any part of the Authorised Development, or no later than 6 months before the 40th anniversary of the date of final commissioning of the last phase of Work No. 1 to be notified to the Local Planning Authority, the Undertaker must submit to the relevant local planning authority for that part a decommissioning environmental management plan and a decommissioning traffic management plan. Paragraph (2) of requirement 18 requires the Undertaker to submit for approval a decommissioning environmental management plan (which must be in substantial accordance with the outline decommissioning environmental management plan under paragraph (5)) and a decommissioning traffic management plan for that part of the Authorised Development. Paragraph (3) of requirement 18 provides that decommissioning of the Authorised Development will commence no later than 40 years following the date of final commissioning of the last phase of Work No. 1 to be notified to the relevant Local Planning Authority. Paragraph (4) of requirement 18 provides that in the event that any part of Work No. 1 stops generating electricity for a period of 12 continuous months beginning with the date of the notice to be served on the local planning authority following any part of the Authorised Development having stopped generating electricity for more than 6 months. The reference in this paragraph to Work No. 1 only is considered to be

appropriate as Work No. 10 may not generate electricity with the same consistency as Work No. 1. Paragraph (6) of requirement 18 provides that no decommissioning works may be carried out until the local planning authority / authorities have approved the decommissioning environmental management plan and the decommissioning traffic management plan in consultation with the relevant statutory nature conservation body, the Environment Agency, and in respect of the decommissioning traffic management plan only, the relevant highway authority (or authorities as appropriate) and National Highways. Paragraph (7) of requirement 18 provides that the decommissioning environmental management plan and decommissioning traffic management plan must be implemented as approved.

- r) **Requirement 19 – Skills, supply chain and employment:** This requirement provides that a skills, supply chain and employment plan, which must be in substantial accordance with the outline skills, supply chain and employment plan submitted as part of the Application Documents, must be submitted to and approved in writing by the local planning authority prior to the commencement of any part of the authorised development. Paragraph (3) of the requirement sets out that the plan must identify opportunities for individuals and businesses to access employment and supply chain opportunities associated with that part of the authorised development and the means for publicising such opportunities. The skills, supply chain and employment plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates
- s) **Requirement 20 - Requirement for written approval:** This requirement provides that where the approval, agreement or confirmation of a third party, including the Secretary of State, local planning authority or another person, is required under a requirement within Part 1 of Schedule 2, that approval, agreement or confirmation must be given to the Undertaker in writing.
- t) **Requirement 21 – Amendments to approved details:** This requirement provides that any details submitted to and approved by the local planning

authority under the requirements must be carried out in accordance with the approval, unless an amendment or variation has been approved in writing by the local planning authority provided that such agreement is only given in relation to immaterial changes. Paragraph (2) provides that any amendments to or variations from the approved details must be in accordance with the principles and assessments set out in the environmental statement. Paragraph (3) provides that the approved details must be taken to include any amendments that may subsequently be approved in writing by the local planning authority.

- u) **Requirement 22 – Consultation:** This requirement provides that where the local planning authority is required by the made Order or other statute to consult with another person or body before discharging a requirement, the Undertaker is obliged to consult with such person or body prior to making an application to discharge the requirement.

## Part 2 – Procedure for Discharge of Requirements

- 10.2.5 Part 2 of Schedule 2 to the draft Order provides the procedure for the discharge of requirements.
- 10.2.6 Paragraph 24 (Applications made under requirements) of Part 2 provides that applications made to the relevant authority must be determined by the relevant authority within eight weeks beginning with either the day immediately following that on which the application is received by the relevant authority or where further information is requested under paragraph 25, the day immediately following that on which the further information is supplied by the Undertaker. Sub-paragraph (1)(b) allows for a longer period to be agreed in writing between the Undertaker and the relevant authority.
- 10.2.7 Paragraph 25 (Further information regarding requirements) provides that a relevant authority can request further information from an Undertaker it considers necessary to determine an application to discharge a requirement.
- 10.2.8 Paragraph 26 (Appeals) sets out the circumstances in which an applicant who has submitted an application to a relevant authority may appeal to the

Secretary of State including where the relevant authority grants such an application subject to conditions and the relevant authority refuses an application for any consent. The remaining sub- paragraphs set out the appeals procedure.

- 10.2.9 Paragraph 27 (Fees) provides that where an application to discharge a requirement is made to the relevant authority, the applicant submitting such an application must pay the requisite fee to the local planning authority.

### **10.3 SCHEDULE 3 – LEGISLATION TO BE DISAPPLIED**

- 10.3.1 Schedule 3 to the draft Order sets out the local legislation to be disapplied pursuant to Article 8, as described above.

### **10.4 SCHEDULE 4 – STREETS SUBJECT TO STREET WORKS**

- 10.4.1 Schedule 4 to the draft Order sets out the streets subject to street works as part of the Authorised Development. Column (1) identifies the extent of the street works. Column (2) identifies the streets subject to street works. Column (3) provides a description of those street works. Schedule 2 relates to Article 10 (street works). Column (4) identifies the relevant highway authority / authorities with responsibility for each street identified in Schedule 4 for information only.

### **10.5 SCHEDULE 5 – ALTERATION OF STREETS**

- 10.5.1 Schedule 5 to the draft Order sets out the streets subject to alteration as part of the Authorised Development. Part 1 to Schedule 5 identifies the streets subject to permanent alteration to their layout and Part 2 to Schedule 5 identifies the streets subject to temporary alteration to their layout. Column (1) of each table in each part to Schedule 5 identifies the area in which the works will take place. Column (2) of each table in each part to Schedule 5 identifies the streets subject to alteration Column (3) of each table in each part to Schedule 5 sets out the extent of those alterations. Schedule 5 relates to Article 12 (power to alter layout, etc., of streets).

## **10.6 SCHEDULE 6 - TEMPORARY PROHIBITION OR RESTRICTION OF USE OF STREETS AND PUBLIC RIGHTS OF WAY AND AUTHORISING VEHICULAR USE ON PUBLIC RIGHTS OF WAY**

- 10.6.1 Part 1 of Schedule 6 to the draft Order sets out the streets and/or public rights of way subject to temporary prohibition or restriction of use as part of the Authorised Development. Column (1) of the table in Schedule 6 identifies the area of the temporary closure, column (2) of the table identifies the streets or public rights of way subject to temporary prohibition or restriction of use and column (3) identifies the extent of the temporary alteration, prohibition, diversion or restriction of use of street or public right of way.
- 10.6.2 Part 2 of Schedule 6 to the draft Order sets out the public rights of way over which motor vehicles may be used permanently as part of the Authorised Development. Column (1) of the table in Schedule 6 identifies the area to which the use of motor vehicles relates, column (2) of the table identifies the public rights of way on which motor vehicles may be used temporarily and column (3) identifies the measures to be imposed.
- 10.6.3 Schedule 6 relates to Article 15 (temporary closure up of public rights of way).

## **10.7 SCHEDULE 7 – ACCESS TO WORKS**

- 10.7.1 Schedule 7 to the draft Order sets out the private means of access to the Works comprising the Authorised Development. Part 1 to Schedule 7 identifies the permanent private means of access to Works and Part 2 to Schedule 7 identifies the temporary private means of access to Works. Column (1) of each table in each part to Schedule 7 identifies the area of the accesses. Column (2) of each table in each part to Schedule 7 identifies the street on which the works will take place. Column (3) of each table in each part to Schedule 7 provides a description of the access required by reference to the street works, public rights of way and access plans.
- 10.7.2 Schedule 7 relates to Article 14 (access to works).

## **10.8 SCHEDULE 8 - TRAFFIC REGULATION MEASURES**

10.8.1 Schedule 8 to the draft Order sets out the temporary traffic regulations measures to be implemented as part of the Authorised Development. Part 1 to Schedule 8 identifies in column (1) the relevant area, in column (2) the road name, number and length subject to the measures and in column (3) the temporary speed limit to be imposed. Part 2 to Schedule 8 identifies in column (1) the relevant area and in column (2) the extent of the temporary suspension of weight restriction to be imposed. Part 3 to Schedule 8 identifies in column 1 the relevant area and in column (2) the extent of temporary traffic signal control required as part of the Authorised Development.

## **10.9 SCHEDULE 9 – LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED**

10.9.1 Schedule 9 to the draft Order sets out the land in which only new rights etc. may be acquired as identified in the Book of Reference, with the plot number(s) in column (1) of the table in Schedule 9 mirroring those in the Book of Reference.

10.9.2 Column (2) of the table in Schedule 9 identifies the Work No. requiring the acquisition of new rights in the plot number(s) and column (3) sets out the purpose for which rights may be acquired.

## **10.10 SCHEDULE 10 – MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS**

10.10.1 Schedule 10 to the draft Order modifies existing compensation legislation including the Land Compensation Act 1973 and the Compulsory Purchase Act 1965.

10.10.2 It is commonly included in DCOs, including as Schedule 9 to The Byers Gill Solar Order 2025, Schedule 7 to The Oaklands Farm Solar Park Order 2025,

Schedule 10 to The Gate Burton Energy Park Order 2024 and Schedule 10 to The Mallard Pass Solar Farm Order 2024 and reflects any necessary changes arising as a result of the Housing and Planning Act 2016. The Schedule relates to Article 23 (compulsory acquisition of rights).

## **10.11 SCHEDULE 11 – LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN**

10.11.1 Schedule 11 to the draft Order sets out the land of which temporary possession may be taken as identified in the Book of Reference, with plot number(s) in column (1) of the table in Schedule 11 mirroring those in the Book of Reference.

10.11.2 Column (2) of the table in Schedule 11 sets out the purpose for which land may be temporarily possessed.

## **10.12 SCHEDULE 12 – REMOVAL OF HEDGEROWS**

10.12.1 Schedule 12 to the draft Order identifies the hedgerows to be removed in order for the Authorised Development to be implemented and identifies the effected hedgerows by reference to the location of the hedgerows on the hedgerows plans, as submitted as part of the Application Documents, at column (1) of the table in Schedule 12, the reference number of the hedgerow at column (2) and the extent of the removal works in column (3).

## **10.13 SCHEDULE 13 – PROTECTIVE PROVISIONS**

10.13.1 Schedule 13 sets out the protective provisions for various bodies to ensure that the powers sought in the draft Order are exercised appropriately.

10.13.2 Protections for electricity, gas, water and sewerage undertakers are routinely include in DCOs and are set out in Part 1 of Schedule 13. It is possible that bespoke protective provisions for specific statutory undertakers and utilities will emerge from ongoing dialogue, such that they will be removed from the ambit of Part 1, which currently applies to them.

- 10.13.3 Protections for operators of electronic communications code networks are routinely included in DCOs and are set out in Part 2 of Schedule 13.
- 10.13.4 Crossings of an connections to drainage works are proposed, and protections for the drainage authorities are under negotiation and are set out in Part 3 of Schedule 13.
- 10.13.5 Bespoke protective provisions for National Gas Transmission PLC are under negotiation and are set out in Part 4 of Schedule 13.
- 10.13.6 The Applicant's engagement with statutory undertakers to agree protective provisions for their benefit are ongoing. The Applicant will keep the Examining Authority informed of agreed updates to the set of protective provisions included within the draft Order throughout the course of Examination.

## **10.14 SCHEDULE 14 – ARBITRATION RULES**

- 10.14.1 Schedule 14 relates to Article 43 (arbitration) and has precedent in Schedule 11 to The Oaklands Farm Solar Park Order 2025, Schedule 14 to The Mallard Pass Solar Farm Order 2024 and Schedule 14 to The Longfield Solar Farm Order 2023.
- 10.14.2 The intention of the drafting is to achieve a fair, impartial, final and binding award on substantive differences between the parties within 4 months from the date an arbitrator is appointed in accordance with Article 43 (arbitration) of the draft Order.
- 10.14.3 Paragraph 3 of Schedule 14 sets out the timetable for the arbitration as follows:
- a) Within 14 days of the arbitrator being appointed, the Claimant must provide both the Respondent and arbitrator with a written Statement of Claim and all statement of evidence;
  - b) Within 14 days of receipt of the Claimant's statements by the arbitrator and Respondent, the Respondent must provide the Claimant and the arbitrator with a written Statement of Defence responding to the Claimant's

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Statement of Claim, all supporting statements of evidence and any objections it wishes to make to the Claimant's statements;

10.14.4 Within 7 days of receipt of the Respondent's statements by the arbitrator and Claimant, the Claimant may provide the Respondent and the arbitrator with a written statement responding to the Respondent's submissions, all supporting statements of evidence, any expert report in response to the Respondent's submissions, any objections to the statements of evidence and its written submissions in response to the legal and factual issues involved.

10.14.5 Paragraph 4 sets out the procedure for any arbitration carried out under Schedule 14 and paragraph 5 details the role and powers of the arbitrator. Paragraph 6 provides that the costs of the arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonably legal and other costs incurred by the parties. The arbitrator will determine the final costs award and in what proportion parties are to bear their own costs. Paragraph 7 provides that any hearings held in the carrying out of arbitration under Schedule 14 are to be private.

## **10.15 SCHEDULE 15 – DOCUMENTS TO BE CERTIFIED**

10.15.1 The table in Schedule 15 sets out the documents to be certified under the made Order with reference to the document title, application reference, and revision number.