



Department for
Energy Security
& Net Zero

3-8 Whitehall Place
London
SW1A 2AW
+44 020 7215 5000
energyinfrastructureplanning@energysecurity.gov.uk
www.gov.uk/desnz

Ref: EN10143

Mark Hogan
Unit 5E Park Farm
Chichester Road
Arundel
West Sussex
BN18 0AG

9 May 2025

Dear Mr Hogan,

PLANNING ACT 2008

APPLICATION FOR DEVELOPMENT CONSENT FOR THE EAST YORKSHIRE SOLAR FARM

1. Introduction

- 1.1. I am directed by the Secretary of State for Energy Security and Net Zero ("the Secretary of State") to advise you that consideration has been given to the Examining Authority's ("ExA") report dated 17 February 2025. The ExA consisted of 1 examining inspector, Simon Warder. The ExA conducted an examination ("the Examination") into the application submitted on 21 November 2023 ("the Application") by East Yorkshire Solar Farm Limited ("the Applicant") for a Development Consent Order ("the Order") under section 37 of the Planning Act 2008 ("the 2008 Act") for the East Yorkshire Solar Farm and associated development ("the Proposed Development"). The Application was accepted for Examination on 19 December 2023. The Examination began on 22 May 2024 and closed on 21 November 2024. The Secretary of State received the Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA's Report") on 17 February 2025.
- 1.2. The Proposed Development comprises the construction, operation and decommissioning of a solar photovoltaic ("PV") electricity generating facility and export connection to the national grid, at National Grid's Drax Substation [ER 1.3.5]. The Proposed Development lies within the administrative areas of East Riding Yorkshire Council ("ERYC") and North Yorkshire Council ("NYC") and is wholly in England.
- 1.3. The Order, as applied for, would grant development consent for:
 - Work No. 1 - a ground mounted solar PV generating station with a gross electrical output capacity of over 50MW;
 - Work No. 2 - development of on-site substations and associated works;
 - Work No. 3 - works to lay 132KV electrical cables connecting Work No2 to the Drax substation and compounds for the electrical cables;
 - Work No. 4 - works including electrical cables connecting Work Nos 1, 2 and 3 to one another and interconnecting cables, landscaping and biodiversity mitigation measures, earthworks, temporary footpath diversions, permissive footpaths and associated

signage, hardstanding and parking areas, sustainable drainage systems (“SuDSs”), means of enclosure, security equipment including closed circuit television (“CCTV”), works to existing private tracks, new internal tracks and accesses including watercourse crossings, construction and decommissioning compounds and works to existing overhead electricity lines;

- Work No. 5 - construction and decommissioning compounds;
- Work No. 6 - works to develop operations and maintenance buildings;
- Work No. 7 - works to facilitate access to Work No 1 to 8; and
- Work No. 8 - areas of habitat management.

- 1.4. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers, as set out in the draft Order submitted with the Application.
- 1.5. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website¹ is a copy of the ExA’s Report. The ExA’s findings and conclusions are set out in Chapters 3-8 of the ExA’s Report, and the ExA’s summary of conclusions and recommendation is at Chapter 5. All numbered references, unless otherwise stated, are to paragraphs of the ExA’s Report [“ER *.*.”].

2. Summary of the ExA’s Report and Recommendation

- 2.1. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA’s Report under the following broad headings:
- Principle of the Development (including Need case);
 - Biodiversity;
 - Climate change;
 - Historic environment;
 - Landscape and visual;
 - Land use and socio-economic;
 - Noise and vibration;
 - Soils and agricultural land;
 - Transport and traffic;
 - Water environment;
 - Human health; and
 - Other matters [ER 3.1.6].
- 2.2. The ExA recommends that the Secretary of State should grant development consent [ER 5.5.1].
- 2.3. This letter is intended to be read alongside the ExA’s Report and, except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the ExA’s Report, and the reasons for the Secretary of State’s decision are those given by the ExA in support of the Secretary of State’s conclusions and recommendations.

¹ <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010131>

3. Summary of the Secretary of State's Decision

- 3.1. The 2008 Act sets out a process for decision-makers to follow in considering applications for Nationally Significant Infrastructure Projects ("NSIPs"). The Proposed Development is an NSIP as defined in sections 14 and 15 of the 2008 Act by virtue of being a PV generating station with a generating capacity of over 50MW.
- 3.2. The 2011 suite of energy National Policy Statements ("NPS") do not mention solar PV technology specifically but are nonetheless devised for generating stations and energy infrastructure on the scale of the Proposed Development, so the Secretary of State considers they have bearing in relation to determining the Application.
- 3.3. The statutory framework for deciding NSIP applications where there is no relevant designated NPS, such as for solar farms, is set out in section 105 of the 2008 Act. In deciding the application, the Secretary of State must have regard to:
 - any Local Impact Report ("LIR") submitted before the deadline specified under section 60(2) of the 2008 Act;
 - any matters prescribed in relation to development of the description to which the application relates; and
 - any other matters which the Secretary of State thinks are both important and relevant to their decision.
- 3.4. The Secretary of State has considered the overall planning balance and, for the reasons set out in this letter, has concluded that the public benefits associated with the Proposed Development outweigh the harm identified, and that development consent should therefore be granted.
- 3.5. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting consent for the proposals in the Application. This letter is a statement of the reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations").
- 3.6. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

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

- 4.1. The Secretary of State has considered the ExA's Report and all other material considerations, including written representations ("WR"), relevant representations ("RR"), responses to questions and oral submissions made during the Examination and RRs received after the close of the Examination, all of which are dealt with as appropriate in the decision letter below. 337 RRs were made during the Examination in respect of the Application by statutory authorities, businesses, non-governmental organisations, and individuals. The Secretary of State's consideration of the ExA's Report is set out below.
- 4.2. The Secretary of State has had regard to the NPSs, National Planning Policy Framework ("NPPF"), Planning Practice Guidance ("PPG"), the 2015 and 2024 Written Ministerial Statements ("WMSs"), LIRs submitted by NYC and ERYC, Local Development Plans ("LDPs"), environmental information as defined in regulation 3(1) of the EIA Regulations and

to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 105 of the 2008 Act.

- 4.3. The Energy White Paper, *Powering Our Net Zero Future*, was published on 14 December 2020, which announced a review of the 2011 suite of energy NPSs. At the time the Application was made, the 2011 versions of these NSIPs were in force. Revised versions were published in 2024. The ExA notes that, notwithstanding that the Application remains to be considered under s105 of PA2008, the 2024 versions of the NPSs provide the most up to date expression of government policy relevant to the determination of the Application and that therefore, unless otherwise stated, references to NPSs EN-1, EN-3 and EN-5 in the ExA Report are to the 2024 versions [ER 2.3.1].
- 4.4. The ExA notes that the NPSs set out government policy on different types of national infrastructure development.
- 4.5. NPS EN-1 (overarching NPS for energy) sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs and provides the primary basis for determining if development consent should be granted for energy development [ER 2.3.3].
- 4.6. The Secretary of State considers that 2011 NPS EN-1 and EN-5 and the 2024 NPSs are important and relevant considerations in the decision-making process for this Application and has taken both sets of NPSs into account in taking his decision on this Application. The Secretary of State concludes that there is nothing contained within the 2024 NPSs that would lead him to reach a different decision on the Application than has been reached by relying on the 2011 NPSs. For example, the Secretary of State notes that both versions of EN-1 state Applicants should seek to minimise impacts on 'best and most versatile' ("BMV") agricultural land (paragraphs 5.10.8 and 5.11.12 respectively in 2011 and 2024) but also stress that acquiring a grid connection is "an important consideration" (paragraphs 4.9.1 and 4.11.1 respectively in 2011 and 2024). The Secretary of State notes 2024 NPS EN-1 puts further emphasis on grid connections and networks facilitating the acceleration of the UK's net zero energy generation (paragraph 4.11.3). In this way, elements of 2011 NPS EN-1 which have been retained, as well as elements which have been added to the 2024 version, support the Secretary of State's conclusions below.
- 4.7. The 2024 version of NPS EN-3 brought into its scope for the first time solar PV schemes with a capacity of more than 50MW. NPS EN-3 also covers situations where the impact or issue is generic and dealt with in NPS EN-1 but there are further specific considerations arising from the technologies covered. NPS EN-5 details the assessment criteria specific to electricity networks development.
- 4.8. The Secretary of State has also had regard to the updated National Planning Policy Framework ("NPPF") of December 2023 and the accompanying Planning Practice Guidance ("PPG"). The NPPF does not contain specific policies for NSIPs however are an important and relevant consideration on decision making. At the end of July 2024, a WMS was made by the Secretary of State for Housing, Communities and Local Government, referring to boosting the delivery of renewables to meet the Government's commitment to zero carbon electricity generation by 2030 and a consultation published on reforms to the NPPF and other changes to the planning system. Following the consultation on reforms to the 2023 NPPF, a new NPPF was published on 12 December 2024 ("2024 NPPF"). The Clean Power 2030 Action Plan ("CP2030") was published on 13 December 2024 and sets out a pathway

to a clean power system. The Secretary of State had regard to these and finds that there is nothing which would lead him to reach a different decision on the Application.

- 4.9. The Secretary of State also recognises the 15 May 2024 WMS regarding the use of BMV land as an important and relevant consideration in the deciding of this application.
- 4.10. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- Biodiversity – moderate positive weight [ER 3.3.55, ER 5.2.15];
 - Climate change – great positive weight [ER 3.4.31, ER 5.2.19];
 - Historic environment – minor negative weight [ER 5.3.4];
 - Landscape and visual - moderate negative weight [ER 3.6.91, ER 5.2.31];
 - Land use and socio-economics – neutral weight [ER 3.7.68, ER 5.2.38];
 - Noise and vibration – minor negative weight [ER 3.8.68, ER 5.2.44];
 - Soils and agricultural land – minor negative weight [ER 3.9.62, ER 5.2.49];
 - Traffic and transport – minor negative weight [ER 3.10.53, ER 5.2.54];
 - Water environment – neutral weight [ER 3.11.51, ER 5.2.58];
 - Human health – minor negative weight [ER 3.12.48, ER 5.2.65];
 - Air quality – neutral weight [ER 3.13.19.];
 - Ground conditions – neutral weight [ER 3.13.27];
 - Major accidents or disasters – neutral weight [ER 3.13.42];
 - Telecommunications, television reception and utilities – neutral weight [ER 3.13.45]; and
 - Minerals and waste – neutral weight [ER 3.13.51].
- 4.11. The Secretary of State notes that the paragraphs below set out the matters where the Secretary of State has further commentary and analysis to add beyond that set out in the ExA report. This includes matters where the Secretary of State feels it is necessary to provide further detail on his rationale for agreeing with the conclusions of the ExA, and those matters where the Secretary of State disagrees with the conclusions of the ExA.

Principle of the Development

- 4.12. The ExA notes that the electrical aspects of the scheme, including its output, panel configuration and its land use efficiency took up a considerable proportion of the Examination and the discussions brought out useful clarifications of the Applicant's initial submissions. The ExA is content that the process provided sufficient information to reach sound conclusions on these matters [ER 3.2.91]. The ExA is satisfied that the Applicant's assessments of these matters are soundly based and considers that the choices in terms of the use of Single Axis Tracker ("SAT") panels, the omission of battery storage and the timing and operational life of the Proposed Development case are reasonable, and as such the proposal accords with NPS EN-1 paragraphs 4.3.10 to 4.3.12 [ER 3.2.92].
- 4.13. The ExA notes that adequate consideration has been given to the use of rooftop and brownfield locations and that while the layout of the solar PV areas is somewhat dispersed, it finds that the Applicant's justification of the site selection process was robust and had proper regard to the grid connection location at the Drax substation, environmental and land ownership considerations in accordance with NPS EN-3 paragraphs 2.10.18-48. It also notes that the Applicant has also given adequate consideration to good design in the formulation of the proposal as required by paragraph 4.7.2 of NPS EN-1 [ER 3.2.93].

- 4.14. However, the ExA considers that the land use efficiency of the proposal, in terms of the site area taken to achieve the predicted energy generation, is low relative to NPS EN-3 advice and comparable schemes, which is 2 to 4 acres for each MW of output as defined in 2.10.17 in NPS EN-3. The ratio for the Proposed Development is 1.2 acres for each MW of output [ER 3.2.63].
- 4.15. However, the ExA considers that the land use efficiency of the Proposed Development is low compared to the advice in NPS EN-3 and similar schemes. As defined by NPS EN-3, the typical site area taken to achieve predicted energy generation is 2 to 4 acres per MW of output (as stated in section 2.10.17). In contrast, the Proposed Development uses only 1.2 acres per MW of output and therefore the ExA's view is that the proposed land take appears to be high compared with the installed capacity [ER 3.2.66].
- 4.16. Overall, however, the ExA finds that the principle of the Proposed Development accords with the relevant provisions of NPS EN-1, NPS EN-3, the May 2024 WMS, the NPPF and the development plan [ER 3.2.94]. The ExA notes that while there is some scope for the scheme efficiency to improve if a higher overplanting ratio is achieved at the detailed design stage, it considers that this matter and the absence of battery storage, detracts from the Applicant's need case and that no more than moderate positive weight can be put on the need for the proposal [ER 3.2.95].

Biodiversity Net Gain

- 4.17. The Secretary of State welcomes the Applicant's Biodiversity Net Gain ("BNG") plans. The plans include habitat creation and enhancements which achieve BNG scores of 80.42% for Habitat Units, 10.30% for Hedgerow Units, and 10.09% for Watercourse Units (calculated using DEFRA's Biodiversity Metric 4.0) [REP1-060]. The Biodiversity Net Gain Assessment Report [REP1-061] is secured via the Framework LEMP [AS-040].
- 4.18. The plans include 223.31 ha of area-based habitats, including native woodland and shrub planting, a new native traditional orchard, a mosaic of grasslands of varying species richness, and an ecology mitigation area for golden plover and pink-footed goose.
- 4.19. Additionally, 74.07 km of new hedgerow habitats are to be created, with the hedgerows to be maintained to a height between 2.5m and 3.5m, so they can act as both a valuable wildlife corridor, while also providing a visual screening function. 70m of new culvert is also to be created.
- 4.20. In addition, 4.03km of hedgerows are to be enhanced, alongside 1.72km of watercourse habitats. The Applicant also points out that there are additional hedgerows on site which will be enhanced but will not improve the sites BNG score due to them having the highest possible baseline condition of 'good'.
- 4.21. Monitoring of the sites pre-construction, during construction, and during operation are also secured in the Framework LEMP [AS-040], alongside remedial action if target conditions are not being achieved.
- 4.22. The ExA has assessed that the BNG achieved by the Proposed Development is one of the schemes benefits [ER 3.3.55]. The Secretary of State agrees with this assessment, and he has weighed it favourably in the planning balance. To place such weight on this measure, the Secretary of State needs comfort that these percentages will be achieved, and to

maintain consistency with previous consented solar DCOs, the Secretary of State has amended requirement 7 to include the specific percentages of BNG that are to be achieved by the Applicant. The Secretary of State has taken these percentages from the Applicant's BNG report [REP1-061].

- 4.23. The Secretary of State acknowledges that the exact percentages of BNG may vary slightly from those in [REP1-061] after alterations at the detailed design stage and that there may be a need for flexibility. However, he also notes paragraph 4.1.2 of the [REP1-061], which states that the percentages outlined in the report are likely to underestimate the actual BNG uplift that will be achieved by the Proposed Development, as the assessment has been carried out based on maximum design principles, including maximum footprint of infrastructure and maximum clearance of vegetation for construction. Consequently, the Secretary of State is confident that the Applicant will be able to reach the percentages outlined in their BNG report and the DCO.
- 4.24. For all other biodiversity and ecology matters, the Secretary of State is in agreement with the ExA, and he agrees with the moderate positive weighting afforded to the Proposed Development.

Updated flood risk guidance

- 4.25. The Secretary of State notes that since the close of examination, the Environment Agency ("EA") has produced updated guidance and data in relation to flood and coastal erosion risk. The data published on 28 January 2025 and 25 March 2025 includes updated Flood Zones, and river and sea flood risk extents in a climate change scenario. The Secretary of State has assessed that these updates are relevant planning considerations.
- 4.26. In light of this, the Secretary of State has examined the Applicant's ES Chapter 9 [APP-061], the most recent flood risk assessment appendix [REP5-011] (updated in September 2024) and the Applicant's original Fluvial Flood Risk map [APP-154], and he has carried out a review comparing these documents to the updated EA data. Noting that some parts of the Proposed Development sit within Flood Risk Zone 2 and 3, he has assessed that the updated map shows very little difference in the area covered by these Flood Risk Zones compared to the original map. He does not believe that the updates will materially alter the Applicant's conclusions on the 'Sequential' and 'Exceptional' tests which are outlined in paragraphs 5.8.9 and 5.8.10 of the 2024 NPS EN-1. Additionally, he is satisfied the original modelling adequately assesses the risk of climate change on these assessments.
- 4.27. In addition to this, the Secretary of State has not received any correspondence from the EA to indicate concern that the updated assessments will have a material impact on the Secretary of State's decision on whether to approve the Proposed Development.
- 4.28. Consequently, the Secretary of State has taken the updated data into account and has decided it does not materially alter his conclusions on the weighting given to the Water Environment section in the planning balance, nor does it impact his final decision on whether to grant development consent to the Order.
- 4.29. However, although the EA has not commented specifically on this Application in regard to the latest data, the Secretary of State expects the Applicant to work with the EA to consider what impact, if any, the new data may have and to produce any revised assessments as required. The Secretary of State has made amendments to requirement 9 (renamed "Flood

risk and surface and foul water drainage”) of the Order to require the Applicant to consider the EA’s flood risk and coastal erosion data in the Applicant’s drainage plans. Additionally, changes made to requirements 11 (Construction environmental management plan) and 12 (Operational environmental management plan) address consultation requirements where these plans are affected by updated drainage plans.

Secretary of State’s conclusions

- 4.30. The Secretary of State disagrees with the ExA’s conclusion that only moderate positive weight should be ascribed to the need case for the Proposed Development. The ExA’s conclusion is based on its view that the lack of battery storage, and the fact that the land could be used more efficiently, lessens the need case.
- 4.31. With regards to the absence of battery storage, the Secretary of State does not consider that this detracts from the very urgent need for low carbon energy infrastructure, as set out in the NPSs. The urgent need for solar infrastructure is not predicated on the basis that there is only an urgent need if a proposal is brought forward with battery storage.
- 4.32. With regards to the ExA’s view that the land could be used more efficiently, the Secretary of State notes that the Applicant’s Statement of Need (“SoN”) reviewed the characteristics of Single Access Tracker (SAT) and Fixed South Facing (“FSF”) mounted panels. The SoN finds that SAT panels require more land per MW (peak) but have the potential to generate more MW/h and has a greater MW/h at peak times than FSF. SAT is therefore the preferred system by the Applicant [ER 3.2.37, 3.2.38]. Regarding land use efficiency, the Secretary of State agrees with the Applicant’s position that the figures used in NPS EN-3 are advisory and are not supported by a clear methodology, and that the calculation of the ratio of land take to capacity depends on the allowance made for features such as buffer zones, fencing, Public Rights of Ways, access, overhead lines and landscape and ecological mitigation areas [ER 3.2.67].
- 4.33. Alternative solar design technologies in the form of FSF, SAT and east-west fixed panels were considered. East-west fixed solar panels were discounted as they would have lower biodiversity net gain compared to other options because there would be less space between the arrays and therefore less light reaching the ground under the panels. They would also require a greater amount of construction traffic due to the larger volume of panels required. SAT was chosen over FSF because, among other things, they have a lower panel height during most of the day and at night, therefore potentially reducing visual and landscape impact [ER 3.2.49].
- 4.34. As set out above, the Secretary of State therefore disagrees with the ExA’s view that the way in which the Applicant has used the land means that the need for the Proposed Development being limited to moderate positive weight only. The Secretary of State notes that there is a vast array of government policy clearly setting out the very urgent need for low carbon infrastructure, including the policies contained within NPS EN-1, and other relevant policy such as The Energy White Paper, *Powering Our Net Zero Future*, and CP2030 which sets out a pathway to a clean power system. Noting that the Proposed Development is expected to produce over 50MW of low carbon energy and that the energy generation for the scheme is estimated to be 433,709 MWh in the first full year, with an anticipated peak capacity of 480MW [ER 3.2.36], the Secretary of State has ascribed substantial positive weight to the urgent need for the Proposed Development.

5. Habitats Regulations Assessment

- 5.1. The Secretary of State has undertaken a Habitats Regulations Assessment (“HRA”) and has carefully considered the information presented during the Examination, including the HRA Report [AS-038] as submitted by the Applicant, the Report on the Implications for European Sites (“RIES”) [PD-011] as produced by the ExA, the ES, representations made by IPs, and the ExA’s Report.
- 5.2. The Secretary of State considers that the Proposed Development has the potential to have a Likely Significant Effect (“LSE”) from five effect pathways on seven protected sites when considered alone and in-combination with other plans or projects.
- 5.3. The Secretary of State has undertaken an Appropriate Assessment (“AA”) in respect of the Conservation Objectives of the protected sites to determine whether the Proposed Development, either alone or in-combination with other plans or projects, will result in an Adverse Effect on Integrity (“AEoI”) of the identified protected sites. Based on the information available to him and subject to the mitigation measures as secured in the final Order, the Secretary of State is satisfied that the Proposed Development, either alone or in-combination with other plans or projects, will not adversely affect the qualifying features of any protected sites. The full reasoning for the conclusions is set out in the HRA which has been published alongside this decision letter.

6. Consideration of Land Rights and Related Matters

- 6.1. The Secretary of State notes that to support the delivery of the Proposed Development, the Applicant is seeking powers of CA and TP of land and rights which it had not been able to acquire by voluntary agreement. The powers that the Applicant is seeking are for the acquisition of [ER 6.2.5]:
 - all interests in land, including freehold (Article 20) - shown edged red and shaded pink on the Land Plan;
 - permanent acquisition of new rights (Article 22) - shown edged red and shaded blue on the Land Plan;
 - extinguishment of private rights (Article 23) and overriding of easements and other rights (Article 26);
 - subsoil only rights over land included in Articles 20 and 22 (Article 25);
 - temporary use of land to permit construction or maintenance (Articles 29 and 30) - shown edged red and shaded green on the Land Plan; and
 - new rights and the imposition of restrictive covenants over Statutory Undertakers’ (“SU”) land and extinguishment of the rights to remove, relocate the rights of, or reposition the apparatus belonging to, SUs within the Order land (Article 31).
- 6.2. The ExA notes that none of the land included in the CA and TP request is National Trust Land, Open Space or common land, but a small section has been identified as Crown Land. This is shown on the Crown Land Plan [AS-007] but is intended to be excluded from the scope of CA powers by virtue of Article 49 of the Order [ER 6.2.3].
- 6.3. On 24 December 2024 the Crown Estate confirmed that it had reached a separate agreement with the Applicant which provides their Commissioners with sufficient assurance

as to the way in which compulsory acquisition powers (as contained in Articles 20 and 22 of the Order) may be exercised in respect of third party interests in Crown land forming part of the Crown Estate. The Commissioners confirmed consent to the compulsory acquisition of the third-party interests in Plot 18/109 and 21/141 for the purpose of section 135(1) of the 2008 Act.

- 6.4. The ExA notes that as well as the Land Plan and Crown Land Plan, the Applicant's case for CA and TP powers is contained in the following documents:
- Statement of Reasons (SoR) [APP-021];
 - Funding Statement (FS) [APP-022]; and
 - Book of Reference (BoR) [REP4-004] [ER 6.2.4].
- 6.5. The ExA notes that the Applicant has signed Options to Lease with landowners which cover the majority of the land required. In other cases, heads of terms have been signed or negotiations progressed. The Applicant considers that, notwithstanding the voluntary agreements, it has demonstrated that the land and rights being sought are required for the scheme and that there is a compelling case in the public interest for the grant of CA and TP powers [ER 6.3.4].
- 6.6. The ExA notes that there were no outstanding objections to the CA or TP of specific plots within the Order land [ER 6.5.14]. Notwithstanding the concerns of the ExA regarding the land use efficiency of the proposal (see ER 3.2), the ExA is satisfied that:
- the application included a request for CA of the land to be authorised and consequently, the condition set out in s123(2) of the 2008 Act has been met [ER 6.4.4];
 - taken together, the Land Plan [AS-004], the Works Plan [APP-008], the SoR [APP-021]; and the SNPS [REP6-005] indicate that each area of land affected by CA or TP is required to carry out one or more of the works identified in Schedule 1 of the Order. Further, that the Applicant has a clear idea of how the land subject to CA would be used [ER 6.6.1];
 - that all reasonable alternatives to CA have been explored [ER 6.6.1];
 - that the CA and TP powers sought over all of the land identified in the Land Plan and BoR are required for the Proposed Development, to facilitate it or are incidental to it and that the powers sought meet the condition set out in s122(2) of the 2008 Act [ER 6.6.6];
 - there is a compelling case in the public interest for the land to be acquired compulsorily and is satisfied that the test in s122(3) of the 2008 Act is met [ER 6.6.7];
 - the powers sought meet the requirements of s122, s127 and s138 of the 2008 Act [ER 6.6.8];
 - that the Order meets the requirements of s120(5)(a) insofar as it seeks to apply, modify or exclude a statutory provision and s126 with regard to compensation for CA [ER 6.6.9];
 - that the Applicant has adequately explained the role of Eclipse in the project and there is nothing to suggest that its involvement would impede delivery of the scheme [ER 6.6.4]; and
 - that Article 47 of the Order requires a guarantee or alternative form of security for compensation that may be payable before the CA powers can be exercised, and that this provides a clear mechanism whereby the necessary funding for CA can be guaranteed [ER 6.6.3].

The Secretary of State's conclusion

- 6.7. The Secretary of State has taken into consideration the case made for CA and TP of land for the Proposed Development, as well as the conclusions drawn by the ExA on this matter. These matters include areas of the land sought, funding and consideration of individual objections.
- 6.8. The Secretary of State is satisfied that the tests would comply with s122 and s123 of the 2008 Act and notes that the land sought by the Applicant is in each case proportionate, necessary and in the public interest to facilitate the construction and operation of the Proposed Development. The Secretary of State is satisfied that the acquisition and temporary possession in each case is justified when considering the extent of land required, alternatives, funding and the use and purpose of the land and rights. The Secretary of State also notes that the Crown Estate has provided its consent.
- 6.9. The Secretary of State has considered all the information and agrees with the ExA that the powers requested for CA and TP should be granted.
- 6.10. The Secretary of State has no reason to believe that the grant of the Order would give rise to any unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

7. Secretary of State's Consideration of the Planning Balance and Conclusions

- 7.1 The Secretary of State acknowledges that all NSIPs will have some potential adverse impacts. In the case of the Proposed Development, most of the potential impacts have been assessed as being in accordance with NPS policy, subject in some cases to suitable mitigation measures being put in place to minimise or avoid them completely as required by NPS policy. The Secretary of State considers that these mitigation measures have been appropriately secured.
- 7.2 The Secretary of State acknowledges the ExA's recommendation that consent be granted.
- 7.3 The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- Biodiversity – moderate positive weight;
 - Climate Change – great positive weight;
 - Historic Environment – minor negative weight;
 - Landscape and visual - moderate negative weight;
 - Land use and socio-economics – neutral weight;
 - Noise and vibration – minor negative weight;
 - Soils and agricultural land – minor negative weight;
 - Traffic and transport – minor negative weight;
 - Water environment – neutral weight;
 - Human health – minor negative weight;
 - Air quality – neutral weight;
 - Ground conditions – neutral weight;
 - Major accidents or disasters – neutral weight;
 - Telecommunications, television reception and utilities – neutral weight; and

- Minerals and waste – neutral weight.

- 7.4 With regards to Principle of Development, the Secretary of State has concluded that this matter should be ascribed substantial positive weight in the planning balance and agrees with the ExA that the Principle of Development, taken in combination with the climate change benefits of the proposal, are significant [ER 5.4.1] and are afforded substantial positive weight together.
- 7.5 For the reasons given in this letter, the Secretary of State concludes that the benefits of the Proposed Development outweigh its adverse impacts.
- 7.6 The Secretary of State concludes that development consent should be **granted** for East Yorkshire Solar Farm. The Secretary of State concludes that the national need for the Proposed Development as set out in the relevant NPSs is not outweighed by the Proposed Development's potential adverse impacts, as mitigated by the proposed terms of the Order.
- 7.7 In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the relevant Development Plans, the LIRs submitted by ERYC and NYC, both the 2011 and 2024 NPSs, the PPFG, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 105 of the Planning Act 2008. The Secretary of State confirms for the purposes of regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.

8. Other Matters

Equality Act 2010

- 8.1. The Equality Act 2010 includes a public sector "*general equality duty*" ("PSED"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "*protected characteristics*": age; gender; gender reassignment; disability; marriage and civil partnerships²; pregnancy and maternity; religion and belief; race; sex; and sexual orientation.
- 8.2. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the Examination. There can be detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.
- 8.3. The Secretary of State has had due regard to this duty and has not identified any parties with a protected characteristic that might be discriminated against as a result of the decision to grant consent to the Proposed Development.
- 8.4. The Secretary of State is confident that, in taking the recommended decision, the Secretary of State has paid due regard to the above aims when considering the potential impacts of

² In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

granting or refusing consent and can conclude that the Proposed Development will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that granting consent is not likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

Natural Environment and Rural Communities Act 2006

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

9. Modifications to the draft Order

- 9.1. Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order:
- a. Amendments to the definitions in Part 1, Article 2 (Interpretation):
 - i. Amendment of the definition of “commence” to the one provided by the Planning Act 2008;
 - ii. Amendment of the definition of “Order land” to clarify that the authorised development in the land plans is “coloured pink, blue, yellow or green”, in line with previous Orders;
 - iii. Amendment of the definition of “requirements” to include the following for clarity – “and any reference to a numbered requirement is to be construed accordingly”;
 - iv. Addition of article 2(3) for certainty around the purposes of the authorised development; and
 - v. Addition of article 2(8) for clarity.
 - b. Amendments to Part 1, Article 3 (Development consent etc. granted by this Order) to include explicit reference to Schedule 1 and 2, for clarity in connecting to the appropriate shoulder references in those associated Schedules.
 - c. At Part 3, Article 9(4), the phrase “and in a form reasonably required” is added to ensure that the proper method of obtaining the street authority’s consent is followed.
 - d. Amendments to Part 5 (Powers of Acquisition):

- i. At Article 20 (Compulsory acquisition of land), insertion of additional articles that Article 20 is subject to;
 - ii. At Article 20(1), update of the reference to the Acquisition of Land Act 1946 to the 1981 Act as this is the legislation that currently applies in practice. The same change has been made throughout the Order where applicable;
 - iii. At Article 21 (Time limit of exercise of authority to acquire land compulsorily), insertion of sub-article (3) to reflect changes made by section 185 of the Levelling-up and Regeneration Act 2023 to the Compulsory Purchase Act 1965 and the Compulsory Purchase (Vesting Declarations) Act 1981. The 2023 Act provides that the applicable period for the time limit for giving notice to treat and for a general vesting declaration will be that specified in the Order which in this case is five years from the day the Order is made. The purposes of the amendments at Articles 24 and 27 are made for similar reasons; and
 - iv. Article 32 has been renamed from “Apparatus and rights of statutory undertakers in closed streets” to “Apparatus and rights of statutory undertakers in stopped up and closed streets”. This has been reflected in the Contents page.
- e. At Part 6, Article 35 (Consent to transfer the benefit of the Order), addition of paragraphs (4) to (7) relating to the process of notification where the consent of the Secretary of State is not required. The previous paragraph (4) has been moved to paragraph (8) for improved readability.
- f. Amendment to Schedule 1 (Authorised development), paragraph 2, to Work No. 7. The characterisation of the work is to facilitate access to Work Nos. 1 to 6, and 8, rather than to facilitate access to Work Nos. 1 to 8.
- g. Amendments to Schedule 2 (Requirements):
 - i. Addition to Requirement 6 (landscape and ecological management plan) and Requirement 12 (Operational environmental management plan) to ensure that approval of the management plan requires consultation with Natural England, in line with Requirement 11 (Construction environmental management plan);
 - ii. Amendment to Requirement 7 (Biodiversity net gain) to secure minimum biodiversity net gain percentages in the DCO as part of the biodiversity net gain strategy;
 - iii. Addition of 8(6) (Fencing and other means of enclosure), providing that any approved permanent fencing must be completed before the date of final commissioning for that part; and
 - iv. Amendments to Requirement 9 (renamed “Flood risk and surface and foul water drainage”), 11 (Construction environmental management plan) and 12 (Operational environmental management plan) according to the reasons expressed from paragraphs 4.25 to 4.29 of this decision letter.

- v. Addition to Requirement 10(2) (Archaeology) to provide that the archaeological works “must be carried out by a suitably qualified and competent person or body previously notified to each relevant planning authority”.
 - h. Amendment to Schedule 13 (Arbitration rules), paragraph 7 (Confidentiality), in line with previous Orders, to reflect the Secretary of State’s preference that the default position should be that any arbitration hearing and documentation is publicly accessible, rather than private as previously provided, subject to confidentiality or disclosure exceptions in new sub-paragraphs (2) and (3).
- 9.2. In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with current drafting conventions, changes made in the interests of clarity and consistency, and changes to ensure that the Order has its intended effect.

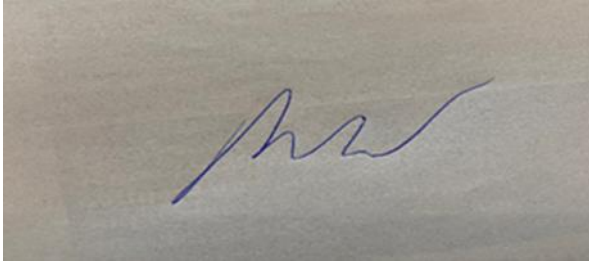
10. Challenge to decision

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

11. Publicity for decision

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

Yours sincerely,

A handwritten signature in blue ink on a light-colored, textured background. The signature is stylized, starting with a large 'D' and ending with a long, sweeping flourish.

David Wagstaff OBE

Head of Energy Infrastructure Development

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

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

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010143>

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

ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AA	Appropriate Assessment
AEoI	Adverse Effect on Integrity
BESS	Battery Energy Storage System
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BoR	Book of Reference
CA	Compulsory Acquisition
CAH	Compulsory Acquisition Hearing
CCTV	Closed circuit television
CEMP	Construction Environmental Management Plan
CNP	Critical National Priority
CTMP	Construction Traffic Management Plan
DCLG	Department for Communities and Local Government
DCO	Development Consent Order
dDCO	Draft Development Consent Order
EA	The Environment Agency
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
ERYC	East Riding Yorkshire Council
ES	Environmental Statement
ExA	The Examining Authority
FS	Funding Statement
FSF	Fixed South Facing
HE	Historic England
HRA	Habitats Regulations Assessment
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
KCB	Knight Commander of the Bath
KV	Kilovolt
LDP	Local Development Plan
LEMP	Landscape and Ecological Management Plan
LIR	Local Impact Report
LLCA	Local Landscape Character Area
LSE	Likely Significant Effect
L VIA	Landscape and Visual Impact Assessment
MW	Megawatt
MWh	Megawatt hour
MWp	Megawatt peak
NE	Natural England
NPPF	National Planning Policy Framework

NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
NSN	National Site Network
NYC	North Yorkshire Council
OCEMP	Outline Construction Environmental Mitigation Plan
ODP	Outline Design Plans
OLEMP	Outline Landscape and Ecological Management Plan
OSSCEP	Outline Skills, Supply Chain and Employment Plan
PA2008	Planning Act 2008
PNE	Pelion New Energy GmbH
PP	Protective Provisions
PPG	Planning Policy Guidance
PRoW	Public Right of Way
PSED	Public Sector Equality Duty
PV	Photovoltaic
rDCO	Recommended Development Consent Order
RIES	Report on the Implications for European Sites
RR	Relevant Representation
SAC	Special Area of Conservation
SNCB	Statutory Nature Conservation Body
SNPS	Schedule of Negotiations and Powers Sought
SoCG	Statement of Common Ground
SPA	Special Protection Area
SU	Statutory Undertaker
SuDS	Sustainable drainage systems
The 2008 Act	The Planning Act 2008
The TCPA 1990	The Town and Country Planning Act 1990
TP	Temporary Possession
UKHSA	United Kingdom Health Security Agency
WMS	Written Ministerial Statement
WR	Written Representations
WSI	Written Scheme of Investigation