

**Reference: Botley West Solar Farm
(Ref. EN010147)**

**Oxfordshire County Council
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New Road
Oxford,
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National Infrastructure Planning
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13th November 2025

Dear Case Team,

Re: Botley West Solar Farm (Ref. EN010147) Deadline 8 Written Submission

Oxfordshire County Council would like to request that the Examining Authority consider accepting this written submission at Deadline 8. The Council Acknowledges that the Examination Timetable within the Rule 8 Letter does not invite IPs and APs to submit representations at Deadline 8 but feel it prudent to comment on information that the Council only received at **D7** (10.11.2025).

This submission covers the Council's ongoing concern in relation to the compulsory acquisition of Highway Land and the issue of Highways Side Agreements.

Compulsory Acquisition

The Council has previously outlined its concern around the powers the DCO would grant to the applicant to undertake compulsory acquisition of any land within the highway boundary, most recently during CAH1 [**REP6-116**].

The Council will not repeat these concerns here but notes that during CAH1 the applicant indicated they would submit case law justifying their position on CA of highway land. This was not provided as part of their post hearing submission at **D6** [**REP6-046**]. At the request of the ExA in their latest Rule 17 letter [**PD-018**] the applicant provided this justification to the Council at **D7** (10.11.2025). For Clarity, the Council was sent the same information that was submitted by the applicant under item 22 of the Applicant's response to the Rule 17 letter [**PD-018**].

The Council has had very limited time to review this information but can confirm that it is still not content with the applicant's justification for the power the DCO would grant to acquire highway land.

The applicant has confirmed that they are not seeking permanent acquisition of the highway land. However, the applicant has indicated that they are still "*seeking permanent acquisition of new rights (and temporary possession) over plots where OCC (as highway authority) is listed in the Book of Reference as being a freehold owner*".

The Council still objects to the proposed acquisition of rights over highway land. This is not only for the reasons outlined in **[REP6-116]**, but also due to potential impacts on easements. Where the Highway Authority have easements, if these are acquired or extinguished by the applicant, this may result in OCC as the Highway Authority losing accesses required to maintain highways drainage features.

As has been pointed out in previous submissions, the DCO contains all of the powers required to undertake the highways works associated with the proposed development. Likewise, as a holder of an Electricity Generation License under Schedule 4 of the Electricity Act 1989, the applicant has express powers to lay their apparatus in, under or over the highway. The relevant part of Schedule 4 of the Electricity Act 1989 is copied below for ease of reference (emphasis added):

*“1 (1) Subject to the following provisions of this paragraph, for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, a licence holder may execute—
(a) the following kinds of works, that is to say, installing **under**, over, in, on, along or across any street and from time to time inspecting, maintaining, adjusting, repairing, altering, replacing or removing—
(i) any electric lines or electrical plant; and
(ii) any structures for housing or covering any such lines or plant; ...”*

The applicant claims that the need for CA of rights over the highway is due to uncertainty around ownership of land beneath the highway. Being as Schedule 4 of the 1989 Act does not provide a limit on what is considered ‘under the highway’, OCC contends that the applicant has all the powers to undertake cable laying works without need to rely on Compulsory Acquisition.

Given the late submission of the case law examples to OCC, the Council has not had chance to review the examples provided by the applicant in any great detail. However, the council contends that the applicant’s position as an Electricity Generation License holder means that these particular case law examples are not applicable to the current case.

If the applicant is concerned about any land that lies between the highway and the site, they should be applying to CA those specific areas rather than the whole extent of the highway.

Finally, in response to the applicant’s concern around highway being stopped up, in the unlikely event of any of the highway within the application boundary being stopped up, Schedule 3 of the Electricity Act could be used to CA the land.

To conclude, OCC has reviewed the applicant’s justification for including highway land within its compulsory acquisition powers as best it can given the very limited timeframe. The Council’s view on CA of highway land has not changed as a result of this justification and the points made at CAH1 **[REP6-116]** continue to apply.

Given the Council’s position as outlined above that the applicant could undertake their highways works via other powers granted to them via the DCO and the Electricity Act 1989, the council cannot see how CA is required to facilitate the proposed development. As such, there is no compelling case in the public interest for these rights to be granted

to the applicant as the Critical National Priority Infrastructure could be delivered via powers granted to the applicant from other sources. Furthermore, if the applicant is granted the ability to acquire rights over the highway, the disruption this could cause to the highway network could be significant and would not be in the public interest. OCC therefore consider that the applicant's request to acquire rights to the highway does not meet the tests set out in Section 122 of the Planning Act 2008.

Highways Side Agreements

At both Deadline 6 [REP6-117] and at Deadline 7 [REP7-190 and REP7-191], the council contended that the current provision within the CTMP to only enter into Highways Side Agreements with OCC under Article 14 of the DCO for a selection of what the applicant considered 'major works' was not acceptable, and recommended changes to paragraphs 1.6.7 and 1.7.3 of the CTMP.

The Council is pleased to see that at D7 the CTMP (reference not yet available) was updated to outline that the applicant will enter into Highways Side Agreements for not just the listed offsite works, but also all access junctions. These agreements will be based on OCC's template S.278 agreements.

This commitment, in combination with the applicant's commitment to pay any reasonable and proper costs incurred in determining if any permanent or temporary alterations to streets have been completed to the reasonable satisfaction of the highway authority or street authority (as relevant), in line with costs for similar Section 278 or Section 184 applications will ensure that OCC is able to review and approve designs for highways works, and will be sufficiently resourced to be able to monitor these works to ensure they completed to the agreed standard.

Given this, the Council as Highway Authority is now satisfied that they will have suitable control over the design an implementation of the applicant's highways works and considers the issue of Highways Side Agreements as outlined within the LIR [REP1-072] and ISH2 post hearing submission [REP6-117] to have been resolved.

Yours faithfully,

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Nationally Significant Infrastructure Project Principal Planner

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