Planning Inspectorate

The Planning Act 2008

BOTLEY WEST SOLAR FARM

Examining Authority's Report

of Findings and Conclusions

and

Recommendation to the Secretary of State for

Energy Security and Net Zero

Examining Authority

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10 FEBRUARY 2026

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OVERVIEW

File Ref: EN010147

The application, dated 14 November 2024, was made under sections 14(a) and 15(2) of the Planning Act 2008 and was received by The Planning Inspectorate on 14 November 2024.

The applicant is Photovolt Development Partners, on behalf of Solar Five Limited.

The application was accepted for examination on 13 December 2024.

The examination of the application began on 14 May 2025 and was completed on 13 November 2025.

The proposed development comprises the construction, operation and decommissioning of ground-mounted solar photovoltaic (PV) arrays with a generating capacity of 840 megawatts. There would be three separate array areas, connected by underground cabling. A new substation for National Grid Electricity Transmission Plc could be delivered within the Order limits as associated development, alongside a substation solely for the benefit of the project.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State does not consent the order as applied for due to reasons of public and aviation safety, and significant harms to landscape character and designated heritage assets.

If the Secretary of State decides to give consent, then the Examining Authority recommends that the Order should be in the form attached in Appendix D as an absolute minimum, but such a decision should be subject to further consultation.

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Planning Inspectorate

ERRATA SHEET – Botley West Solar Farm - Ref. EN010147

Examining Authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy Security and Net Zero, dated 10 February 2026

Corrections agreed by the Examining Authority prior to a decision being made

Page No.	**Paragraph**	**Error**	**Correction**
24	3.2.73	Typographical – incorrect document reference	Replace "PD-016, PC001" with "PD-015, PC001"
32	3.2.122	Typographical – incorrect document reference	Replace superseded OLDP reference "REP6-038" with ODLP "REP7-029"
56	3.3.118 3rd bullet point	Typographical error	Replace "whilst the applicant as stated that this matter is agreed" with "whilst the applicant has stated that this matter is agreed".
85	3.4.7	Typographical error – incorrect reference	Replace "5.10.10.25" with "5.10.25"
92	3.4.54	Typographical error	Replace "the applicant's position was based in best practice" with "the applicant's position was based on best practice"
95	3.4.70 5th bullet point	Typographical error	Replace "hose" with "those" .
233	3.13.45 3rd bullet point	Typographical error	Remove the extra space in between "at" and "the" in sentence "at the project site".
266	5.5.8	Typographical - incorrect reference	There is no paragraph number 4.2.27 in EN-1. Replace "4.2.27" with "4.2.7".
278	6.5.39 4th sentence	Typographical - incorrect reference	Replace "s35 PA 2008" with "s135 PA 2008"
278	6.5.42	Typographical – incorrect document reference	Replace transcript ref "EV6-006" with recording ref "EV6-005"

Page No.	Paragraph	Error	Correction
-	-	Incorrect PSS document reference throughout	Replace “[APP-225] with “[REP1-012]”

1. INTRODUCTION

1.1. BACKGROUND TO THE EXAMINATION

1.1.1. An application (the application) for the Botley West Solar Farm (the proposed development), was submitted by Photovolt Development Partners on behalf of Solar Five Limited (the applicant) to the Inspectorate on 14 November 2024 under section (s) 37(2) of the Planning Act 2008 (PA2008) and accepted for Examination under s55 of the PA2008 on 13 December 2024 [PD-002], under Planning Inspectorate (the Inspectorate) reference EN010147. This report sets out the Examining Authority's (ExA) findings, conclusions and recommendations to the Secretary of State for Energy Security and Net Zero (SoS).

1.1.2. The legislative tests for whether the proposed development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State for Housing, Communities and Local Government in its decision to accept the application for examination in accordance with s55 of the PA2008 [PD-002].

1.1.3. The proposed development is a solar farm with a generating capacity of over 50 Megawatts (MW). The proposed development falls within s14(1)(a) of PA2008 and meets the definition of an NSIP set out in s15 of the PA2008. As such, the proposed development requires development consent in accordance with s31 of PA2008.

1.1.4. The Examination Library (EL) provides a record of all application documents and submissions to the Examination, each of which is given a unique reference number e.g. [APP-001]. The reference numbers are used throughout this report, and hyperlinks are included to allow the reader to access them directly.

1.1.5. This report does not contain extensive summaries of the documents and representations received. Readers are referred to relevant material using linked EL references. Full regard has been had to all such material and to all important and relevant matters arising from it in all conclusions drawn by the ExA and the recommendation made in this report.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

1.2.1. On 28 January 2025, David Wallis, Helen Cassini, Katharine Metcalfe and Mukhtar Shaikh were appointed as the Examining Authority (ExA) for the Application under s65 of PA2008 [PD-004]. David Wallis was appointed as the Lead Member of the ExA panel.

1.3. THE APPLICATION

LOCATION OF THE PROPOSED DEVELOPMENT

1.3.1. The application is proposed in the administrative areas of Oxfordshire County Council, West Oxfordshire District Council, Cherwell District Council and the Vale of White Horse District Council (together referred to as the Oxfordshire Host Authorities (OHA)), wholly within England.

1.3.2. The site comprises three geographically separate parcels of land that would be linked, if the proposal went ahead, by underground cabling. The location of the proposed development is shown in the Location Plan [AS-024] (extract shown in Figure 1 below). The grid connection, with associated substation construction, would take place in the southern site area beneath the 400kV overhead line.

Figure 1: Location Plan showing the order limits as originally applied for

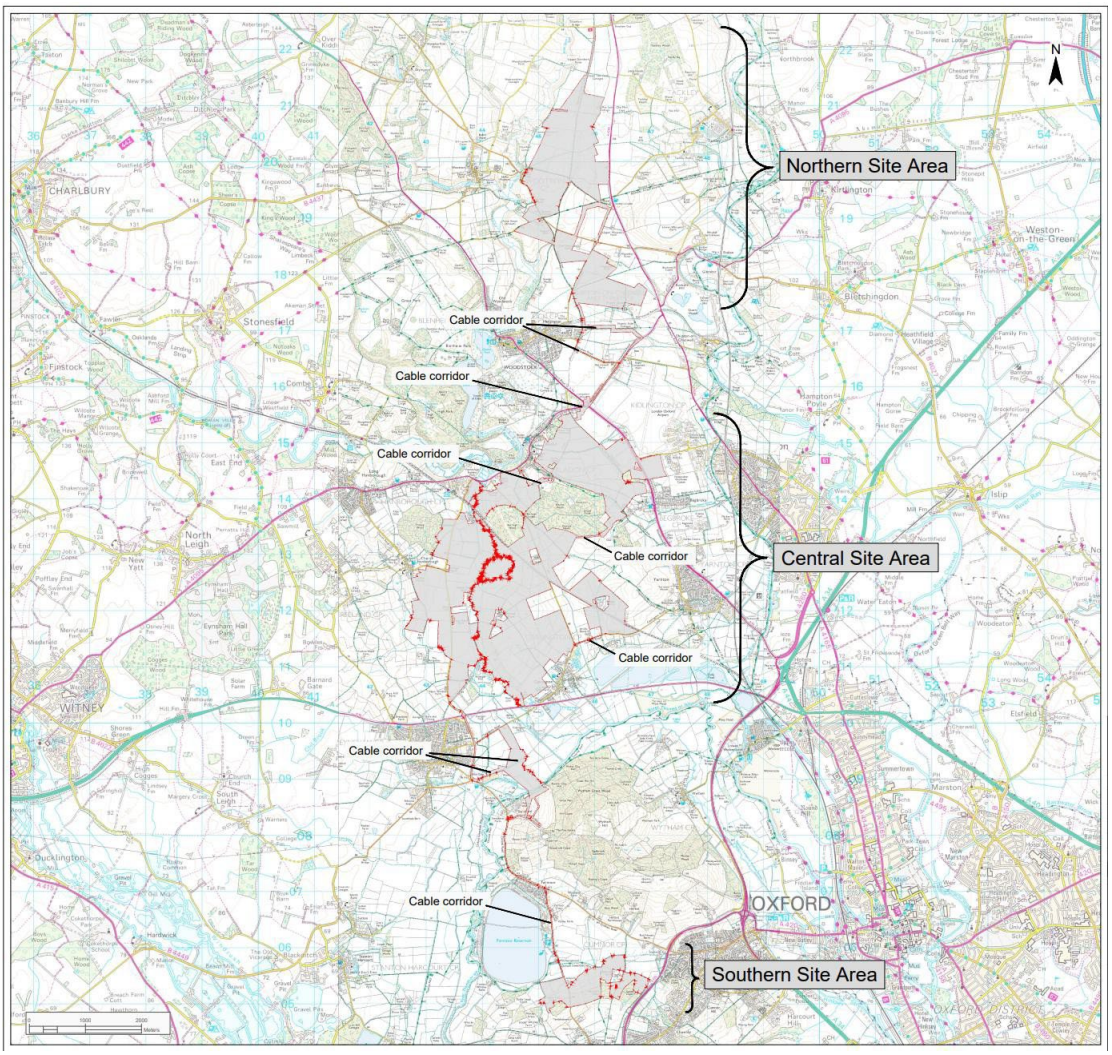
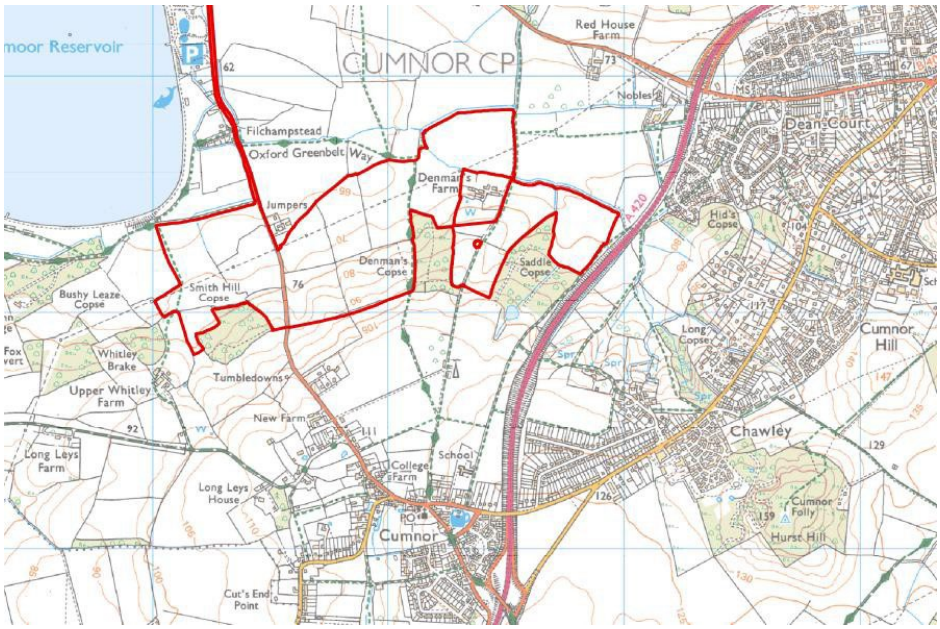


Figure 2: Southern Area with 400kV overhead line shown dashed



1.3.3. Chapters 2 and 6 of the Environmental Statement (ES) [APP-039] [APP-043] provide a detailed description of the surrounding area and of the application site itself. In summary, the following characteristics of the site and the surrounding area are important and relevant:

- Blenheim Palace World Heritage Site and the wider setting for this designation are notable features, particularly in respect of the central site area.
- A large proportion of the central site area and the whole of the southern site area fall within the Oxfordshire Green Belt.
- Agricultural land in both arable and pastoral use is the dominant landscape type, interspersed with areas of ancient woodland.
- There is an overground train line running broadly northwest to southeast passing through the central site area.
- The landscape is an undulating terrain with rolling hills and low valleys, with the River Evenlode flowing along the western boundary of the central site area.
- The River Thames crosses west to east through the landscape and would be crossed by the cable corridor just south of the central area.
- The edge of the Cotswolds National Landscape sits approximately 300 metres northwest of the central site area.
- Oxford Airport is to the east of the central site area.
- Small characterful villages and hamlets adjoin the Order limits, with isolated dwellings and farmsteads interspersed in a largely historical field pattern.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

1.3.4. The proposed development is described in detail in ES Chapter 6 [APP-043].

1.3.5. In summary, it comprises a solar farm with a nominal generating output of 840MW on 839 hectares (ha) of land. The solar farm is split over northern, central and southern site areas, connected by cabling works. The project would have its own principal substation, 6 secondary substations and 156 power converter stations (PCS units). Land is reserved within the Order limits for a new National Grid substation, should National Grid not be able to deliver its intended new substation on its preferred site nearby, south of Farmoor Reservoir. No battery storage is proposed to support the development.

1.3.6. The proposed development works comprise [APP-015]:

- Work No. 1 – a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50MW.
- Work No. 2 – a new National Grid substation (if required).
- Work No. 3 – delivery of a principal ‘main’ project substation and six secondary substations.
- Work No. 4 – works in connection with high voltage electrical cabling.
- Work No. 5 – archaeological protection and management.
- Work No. 6 – general works.

- Work No.7 – temporary construction and decommissioning compounds.
- Work No.8 – landscape management, protection and enhancement; and
- Work No.9 – access works to allow delivery of works 1-8 above.

1.3.7. Further and final details of the proposal for each Work No. can be found in Schedule 1 of the recommended Development Consent Order (rDCO) in Appendix D.

RELEVANT PLANNING HISTORY

1.3.8. The relevant planning history is set out in the applicant's Planning Supporting Statement [APP-225]. Other applications adjoining, adjacent or within the vicinity of the Order limits are set out in the cumulative effects assessment [APP-057] [APP-224]. There are no other made or sought Development Consent Orders in the immediate vicinity of the project.

1.4. THE EXAMINATION

LOCAL AUTHORITIES

1.4.1. Oxfordshire County Council, West Oxfordshire District Council, Cherwell District Council and the Vale of White Horse District Council all made submissions to the Examination. In a number of instances, the authorities submitted joint responses under the reference of the 'Oxfordshire Host Authorities' (OHA).

START OF THE EXAMINATION

1.4.2. The preliminary meeting (PM) took place on 13 May 2025 [EV1-001 to EV1-005]. The ExA's procedural decisions and the examination timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter of 20 May 2025 [PD-007].

1.4.3. The Examination began on 14 May 2025 and concluded on 13 November 2025. The principal components of, and events around, the Examination can be seen in the Examination Timetable [PD-007, Appendix B] and are summarised below.

PROCEDURAL DECISIONS

1.4.4. The Procedural Decisions (PDs) taken by the ExA are recorded in the EL referenced [PD-001 to PD-018]. They detail the ExA's decisions relating to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the proposed development. All were broadly discharged as intended and no further reference is made to them in this report.

STATEMENTS OF COMMON GROUND

1.4.5. By the end of the examination, the following bodies had concluded and signed Statements of Common Ground (SoCG) with the applicant:

- Civil Aviation Authority [REP7-035]
- Environment Agency [REP7-036]
- Historic England [REP7-037]
- London Oxford Airport [REP7-038]
- National Grid Electricity Transmission Plc [REP7-039]

- Natural England [REP7-040]
- Thames Water [REP7-041]
- Cherwell District Council [REP8-003]
- Oxfordshire County Council [REP8-002]
- Vale of White Horse District Council [REP8-004]
- West Oxfordshire District Council [REP8-005]

1.4.6. The signed SoCGs have been taken fully into account by the ExA in all relevant sections of this report. The weight (if any) to be afforded to the SoCGs in particular contexts is considered in the relevant sections of this report.

WRITTEN QUESTIONS

1.4.7. The ExA asked two rounds of written questions:

- ExQ1 [PD-008]
- ExQ2 [PD-012]

1.4.8. The ExA made the following requests for further information and comments under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010:

- On 17 June 2025 regarding landscape methodology, assessment and conclusions [PD-009].
- On 11 July 2025 regarding nominated locations for the accompanied site inspection (ASI) [PD-010].
- On 14 October 2025 with questions across various topics arising from the discussions at the hearings in the preceding week [PD-017].
- On 23 October 2025 regarding various matters including potential new requirements, clarifications regarding Residential Visual Amenity Assessment and the applicant's "without prejudice" offer of land reductions [PD-018].

SITE INSPECTIONS

1.4.9. The ExA carried out seven unaccompanied site inspections (USIs) [EV2-001 to EV2-007] both before and during the course of the examination. Where access to private land and viewpoints was required, the ExA undertook a single accompanied site inspection (ASI) on 7 October 2025 with notice to, and in the company of, interested parties (IPs) and the applicant. The itinerary for the ASI can be found in an appendix to the letter at [PD-014].

HEARINGS

1.4.10. Hearings were held under s91 PA2008 into specific issues (ISHs), under s92 PA2008 into the compulsory acquisition of land and rights (CAHs) and under s93 PA2008 providing for open floor hearings (OFHs).

1.4.11. The following ISHs were held:

- ISH1 into the Development Consent Order and Strategic Matters [EV5-001 to EV5-010]

- ISH2 into Environmental Matters [EV7-001 to EV7-010]

1.4.12. The following CAHs were held:

- CAH1 to hear representations from affected persons [EV6-001 to EV6-006]

1.4.13. The following OFHs were held:

- OFH1 [EV3-001 to EV3-006]
- OFH2 [EV4-001 to EV4-005]
- OFH3 [EV8-001 to EV8-005]

1.5. CHANGES TO THE APPLICATION

1.5.1. Changes to the key application documents, including the wording of the draft Development Consent Order (dDCO), were submitted and updated during the examination. The changes sought to address points raised by IPs and the ExA, and to update or provide additional information resulting from changes and discussions that had occurred during the Examination.

1.5.2. The applicant made two formal change requests in respect of the application.

FIRST CHANGE REQUEST

1.5.3. The applicant submitted a formal change request on 3 February 2025 during the pre-examination period [AS-001]. Table A2 in Appendix A of this report sets out the documents comprising the change request.

1.5.4. The changes proposed were a reduction in the Order limits by 0.015ha to remove a vehicular access point following landowner negotiations and to provide an additional 0.47ha of archaeological protection in lieu of solar array installation.

1.5.5. The ExA agreed with the applicant that neither of the proposed changes was so material that it constituted a materially different project. The proposed changes were not considered, individually or cumulatively, to lead to the project being different in nature or substance to that which was originally applied for.

1.5.6. The ExA therefore issued a PD within its Rule 6 letter [PD-006, Appendix F] to accept both changes into the examination.

SECOND CHANGE REQUEST

1.5.7. The applicant submitted a change request notification on 11 July 2025 [REP2-045]. The request proposed eleven changes, comprising:

- Change 1: Complete removal of 31ha of land from the Order limits near Bladon. A further additional area of 17.6ha would remain within the Order limits but repurposed for biodiversity net gain (BNG) instead of for solar installation.
- Change 2: Reduction in the Order limits of a total of 53ha in proximity to Oxford Airport, including relocating a planned secondary substation some 50 metres north of the originally shown location. A temporary construction compound would also be re-orientated.
- Change 3: An alternative included in the DCO so that, if the National Grid substation is provided outside of the Order limits, the space vacated would be

filled with the applicant's own main project substation, with backfill of solar panels.

- Change 4: Removal of a solar installation from 2.7ha of land in proximity to Lower Road, though the land would remain in the Order limits, remain in agricultural use and managed for biodiversity net gain (BNG).
- Change 5: Removal of approximately 0.72ha of solar installation where the installation would have overlapped either Flood Zones 2 or 3.
- Change 6: In the southern site area, in the existing Order limits, an increase in the solar installation by a total of 2.41ha onto land previously thought to be Flood Zone 2 but now believed to fall into Flood Zone 1.
- Change 7: Removal of 0.005ha of land owned by Oxfordshire County Council in an Estates capacity.
- Change 8: The applicant originally sought powers to alter the alignment of Public Rights of Way (PRoW). In this change request, the applicant removed those powers to keep the adopted definitive alignments for PRoW.
- Change 9: Part of plot 11-29 (Siemens Healthcare Limited) to be removed with cable routing to run to the north of that removed land.
- Change 10: Formal recognition of the proposed community educational facility as part of the proposed development.
- Change 11: Updated parameters for the National Grid substation, should it be delivered within the Order limits.

1.5.8. The applicant concluded that no additional land outside of the Order limits would be required and submitted that the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations) would not be engaged. The applicant's notification also stated that none of the proposed changes would be expected to result in any new or different likely significant environmental effects compared to those effects reported in the submitted ES. The applicant undertook to submit an addendum to the ES to provide the necessary environmental information and to a carry out targeted consultation for a period of 30 days prior to formally submitting the change request.

1.5.9. The ExA responded to the change request notification [PD-011] establishing a timetable for consultation and submission of the formal change request to the Examination, subject to the subsequent fulfilment of duties under Regulations 7, 8 and 9 of the CA Regulations if applicable.

1.5.10. On 12 September 2025 the formal change request was submitted, comprising the documents - listed in Table A2 of Appendix A to this Report. The ExA accepted the change request on 23 September 2025 [PD-016a] and the changes were able to be debated during ISH2, CAH1 and OFH3, as well as the final two examination deadlines.

1.6. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.6.1. The Consents and Licenses Required Under Other Legislation report [APP-035] provides information on the consents and licences required in addition to the consents under the PA2008.

1.6.2. No other planning obligations or agreements were submitted to the examination. Matters relating to other undertakings, obligations, agreements, and/ or consents are considered as necessary in the relevant sections of this report.

1.7. STRUCTURE OF THIS REPORT

1.7.1. The structure of the remainder of this report is as follows:

- **Chapter 2** identifies how the application is to be determined and summarises the key legislation and policy context that applies to the decision.
- **Chapter 3** sets out the findings and conclusions in relation to the individual planning issues that arose from the Application and during the Examination.
- **Chapter 4** summarises considerations arising from Habitats Regulations Assessment (HRA).
- **Chapter 5** sets out the balance of planning considerations arising from chapters 2, 3 and 4 in the light of important and relevant factual, legal and policy considerations.
- **Chapter 6** sets out the ExA's examination of land rights and related matters.
- **Chapter 7** considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- **Chapter 8** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.7.2. This report is supported by the following appendices:

- **Appendix A** – Reference Tables
- **Appendix B** – List of Abbreviations
- **Appendix C** – Habitats Regulations Assessment
- **Appendix D** – The Recommended DCO

2. HOW THE APPLICATION IS DETERMINED

2.1. INTRODUCTION

2.1.1. This chapter identifies the key legislation, policy and Local Impact Reports (LIR) that the Examining Authority's (ExA) recommendations have taken into account.

2.2. LEGISLATION AND POLICY

2.2.1. This section identifies the key legislation and policy that the ExA considers to be important and relevant to its findings and recommendations to the Secretary of State for Energy Security and Net Zero (SoS). More detail is provided within the tables provided in Appendix A to this report.

PLANNING ACT 2008

2.2.2. Paragraph 1.1.3 identifies that the proposed development is a Nationally Significant Infrastructure Project (NSIP). It is therefore to be determined under the Planning Act 2008 (PA2008). The PA2008 provides different decision-making processes for NSIP applications where a relevant National Policy Statement (NPS) is designated and has effect (s104), and where s104 does not apply (s105).

2.2.3. The proposed development is a solar photovoltaic electricity farm with a generating capacity of 840MW. It is to be considered against s104 of the PA2008 because it is within the scope of the following NPS (each dated November 2023 and designated on 17 January 2024):

- Paragraph 3.3.60 of the Overarching National Policy Statement for Energy (NPS EN-1).
- Paragraph 1.6.1 of the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3).
- Paragraphs 1.6.1 and 1.6.4 of the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5).

2.2.4. In deciding this application, s104(2) of the PA2008 requires the SoS to have regard to any:

- NPS which has effect in relation to development of the description to which the application relates (a 'relevant NPS').
- Local Impact Report (LIR) (within the meaning given by PA2008 s60(3)) submitted to the SoS before the specified deadline.
- Any matters prescribed in relation to development of the description to which the application relates.
- Other matters which the SoS thinks are both important and relevant to the decision.

2.2.5. Section 104(3) of the PA2008 requires the SoS to decide the application in accordance with any relevant NPS that has effect in relation to this application, subject to the exceptions in s104(4) to (8):

- where deciding the application in accordance with any relevant NPS would lead to the UK being in breach of any of its international obligations;

- where deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on her or him by or under any enactment;
- where deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment;
- where the adverse impact of the proposed development would outweigh its benefits; and /or
- where any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

2.2.6. This report sets out the ExA's findings, conclusions and recommendations taking these matters into account and applying s104 of the PA2008. The ExA gives further consideration to the application of s104 in chapter 5.

OTHER LEGISLATION

2.2.7. A full list of relevant primary and secondary legislation, including but not limited to duties arising under the Equality Act 2010, Human Rights Act 1998, Natural Environment and Rural Communities Act 2006 and the Climate Change Act 2008 (as amended), can be found in Appendix A of this report. All applicable legislation has been considered by the ExA as required and the findings and recommendations in this report are framed so as to identify and enable the SoS to discharge all applicable statutory considerations or duties.

2.3. NATIONAL POLICY STATEMENTS

2.3.1. NPS EN-1, EN-3 and EN-5 are the relevant NPS for the proposed development and provide the primary basis for determining whether consent should be granted.

2.3.2. The NPS include policies for the principle of development (including the need case) and for the planning issues (including the assessment of potential benefits, adverse impacts, and mitigation). These are addressed in chapter 3 of this report.

2.3.3. The NPS also set out general policies and considerations in relation to the planning balance and the case for development. These are addressed in chapter 5 of this report and presented in Appendix A.

2.3.4. The suite of NPS were updated in December 2025 and designated on 5 January 2026. The transitional arrangements are that such NPS will be in force for applications accepted for examination after the 5 January 2026. Since this application was accepted before this, the newly revised NPS are not in effect. They do however remain important and relevant considerations for the examination and decision-making processes. Any differences will be dealt with in the final conclusions.

OTHER NATIONAL POLICY

2.3.5. The latest National Planning Policy Framework (NPPF) was published in December 2024, as amended on 7 February 2025. The NPPF, and the accompanying Planning Practice Guidance, set out the planning policies for England and how these are to be applied. Paragraph 5 of the NPPF states that it does not contain specific policies for NSIPs as these are determined in accordance with the decision-making framework in the PA2008 and relevant NPSs.

2.3.6. In accordance with s104(2) of the PA2008, this report addresses compliance with other national policies and guidance that the ExA considers to be important and relevant to the decision, but only to the extent that they are relevant to the proposed development. A list of those national policies and guidance applicable to this NSIP is available in Appendix A of this report.

2.3.7. The Clean Power 2030 Action Plan and the Solar Roadmap June 2025 provide the Government's strategy for renewal energy deployment across the country, and management principles in respect of solar delivery. The Solar Roadmap states that solar is at the heart of our mission to make the United Kingdom a clean energy superpower.

2.4. LOCAL IMPACT REPORTS

2.4.1. Two LIR were submitted into the examination at deadline 1 (DL1) by individual authorities, being Cherwell District Council [REP1-052] and Oxfordshire County Council [REP1-070]. A third LIR was submitted jointly by Cherwell District Council, Vale of White Horse District Council, West Oxfordshire District Council and Oxfordshire County Council, together working under the combined title of the Oxfordshire Host Authorities (OHA) [REP1-072]. Among other matters, the LIRs identify local policies which are capable of being important and relevant considerations. The key documents are listed in Appendix A of this report.

2.4.2. The ExA gives regard to matters raised in the LIRs and addresses compliance with local policies that it considers to be important and relevant to the decision in chapters 3 and 5 of this report. The ExA refers to specific local matters and policies as required. The LIRs must be considered during the decision by the SoS pursuant to PA2008 s104(2)(b).

2.5. ENVIRONMENTAL IMPACT ASSESSMENT

2.5.1. The applicant notified the SoS under Regulation 8(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) that it proposed to provide an Environmental Statement (ES) in respect of the proposed development and by virtue of Regulation 6(2)(a), the proposed development is 'EIA development'. In accordance with Regulation 6(2)(a) of the EIA Regulations, the ExA determined that the proposed development was EIA development.

2.5.2. On 15 June 2023, the Planning Inspectorate received a Scoping Report under Regulation 10 of the EIA Regulations [APP-125].

2.5.3. On 24 July 2023 the Planning Inspectorate provided a Scoping Opinion that reflected the proposed development as described by the applicant [APP-126]. This Scoping Opinion sets out where it had / had not agreed to scope out certain aspects and matters on the basis of the information provided as part of the Scoping Report.

2.5.4. Overall, the ExA considers that the ES, as supplemented with additional information during the examination, is technically compliant with the EIA Regulations. There were however some areas, as set out in chapter 3 of this report, where information was lacking and remained so at the close of examination.

2.5.5. The ExA considers that changes to the documentation, comprising the ES during the examination, together with the change requests [CR1-007] [CR2-071] did not individually or cumulatively undermine the scope and assessment of the ES.

Chapter 3 of this report will summarise the environmental effects under each topic section.

2.6. HABITATS REGULATIONS ASSESSMENT

2.6.1. The SoS, as decision maker, is the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

2.6.2. A Report to Inform the Habitats Regulations Assessment (HRA) [APP-163] was included in the application. The proposed development is identified as having the potential for likely significant effects on European sites and hence is subject to an HRA. A record of considerations relevant to the HRA is set out in Appendix C to this report, with a summary found at chapter 4.

2.7. TRANSBOUNDARY EFFECTS

2.7.1. A transboundary screening under Regulation 32 of the EIA Regulations was undertaken by the Planning Inspectorate on behalf of the SoS on 24 July 2023 (first screening) and on 8 May 2025 (second screening). They concluded that the proposed development would be unlikely to have a significant effect either alone or cumulatively on the environment in a European Economic Area State.

2.7.2. The Regulation 32 duty is an ongoing duty, and the ExA is satisfied that no facts have emerged up to the end of the Examination to change the Planning Inspectorate's screening conclusions.

3. THE PLANNING ISSUES

3.1. INTRODUCTION

3.1.1. This chapter sets out the Examining Authority's (ExA) findings and conclusions on the planning issues. The chapter is structured to firstly examine the matters of principle, including need and alternatives, followed by generic topic headings. The order in which all these section headings are presented should not be taken to imply any order of merit.

3.1.2. In each section, the ExA identifies the policy background, followed by a summary of the application as made, then reports on the main issues for each topic. Findings and conclusions are drawn for each topic. These in turn identify whether the effects carry little weight, moderate weight, great weight, or very great weight for or against the making of the Development Consent Order (DCO).

INITIAL ASSESSMENT OF PRINCIPAL ISSUES (IAPI)

3.1.3. As required by section (s) 88 of the Planning Act 2008 (PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR), the ExA made an IAPI arising from the application in advance of the preliminary meeting (PM) [PD-006, appendix C]. This formed an initial assessment of the issues based on the application documents and submitted relevant representations (RR). The list of issues relates to all phases of the proposed development. The IAPI was raised at the PM and representations made were taken into account during the examination.

THE PLANNING ISSUES IN THIS REPORT

3.1.4. The ExA considers that the issues raised by interested parties (IP) were broadly in line with the IAPI and were subject to written and oral questioning during the Examination.

3.1.5. To facilitate efficient consideration of the relationships between certain issues and to avoid repetition in analysis, the ExA has varied the order of its consideration of issues arising from the IAPI. It should also be noted that the IAPI is a high-level framework. The ExA has nevertheless had regard to all important and relevant matters arising from submissions from IPs and has reported on these, if required, within each chapter below.

3.2. THE PRINCIPLE OF THE DEVELOPMENT

3.2.1. This section considers the principle of development based upon green belt implications, the need for the proposed development and alternatives in terms of site selection and design. Consideration of individual planning matters begins from section 3.3 onwards.

POLICY BACKGROUND

Green Belt

3.2.2. The Overarching National Policy Statement for Energy 2024 (NPS EN-1) recognises that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 5.11.2 states the essential characteristics of green belts are their openness and permanence. Paragraph 5.11.20 continues that there is a general presumption against inappropriate development within the green

belt and such development should not be approved except in very special circumstances.

3.2.3. The National Planning Policy Framework (NPPF) reinforces this position and makes clear that most new forms of development are inappropriate in the green belt and should be refused permission unless very special circumstances (VSC) can be demonstrated.

3.2.4. VSC are not defined in national planning policy as it is for the individual decision maker to assess each case on its merits and give relevant circumstances their due weight. However, when considering any planning application affecting green belt land, the Secretary of State (SoS) should ensure that substantial weight is given to any harm to the green belt when considering any application for such development, while taking account, in relation to renewable and linear infrastructure, of the extent to which its physical characteristics are such that it has limited or no impact on the fundamental purposes of green belt designation.

3.2.5. NPS EN-1, paragraph 5.11.37 goes on to consider that VSC may include the wider environmental benefits associated with increased production of energy from renewables and other low carbon sources.

Need

3.2.6. NPS EN-1 paragraphs 3.2.6 to 3.2.8 confirm that applications should be assessed on the basis that *"the government has demonstrated that there is a need for those types of infrastructure covered"* by the NPS and that *"substantial weight should be given to this need."* Further, there is no requirement *"to consider separately the specific contribution of any individual project to satisfying the need established."* The urgent need for new low carbon energy infrastructure to be brought forward as soon as possible, noting the crucial role of electricity as it decarbonises the energy sector, is set out at paragraph 3.3.58.

3.2.7. More specifically, NPS EN-1 sets out that government is committed to increasing significantly the amount of renewable generation capacity both to improve energy security and to meet the legally binding target of reducing greenhouse gas emissions (paragraph 3.2.1). The 2050 net zero Greenhouse Gases (GHG) emissions target has been legislated through the Climate Change Act 2008 (2050 Target Amendment) Order 2019. Also, the Government's sixth carbon budget requires the United Kingdom (UK) to reduce GHG emissions by 78 per cent by 2035 compared to 1990 levels (paragraph 2.2.1). In terms of delivering net zero commitments, reference is made to the Energy White Paper (December 2020), the Net Zero Strategy (October 2021), the British Energy Security Strategy (April 2022), the Growth Plan (September 2023) and Powering Up Britain (March 2023) (para 2.1.1).

3.2.8. NPS EN-1 at paragraph 3.1.2 notes the significant amounts of new large-scale energy infrastructure needed to meet the requirements of energy and climate change policy, it is recognised that it will not be possible to develop the necessary amounts of such infrastructure without some significant residual adverse impacts.

3.2.9. Solar is identified in NPS EN-1 at paragraphs 3.3.20 and 3.3.21 as a low-cost way of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply. There is an ambition for sustained growth in the capacity of solar in the next decade and a setting out that a secure, reliable,

affordable, net zero consistent electricity system in 2050 is likely to be composed predominantly of wind and solar.

3.2.10. Paragraph 4.1.3 states that, given the level and urgency of need identified, the consideration of applications for development consent should start with a presumption in favour of granting consent, unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused. Section 4.2 also sets out that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure, meaning for electricity generation all onshore and offshore generation that does not involve fossil fuel.

3.2.11. The National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) sets out that the government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows meeting net zero emissions by 2050. Government expects a five-fold increase in combined ground and rooftop solar deployment by 2035 (up to 70GW). As such, solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector (Section 2.10). The consideration of need in NPS EN-3 largely reflects NPS EN-1. The Solar Roadmap June 2025 emphasizes that solar is a key part of the renewable energy stream in the UK that offers huge potential to boost our energy independence, bring down bills and tackle the climate crisis.

3.2.12. The provisions of the National Policy Statement for Electricity Networks (NPS EN-5) relate to electricity networks infrastructure and supplements NPS EN-1 by providing technology specific information. In this case the proposed new substations, cable connections and associated infrastructure come within the scope of NPS EN-5.

Alternatives, site selection and design

3.2.13. NPS EN-1 paragraph 4.3.9 explains the NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option from a policy perspective. Nonetheless, in accordance with paragraph 4.3.10 in terms of alternatives, the applicant must provide information proportionate to the scale of the project, ensuring the information is sufficient to meet the requirements of the Environmental Impact Assessment (EIA) Regulations.

3.2.14. The consideration of alternatives should be proportionate and limited to alternatives which meet the objectives of the proposed development, are realistic, and accord with relevant NPS policies (paragraphs 4.3.9 and 4.3.22 to 28). Applicants are obliged to include in their Environmental Statement (ES), information about the reasonable alternatives they have studied and an indication of the main reasons for the applicant's choice, taking into account the environmental, social and economic effects and including, where relevant, technical and commercial feasibility (paragraph 4.3.15).

3.2.15. Where there is a policy or legal requirement to consider alternatives, the applicant should describe the alternatives considered in compliance with these requirements (paragraph 4.3.17). Although there are specific requirements in relation to compulsory acquisition and habitats sites, the NPS does not change those requirements. These matters are considered in chapters 4 and 6 of this report respectively.

3.2.16. The SoS should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity

(including energy security, climate change, and other environmental benefits) in the same timescale as the proposed development (paragraph 4.3.23).

3.2.17. Alternatives not among the main alternatives studied by the applicant (as reflected in the ES) should only be considered to the extent that the SoS thinks they are both important and relevant to the decision. Alternative proposals which are vague, or immature, can be excluded on the grounds that they are not important and relevant to the SoS's decision (paragraphs 4.3.25 and 4.3.28).

3.2.18. NPS EN-3 advises that the government does not seek to direct applicants to particular sites (paragraph 2.3.5) and that the SoS should not use a consecutive approach, such as giving priority to the re-use of previously developed land for renewable developments (paragraph 2.3.9).

3.2.19. In terms of siting, NPS EN-3 refers to the British Energy Security Strategy in setting out that the government is supportive of solar that is co-located with other functions (for example, agriculture, onshore wind generation, or storage) to maximise the efficiency of land use (para 2.10.10). The Powering Up Britain: Energy Security Plan's support for large scale ground-mounted solar deployment across the UK by looking for development mainly on brownfield, industrial and low and medium grade agricultural land is also noted. This sets out that solar and farming can be complementary, supporting each other financially, environmentally and through shared use of land (para 2.10.11).

3.2.20. While land type should not be a predominating factor in determining the suitability of the site location, applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of Best and Most Versatile agricultural land (BMV land) where possible. That is agricultural land classed at grade 1, 2 and 3a of the Agricultural Land Classification (para 2.10.29). Whilst the development of ground mounted solar arrays is not prohibited on BMV land, the impacts are expected to be considered (para 2.10.30).

3.2.21. Further, at this scale, it is likely that such developments will use some agricultural land. Paragraph 2.10.31 sets out that applicants should explain their choice of site, noting the preference for development to be on suitable brownfield, industrial and low and medium grade agricultural land.

3.2.22. NPS EN-3 also sets out factors and policy provisions that are likely to influence the site selection and design processes. These include:

- Network connection
- Irradiance and site topography
- Proximity of a site to dwellings
- Agriculture land classification and land type
- Accessibility
- Public rights of ways
- Security and lighting

3.2.23. Finally, section 4.7 of NPS EN-1 sets out the importance of good design for energy infrastructure, noting that high quality and inclusive design go far beyond aesthetic considerations. The functionality of an object, be it a building or other type of infrastructure, including fitness for purpose and sustainability, is equally important. It sets out that applying good design for energy projects should produce sustainable infrastructure sensitive to place, including impacts on heritage, efficient in the use of natural resources, including the land-use, and the energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible. It is acknowledged, however that the nature of energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area (para 4.7.2).

3.2.24. In May 2024, the Written Ministerial Statement (WMS) on Solar and Protecting Our Food Security and Best and Most Versatile Land was issued setting out the aim of managing competing priorities for energy security and protection of BMV land, including assessing the effects of cumulative developments.

3.2.25. The NPPF sets out the need for the planning system to support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, including by supporting renewable and low carbon energy and associated infrastructure. Paragraph 163 sets out that when determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy; and should approve the application if its impacts are (or can be made) acceptable.

THE APPLICATION

Green Belt

3.2.26. The project as applied for had a total area of approximately 1,418 ha of which solar installation would take place across 839ha. The project has three distinct areas of development being the northern, central and southern areas. The majority of the central site area (870ha) and all of the southern site area (81ha) fall within the Oxford Green Belt.

3.2.27. The applicant accepts that, having regard to policies in NPS EN-1, NPS EN-3 and the NPPF, the proposed development would constitute inappropriate development in the green belt. The applicant's base position rests in NPS EN-1 paragraph 4.2.16 [REP8-001]: "*As a result, the Secretary of State will take as the starting point for decision making that such infrastructure is to be treated as if it has met any tests which are set out within the NPSs, or any other planning policy, which requires a clear outweighing of harm, exceptionality or very special circumstances*."

3.2.28. The applicant considers that only limited harm would occur to the green belt as a result of the proposed development. Notwithstanding, the applicant has promoted the application on the grounds that the VSC required to justify the making of the DCO have been demonstrated.

3.2.29. The setting out and consideration of the VSC case by the applicant is contained within appendix 8 to the planning support statement (PSS) [APP-225]. In essence, the applicant concludes that while there would be harm to some green belt purposes, that harm would be low/ limited, temporary and reversible. The applicant concluded that the benefits of the proposed development would amount to VSC which more than outweigh the harm caused by inappropriateness, and any other harm.

Need

3.2.30. The applicant's need case is spread across the PSS [APP-225], chapter 6 of the ES [APP-043] and the supplementary statement of need (SoN) [PDB-014]. All aspects of the need case are framed with NPS EN-1 and NPS EN-3 as a base, noting that national policy stresses a CNP for this type of infrastructure.

3.2.31. The SoN reviews the options for meeting the demand for low carbon electricity and finds that proven technologies, such as solar, should be brought forward in order to mitigate against the potential non-delivery of less well-developed technologies. It points to the path towards net zero by 2050, and confirms that, in all pathways solar plays a significant role in the UK's future low-carbon electricity system.

3.2.32. The application scheme is promoted as being viable due to its scale, with a strong likelihood of near-term deliverability and would contribute to an adequate and dependable UK energy generation mix. The SoN justifies the scale and output of the proposed development on the basis of the government expectation of a 5-fold increase in the deployment of solar by 2035, leading to 70 gigawatts (GW) of operational capacity by that date.

3.2.33. The applicant does not propose putting a cap on energy generation from the project now or in the future. ES chapter 6 [APP-043] states an output of 840MW would arise from the proposed development, though this is the limit of the grid connection agreement from National Grid [APP-019]. The 840MW would make significant contribution to renewable energy targets and also the decarbonisation of the electricity network.

Alternatives, Site Selection and Design

3.2.34. The applicant details a process of reviewing alternatives, site selection and good design primarily within ES chapter 5 [APP-042]. The process undertaken is broadly summarised below:

- A review of existing available national grid substations commenced in October 2019. The applicant looked at approximately 19 substations to establish their ability to accept new connections, as well as whether land might be available next to or close to relevant substations to construct a solar farm.
- Their investigations revealed that several substations had capacity [APP-063].
- There was one substation in particular where the applicant considered that it offered good potential to deliver a solar farm at scale. This was at Cowley in South Oxfordshire District.
- The applicant then focused on securing land in the Cowley substation location and ideally wanted a single landowner with at least 250 ha of land.
- Given expressions of interests for connections by the applicant and other renewable developers in the wider area, National Grid Electricity Transmission (NGET) began to investigate building a new substation somewhere beneath the 400kV line on the approach to Cowley.
- In February 2020 the applicant began negotiations with Blenheim Palace, which has significant land interests in the area. The land initially offered would however be 15km away from the point of connection being explored with NGET.

- After negotiations with other landowners in the area, the applicant secured land at Denman's Farm, immediately under the 400kV line to the west of Botley. Other land parcels were identified to enable the joining up of the land from Blenheim Palace in the north to the substation location in the south.

3.2.35. In order to develop a scheme that was likely to be acceptable in environmental terms, the applicant employed environmental consultants to assist in the feasibility of delivering a solar farm in this general location. Paragraph 5.6.18 of ES chapter 5 [APP-042] sets out the order of criteria used in developing the project.

3.2.36. Section 5.7 and Table 5.1 of ES chapter 5 [APP-042] and Tables 6.3 and 6.4 of ES chapter 6 [APP-043] describe the design choices made when considering environmental constraints and the parameters utilised. The high-level assessment of opportunities and constraints resulted in the production of the Outline Layout and Design Principles document (OLDP) [APP-238], which contains the applicant's approach to achieving good design. ES chapter 5 [APP-042] sets out consideration of alternative technologies, layouts for the panel areas and cable routes.

ISSUES CONSIDERED DURING THE EXAMINATION

Green Belt

3.2.37. The PSS [APP-225, Appendix 8] sets out that 69% of the project site falls within the Oxfordshire Green Belt. Only the northern site area falls outside of the designation, with the majority of the central and all of the southern area contained within it.

3.2.38. The majority of interested parties (IPs), including the Oxfordshire Host Authorities (OHA), raised significant concern about the decision to develop within the green belt (for example [RR-0092], [RR-0164], [RR-1086], [RR-1007], [RR-1102]).

3.2.39. The applicant set out in ES chapter 5 [APP-042] and the PSS that a location for the proposed development outside the green belt was not an option due to the locations of existing National Grid substations. The applicant clarified that, when NGET decided to construct a new substation to service the project and other customers in the Oxfordshire area, it was NGET that chose to develop that new substation underneath the 400kV line in the green belt through its own separate optioneering process [REP2-025, Q1.3.1]. The applicant provided NGET with land inside the Order limits, within the area of NGET's substation search area, as a fall back should NGET not obtain another site.

3.2.40. In response to written questions regarding attempts to seek to avoid the green belt [REP2-025, Q1.3.1] [REP4-037, Q2.3.1], the applicant responded that there is no policy requirement in NPS EN-1 or NPS EN-3 to adopt a sequential approach to avoid green belt land as a first principle [REP2-025]. Equally, there is only a policy preference, not a policy requirement, in paragraph NPS EN-3 to develop on suitable brownfield land. The applicant states that it did look at land beyond the green belt in this area and included some land that is not in green belt as evidence of that.

3.2.41. In accepting the project would constitute inappropriate development in the green belt as a whole, paragraphs 8.3.14 and 8.3.17 of the applicant's PSS [APP-225] set out those aspects of the proposed development that are considered inappropriate and not inappropriate development. IPs in general, including the OHA [REP1-072] did not directly challenge the categorisation of what does and does not constitute inappropriate development. However, the OHA [REP2-025, Q1.11.12] believed the applicant took a narrow, two-dimensional definition of green belt openness that resulted in aspects like volume and visual appearance being overlooked.

3.2.42. The applicant rebutted this assertion, and also submits the following [APP-225, Appendix 8, paragraph 8.4.4ff]:

- The project is not 'built-up' in the way development in the green belt usually means.
- The project, being 'temporary' under NPS EN-3, would prevent other forms of permanent built development eroding the openness of the green belt.
- The project would not cause any significant effects on landscape character areas within the 5 km study area during construction, operation and maintenance or decommissioning.
- Whilst spatially the effect of the project is large, the actual or perceived visual effects would be limited.
- Overall, whilst there is conflict with green belt policy, including to openness, the harm caused by inappropriateness is considered to be limited. Any other harm arising caused by the project is also limited.

3.2.43. Appendix 8.4 of the PSS [APP-225] examines the harm arising from the proposed development and the subsequent need for VSC to be demonstrated. In summary, paragraph 8.4.53 states *"it is acknowledged by the Applicant that there would be limited conflict with purpose 1 and 2 (unrestricted urban sprawl and merging of towns); a conflict with purposes 3 and 5 (encroachment and regeneration); but no conflict with purpose 4 (setting of historic towns)."*

3.2.44. The OHA [REP1-072] fundamentally disagree with the level of harm claimed to arise from the project on the basis that it would introduce a substantial amount of new development into open countryside and would therefore have a significant visual and spatial impact on openness for more than a generation, strongly conflicting with the purposes of green belt. The NGET substation in the southern area falls wholly within the green belt and would be permanently retained, thus permanently and harmfully impacting the openness of the green belt. The OHA maintained this position throughout the examination [REP7-191].

3.2.45. Historic England [REP4-066, Q2.6.4] note that the solar farm would sit within close proximity to some historic settlements within the green belt and may change elements of their character. ICOMOS-UK emphasize that the landscape has cultural and historical ties to the wider setting of Blenheim Palace World Heritage Site (WHS), and therefore the settlements embedded in the landscape could be considered part of the historic fabric [REP1-103], [REP2-069] to [REP2-074].

3.2.46. The applicant [REP2-026] simply stated it does not agree with the OHA in respect of conflict with the green belt and that there is nothing preventing development in principle in green belt locations in national policy terms. The applicant did not consider there was any wider historical setting to the WHS and noted that gaps between villages were excluded from green belt guidance in the February 2025 amendments to the Planning Practice Guidance, thus less conflict with green belt policies would occur.

3.2.47. The applicant also notes that, as a result of the second change request there is a reduction in the amount of green belt land required to deliver the proposal ([CR2-001] to [CR2-073]). The reductions were welcomed by the OHA and other IPs (for example [REP6-119] [REP6-092]), though significant concerns still remained at the close of examination (for example [REP7-058] [REP7-221]).

ExA Conclusion on Green Belt

3.2.48. NPS EN-1 paragraph 5.11.2 makes clear that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of green belts are their openness and permanence. This is supported by the NPPF which describes the five purposes served by the green belt.

3.2.49. With this as a backdrop, the ExA does not accept the applicant's argument that the effects on the green belt are limited because the development is temporary and reversible. Nowhere in the NPS or the NPPF does it state that temporary development is less inappropriate or in any way compatible with permanent openness. The NGET substation would be a permanent structure in any case.

3.2.50. In addition, the five purposes of the green belt set out in the NPPF combine to keep the green belt permanently open. The applicant already acknowledges harm to 4 out of the 5 purposes of the green belt in the PSS. The ExA considers that, on the case made by ICOMOS-UK and Historic England, all five purposes are conflicted with by the proposed development.

3.2.51. The ExA strongly disagrees with the applicant that the solar farm, comprising large expanses of solar arrays, 6 secondary substations, a main project substation, a potential NGET substation (which would remain post-decommissioning, thus being a permanent feature) and 156 Power Converter Station (PCS) units, would not constitute built-up development. It may be different from housing, but it is still an urban feature in an otherwise undeveloped countryside. The argument that the project is somehow beneficial by preventing other forms of permanent development occurring does not take into account the restrictive nature of green belt policy which would continue to apply to the area.

3.2.52. The ExA concludes that, in addition to the harm by reason of inappropriateness, the proposed development would cause substantial harm to the openness of the green belt and significant harm to all of the purposes of including land in the green belt as a result of its encroachment into the countryside.

3.2.53. NPS EN-1 paragraph 5.11.37 attributes substantial weight to any green belt harm. Nonetheless, when considering whether VSC exist, the presumption in favour of granting development consent and the CNP for this type of infrastructure, set out in section 4.2 of the NPS EN-1, are both of significance. Paragraph 4.1.3 of NPS EN-1 does however state that the presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused.

3.2.54. Hence, it is necessary to assess the level of need for the proposal, established in paragraph 3.3.62 of NPS EN-1, and the suitability of the site to meet any identified need, any other harm that might be caused, and the potential benefits of the scheme before reaching a conclusion as to whether or not very special circumstances exist. To this extent, the ExA's final conclusions on the green belt and the VSC case are set out in chapters 5 and 8 of this report.

Need

3.2.55. Several aspects of need were explored, beginning with the overall strategic choice of delivery solar energy.

3.2.56. The Joint Local Impact Report (LIR) for the OHA [REP1-072] does not question the need for the proposal and finds that it is supported in principle by the respective

development plan policies. A relatively small number of relevant representations (RRs) also support solar energy development in principle (for example [RR-0167], [RR-0728], [RR-0909], [RR-1069]).

3.2.57. On the contrary though, a larger number of IPs (for example, [RR-0218], [RR-0560], [RR-0882] [REP3-104] [REP3-115]) raised strategy-based queries and concerns about the principle of solar, including:

- Efficiency and outputs of solar compared to other energy forms.
- Efficiency and outputs of solar in the UK compared to other countries.
- Solar not being a green form of energy taking into account manufacturing and transportation emissions.
- Developing on domestic or commercial rooftops, brownfield land and car parks would deliver the solar energy needed.
- There is a current queue for projects to connect to the grid that already exceeds the demands of the country for next few decades, so the case for urgent need is reduced.

3.2.58. In relation to brownfield and rooftop alternatives, table 5.2 in ES chapter 5 sets out the applicant's position that it is not obliged to assess brownfield/ industrial sites, and therefore the applicant provided no further commentary or assessment of these alternative options within the examination [APP-042].

3.2.59. In respect of the other general matters above, they were not pursued by the ExA in the examination since NPS EN-1 and NPS EN-3 are clear that the need for solar energy generation in the UK energy market has been demonstrated. The challenges to the claimed 840MW generation calculations, whilst noted, would not prohibit the project from being considered an NSIP nor diminish the urgent need case for this type of renewable energy.

3.2.60. There were concerns from IPs regarding the size and scale of the solar farm, together with the amount of land required to deliver the development (for example [RR-0510], [RR-0611] [RR-0651]). This included an argument that, in terms of alternatives, the applicant had only considered do-nothing or do-everything scenarios without consideration of a smaller solar farm [REP1-180].

3.2.61. The applicant however stated that, given the urgency of achieving the UK's 2050 Net Zero commitments, action within this decade is essential and the project has been designed to deliver the greatest possible benefit from the available land [REP1-020].

3.2.62. In addition, the applicant iterated that '*The scale of the problem is great; the scale of the solution needs to respond accordingly. Even with the addition of 840MW of renewable energy from the Botley West project, there is still a very significant shortfall of solar projects coming forward to meet the Government's target of 70GW by 2035*' and that paragraph 3.2.3 of NPS EN-1 states: '*It is not the role of the planning system to deliver specific amounts or limit any form of infrastructure covered by this NPS. It is for industry to propose new energy infrastructure projects that they assess to be viable within the strategic framework set by government….*' [APP-225].

3.2.63. The applicant claims that, during the operational stage, a total of 6,545,595 tonnes of carbon dioxide equivalent (tCO_2e) would be saved over the lifetime of the project

[REP3-016, paragraph 14.15.6]. On this basis the applicant states the development would, overall, have a major beneficial effect on GHG emissions that would be significant and help deliver the UK's ambitious targets for emissions reductions.

3.2.64. In ExQ1.4.1 [PD-008], the applicant was asked whether or not it took into consideration the GHG emissions due to manufacture, transport and disposal of the solar panels, as part of a life cycle analysis (LCA) assessment.

3.2.65. In its response [REP2-025], the applicant confirms the assessment included the extraction, processing, delivery and construction processes for all material specified within the maximum design scenario as listed in Table 14.9 [APP-051]. The applicant also referred the ExA to paragraphs 14.9.2ff of ES chapter 14 [APP-051], in which the applicant states that the impacts of the construction, operation, maintenance, and decommissioning phases of the Project, had been considered as part of the LCA assessment. In response to ExQ2 [REP4-037, Q2.4.1] regarding the judgement of *R (on the application of Finch on behalf of the Weald Action Group) v Surrey County Council [2024] UKSC 20 and Friends of the Earth Ltd and South Lakeland Action on Climate Change v SSLUHC [2024] EWHC 2349 (Admin)*, the applicant confirmed that all associated direct effects (on site activity) and indirect effects such as manufacturing and transportation of panels, and associated reduction in grid carbon intensity through project renewable energy have been considered and assessed. No dissenting voices were recorded from any IP to this response.

3.2.66. When asked about a statement made by OHA regarding carbon sequestration (ExQ2.4.4 [PD-012]), the applicant responded by stating it was scoped out of the climate change assessment as it would likely be insignificant, though it would be considered through design workshops as the proposed development evolves through detailed design [REP4-037].

Timing and delivery

3.2.67. The urgent need for, and the delivery of, the project and the realisation of its benefits is intrinsically linked to provision of a new NGET substation. Indeed, as set out above, it was one of the driving factors behind the applicant's site selection and land searches. The works plans [REP7-004] set aside 3.9ha of land within the Order limits for the construction of the NGET substation and work number 2 in the dDCO legislates for its future delivery.

3.2.68. However, the examination was informed that NGET's preferred approach was to develop outside of the Order limits, using the Town and Country Planning Act 1990 (TCPA1990) to seek planning permission. Hence the land within the Order limits represents a fallback option if NGET was unsuccessful in its attempts outside the Order limits [APP-043, paragraphs 6.4.25ff] [REP2-076].

3.2.69. There was conflicting evidence and confusion during the examination regarding the timing and location of the NGET substation. In short, the ExA summarised these at ISH2 [EV7-004, minute 06:31 to 07:53] as being:

- The grid connection offer statement submitted to examination said connection would be in 2027 [APP-019], the applicant said this would be amended to October 2028 for which it had paid securities to confirm the connection [REP2-025, Q1.3.6], but NGET stated construction of the substation would not be complete until late 2029 [REP2-076, Q1.3.6], with the first full year of operation being 2030.

- The location of the NGET substation was described as being either inside or outside the Order limits [APP-043]. However, the Vale of White Horse District Council received a screening opinion from NGET during the examination showing the NGET substation straddling the Order limits and requiring nearly twice the applicant's land-take at 7ha as opposed to 3.9ha [REP5-125].

3.2.70. The applicant sought to allay concerns by stating:

- [REP4-037, Q2.7.1] – The new NGET substation is a vital element for the delivery of the electricity generated by the solar project to the National Grid. Consequently, if provided on land within the Order limits, it could qualify as associated development, as it has been considered in other made DCOs.
- [REP4-037, Q2.7.7] – NGET's timetable is a very cautious estimate.
- [EV7-004, minute 09:16:02 to 10:24:01] – The dDCO provides the necessary works to facilitate the NGET substation as and where it would be constructed in the Order limits. The delay in being able to connect to the NGET substation would not give rise to any new or additional environmental effects [REP6-047].
- The Statement of Common Ground (SoCG) with NGET confirms a connection date of 2029 [REP7-179].

3.2.71. IPs were not satisfied with the applicant's position. In light of this and, given that the NGET substation is crucial to the delivery and success of the proposed development (without it, the proposed development cannot connect to the grid), the ExA considered that a Grampian-style requirement would be appropriate preventing commencement of the proposed development until the future of the NGET substation had certainty.

3.2.72. The ExA raised the requirement in writing [PD-008, Q1.3.3] [PD-012, Q2.7.7]. This proposal received support from the OHA [REP1-071] [REP4-074] and general backing from IPs (for example [REP6-084]).

3.2.73. The applicant declined to provide wording to the ExA despite the written requests, hence the ExA drafted its own [PD-016, PC001]. In short, the applicant believes the Grampian-style requirement unnecessary [REP4-037, Q2.7.7], because:

- It would not satisfy the policy tests for the imposition of requirements because it is both unnecessary and unreasonable.
- It would be reasonable for the ExA and the SoS to expect planning permission to be granted for the substation and for NGET to use reasonable endeavours to achieve that and the necessary acquisition of land.
- The project is not contingent on NGET obtaining planning permission for the alternative site because the Applicant has made provision for connection via associated development included in the application.
- Commencement of the project cannot occur until detailed design has been approved by the relevant planning authority pursuant to requirement 5. An application to discharge requirement 5 (detailed design approval) would confirm to the relevant planning authority whether the NGET substation would be implemented pursuant to work number 2 and works plan 13A, or solar panels are to be erected on the same land pursuant to work number 1 and works plan 13B.

- NPS EN-1 envisages different elements coming forward at different times and the Applicant sees no reason why the NGET substation will not come forward;
- There is no precedent in a similar scheme; and
- The commercial reality is that the applicant would not build out a substation without some degree of certainty.

3.2.74. On this basis, the applicant expresses that there is a clear and obvious need for the proposed development, and that the development could be delivered at scale and at pace [PDB-014] [APP-225]. The applicant reiterated [REP2-025] that in terms of weight to be given to the contribution of the project to the urgent need for renewable energy generation, that NPS EN-1 paragraphs 3.2.6-8 are clear that the need should be given substantial weight.

ExA Conclusion on Need

3.2.75. The ExA reviewed the legislative and policy context, as well as the evidence considered during the examination, with regard to need. It is very clear to the ExA that there is an imperative, unequivocal and compelling case for the delivery of renewable energy at pace established within NPS EN-1 and NPS EN-3, which weighs substantially in favour of development consent being granted. Solar generation will play an important role as part of the technology mix, noting that it can be deployed with relative speed. NPS EN-1 also sets out the evolving technological and legal context supporting wind and solar as low cost, clean and secure sources of renewable supply.

3.2.76. Notwithstanding the level of urgency for the project, the realisation of the project's benefits is tempered by the uncertain future of delivering the NGET substation. The applicant claims NGET is bound by the terms of the connection agreement, but NGET's own estimation is that the NGET substation would not be built out until late 2029, a whole year after the applicant originally anticipated being able to connect. That is assuming a smooth and uninhibited planning process under the TCPA1990.

3.2.77. Whilst the ExA acknowledge the solar farm could not connect to the grid without the NGET substation, and it would not seem sensible for the applicant to start constructing the project from a commercial perspective without such substation being provided, the ExA considers that it would be wholly inappropriate for the applicant to commence development or the acquisition of land without having a crucial piece of infrastructure in place first. Otherwise, there is no need for the project if it cannot connect to the grid.

3.2.78. Therefore, the ExA recommend that an additional requirement is added to the rDCO to mitigate this situation. This is discussed further in chapter 7 of this report.

3.2.79. The ExA's view is that the proposed development would fall within the parameters set out in NPS EN-3 paragraph 2.10.17 in terms of the generating capacity and scale of a scheme of this nature. In this sense, its generating capacity and scale would not, in principle, be unreasonable. Overall, the ExA gives substantial weight to the need for the proposed renewable energy generation in accordance with NPSs EN-1 and EN-3 which set out the CNP for the provision of such infrastructure.

3.2.80. This need is balanced with the effects of the proposed development in chapters 5 and 8 of this report.

Alternatives, Site Selection and Design

Alternative Locations

3.2.81. There were some fundamental concerns regarding the site selection criteria underpinning the proposed development raised by IPs at the onset of the examination (for example [RR-0207], [RR-0329], [RR-0840], [RR-0852], [REP1-094]), specifically on the choice of Cowley substation and the degree to which it was influenced by land on offer from Blenheim Palace. The ExA also had concerns regarding ES chapter 5 [APP-042] insofar as it assessed the availability of alternatives, as described in the paragraphs below.

3.2.82. The applicant reports studying 19 substations and finding several substations had capacity, as identified on the plan at [APP-063]. However, the ExA noted that, apart from the substation location chosen by the applicant (Cowley), only one other substation was referenced in ES chapter 5 (Northfleet). Northfleet was mentioned, and then discounted, within a single sentence that suggested it: *"was not taken forward by the Applicant as the site was landlocked with no reasonable prospect of securing land in close proximity for a solar development at scale*."

3.2.83. The ExA used ISH1 [EV5-002, minute 50:59:21 to 01:13:14] to interrogate the evidence submitted. The applicant responded orally [EV5-002], and later in writing [REP1-019], to state:

- The online connection tool offered by National Grid was out of date when assessing which substations had capacity.
- The applicant considered it was not worth undertaking pre-application discussions or waiting for pre-application calls to take place regarding any other sites.
- The 'several substations' referred to [APP-042, paragraph 5.6.7] were not considered further because *"the Applicant did not believe land would be available nearby for their own substation"* and *"it was not considered worth the time to pursue those options."* [REP1-019]
- Northfleet was discounted because [EV5-002, minute 1:00:23 to 01:00:57] *"We weren't sure that it had sufficient capacity. I didn't do a full pre-app call on that because we didn't think it was worth it. Also, our negotiations for land nearby had not obtained any land*."
- The Cowley substation, due to land owned around it by Thames Water, was also landlocked like Northfleet [EV5-002, minute 57:42 to 58:17]. Due to customer demand however, a new national grid substation was being considered south of Farmoor Reservoir along the 400kV line, and the applicant was offered a connection there.

3.2.84. The ExA followed ISH1 with a number of written questions [PD-008, Section 1.2], with view to testing whether reasonable alternatives had been considered for the purposes of regulation 14(2)(d) the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The ExA also questioned why there was no assessment of irradiance in considering alternatives under ES chapter 5 [APP-042], given that it was a key consideration listed in NPS EN-3 paragraph 2.10.18 to 2.10.20.

3.2.85. In addition, an IP commented that when the possibility emerged of a new national grid substation below the 400kV overhead line to service the proposed development

(paragraphs 5.6.10 to 5.6.13 [APP-042]), the proximity to the Cowley substation became irrelevant and the project, together with the new NGET substation, could have been located anywhere under the 400kV line beyond the green belt [RR-0853]. The conclusion IPs drew from this is that the choice of Cowley was driven primarily by land negotiations [RR-0478] [RR-0852].

3.2.86. In respect of irradiance, the applicant clarified that whilst Northfleet (Kent) may experience global horizontal irradiance values up to 5% higher than Cowley (Oxfordshire), the difference was considered marginal and did not outweigh the broader locational advantages offered by the chosen site. The applicant did not expressly ascribe the weight attributable to irradiance or any other factor that influenced the site search, except to say that location and connection to a substation was particularly important [REP1-019].

3.2.87. The applicant did not expand on what the other 'locational advantages' were in Cowley compared to Northfleet. There is no substantive information in ES chapter 5 regarding how the Blenheim Palace World Heritage Site, Oxford Airport, Best and Most Versatile Agricultural land, flood zones or green belt influenced the site selection, nor whether these locational disadvantages were factored into the strategic equation.

3.2.88. Regarding other matters, the applicant provided further defence of the assessment of alternatives [REP2-025]:

- ES chapter 5 contains discussion on alternatives in respect of the do-nothing scenario, site location and scale, site layout and design, choice of solar array and cable corridor routes.
- The choice to develop a new 400kV substation was that of NGET, not the applicant. The applicant understands that NGET is able to develop new substations if there is the demand for multiple new connections.
- The site selected by the applicant for the NGET substation was within the NGET area of search which by that stage had narrowed to an area with approximately six alternative sites along a short stretch of the 400kV corridor, and on land that was within the Order limits.
- The applicant points out that there were no single or determinative factors that influenced the final site chosen or its size; it was a combination of many factors, considered over time and overlapping one another. They did not happen in a clear isolated sequence.
- There is no policy requirement to first search for a site for a substation, or for any other form of development, outside of any green belt.
- NPS EN-3 para 2.10.18 is not a prescriptive list of influences that the applicant should consider or consider in a particular sequence; it is a list of factors that are considered may influence site selection.

3.2.89. The closing statements of the Begbroke and Yarnton Green Belt Campaign contain two very direct statements in light of the project being proposed in the green belt, adjacent to a world heritage site, over mineral reserves and highly productive agricultural land and under the flight path of a major airport [REP7-058, paragraph 4.3]:

"The evidence before this Examination demonstrates clearly that selection of the BWSF site was neither objective nor independent. It was primarily driven by land being made available by Blenheim Estates."

"RPS is an experienced firm of planners and environmental consultants, and Pinsent Mason is a law firm which specialises in representing clients in planning matters. Is it likely, given a blank canvas stretching across the whole of south-east England, that they would otherwise have recommended this site to their clients?"

3.2.90. The ExA noted that ES chapter 5 was not revised during the examination.

Alternative approaches to design and layout

3.2.91. IPs challenged the design and layout of the scheme, principally on the grounds of five main issues:

- There were candidate areas for removal of panels, reduction in the sprawl of the solar farm or for greater buffer zones to residences and reduction of impact on the WHS (for example [RR-0413] [RR-1021] [PDA-002] [REP1-056] [REP1-076] [REP1-103] [REP1-085] [REP1-138]).
- The design life of the development was not compatible with the definition of temporary development (for example [RR-0161] [RR-1007] [REP1-130] [EV3-002 and EV3-003, minute 34:21 to 35:02]).
- Cable routing options were inappropriate and broad [RR-0967] [REP4-080].
- Lack of detail and sensitivity considerations in the design of the project (for example [REP1-056] [REP1-064] [REP3-103]).
- No battery storage within the scheme leading to an inefficient solar farm (for example [REP1-180] [REP2-122] [REP3-108].

3.2.92. These issues are considered in turn below.

Candidate areas for removal of panels, sprawl and spread

3.2.93. In respect of the scale and spread of the scheme over three sites, the applicant sets out that developable areas were the result of an iterative design process formed with stakeholder input and land availability. Delivering a smaller scheme would not deliver the greatest possible benefit from the land secured by the applicant for the project [REP1-020].

3.2.94. A number of IPs suggested removal of panels from various fields (for example, [REP1-103] [REP4-075] [REP4-094]) primarily due to heritage and landscape concerns. Many IPs questioned the buffer zones in the context of Blenheim Palace World Heritage Site and Oxford Airport, as well as the proposed 25m buffer zone to residential properties.

3.2.95. Whilst these issues are considered under relevant chapter topic areas of this report, it is pertinent that the applicant addressed a proportion of these concerns through submitting a second change request ([CR2-001] to [CR2-073]), with the effect of removing:

- Solar installation near Bladon in the central area to reduce effects on the World Heritage Site; and

- Solar installation in proximity to Oxford Airport.
- 12ha of land at Lower Road.

3.2.96. The ExA acknowledges that the applicant did keep the design and layout of the project under review over the course of the examination, responding to some of the concerns accordingly.

3.2.97. The applicant nonetheless maintained that the size and scale of the solar farm were justified given the urgent need for low carbon renewable infrastructure and that any reductions/ concessions made were a hard commercial decision [REP6-047].

Design life and the issue of temporary development

3.2.98. In relation to temporary development, the applicant cites NPS EN-3 insofar as solar farms are time-limited for a finite period [REP1-020]. NPS EN-3 also recognises that an upper limit of 40 years is typical, but that applicants may seek consent without a time-period or for differing time-periods of operation (paragraph 2.10.66). Consent for the project is sought for 42 years from commencement to de-commissioning and removal.

3.2.99. The applicant indicated that the development is not proposed to be permanent, and the lifetime of the Botley West Project aligns with other similar solar farm projects of this scale and type, and which have been consented under the NSIP regime. The new NGET substation would remain as the main permanent above ground feature following decommissioning, although some underground cabling and piling may be left in situ [APP-236].

3.2.100. IPs raised concern about the end life of the solar farm being prolonged via paragraph 168(c) in the NPPF [REP1-072, paragraph 7.7.17]. The applicant reiterated the case that the development would be a time-limited consent [REP2-026].

Cable routing

3.2.101. The application, as submitted, contained four areas where the routing of underground electricity-carrying cables had not been fully determined. The optionality was sought by the applicant under the Rochdale Envelope principles, with the final choice as to the routing to be made at detailed design stage following further technical studies.

3.2.102. The ExA sought to move the applicant to narrow the optionality to provide greater certainty on the Order limits and the potential effects, though all four option areas remain live and active in the dDCO at the conclusion of the examination. The applicant did however provide a report detailing the review process for the option areas and the considerations that would form the basis of an engineering and feasibility decision [REP4-039].

3.2.103. IPs raised some concerns regarding cable routing in terms of environmental effects and compulsory acquisition matters; these elements are considered elsewhere in this report. For the purposes of considering alternatives, there were no substantive objections to the optionality sought by the applicant.

Design rationale

3.2.104. In response to design-related questioning within ExQ1 [PD-008, Q1.1.7 to Q1.1.15], the applicant iterated that other than general references to good design within the

NPS EN-1 and in the NPPF, there is no detailed design guidance at national or local level for the applicant to use as a guide to inform the design and layout of the project [REP2-025]. In addition, the applicant initially declined to provide a number of design details [REP2-025] stating all would be subject to approval during the discharge of requirements process, including those of the substations.

3.2.105. Following insistence from the ExA for greater clarity [PD-012, Q2.1.5 to 2.1.9], the applicant provided a design approach note [REP4-037, Annex 4], included some additional design parameters within the Outline Layout and Design Principles document [REP4-033] and set out the following [REP2-025] [REP4-037]:

- Solar arrays would be on some north-facing slopes.
- On sloped terrain, mounting structures would be adapted to the ground profile so that the maximum height of any panel above ground level would be no more than 2.3m. This may involve reducing the tilt angle, using smaller modules, or deploying a single-row landscape configuration instead of stacked panels.
- No earthworks would be undertaken to reshape or regrade the land to accommodate solar panels on these slopes.
- Solar panels would be setback from sensitive glint and glare receptors where possible, and vegetation is proposed to limit views where significant impacts are predicted.
- Security would be embedded into the design of the proposed development from the outset, consistent with the principles of “security by design” and the requirements of NPS EN-5.
- Measures secured through the DCO include perimeter deer fencing to restrict unauthorised access, closed circuit television (CCTV) with motion detection limited to the access points, secure access points, and the provision of a security service.

3.2.106. The ExA also queried the layout criteria underpinning the locations for the 6 proposed secondary substations and the 156 PCS units within the proposed development, since such detail was absent from ES chapter 5 [APP-042]. The applicant clarified that the primary driver for the location of such supporting infrastructure related to engineering/ technical considerations. The location of secondary substations and PCS units was guided by a balanced assessment of electrical efficiency, minimizing energy losses, environmental constraints, and constructability. From an electrical perspective, PCS units are sited close to solar array blocks to minimize Direct Current (DC) cabling energy losses, while substations are positioned to optimize Alternating Current (AC) collection and reduce high-voltage cable lengths and associated energy losses [REP1-019].

3.2.107. The applicant would not commit to designing the development to be completely free from sulphur hexafluoride (SF_6), requesting flexibility because at the 275kV level, the commercial availability of SF_6-free components is particularly limited, raising concerns about procurement timelines and supplier capacity [REP3-036, Appendix 1, paragraphs 1.2.2ff]. There were no dissenting voices to this approach.

3.2.108. The possibility for an independent design review process to be followed was considered by OHA [REP2-050, Q1.1.12], although doubt was expressed at the usefulness of such when only engaged at the final design stage of the project. The OHA continued that the applicant’s Outline Layout and Design Principles (OLDP) document does not contain information to help inform the design of the project and it

was not clear how the Landscape and Visual Impact Assessment had informed the project design or layout. The applicant responded to say a design review was not necessary and that the OLDP was adequate for its purpose [REP3-064], providing an amended version at deadline 6 [REP6-038].

3.2.109. The OHA were content not to pursue any design related requirements towards the end of the Examination [EV7-004, minute 37:01 to 38:12] [REP6-117].

Battery Storage

3.2.110. Paragraph 6.4.3 of ES chapter 6 [APP-043] states that the project does not incorporate any battery storage at all, so any excess energy above the grid capacity would go to a battery energy storage system (BESS) connected to the grid elsewhere.

3.2.111. IPs raised concerns regarding the logistics and efficiency of this design choice (for example, [REP2-122]), arguing that the inclusion of BESS for solar farm development is supported by NPS EN-1 and would make the power output of the scheme more efficient and support its daily and year-round energy supply contribution. The ExA asked questions of the applicant and NGET to explain the nature of BESS options for the proposed development [PD-008, Q1.3.5].

3.2.112. The applicant responded that BESS was briefly considered but was ruled out because BESS would require additional land to generate electricity for charging the batteries or a reduction in grid connection capacity, both of which did not seem feasible or commercially attractive [REP2-025]. The applicant also cited that there was no policy mandate for the co-location of BESS within a solar array.

3.2.113. In any event, the applicant pointed to the presence of other potential BESS in the locality, taken into account when considering cumulative impacts [APP-057]. The ExA queried the availability of these facilities, and the applicant responded that any BESS connected to the grid can store the electrical output from the proposed development. It is not necessary, or required in policy terms, to provide BESS with solar schemes even if co-location is encouraged [REP4-037, Q2.1.3].

3.2.114. Further evidence to the examination suggested that NGET submitted a screening opinion for its substation that straddled the Order limits, occupied a much larger area of land and incorporated 800MW of battery storage [REP5-125, page 18]. The oral submissions made at ISH2 [REP6-047] [REP6-117] served to confirm that the BESS was separate from any NGET proposal and, in the applicant's opinion, was only a concept at this stage not pertinent to any cumulative impact assessment.

ExA Conclusion on Alternatives

3.2.115. NPS EN-1 paragraph 4.3.24 states the SoS should not refuse an application for development on one site simply because fewer adverse impacts would result from developing similar infrastructure on another suitable site. The ExA observes that all other options or alternatives were discarded quickly for rudimentary reasons, or the applicant felt un-obliged to explore under NPS EN-1 or NPS EN-3 and, as such, there is no comparison information about the impacts of any of other sites or locations.

3.2.116. NPS EN-1 paragraph 4.3.10 requires the applicant to provide information proportionate to the scale of the project. The ExA considers the applicant took a basic and unscientific approach to assessing alternatives, leading to a preferred substation being identified without much effort or thought. There is limited evidence

before the examination to demonstrate consideration of whether the land offered by willing landowners was actually suitable for a solar farm of this scale, or that such land compared more favourably from an environmental or technical perspective than other land in proximity to Cowley substation, or indeed anywhere else. For a project of this significant size and scale, the information on alternatives is disproportionately limited.

3.2.117. NPS EN-1 paragraph 4.3.15 states that with the information about the reasonable alternative studied, applicants should indicate the main reasons for the choice taking into account the environmental, social and economic effects and including, where relevant, technical and commercial feasibility. The ExA concludes that the applicant sought to develop a solar farm at scale to make it a commercially viable proposition as the principal driver, as can be seen in process order described in ES chapter 5 [APP-042, paragraphs 5.6.6 to 5.6.18] whereby environmental constraints appear to have only shaped the project boundaries, not the overall strategic site selection.

3.2.118. Nonetheless, the applicant has provided the main reasons for the option chosen, which are the grid connection, land availability and commercial viability. Having stated these reasons, the ExA is led to conclude that the applicant's approach is compliant with regard to paragraphs 4.3.9, 4.3.25 and 4.3.29 of NPS EN-1, because other potential projects do not need to be treated as alternative solutions; there is no obligation to establish whether the proposed development represents the best option; and alternatives are considered to the extent that they are important and relevant.

3.2.119. Although the inclusion of BESS would likely have enhanced the useable output of the scheme and is encouraged by NPS EN-1, the co-location of BESS and solar farms is not a requirement of either NPS EN-1 or NPS EN-3. For this reason, the ExA considers that the absence of BESS only detracts slightly from the Applicant's need case.

3.2.120. Whilst the applicant's overall approach to strategic site selection alternatives is a narrow one in the ExA's opinion, the ExA finds that Regulation 14(2)(d) of the EIA Regulations and paragraphs 4.3.15 of NPS EN-1 and, to the extent that the size of the output justifies a connection to the transmission system, 2.10.23 of NPS EN-3 are complied with.

3.2.121. In terms of design parameters, it appears to the ExA that the applicant has demonstrated a moderate awareness of good design principles. The approach to the design and layout of the proposed development has been both influenced and constrained by site selection requirements, although the rationale for certain design elements has not been explained clearly. The ExA accepts the for the purposes of NPS EN-3, the proposal would be considered temporary development. The ExA also accepts the rationale behind needing some components where SF_6 would be present as a necessity.

3.2.122. The most recent version of the Outline Layout and Design Principles document (OLDP) [REP6-038] provides the ExA with greater confidence as to the design choices that may be made in the future. The ExA also respects the views of the OHA that a further design review process would be unnecessary [REP6-117].

CONCLUSIONS

3.2.123. Policy provisions establish the urgent need for renewable energy generation of all types. Large scale solar generation will be part of the mix of infrastructure and technology that it is anticipated will deliver this, in line with wider energy and climate objectives. Therefore, the proposed development would make a meaningful contribution to meeting this need. In this regard the ExA's position is that the proposed development would be in general accordance with the provisions of NPS EN-1 and NPS EN-3 relating to need.

3.2.124. Further, in making a meaningful contribution to meeting the need for renewable energy generation, the proposed development could potentially do so with relative speed. It would therefore be able to support the government's ambition of a five-fold increase in combined ground and rooftop solar deployment by 2035. This is part of the mix of technologies that can support the delivery of a low-carbon, secure and affordable UK energy supply into the future. In this regard an important and relevant consideration is the commitment set out in NPS EN-1 to the provision of low carbon infrastructure as a CNP. The speed in this instance is, however, a little in doubt given the outstanding matters regarding the planning future of the NGET substation.

3.2.125. The ExA recognise the substantial contribution the project would make in terms of reducing greenhouse gas emissions (reduction of 6,545,595 tCO_2e) and combatting the effects of climate change.

3.2.126. The ExA also concludes that the proposed development would gain support in principle from local policies seeking to support renewable energy provision and the transition to a low carbon future. As host authorities have challenged policy compliance in relation to the acceptability of impacts, the points raised will be considered further under the relevant planning issues below.

3.2.127. In terms of site selection and alternatives, the methodology used, and reasons given for the site selection are sufficient to achieve technical compliance with the requirements of NPS EN-1 and NPS EN-3 and the EIA Regulations in this regard.

3.2.128. The absence of BESS only slightly detracts from the applicant's need case but is not necessary for the project to function. Other design choices should be subject to further approval under the requirements of the dDCO.

3.2.129. Accordingly, and subject to consideration of the specific impacts of the proposed development in the remainder of this chapter, the ExA considers that the principle of the proposed development accords with local and national policy. The combination of the urgent need for the proposed development and beneficial impacts on climate change bring very great weight for the making of the order.

3.3. CULTURAL HERITAGE

INTRODUCTION

3.3.1. This section considers the effects of the proposed development in relation to designated and non-designated heritage assets. These include the World Heritage Site and Registered Park and Garden of Blenheim Palace, several Scheduled Monuments, Grade I and Grade II* listed buildings as well as Grade II listed buildings, conservation areas and other archaeological sites.

POLICY BACKGROUND

3.3.2. Section 5.9 of the Overarching National Policy Statement for Energy 2024 (NPS EN-1) relates to the historic environment. Paragraphs of particular note in relation to this application are identified below.

3.3.3. Paragraph 5.9.9 states the applicant should undertake an assessment of any likely significant heritage impacts of the proposed development and describe these along with how the mitigation hierarchy has been applied in the ES. paragraph 5.9.10 requires the level of detail provided by the applicant to be proportionate to the importance of the heritage assets and no more than is sufficient to understand the potential impact upon significance. Paragraph 5.9.12 states that the applicant should ensure that the extent of the impacts can be adequately understood from the application and supporting documents.

3.3.4. Paragraph 5.9.13 states that the applicant is encouraged, where opportunities exist, to prepare proposals which can make a positive contribution to the historic environment, and to consider how its scheme takes account of the significance of heritage assets affected. Paragraph 5.9.15 states that applicants should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance.

3.3.5. NPS EN-1 paragraph 5.9.21 states that where there is a high probability (based on an adequate assessment) that a development site may include as yet undiscovered heritage assets with archaeological interest, the SoS will consider requirements to ensure appropriate procedures are in place for the identification and treatment of such assets discovered during construction.

3.3.6. NPS EN-1 paragraph 5.9.23 states that the SoS must comply with the requirements set out in the Infrastructure Planning (Decisions) Regulations 2010. Regulation 3 requires the SoS to have regard to desirability of: preserving a listed building or its setting or any features of special architectural or historic interest which it possesses; preserving or enhancing the character or appearance of a conservation area; and preserving an affected scheduled monument or its setting.

3.3.7. Paragraph 5.9.25 states that the SoS should consider the desirability of sustaining and, where appropriate, enhancing the significance of heritage assets, the contribution of their settings and the positive contribution that their conservation can make to sustainable communities, including to their quality of life, their economic vitality, and to the public's enjoyment of these assets.

3.3.8. Paragraph 5.9.27 states that the SoS should give great weight to the conservation of designated heritage assets. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.

3.3.9. Paragraph 5.9.28 states that the SoS should give considerable importance and weight to the desirability of preserving all heritage assets and that any harm or loss of significance of a designated heritage asset, including development within its setting, should require clear and convincing justification.

3.3.10. Paragraph 5.9.36 states that when considering applications for development affecting the setting of a designated heritage asset, the SoS should give appropriate weight to the desirability of preserving the setting of such assets. If applications do not preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset, the SoS should give great weight to any negative effects when weighing them against the wider benefits of the application.

The greater the negative impact on the significance of the designated heritage asset, the greater the benefits that will be needed to justify approval.

3.3.11. The National Policy Statement for Renewable Energy Infrastructure 2024 (NPS EN-3) reflects the policies contained within EN-1. In addition, paragraph 2.10.117 states that applicants should consider what steps can be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. Paragraph 2.10.118 states that the significance of a heritage asset derives not only from its physical presence but also from its setting. Careful consideration should be given to the impact of large-scale solar farms which depending on their scale, design, and prominence, may cause substantial harm to the significance of the asset.

3.3.12. Paragraph 2.10.160 states that solar farms are generally consented on the basis that they will be time-limited in operation and that the SoS should therefore consider the length of time for which consent is sought when considering the impacts of any indirect effect on the historic environment, such as effects on the setting of designated heritage assets.

3.3.13. The National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) also provides policy on development in relation to cultural heritage. Paragraph 2.9.26 states that the SoS should only grant development consent for underground sections of a proposed line over an overhead alternative if they are satisfied that the benefits clearly outweigh any extra economic, social, or environmental impacts that it presents, the mitigation hierarchy has been followed, and that any technical obstacles associated with it are surmountable. In this context it should consider the landscape and visual baseline characteristics of the setting of the proposed route, the impact on designated heritage assets and the potentially very disruptive effects of undergrounding on archaeological and heritage assets.

3.3.14. Similar advice can be found in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).

3.3.15. The World Heritage Convention (WHC) is the international treaty signed in 1972, which created the World Heritage Sites. Its primary goals are nature conservation and the preservation and security of cultural properties. An international treaty has no legal effect in domestic law unless it has been implemented by domestic legislation, which is not the case with the WHC. Inscription of a World Heritage Site (WHS) by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) brings no additional statutory controls, but protection is afforded through the domestic planning system. The UK has taken the steps required by Articles 4 and 5 of the WHC by putting in place the UK legal and policy framework in connection with the assessment and consideration of harm to heritage assets through the suite of NPSs and the NPPF. The protection and conservation of WHSs is thereby integrated into the UK planning system for nationally significant infrastructure project (NSIP) applications.

3.3.16. Local Impact Reports (LIR) were submitted by Oxfordshire County Council (OCC) [REP1-070], and Cherwell District Council (CDC) [REP1-052]. In addition, a joint LIR by OCC, CDC, West Oxfordshire District Council (WODC) and Vale of White Horse District Council (VWHDC) was submitted [REP1-072] under the title of the Oxfordshire Host Authorities (OHA). These refer to various development plan policies relevant to the Historic Environment.

THE APPLICATION

3.3.17. The applicant's assessment of cultural heritage matters is primarily contained within chapter 7 of the Environmental Statement (ES) [APP-044] along with several supporting figures and appendices. These are listed in Appendix A of this report.

3.3.18. For the purposes of the Environmental Impact Assessment (EIA), any effects with a significance level of minor or less were not considered to be significant.

Baseline and Methodology

3.3.19. For all types of designated heritage assets, the study area extended 2 km from the edge of the Order limits for the proposed development. Designated heritage assets beyond the 2 km study area were included within the assessment where they fell within the Zone of Theoretical Visibility (ZTV) established for the proposed development, where they had designed views towards the proposed development, or where it was considered that they had a particular iconic status that may be affected by the proposed development.

3.3.20. For all types of non-designated heritage assets (NDHA), the study area extended 1 km from the boundaries of the Northern, Central and Southern site areas where the cable routes were within this limit. Where the cable fell outside the 1 km study area, a 500 m study area from the Order limits was used.

3.3.21. Appendix 7.1 of the applicant's ES [APP-131] provided the Historic Environment Desk Based Assessment (DBA) which sets out the baseline of known heritage assets (HA), both above and below ground.

3.3.22. A total of 773 heritage assets (HA) were identified within the study area, comprising:

- 1 World Heritage Site (WHS)
- 20 Scheduled Monuments (SM)
- 1 Grade I Registered Park and Garden (RPG)
- 1 Grade II* Registered Park and Garden
- 1 Grade II Registered Park and Garden
- 10 Grade I Listed Buildings (LB)
- 25 Grade II* Listed Buildings
- 570 Grade II Listed Buildings
- 13 Conservation Areas (CA)
- 93 above and below ground Non-Designated Heritage Assets (NDHA)
- 38 points of potential archaeological interest identified by LiDAR or aerial photography

3.3.23. From this total, 37 individual assets were scoped in for further assessment of their settings and significance, which was provided primarily in ES appendix 7.5 [APP-142]. These individual assets comprised:

- 1 World Heritage Site*

- 3 Scheduled Monuments
- 1 Grade I Registered Park and Garden
- 2 Grade I Listed Buildings
- 3 Grade II* Listed Buildings
- 21 Grade II Listed Buildings
- 5 Conservation Areas
- 1 Non-designated Heritage Asset

*The assessment of the WHS was dealt with separately in ES appendix 7.4; Heritage Impact Assessment (HIA) [APP-141].

3.3.24. The Settings Assessment [APP-142] sought to follow the guidance within the Historic England (HE) publication 'The Setting of Heritage Assets, 2017', which advises a five-step approach to dealing with the issue of identifying setting and its contribution to the significance of a HA:

- Identify which heritage assets may be affected.
- Assess the degree to which the settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated.
- Assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it.
- Explore ways to maximise enhancement and avoid or minimise harm.
- Make and document the decision and monitor outcomes.

3.3.25. In addition, the HIA [APP-141] sought to follow guidance for the assessment of the WHS found in the Guidance and Toolkit for Impact Assessments in a World Heritage Context (2022), produced jointly by UNESCO, the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), the International Council on Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature (IUCN).

3.3.26. This document sets out a series of actions to be taken to evaluate the WHS and its setting, summarised as:

- establish the baseline –the World Heritage property's Outstanding Universal Value (OUV), its Attributes and setting, for example
- describe the proposed development and alternatives
- identify and predict any impacts
- evaluate these impacts
- consider mitigation and enhancements.

Construction Phase Effects

3.3.27. The ES Settings Assessment [APP-142] table 1.3 identified no significant residual effects on any of the designated or non-designated HA.

3.3.28. The ES HIA [APP-141] table 1.2, identified minor negative impacts on one of the defined Attributes that contribute towards the OUV of the WHS.

3.3.29. The Attribute defined as potentially being affected by the proposed development was Attribute 7:

> "*The park retains a complete, 18th century enclosing stone wall which protects its integrity, but views into and out of the site still provide key linkages between Blenheim and the traditional English countryside and villages surrounding it".*

3.3.30. The minor negative impacts on this attribute during construction were identified for the following elements of the proposed development:

- The construction of solar panels with a maximum height of 2.3m.
- The construction of Power Converter Stations (PCS) with a maximum height of 3.5m, maximum length of 14 m and maximum width of 2.9m.
- The construction of onsite cabling (33kV and 275kV).
- The construction of Secondary Project Substations with a maximum height of 6m (including isolator), maximum length of 18m and maximum width of 10m.
- The construction of security fencing with a maximum height of 2.1m.
- The construction of Closed-Circuit Television (CCTV) cameras on support poles maximum 4m high.
- The construction of manually operated lighting and motion sensor activated lighting.
- The establishment and use of temporary construction compounds and temporary satellite construction compounds.

Operational Phase Effects

3.3.31. The ES Settings Assessment [APP-142] Table 1.3 identified no significant residual effects on any of the designated and non-designated HA.

3.3.32. The ES HIA [APP-141] Table 1.2, identified minor negative impacts on attribute 7 of the defined attributes that contribute towards the OUV of the WHS.

3.3.33. The minor negative impacts on this attribute during the operational phase were identified for the following elements of the proposed development:

- The operation and maintenance of solar panels.
- The operation and maintenance of PCS.
- The operation and maintenance of Secondary Project Substations.
- The operation and maintenance of security fencing.
- The operation and maintenance of CCTV cameras.
- The operation and maintenance of manually operated lighting and motion sensor activated lighting.

Decommissioning Phase Effects

3.3.34. The ES Settings Assessment [APP-142] table 1.3 identified no significant residual effects on any on the designated or non-designated HA. An Outline Decommissioning Plan (ODP) would be adopted to minimise negative effects.

3.3.35. The ES HIA [APP-141] table 1.2 identified that the decommissioning of the proposed development would have a minor positive impact on attribute 7 of the defined attributes that contribute towards the OUV. This is because decommissioning would "mostly be positive in gradually restoring the land to agricultural use and therefore enhancing the experience of the land as 'traditional English countryside.'

3.3.36. The overall conclusions from section 1.10 of the Settings Assessment [APP-142] concluded:

- There would be no significant effects arising from the Project during the construction, operation and maintenance or decommissioning phases.
- Long-term effects of minor adverse significance would occur in respect of three Scheduled Monuments, one Grade I Registered Park and Garden, two Grade I listed buildings, two Grade II* listed buildings, eleven Grade II listed buildings four Conservation Areas and one non-designated historic building.
- Long-term effects of negligible adverse significance would occur in respect of one Grade II listed building and one Conservation Area.
- All effects would be fully reversible.

ISSUES CONSIDERED DURING THE EXAMINATION

3.3.37. Over 270 relevant representations (RR) provided comment in respect of the possible impacts on one or more elements of cultural heritage. Having taken these into account, alongside the submitted application documents, the ExA considered that cultural heritage should be one of the principal issues for the examination [PD-006].

3.3.38. The matters included in the initial assessment of principal issues (IAPI) were noted as, but were not limited to:

- Effects of the proposed development on the World Heritage Site and its elements of Outstanding Universal Value.
- Effects upon known and unknown archaeology.
- Effects on heritage assets (Designated and Non-designated) and their visual and functional settings.

3.3.39. All of these issues remained during the examination and in addition, concerns regarding the methodology and approach were raised early on and remained through the examination period.

3.3.40. These issues are discussed below.

Robustness of Approach to Methodology

3.3.41. In their LIR [REP1-072], the OHA concluded that the applicant had underplayed the effects of the proposed development in the HIA and the ES for all heritage assets

including the Blenheim Palace World Heritage Site [APP-044] [APP-141] [APP-142]. Paragraph 7.2.90 confirms that OHA appointed an external consultant to review the ES chapter 7, Historic Environment and at paragraph 7.2.91, the OHA report states: *"The overall conclusion of the review indicates that the contribution of setting to the heritage assets' significance, and the contribution of the proposed development site to their setting, have been underplayed. There are methodological issues with the assessment, alongside the unsupported importance of views. Consequently, it is difficult to understand the impact and effects of the development upon the historic environment based on the current assessment."*

3.3.42. This matter was also raised by Historic England in its RR [RR-0389] in which it notes at paragraph 1.16 (e), in relation to ES appendix 7.5, Settings Assessment: *"The conclusions drawn around the magnitude of impact in relation to the highly designated heritage assets appear to have been downplayed in our view and we recommend the applicant reconsiders or provides further clarity over these conclusions.*"

3.3.43. The applicant's methodology was also raised by The Gardens Trust in its RR [RR-1051], which used words such as "oversimplified" "undervalued" and "underplayed" in relation to assessments within the application documentation. They also raised the fact that the HIA [APP-142] was not produced during the early design stages of the proposed development, which is best practice for ensuring an iterative process of project development.

3.3.44. A significant number of IPs raised heritage concerns as a principal issue considering, amongst many other points, that the applicant had not given due weighting or value to any of the heritage assets present, failing to recognise how the setting of certain significant assets were appreciated (for example [RR-0983] [RR-1007] [RR-1050] [RR-1110]).

3.3.45. Questions of the applicant were posed in issue-specific hearing 1 (ISH1) [EV5-002] [EV5-004] and first written questions (ExQ1) [PD-008] regarding this. In response, the applicant submitted the WHS Management Plan (including Appendix 3, settings assessment), ICOMOS Guidance Toolkit and several Conservation Area Appraisals into the examination ([REP1-033] to [REP1-043]). The applicant reiterated that the settings assessments undertaken had focused mainly on visual aspects and intervisibility [REP1-019]. Historic context was addressed through mapping in a desk-based assessment with visibility being the main factor for determining significance. The applicant continued that: *"minor adverse effects are not significant in EIA terms, and the Applicant does not expect to identify any moderate adverse effects."* The applicant noted that Historic England disagrees with some assessments but still considers the harm to be less than substantial. It explained that under national policy, less than substantial harm must be weighed against the public benefits of the scheme.

3.3.46. A revised settings assessment was submitted at DL2 [REP2-014], although the conclusions remained the same insofar as:

- There would be no significant effects arising from the proposed development during the construction, operation and maintenance or decommissioning phases.
- Long-term effects of minor adverse significance would occur in respect of three Scheduled Monuments, one Grade I Registered Park and Garden, two Grade I

listed buildings, two Grade II* listed buildings, eleven Grade II listed buildings four Conservation Areas and one non-designated historic building.

- Long-term effects of negligible adverse significance would occur in respect of one Grade II listed building and one Conservation Area.
- No additional mitigation is required.

3.3.47. However, HE and ICOMOS-UK provided significant representations to the early part of the examination [RR-0413], [REP1-085], [REP1-086], [REP1-103], [REP2-056], [REP2-069] to [REP2-074] pointing out perceived methodological flaws in the applicant's approach and calling for reductions in the extent of solar panels across the proposed development.

3.3.48. ICOMOS International (hereon in referred to as ICOMOS) provided three separate Technical Reviews via HE, as the State Party Representative [RR-0398], [REP4-052] and [REP7-117].

3.3.49. In the first Technical Review (TR) [RR-0398] appendix 1, ICOMOS considers that the possible impact of the project on the setting of the property has not been fully investigated. The second and third TR were submitted after change request 2 and are discussed later in this section.

3.3.50. The applicant updated their position, submitting change request 2 [CR2-001] to [CR2-073] within which:

- 31ha of land at Bladon, adjacent to Blenheim Palace WHS, was removed from the Order limits.
- 17.6ha of land to the east of Bladon was repurposed from solar installation to biodiversity net gain land.
- Further land reductions and refinements across the proposed development.

3.3.51. A revised HIA was received focusing on the impacts on the WHS [CR2-036]. This is considered in greater depth below. The Historic Environment chapter of the ES was also revised [CR2-019] but only amended conclusions insofar as claiming 'no change' to the WHS and negligible adverse impacts on the Bladon Conservation Area. All other aspects of the conclusions remained the same. The applicant also stated that reductions in the Order limits demonstrated continued application of the mitigation hierarchy.

3.3.52. At the end of the examination, the applicant submitted that even if there were any effects, the harm would be less than substantial in all cases and that NPS EN-3 allows such harm by saying at paragraph 2.10.160: *"Solar farms are generally consented on the basis that they will be time-limited in operation. The Secretary of State should therefore consider the length of time for which consent is sought when considering the impacts of any indirect effect on the historic environment, such as effects on the setting of designated heritage assets."* [REP8-001], para 3.3.9.

3.3.53. HE concluded that, for Grade 1 and Grade II* listed assets, the impacts adjudged by the applicant were less than what HE considered would occur [REP7-118], with HE attributing greater levels of harm to the settings of the assets.

3.3.54. The ICOMOS third TR [REP7-117] noted that a detailed landscape-led setting study was requested of the applicant during the pre-application stage (January 2024) to help understand the setting of the WHS. However, the applicant had ignored the

advice and the approach had not been followed, leaving it difficult to define what comprises the setting of the WHS. ICOMOS had earlier stated that the HIA fell short of required standard and remains narrowly focused on visual impacts [REP4-052]: *"Crucially, the Heritage Impact Assessment does not explore the wider setting in terms of land use, spatial organization, approach routes, or cultural associations. The continued absence of a Landscape Character Assessment, as recommended by ICOMOS, represents a major methodological omission. Additionally, the assessment fails to address cumulative impacts of development in the area or consider alternatives to minimize potential harm."*

3.3.55. IPs equally remained opposed at the end of the examination, citing methods and approach as one of the reasons, for example [REP7-058] [REP7-191] [REP7-221].

ExA Considerations

3.3.56. The ExA recognises that a heritage asset's significance is derived from many contributing factors such as evidential, historical, aesthetic and communal values. This can include the architectural or artistic aspects, as well as cultural significance and how it is experienced by the community.

3.3.57. Whilst not a formal heritage value, the setting of a heritage asset can contribute to the significance of a heritage asset, or to the ability to appreciate that significance. This contribution can be either positive, neutral or negative and can change over time.

3.3.58. The Historic England Good Practice Advice in Planning Note 3 "The Setting of Heritage Assets", provides the following definition and description for the assessment of setting.:

> *Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.*
>
> *The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.*
>
> *The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.*

3.3.59. The applicant, by its own admission, has focused primarily on visual aspects and intervisibility as being the principal determining factor for the contribution of the setting to significance. As highlighted by ICOMOS, this represents a significant methodological flaw. The ExA agrees that this is a failing and considers that the narrow focus of the applicant has overlooked the historical and cultural significance of many assets (not just the WHS) and the settings those assets enjoy.

3.3.60. ICOMOS' position on the assessment of the WHS is clear that the applicant was advised to do constructive work in the pre-application stage to help prepare the case, but the applicant did not undertake the work. Again, the ExA note that the applicant's position is weakened by this lack of thorough study and evidence.

3.3.61. The applicant has, in the ExA's opinion, placed great reliance on the argument that less than substantial harm would be judged against public benefits and this approach appears to have overshadowed and impaired a thorough and objective assessment of the harms. The fact that many IPs, including HE, ICOMOS and the OHA all take the same view to the methodology strongly suggests that the applicant's position is not robust or justified. The ExA disagrees that the applicant has, in its words, "continued to apply the mitigation hierarchy", when it has been forced into making changes to the proposal by IPs and consultees because its position became untenable.

3.3.62. Whether or not the proposal causes less than substantial harm to any HA will be considered in the paragraphs below. However, for the purposes of this section, the ExA concludes that there are fundamental flaws in the applicant's methodology that undermine the robustness of the conclusions drawn in each of the studies provided.

World Heritage Site

Background

3.3.63. The WHS potentially affected by this development is the Blenheim Palace WHS. It was inscribed by UNESCO on the World Heritage List in 1987. The boundary of the Blenheim Palace Registered Park and Garden (RPG) (Grade I) is almost contiguous with the WHS boundary and the WHS contains numerous listed buildings including six at Grade I (including Blenheim Palace), five at Grade II* and 25 at Grade II. It also contains five scheduled monuments. The ensemble of the Palace with its designed landscape and stone wall boundary are inextricably linked and, as an entity, form a pre-eminent feature in the landscape.

3.3.64. The following table indicates the individual assets within the WHS, their Grade and an indication of whether their settings are fully contained within the boundary of the WHS or are separately assessed in this report.

3.3.65. Where it is indicated that the setting is not fully contained within the WHS, but the proposed development is not within the setting, this assessment has been made on the basis of the ExA's review of the evidence, supplemented by site inspections.

3.3.66. Other than the Park Wall, all of the structures below were indicated in annex A of the ES Settings Assessment [APP-142]. Annex A is a scoping exercise for further assessment and covered all HAs within the study area. The ExA agrees with the scoping decisions made.

Table 1- Heritage Assets within the WHS

Name of Asset	Grade (Gd)	Is the setting fully contained within WHS?
Blenheim Palace	Gd I RPG	No - Included in text below

Name of Asset	Grade (Gd)	Is the setting fully contained within WHS?
Blenheim Palace	Gd I LB	No - Included in text below
80m section of Grim's Ditch southwest of the Ditchley Gate	SM	No – but proposed development not within setting
Sections of the Oxfordshire Grim's Ditch and a section of Akeman Street, Roman road immediately south of North Lodge	SM	Yes
A bowl barrow 350m southwest of Furze Platt Farm	SM	Yes
Ten medieval pillow mounds and part of an associated enclosure 300m northwest of Combe Lodge;	SM	Yes
Earthwork 300m southwest of Rosamund's Well	SM	Yes
Woodstock Gate	Gd I LB	No – but proposed development not within setting
Hensington Gate	Gd I LB	No – but proposed development not within setting
New Bridge	Gd I LB	Yes
Grand Bridge	Gd I LB	Yes
Bernini Fountain in the Water Terraces	Gd I LB	Yes
High Lodge and attached Walls in High Park	Gd II* LB	Yes
Temple of Diana	Gd II* LB	Yes

Name of Asset	Grade (Gd)	Is the setting fully contained within WHS?
Temple of Health	Gd II* LB	Yes
Statue of Knife-grinder in Pleasure Gardens	Gd II* LB	Yes
Statue of Wrestlers	Gd II* LB	Yes
Column of Victory	Gd II LB	No - included in text below
Sundial in front of Bothy Cottage	Gd II LB	Yes
Sundial near Italian garden	Gd II LB	Yes
Statue of the Four Putti at the Exedera	Gd II LB	Yes
Statue of Hermes in the Walled Garden	Gd II LB	Yes
Urn in the Pleasure Grounds	Gd II LB	Yes
Central Fountain in the Italian Garden	Gd II LB	Yes
Steps to the east of the Italian Garden	Gd II LB	Yes
Steps to the NW corner of the Italian Garden	Gd II LB	Yes
Steps to the SW corner of the Italian Garden	Gd II LB	Yes
Statuary group in the centre of the Rose Garden	Gd II LB	Yes
Water Terraces	Gd II LB	Yes
Grotto	Gd II LB	Yes
Kitchen garden wall	Gd II LB	Yes

Name of Asset	Grade (Gd)	Is the setting fully contained within WHS?
Wall attached to and east of Woodstock Gate	Gd II LB	No – but proposed development not within setting
Walls attached to and north of Woodstock Gate	Gd II LB	No – but proposed development not within setting
Woodstock Lodge	Gd II LB	No – but proposed development not within setting
China Corner	Gd II LB	No – but proposed development not within setting
Ditchley Lodge	Gd II LB	No – but proposed development not within setting
Ditchley Gate	Gd II LB	No – but proposed development not within setting
Park Farm buildings & Nos. 1 & 2 Park Farm Cottages	Gd II LB	Yes
Fishery Cottage (significantly damaged by fire in November 2016)	Gd II LB	Yes
Hensington Lodge	Gd II LB	No – but proposed development not within setting
Swiss Bridge	Gd II LB	Yes
The Cowyards & Cowyards Cottage	Gd II LB	Yes
Park Walls	Gd II LB	No - Included in text below

3.3.67. Blenheim Palace was conceived as a public memorial in gratitude to John Churchill, Duke of Marlborough, following his victory over the French army at Blenheim in 1704. Designed by John Vanbrugh in the Oxfordshire countryside, the house is one

of the finest examples of English Baroque architecture and is set within a large 18th century landscape laid out originally by Henry Wise and Vanbrugh. Mid-18th century alterations by Lancelot Brown are acknowledged as one of the best examples of a naturalistic landscape design for which Brown was best known.

3.3.68. UNESCO considers a property to have Outstanding Universal Value (OUV) if it meets one or more of ten criteria and meets the necessary conditions for integrity and/or authenticity and has an adequate protection and management system. The inscription criteria are included in the Statement of Outstanding Universal Value (SoOUV), which was formally adopted by the World Heritage Committee in 2013.

3.3.69. The approved text from the SoOUV is as follows:

Statement of Outstanding Universal Value

The design and building of the Palace between 1705 and 1722 represented the beginning of a new style of architecture and its landscaped Park, designed by Lancelot 'Capability' Brown, is considered ''a naturalistic Versailles''.

In tangible form Blenheim is an outstanding example of the work of John Vanbrugh and Nicholas Hawksmoor, two of England's most notable architects. It represents a unique architectural achievement celebrating the triumph of the English armies over the French, and the Palace and its associated Park have exerted great influence on the English Romantic movement which was characterised by the eclecticism of its inspiration, its return to national sources and its love of nature. The original landscape set out by John Vanbrugh, who regulated the course of the River Glyme, was later modified by Lancelot 'Capability' Brown who created two lakes, seen as one of the greatest examples of naturalistic landscape design.

Blenheim Palace was built by the nation to honour one of its heroes John Churchill, the first Duke of Marlborough, and is also closely associated with Sir Winston Churchill.

Criterion (ii): By their refusal of the French models of classicism, the Palace and Park illustrate the beginnings of the English Romantic movement which was characterised by the eclecticism of its inspiration, its return to national sources and its love of nature. The influence of Blenheim on the architecture and organisation of space in the 18th and 19th centuries was greatly felt in both England and abroad.

Criterion (iv): Built by the nation to honour one of its heroes, Blenheim is, above all, the home of an English aristocrat, the 1st Duke of Marlborough, who was also Prince of the Germanic Holy Roman Empire, as we are reminded in the decoration of the Great Drawing Room by Louis Laguerre (1719-20).

In virtue of this criterion, just like the Residence of Wurzburg (included in 1981) and the Castles of Augustusburg and Falkenlust in Brühl (included in 1984), Blenheim is typical of 18th century European princely residences, a category which is still under-represented on the World Heritage List.

Integrity

The property is enclosed by an 18th century dry stone wall which defines its extent and maintains its physical integrity. Within the wall, the layout of the principal buildings remains unaltered since their construction, and the overall structure of the landscaped park layout remains largely as set out by Vanbrugh and Brown. The

buildings and Park were laid out over an earlier Roman and medieval landscape, remnants of which are still visible through the Vanbrugh and Brown landscapes. Changes to the landscape and building by their owners have continued to the present day although these have not detracted from the Outstanding Universal Value of the property.

The Park contains important veteran trees. Disease and time have caused some loss of original tree specimens, but these have been replanted with the same species where possible and appropriate. Because of climate change and the greater incidence of drought, adjustments have to be made to the mix of species used in conserving the park landscape. The integrity of the property is well protected by its enclosing wall but important visual links do exist between the gates, the parkland buildings, buildings in the surrounding landscape, and care needs to be taken to ensure these key visual links are protected.

Authenticity

The overall relationship between the Baroque Palace and its Park is still clearly in place and the Outstanding Universal Value of the property can be readily understood despite the early 20th century changes to the landscape. The form and design of the Palace and Park survive well and there is a high degree of survival of fabric and indeed original fittings and furnishings.

Protection and management requirements

The UK Government protects World Heritage Sites in two ways. Firstly, individual buildings, monuments, gardens and landscapes are designated under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the 1979 Ancient Monuments and Archaeological Areas Act and secondly, through the UK Spatial Planning system under the provision of the Town and Country Planning Acts.

Government guidance on protecting the Historic Environment and World Heritage is set out in the National Planning Policy Framework and Circular 07/09 (subsequently withdrawn and replaced by the web-based Planning Practice Guidance).

Policies to protect, promote, conserve and enhance World Heritage properties, their settings and buffer zones are also found in statutory planning documents. World Heritage status is a key material consideration when planning applications are considered by the Local Authority planning authority. The West Oxfordshire Local Plan contains policies to protect the property.

The property as a whole is designated as a Grade I registered park and garden and was given National Heritage tax exemption status in 1999 in recognition of its important architecture, its outstanding scenic, historic landscape, and the outstanding importance of the buildings' contents and their intimate association with the property. Forty-five key buildings on the site are Grade I and Grade II Listed Buildings, with the park wall designated Grade II. There are five scheduled ancient monuments within the Park. The lakes and High Park are designated as Sites of Special Scientific Interest (SSSI) and the ancient woodland and hedgerows are both protected. Part of the setting of the property is within the Conservation Areas of Woodstock and Bladon and part is in the Cotswolds' Area of Outstanding Natural Beauty.*

A Management Plan has been in place since 2006 and is monitored on an annual basis by a Steering Group which includes representatives from English Heritage

(now Historic England), ICOMOS-UK, DCMS, Natural England, the County Council and the local planning authority. Relevant Management Plan policies carry weight in the planning system. There is a comprehensive and successful visitor management plan. The Steering Group is coordinated by the Blenheim Palace and Estate Chief Executive who has responsibility for implementing the Management Plan Action Plan.

There is an ongoing programme of repair and regular maintenance of the buildings and structures. Recent work has included the strengthening and reinstatement of the Blenheim Dam during 2009 to comply with safety legislation.

The Park is open through the year and the Palace and Formal Gardens are open from mid-February to mid-December each year. The property has a long tradition of public access (going back to at least Easter 1950) and it provides the setting for informal recreation as well as a series of activities including sporting events, craft and country fairs, and entertainment events such as music concerts and historical re-enactments. The property also offers a high quality resource for a variety of educational uses.

Firm implementation of existing policies is important to provide effective protection of the setting of the World Heritage property and it will be important to ensure that management of the Park prioritises conservation of the elements of the landscape that reflect the work of Vanbrugh and Brown.

The Steering Group meets annually to monitor progress and implementation with regard to the 33 stated objectives in the Management Plan and to check awareness with regard to risk preparedness and to monitor any issues regarding the integrity of the property – particularly with regard to the continuous monitoring of the key visual links.

3.3.70. Alongside the OUV of a WHS, a set of Attributes are identified. The definition of Attributes is taken from the Operational Guidelines for the Implementation of the World Heritage Convention (UNESCO, 16 July 2025) (OG) as: "*Attributes convey the potential Outstanding Universal Value and enable an understanding of that value. These attributes will be the focus of protection and management actions, and institutional arrangements, and their spatial distribution and respective protection requirements will inform the boundary of the property. Attributes can be physical qualities or fabric, but can also include processes, associated with a property, that impact on physical qualities, such as natural or agricultural processes, social arrangements or cultural practices that have shaped distinctive landscapes."*

3.3.71. There are seven attributes identified for the Blenheim Place WHS and these are listed in table A7 of appendix A to this report.

3.3.72. The World Heritage Site Management Plan Review (WHS Management Plan) was in 2017 [REP1-036]. The WHS Management Plan was coordinated by the Blenheim Palace WHS Steering Group comprising representatives from the Blenheim Palace senior management team, the Department of Culture Media and Sport, Historic England, ICOMOS-UK (the UK National Committee of the International Council on Monuments and Sites), Natural England, Oxfordshire County Council and West Oxfordshire District Council. It was supported by 5 appendices, with appendix 3 being the Settings Study [REP1-037], which is most relevant to this application. This appendix provides information regarding the immediate and wider setting of the WHS and the ways in which this setting contributes to the OUV.

Application documentation

3.3.73. The initial HIA [APP-141] claimed to follow the guidance found in the 2022 document "*Guidance and Toolkit for Impact Assessments in a World Heritage Context*" that was produced jointly by UNESCO, ICCROM, ICOMOS and the IUCN [REP1-041]. This guidance provides a framework in which impact assessments can be undertaken with regard to proposed developments within and adjacent to World Heritage Sites and sets out a series of actions, as noted in paragraph 3.3.26 above.

3.3.74. For an understanding of the significance and setting of the WHS, the HIA relied on the WHS Management Plan, in particular the settings study in appendix 3 and did not undertake any independent assessment of the significance or setting of the WHS, specifically in relation to the proposed development. The applicant concluded that only attribute 7 (*The park retains a complete, 18th century enclosing stone wall which protects its integrity, but views into and out of the site still provide key linkages between Blenheim and the traditional English countryside and villages surrounding it*) would be impacted by the proposed development in the following way (table 1.2 [APP-141]):

- Construction - Minor negative impacts.
- Operation and Maintenance - Minor negative impacts.
- Decommissioning - Minor positive impacts.

3.3.75. Benefits of the proposed development were listed as combatting the effects of climate change, the cessation of arable farming providing opportunity for the soil structure and quality to improve and an increase of revenue for the maintenance of the Blenheim Estate.

3.3.76. The summary conclusions were that the construction, operation and maintenance, and decommissioning of the proposal would result in a minor negative impact on one of the defined attributes which contribute towards the OUV of the WHS. This impact would arise from the visual change within the 'traditional English countryside' which forms the setting of the Blenheim Palace WHS. The conclusions go on to say that the change is time-limited and fully reversible, and in terms of government policy the change is regarded as temporary should be considered alongside the benefits of the Botley West Solar Farm.

Examination matters

3.3.77. ICOMOS was first consulted at the pre-application stage and submitted a TR in February 2024. This was submitted into the application as appendix 1 to the HE RR [RR-0398]. In this document, ICOMOS suggested that a project-specific setting study, based on a Landscape Character Assessment, was needed to facilitate an understanding of the consequences of the proposed development on the OUV of the Blenheim Palace World Heritage property. This was because it felt that the existing setting study (appendix 3 of the WHS Management Plan) was insufficient to provide the framework necessary for assessing precisely the potential impact of such an extensive solar farm on the OUV, where elements might or might not be acceptable.

3.3.78. ICOMOS did not agree that, as stated in the initial HIA, the overall character of the historic landscape could be typified as generally of low quality, or that the installation of the proposed development (that would transform of over 1000 ha of land, install over 100km of 2.1m high fences, for a period of around 40 years, in the

wider setting of the WHS) could be described as minor adverse. ICOMOS considered that both the historical legibility and perception of the property may be dramatically altered through the conversion of the predominantly rural wider setting of the property to effectively a semi-industrial landscape.

3.3.79. In the conclusion of the first technical review, ICOMOS advised that it considered that the proposal would likely have an adverse impact on the OUV of the WHS and advised that the applicant consider alternative locations to avoid these negative impacts.

3.3.80. Prior to CR2, at deadline 1 (DL1) the OHA provided their LIR [REP1-072]. In paragraph 7.2.35 they state that while it is welcomed that the applicant has provided baseline information on, and an assessment of effects on, historic landscapes, this is largely divorced from any consideration of the rest of the historic environment. They go on to note that this is particularly apparent with the open agricultural landscapes that form the setting of the Blenheim Palace WHS and Registered Park and Garden. This provides important context for the designed landscape and was part of the source of the wealth of successive Dukes that contributed to the development of the landscape park and is indivisible from its significance, including through its contribution to the settings of these assets.

3.3.81. Paragraph 7.2.35 [REP1-072] advises the applicant to revisit the consideration of historic landscape and make greater use of the evidence available to better understand the contribution of historic landscapes to the significance and OUV of Blenheim and better articulate how the proposed development would change this. It concludes that the assessment of 'minor adverse' impacts to the historic landscape would not appear to do justice to the extent or totality of change within areas of historic character.

3.3.82. Historic England's (HE) DL1 response [REP1-086] identified that the submitted HIA had not responded to the ICOMOS First Technical Review [RR-0398]. At paragraphs 5.12 and 5.13, HE stated that whilst attribute 7 specifically mentioned the visual relationship with the Blenheim's setting, attributes 1, 4, and 5 also conveyed some associative values that could be drawn from this setting.

3.3.83. HE went on at para 5.27 to explain: "*The landscape character around the WHS not only adds to the visual appeal one would expect around a stately home but also contributes to an understanding of how the Blenheim Estate functioned, and thus contributes to its historic value…….*"

3.3.84. HE suggests in paragraph 5.42 that the appearance of large-scale solar arrays in field numbers 2.1, 2.2, 2.5, and 2.20-2.26 would change the character of the landscape within which the OUV of the WHS, and the ensemble of the RPG and Palace, would be experienced. It is noted that the HE RR [RR-0398] previously suggested removal of panels from these same fields.

3.3.85. HE concludes that while the harm would not be substantial in NPS terms, as heritage assets of international and exceptional national significance, any harm to the OUV of Blenheim Palace WHS should attract particularly great weight in the planning balance and every effort should be taken to avoid any harm. If this is not possible, harm should be minimised in accordance with NPS EN-1. It further suggests that removing panels from the fields identified could avoid much of the harm to the WHS.

3.3.86. In its RR, ICOMOS-UK [RR-0413] stated that it did not consider that the proposals would have a direct impact on the OUV of Blenheim Palace and Park WHS, or it's setting as identified by the map on page 50 of Appendix 3 of the WHS Management Plan. However, the ICOMOS-UK RR did identify areas that could be omitted from the proposal to better support the wider landscape setting of both the WHS and surrounding villages. This was in written form in the RR and plan form at DL1 [REP1-103]

3.3.87. At DL1 several IPs commented on the assessment of potential impacts on the setting of the WHS and questioned the applicant's assessment and findings provided in the HIA [APP-141]. These IP comments, including but not limited to [REP1-114], [REP1-141] and [REP1-185] concluded overall that the applicant had consistently understated the impact of the scheme.

3.3.88. At first written questions (EXQ1, 1.6.12 and 1.6.13), [PD-008] the ExA asked the applicant to comment on the omissions identified by HE and ICOMOS-UK. The applicant's response [REP2-025] was to reiterate the findings of the HIA and state that it considers the assessment robust and accurate, although it did concede that a second Change Request Notification was to be submitted at DL2 that would respond to suggested changes.

3.3.89. The applicant's response [REP2-027] to HE's DL1 submission stated that the ICOMOS Technical Review comments would be incorporated into the next iteration of the HIA and repeated that a second Change Request Notification was to be submitted at DL2 that would respond to suggested changes.

3.3.90. The applicant's response [REP2-028] to the Stop Botley West (SBW) submission (and other IPs DL1 submissions) reiterates the findings of the HIA and states that it considers the assessment robust and accurate.

Change Request 2 (CR2)

3.3.91. Following a period of consultation, CR2 was accepted into the examination on 23 September [PD-016a]. It contained an evaluative report [CR2-073], a consultation report [CR2-072] and, relating to the WHS, an updated HIA (Rev 1) [CR2-036].

3.3.92. CR2 comprised a number of proposed changes, but relating to the setting of the WHS was Change 1:

> *"Reduction in Order limits boundary to reduce the solar installation area south-west of Bladon and removal of solar arrays on land south-east of Bladon and north of Heath Lane."*

3.3.93. The accompanying note ([CR2-073] paragraph 2.4.3) stated:

> *"The primary purpose of this proposed change is to protect the setting of the Blenheim Palace World Heritage Site, in response to feedback received from Interested Parties including Historic England."*

3.3.94. The CR2 submissions were discussed at issue-specific hearing 2 (ISH2) [EV7-007], which was followed up with a Rule 17 letter [PD-017] that asked questions that were not covered at ISH2.

3.3.95. The applicant's findings of minor negative harm to attribute 7 from some elements of construction and operation remained unchanged from the initial report.

3.3.96. The summary and assessment of harm to the OUV in section 1.6 of the HIA [CR2-026] related the minor negative impacts on attribute 7 back to the criteria against which the WHS was inscribed and the qualifying conditions of the OUV (its integrity and authenticity), without drawing any further assessment from that exercise.

3.3.97. Paragraph 1.6.6 of the HIA concludes

> "*The Heritage Impact Assessment has identified that there would be visual change within the setting of the Blenheim Palace WHS. However, this change would not occur within any the 'key visual links' identified as part of the integrity which contributes to the OUV, but within the wider setting of the WHS. The establishment of a greater buffer zone between the areas of solar pv panels and the WHS as set out in the amended design of the Project ensures that the proposed development would not result in any harm to the OUV of the WHS."*

3.3.98. A submission was made by tor&co, an independent planning and heritage consultancy working for the Blenheim Estate [REP5-063]. The submission covered its assessment of the contribution that setting made to the OUV of the WHS and any impacts arising from the proposals. The key elements of this submission were:

- Para 4.21 – The Operational Guidelines for the Implementation of the World Heritage Convention (UNESCO, 16 July 2025) (OG) is clear that the boundaries of a WHS '*should be drawn to incorporate all the attributes that convey the OUV and to ensure the integrity and/or authenticity of the property'* (OG para 99). Furthermore, for those properties inscribed under criteria (i) – (vi) (as is Blenheim), the boundaries are to include all those areas and attributes which are a direct tangible expression of the OUV, as well as any areas which could do so after further research (OG para 100). From these paragraphs the conclusion is drawn that the area around a WHS can therefore only provide a supporting role to OUV and that harm to OUV can only occur when a supporting element is lost or weakened. Therefore, development within the geographical setting of an WHS, but which does not support OUV cannot be harmful.
- Para 5.8 concludes on the proposed development – "*Taken together, the elements of the SoOUV therefore encapsulate the OUV of Blenheim Palace, with the statements providing support and detail to the criteria. It is clear that the inscription criteria focus exclusively on the Palace and the designed landscape. The only element within the SoOUV to refer to areas outside the Park is the statement of integrity's reference to 'important visual links'. There is no reference in the criteria or SoOUV to any other prevailing element or characteristic of the surrounding landscape being part of the OUV per se".*
- Para 5.23 – *"A generalised expression of the contribution of the surrounding landscape use and character was not specifically noted in the criteria, SoOUV and attributes, and there is no evidence to assume it was implied. This stands to reason, as it was – and indeed remains – less clear how this would reasonably be argued to contribute to the specific criteria under which the property was inscribed".*

3.3.99. The summary at section 7 concludes that tor&co had summarised the OUV of Blenheim Palace WHS and how setting contributes to it. It highlighted the need for all parties to demonstrate that for setting to be contributory, it must assist us in understanding and appreciating (i.e. experiencing) the reasons why Blenheim was inscribed as a WHS. It reminds us that those reasons reflect the rejection of French models of classicism and the beginnings of the English Romantic movement; and

that Blenheim Palace was the nation's equivalent of a European princely residence, 'built to honour one of its heroes'. It goes on to say that where any aspects of the setting around the WHS enable those specific elements to be understood and appreciated, then they will contribute to OUV. Where a setting exists that does not enable these things to be understood or appreciated, then it does not contribute to setting and the OUV cannot be harmed through change to it.

3.3.100. The document suggests that a more measured approach would demonstrate that countryside within the Order limits contributes to the OUV of Blenheim insofar as it is related to the two designed 'key visual links' between it and the WHS (as defined in the WHS Management Plan and appendix 3 Setting Study). It explains that this is because the intervisibility in these views relates specifically to designed concepts embodied in the Palace and Park as a whole in a way which is understandable and appreciable in our experience of the WHS.

3.3.101. In March 2025, HE requested an updated TR from ICOMOS following the acceptance of the proposed development into examination and with an understanding that HE had suggested removal of panels in field numbers 2.1, 2.2, 2.5, and 2.20-2.26, albeit this was yet to be confirmed through CR2. This second Technical Review was submitted into examination at DL4 [REP4-052].

3.3.102. The ICOMOS second TR [REP4-052] reiterated its concern that the current WHS Management Plan and local planning framework did not sufficiently protect the property's setting, particularly in the absence of a buffer zone. ICOMOS again recommended that no further development in the setting of Blenheim Palace be approved until a comprehensive Landscape Character Assessment was undertaken and a revised Management Plan adopted.

3.3.103. ICOMOS acknowledged the work that the applicant had done in reducing the potential impact between the PEIR in November 2023 and the ES submission in November 2024. However, ICOMOS concluded that the HIA continued to fall short of the standards set out in the 2022 *"Guidance and Toolkit for Impact Assessments in a World Heritage Context"* and remained narrowly focused on visual impacts not demonstrating a sufficient understanding of how the wider setting of Blenheim Palace supports the OUV of the property.

3.3.104. Furthermore, it stated that a lack of an independent methodology for identifying and analysing the OUV limited the depth of the impact assessment and that, crucially, the HIA did not explore the wider setting in terms of land use, spatial organization, approach routes, or cultural associations.

3.3.105. ICOMOS did not consider that the changes made by CR2 were sufficient to reduce the substantial harm the proposed development would have on the OUV, and concluded that the proposed development, both individually in combination with other proposals in the wider setting of the property, presented a significant adverse impact on the OUV of Blenheim Palace through a cumulative transformation of its wider rural setting.

3.3.106. OHA provided submissions at DL6 [REP6-117] that responded to the changes made at CR2. OHA remained of the view that there were areas of solar panels within the proposed development that would result in a negative impact on attribute 7 of the Blenheim World Heritage Site.

3.3.107. The OHA maintained their position that the applicant had taken a very narrow view on what is considered to contribute to the setting of the WHS and argued that the

rural character of the area surrounding the WHS, including parts of the Order limits, is a significant contributing factor to the setting and as such any impacts to this character should be prevented.

3.3.108. In addition, at [REP6-118], the OHA referred to their submission at [REP4-075] that provided, in plan form, an indication of the areas that they felt should be omitted from the proposed development in order to reduce the impact on the setting of the WHS. [REP6-118] provided an in-depth key to the previously submitted plans and indicated why they felt that each omission was required in relation to heritage and/or landscape and visual concerns. These two documents should be considered together.

3.3.109. In [REP6-092] HE welcomed the changes brought forward by CR2 and noted that the changes: *"appear to have minimised harm to OUV and avoided intervisibility with the WHS, broadly addressing the harm we identified in our earlier advice."*

3.3.110. However, HE continued by stating that the applicant had maintained that attribute 7 is the sole attribute that is affected by the development, whereas in its DL1 submission [REP1-086] HE highlighted that Attributes 1,4 and 5 convey associative values that can also be drawn from the contribution made by the WHS's setting. HE did not consider that the updated HIA [CR2-036] appropriately considered those attributes and the true impact of the proposed development on them had not been taken into account.

3.3.111. HE concluded that the revised development would continue to place solar panels on fields which contribute to the ability to appreciate, or to the maintenance of, the Attributes of the OUV of the WHS. It further explained that whilst panels on these fields would not harm the contribution made by those fields to the Attributes, they would nonetheless result in a change in how the land supports Blenheim.

3.3.112. ICOMOS provided a third TR at DL7 [REP7-117] and is discussed below.

3.3.113. Other IP's provided commentary on the updated HIA [CR2-036] and the outcome of ISH2 [EV7-007]. These comments, including but not limited to [REP6-072], [REP6-127], [REP6-130] and [REP6-132], continued to be concerned by the applicant's consistently narrow position that it was appropriate to only focus on visual aspects of setting in order to make an assessment as to the impact of the proposed development on the OUV of the WHS.

Compulsory Acquisition

3.3.114. Compulsory acquisition powers are being sought over the land belonging to, though volunteered by, the Blenheim Estate. The powers are within the dDCO [REP7-006] and the Lands Plans [REP7-005] as a backup/ fallback in the event that a voluntary agreement cannot be completed or if unforeseen issues arise [REP6-046]. The status of the voluntary agreement is reported in [REP7-011] as being that an option agreement had been reached, but the applicant was seeking a variation of the option agreement, and this was ongoing at close of the examination.

3.3.115. The ExA asked HE to comment on the potential harm to the WHS should the fallback position be implemented [PD-018]. HE noted that the land in question would have associative values with the WHS, particularly attribute 1 in terms of being part of a single ownership entity. Nonetheless, HE responded to say that the Outline Decommissioning Plan [REP6-036], para 2.1.1, confirmed that any land taken under compulsory acquisition would be returned to its original landowners and returned to

its original use upon decommissioning. HE had no concerns regarding the fallback scenario as a result, particularly as a voluntary agreement appeared to have been secured.

Closing positions at the end of Examination

3.3.116. At the close of examination, the final positions of the applicant, the OHA, Statutory Consultees and IPs, including the positions indicated in the statements of common ground (SoCG) are summarised below:

3.3.117. Applicant's closing statement [REP8-001].

- Reiterates that the Blenheim Estate, which is made up of various entities, owns a substantial proportion of the land to be used for the proposed development, but that no part of the proposed development landforms part of the WHS or RPG.
- States that because HE's closing statement confirms that as a result of CR2, the removal of panels has minimised harm to OUV and avoided intervisibility with the WHS, the applicant's approach to minimising harm is clear evidence of its successful application of the mitigation hierarchy.
- In relation to HE's comments on construction and decommissioning impacts, they would be minimal and are addressed in the Outline Code of Construction Practice [CR2-045]. This indicates that there is no cause for concern when considering the actual effects of the proposed development on the WHS

3.3.118. HE SOCG [REP7-037].

- In relation to ES chapter 7 and the level of harm to the significance of designated heritage assets (and recalling that HE has only considered highly graded Assets) it states: *"Insofar as these assets are concerned, all harm to their significance is less than substantial, although we differ with the applicants on the level of harm in that context".*
- In relation to the WHS assessment methodology, whilst the applicant as stated that this matter is agreed, HE state *"Whilst Historic England and the Applicant disagree on the assessment methodology to be used, both parties agree that this is a matter that the Examining Authority can come to a view on".*
- In relation to the assessment conclusion for Blenheim WHS, whilst the applicant as stated that this matter is agreed, HE state *"Whilst Historic England and the Applicant disagree on the assessment conclusions to be used, both parties agree that this is a matter that the Examining Authority can come to a view on".*
- In relation to the visibility of the proposed development from within the WHS, HE state *"We have received additional visualisations, which indicates that the solar development should not be visible from within the WHS. The Applicant has also provided further information and clarity with regards to the cable routes and lighting. As a consequence of this additional information, we are content that measures are set out in the Outline Code of Construction Practice regarding this".*

3.3.119. West Oxfordshire District Council (WODC) SOCG [REP8-005].

- In relation to the likely significance of effect on designated heritage assets (including the WHS) as a result of change within their setting, WODC do not agree with the conclusions of the applicant that found no significant effects, and consider that the applicant has played down the likely significance of impacts

arising from the proposed development. It is the view of WODC that there are residual harmful impacts that are likely to arise from the proposed development on heritage assets that are of international and national importance and that these impacts should be regarded as significant.

- The maintenance of the OUV of Blenheim Palace World Heritage Site and its setting is a key objective and therefore needs to be given particular consideration through the examination of the solar farm proposals.
- In relation to Local Plan Policy Compliance, WODC notes the following:
  - Policy EH14 – Registered Historic Parks and Gardens – Compliance agreed
  - Policy EW9 – Blenheim World Heritage Site – Compliance not agreed

3.3.120. ICOMOS Third Technical Review [REP7-117].

- Shows concern throughout their three technical reviews [RR-0398], [REP4-052], [REP7-117] about the applicant's lack of deeper investigation and assessment of the wider Blenheim Estate land and how this might help to better define the setting and its contribution to the OUV.
- Remains of the view the massive scope of the proposed development will devastate the intactness of the setting and impact adversely on Blenheim Palace's OUV.
- Sets out the meaning of the OUV and clarifies that the Palace *"was and still is more than a monument in ornamental grounds, but rather the centre of an economic and social unit that encompasses land and settlements beyond its walls."*
- Sets out the contributions that setting may make to authenticity and integrity of the OUV; one of the three key pillars of OUV.
- Sets out its view on the setting of the WHS: "*the wider estate needs to be protected as a cultural unit and protected overall as the wider setting of Blenheim. Within the estate boundary, a smaller area surrounding the palace that unites the various settlements needs to be given greater protection as the immediate setting. For both the wider and immediate setting there needs to be a clear understanding of the limits of change."*
- Considers that a detailed analysis of the setting would allow parameters to be defined to allow delineation of which areas might accommodate solar panels, in relation to the overall intactness of the estate landscape and its legibility, and thus whether a smaller and more fragmented scheme might be acceptable and could be seen to support OUV.

3.3.121. ICOMOS-UK written representation (WR) [REP1-103].

- ICOMOS-UK did not provide a final statement however its WR is useful to precis here for completeness. ICOMOS-UK considers that the proposed Botley West Solar Farm would not have a direct impact upon the OUV of Blenheim Palace and Park WHS or the setting as identified by the map 'Character of Setting of WHS' on page 50 of Appendix III of the Management Plan.
- ICOMOS-UK also provided advice on Blenheim's rural landscape surrounding the WHS and concluded that this contributed to the setting of the WHS.

ExA Considerations

3.3.122. For ease of reference, the seven Attributes under discussion here are listed in Table A7 of Appendix A to this report.

3.3.123. It is common ground between all parties and the ExA agrees that the proposed development would not directly impact on the Palace, its gardens nor the Vanbrugh/Brown landscaped park contained within the walls. The Attributes most closely associated with these elements are 2, 3 and 6.

3.3.124. All parties and the ExA agree that "setting" is not a separate value that determines the significance of a heritage asset (or OUV in the case of a WHS), but that setting can make a positive, neutral or negative contribution to the defined significance or OUV.

3.3.125. Regarding the remaining attributes 1, 4, 5 and 7, during the examination the applicant considered that only attribute 7 could be affected ([APP-141], table 1.1). because only attribute 7 is concerned with the wider setting of the WHS and attributes 1, 4 and 5 are concerned only with the WHS itself, confined by the walls of the Park.

3.3.126. Following CR2, the revised HIA [CR2-036] maintained this position and concluded that "*the impact on this single attribute has been assessed as minor negative."* (paragraph 1.4.120)

3.3.127. Following CR2, HE maintained its position [REP6-092], as set out in [REP1-086] that attributes 1, 4 and 5 still had the capacity to be affected and that they had not been fully considered through the revised HIA [CR2-036].

3.3.128. The reasons HE gave for these attributes to possibly convey associative values that can also be drawn from the contribution made by the WHS' setting were provided in [REP1-086]:

- Attribute 1 – Whilst this is principally embedded in the family being in residence at Blenheim, the way the family has influenced the evolution of the landscape and use the wider estate to support its running of the estate is relevant here.
- Attribute 4 – Whilst this relationship is focused within the parkland grounds, there are exceptions. There are designed and borrowed aspects from outside the boundary of the park that form an important part of its design. This includes the tower of St Martin's Church in Bladon, which acts as an eye catcher within the park and was used by Vanbrugh as the marker of the long north-south axis on which the park and house were laid out. Furthermore, it is from within the wider countryside landscape that the palace, its designed landscape and the stone wall boundary as a whole entity, can be seen to be the pre-eminent feature of the surrounding area.
- Attribute 5 – Whilst this is focussed on land within the WHS boundary, we note that land within the application, prior to enclosure, did form the historic eastern extent of the earlier Wychwood Forest – a landscape of ancient forest, meadows, fields and heaths. Views from the application site's fields to the southwest of the WHS look over this surviving ancient woodland, helping to illustrate the evolution and time depth of the area.

3.3.129. Differences of opinion can be seen in the responses to the application from HE, WODC, ICOMOS and ICOMOS-UK, and agreement between parties is hindered by their various approaches to a lack of a formal buffer zone in the WHS inscription.

3.3.130. Because of the absence of the landscape-led study advocated by ICOMOS at the pre-application stage, the examination as a whole, and the ExA at this stage, has been hampered in understanding the proper extent of the setting of the WHS and the degree to which attributes 1, 4, 5 and 7 are engaged outside of stone wall that surrounds the WHS. The lack of a buffer zone to the WHS has also hindered the ExA's ability to assess these matters.

3.3.131. In the SoCG between HE and the applicant [REP7-037], whilst point 4.1.7 (Assessment conclusions for Blenheim WHS) is shown as agreed, the agreement is that the two parties disagree on the assessment conclusions and have left it to the ExA to come to a view.

3.3.132. The ExA will therefore give consideration to the following matters:

- Buffer zone to the WHS
- The setting of other designated assets within the WHS
- Consideration of the wider setting and attributes 1, 4, 5 and 7.

Buffer to the WHS

3.3.133. To clarify a point that was first stated in the tor&co document [REP5-063] and was subsequently inserted into the updated HIA [CR2-036] at para 1.4.10 and then discussed at ISH [EV7-007]; the applicant stated that the OG establishes that *"Boundaries should be drawn to incorporate all of the attributes that convey the Outstanding Universal Value and to ensure the integrity and/or authenticity of the property"* (OG para 99) and *"For properties nominated under criteria (i) – (vi), boundaries should be drawn to include all those areas and attributes which are a direct tangible expression of the Outstanding Universal Value of the property, as well as those areas which, in the light of future research possibilities, offer potential to contribute to and enhance such understanding*" (OG para 100). The applicant has concluded from this that the defined boundary of the WHS should contain all the defined attributes that convey the OUV.

3.3.134. By quoting these paragraphs from the 2025 OG, the applicant has failed to recognise that the OG is updated annually and that these paragraphs were not in the version produced in 1987 when Blenheim Palace was inscribed. There is no obligation to retrospectively apply new boundaries to existing WHS and as such, these paragraphs should be discounted in any consideration of the setting.

3.3.135. In the updated HIA [CR2-036], figure 1.2 shows the Blenheim Palace land ownership overlaid with the Order limits (OL), indicating that the vast majority of the proposed development is located on Blenheim Estate owned land.

3.3.136. With regard to why there is no buffer to the WHS, it is useful to refer to the letter appended to the representation from Begbroke and Yarnton Green Belt Campaign (BYG) at DL5 [REP5-056]. This letter from the Chief Executive of the Blenheim Estate to the Strategic Director of WODC, is dated 9 May 2016 during the review of the WHS Management Plan. The letter argues that it is not uncommon for WHS not to have a buffer zone and explains that protection is provided locally to the wider

area through designations such as the Oxford Green Belt, the Cotswold AONB (now National Landscape), the Wychwood Project Area, conservation area legislation and other local planning policies.

3.3.137. It goes on to say "*Unlike other World Heritage Sites, Blenheim Palace is in the extremely rare position, both nationally and internationally of being a WHS in single ownership. As such, the property has very effective control and direct management of the WHS and has the unprecedented ability to conserve the Outstanding Universal Value of Blenheim for which it is inscribed*". And later "*…… given the strong statutory and local plan protections for heritage assets, the Oxford Green Belt and natural environment features such as the Cotswold AONB coupled with the fact that the local authorities have recently produced, or are in the process of producing, new core strategies as part of the Local Development Framework, it would be our very firm view that Blenheim Palace and Park WHS is already provided with a very high degree of protection for the WHS Outstanding Universal Value and thus an additional level of designated protection is unnecessary*."

3.3.138. At paragraph 1.4.22 of the HIA [CR2-036], the applicant states *"From the outset of the development of the Project, the Applicant has been very aware of the need to avoid adverse impacts upon the Blenheim Place WHS. As set out above, one of the major landowners whose land forms the majority of the Project Site is The Blenheim Estate, and so there has been a clear appreciation of the need to consider likely impacts on the WHS. Figure 1.3 presents a 'heat map' of the land owned by The Blenheim Estate and is based on sensitivity to solar farm developments such as the Project"*

3.3.139. Figure 1.3 shows this "sensitivity heat map". However, there is no explanation of provenance or context and no sound methodology, basis or justification for the grading of the land on this map. The fact that some areas that are identified in the WHS Management Plan as key visual links but are not considered to be highly sensitive leads the ExA to question the validity and usefulness of this map and the conclusions reached.

3.3.140. It is therefore from this starting point of no official buffer, the reliance on the control and direct management of the Blenheim Estate (who are major supporters of the proposed development), and local designations and policies being adhered to through the planning system, that the uncertainty and differences in opinion regarding what is important and what is not has arisen. This situation is not helped by the reliance on an un-referenced and un-justified sensitivity map.

3.3.141. The ExA considers that the apparently successful argument by one of the project's key supporters (Blenheim Palace) against the need for a buffer zone due to the presence of local protections, undermines the applicant's subsequent reliance on the absence of a buffer zone to justify its narrow approach to defining the WHS setting.

<u>The setting of designated heritage assets within the WHS</u>

3.3.142. Table 1 above notes the separate designated HA contained within the boundary of the WHS and notes these that require a separate assessment of their setting; these were:

- Blenheim Palace (Gd I LB)
- Blenheim Palace (Gd I RPG)

- Column of Victory (Gd II LB)
- Park Walls, surrounding Blenheim Park (Gd II LB)

3.3.143. The HIA [CR2-036] included an assessment of Blenheim Palace. The Blenheim Palace RPG and the Column of Victory were included in the Settings Assessment [CR2-038]. The results of these assessments concluded that there would be no change, and therefore no effect. No assessment was made of the setting of the Park Walls in either document.

3.3.144. For each of these assets, the ExA has provided brief commentary below:

Blenheim Palace (Gd I LB).

3.3.145. The Palace sits at the heart of the WHS. The HIA includes reference to views from the Palace first floor windows, particularly in relation to one of the identified 'significant views' from the Palace southeast towards Bladon.

3.3.146. It is acknowledged by the ExA that the setting of the Palace itself is largely contained within the WHS and whilst views of the Palace can be obtained from outside the WHS (in particular, see Viewpoint 116, [CR2-059]), it is the setting within its designed landscape and stone wall boundary that contributes most to its significance, and this is covered in the general discussion of the WHS and its wider setting in further sections of this report.

Blenheim Palace (Gd I RPG).

3.3.147. A brief analysis of the setting of this asset is covered in the Settings Assessment [CR2-038]. Other than a small area to the southwest of Bladon, the RPG and WHS boundaries are contiguous. However, this small area, known as The Lince, provides the exit point of the River Glyme, where it meets the Evenlode. It is heavily wooded and the listed boundary wall adjacent to the road denotes the presence of an important historical site beyond.

3.3.148. It is noted that in the original application submission, panels were proposed in the field directly opposite (field no. 2.20) and the settings assessment [APP-142] still only reached a conclusion of negligible adverse impact.

3.3.149. CR2 saw the removal of panels from this field and following this change [CR2-005], the ExA considers that the assessment of the setting of the RPG can be covered in the general discussion of the WHS.

3.3.150. *Column of Victory (Grade II).*

3.3.151. A brief analysis of the setting of this asset is covered in the Settings Assessment [CR2-038]. This assessment states that the setting principally comprises the enclosed area of Blenheim Park and notes the Column's position on a strategic point on the important northwest - southeast axis of the estate.

3.3.152. The assessment states that views of the upper parts of the column are visible in long views from outside the park to the northeast and east. It goes on to say that *"in all such views the column and statue are not prominent and appear within the treeline on the horizon".* It concludes that *"there are views from within the Project Site in which the upper elements of the Column of Victory are visible. The construction and operation of the Project would not preclude any such existing*

views, although solar PV panels would be visible in foreground and/or the middle ground."

3.3.153. The ExA experienced some of these long-range views during several USIs. At USI7 [EV2-007], the column was highly visible and not hidden amongst the treeline, from footpath 342/1/10, to the north of Shipton Slade Farm, over 3km to the east. Whilst the installation of panels would not preclude visibility of the column, the ExA considers that the intangible values of the WHS are appreciated from such views. Therefore, we disagree with the applicant's assessment of no change and consider that there would be a low adverse impact on a receptor of high sensitivity that, according to the assessment matrix in ES chapter 7 [CR2-020], would result in a moderate or major effect that is unmitigated.

Park Walls surrounding Blenheim Park (Gd II LB).

3.3.154. The listing description for the boundary wall dates it to mostly 1722 – 1729 and is therefore contemporary with the Palace. The wall, as a Grade II listed structure, has been somewhat overlooked in the applicant's submission; seen more as a "container for important things" rather than being an important asset in its own right. At over 14km long, it provides the passer-by with hints of the historic treasures within, yet has its own setting that circumnavigates the RPG and contributes very much to the experience of the WHS.

3.3.155. In the experience of the ExA during multiple USIs, the wall is a prominent structure that provides enclosure to the park in a clearly attractive and historic manner. It both blends with the scale of cottages within the village of Bladon and yet also gains prominence at the gates, such as at Hensington Gate and Ditchley Gate, that pronounce the magnitude and importance of the Blenheim Estate. The park wall deserves consideration in its own right and has a setting that needs to be respected.

3.3.156. The ExA consider that intangible values of the WHS are appreciated from views towards, and glimpses of, the wall. The initial lack of any assessment or understanding of this importance resulted in solar panels being placed directly opposite the wall to the southwest of Bladon, with no mitigation applied. However, it is acknowledged that CR2 has rectified this through the removal of solar panels from the fields in closest proximity.

<u>The wider setting and consideration of Attributes 1, 4, 5 and 7</u>

3.3.157. The ExA has considered the applicants HIA [CR2-036] and the submission from tor&co [REP5-063] as well as the various submissions from ICOMOS, Historic England, WODC, OHA, ICOMOS-UK and other IPs.

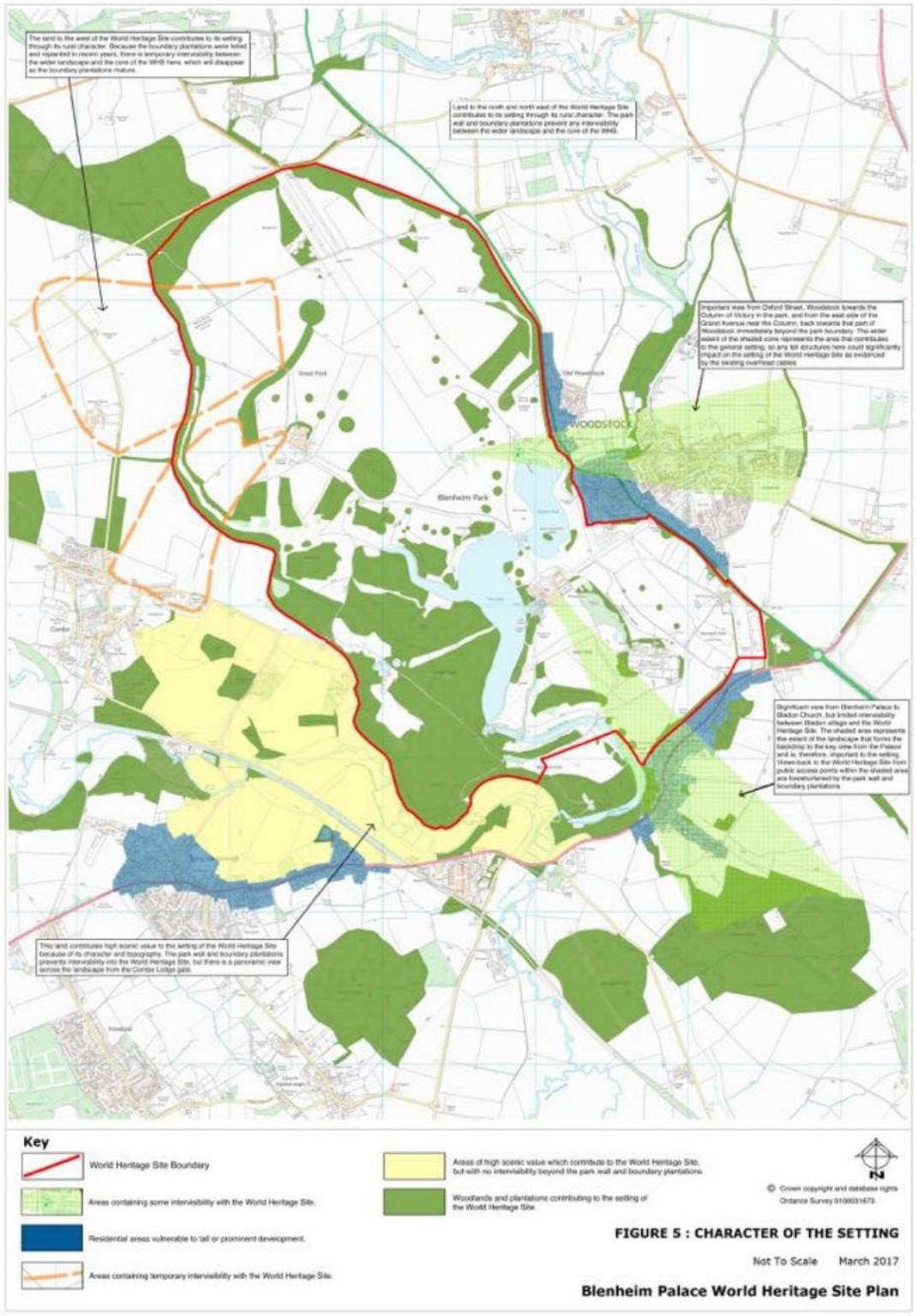
3.3.158. The applicant's HIA [CR2-036] carried out an assessment of the potential impact on the wider setting and at table 1.1 it carried out an impact evaluation against the seven Attributes. This concludes that the proposed development may only have an impact on attribute 7: "*The park retains a complete, 18th century enclosing stone wall which protects its integrity, but views into and out of the site still provide key linkages between Blenheim and the traditional English countryside and villages surrounding it".*

3.3.159. As reported in the preceding section of this chapter, the methodology of applicant has focused only on the visual aspects and intervisibility. In this vein, the applicant's HIA [CR2-036] has had regard for the key visual links identified in the WHS Management Plan; the two designed cones of view, one looking from the Palace to

the southeast, towards Bladon Church and beyond, and the other one to the east looking from the Column of Victory towards the town of Woodstock and vice-versa.

3.3.160. Therefore, the starting point for the settings assessment has been through the narrow lens of attribute 7 and the reliance on views and intervisibility.

Figure 3: Extract of the WHS Management Plan, REP1-037



3.3.161. The HIA focusses in further on the definition of the "traditional English countryside" (paras 1.4.52 to 1.4.57), concluding that the changes in enclosure and farming practices have resulted in very little of the landscape retaining the "pastoral feel" described in paragraph 3.12 of the WHS Management Plan appendix 3.

3.3.162. The applicant later describes (paragraphs 1.4.60 to 1.4.78) how the association, through ownership and influence, of the wider landscape within the Blenheim Estate may affect the land considered to be part of the setting. However, this is not carried through to a link with attribute 1, even though the conclusion in paragraph 1.6.64 is *"This association of the Blenheim estate with the historic landscape framework adds another dimension to the understanding of the setting of the Blenheim Palace WHS",* and, at para 1.4.78 *"Overall, the 'traditional English countryside, dotted with picturesque villages' which forms the setting of the Blenheim Palace WHS can be seen as quite varied. Some areas have larger fields creating a more open landscape whilst others have smaller fields and more blocks of woodland. This is not the post-medieval landscape within which the high-status buildings and designed landscape of the WHS (and which are reflected in its SOUV) were initially established; it is largely a product of subsequent land reorganisation driven to a great extent by the Dukes of Marlborough. However, the outcome remains a landscape dominated by arable and pastoral farming that provides separation between (mostly) small settlements".*

3.3.163. Paragraphs 1.4.79 to 1.4.93 consider the visual changes likely to be experienced as a result of the proposed development and states that whilst conservation grazing would occur on the land, the solar PV arrays and associated infrastructure would be the dominant visual aspect within those parts of the landscape where they are placed. The ExA agrees with the applicant's observation in this regard. (The element of landscape and visual impacts relating not only to the WHS but also the whole proposed development area, is discussed in more depth in section 3.4 of this report).

3.3.164. At paragraph 1.4.93, the applicant has outlined the potential aerial views available, and concludes that "The number of people experiencing views of the WHS from the air is very low when compared to other visitors and local residents, but the change in the *setting represented by the Project may negatively affect their experience and understanding of the WHS to a limited extent".* The ExA agrees with this assessment.

3.3.165. The applicant has briefly covered the potential for impacts to the setting from noise, vibration, dust, traffic and glint and glare, which they conclude would have a limited effect.

3.3.166. The applicant states that close attention was paid to the key visual links and demonstrates through sections and photographs that no part of the proposed development would be visible within these views.

3.3.167. The summary and assessment of harm to the OUV in section 1.6 relates the minor negative impacts on attribute 7 back to the criteria against which the WHS was inscribed and the qualifying conditions of the OUV (its integrity and authenticity). However, no assessment is made or conclusions drawn from this exercise.

3.3.168. Overall, the ExA observes:

- The applicant stated that the proposed development was carefully designed to ensure that it would not be visible in either of the two identified important views

out of the WHS. However, removal of panels from the important view to the south only came about through CR2 and not as a result of the pre-application suggestion by HE or through early application of the mitigation hierarchy.

- Panels are still sited within the south-east "view cone" but, as discussed at ISH2 [EV7-007], the applicant believes that because the panels will not be visible, there is no need to make further changes. This position does not appreciate that the cones represent the extent of the landscape that forms the backdrop to a key view from the Palace and is therefore important to the setting, which is stated in the key box on the plan.

- Despite submitting that there would not be any construction or operation related impacts to the WHS, table 1.2 [CR2-036] still contends that there would be a positive impact during decommissioning because the 'traditional English countryside' would be restored.

3.3.169. The concept of wider setting is discussed at length in the Guidance and Toolkit for Impact Assessments in a World Heritage Context (UNESCO et al, 2022), [REP1-041], referred to here as the Toolkit. Wider setting is defined as:

"The wider setting of a World Heritage property may relate to the property's topography, natural and built environment, and other elements such as infrastructure, and-use patterns, spatial organisation and visual relationships. It may include related social and cultural practices, economic processes and other intangible dimensions of heritage, such as perceptions and associations. The wider setting might also play an essential role in protecting the authenticity and integrity of the property, and its management is related to its role, in supporting the Outstanding Universal Value".

3.3.170. In section 3.2.3 the Toolkit makes clear that the wider setting may be unprotected, or protected by different legislation, which can lead to the risk that actions may be planned for this area without considering the potential impact on a WHS. It suggests that the wider setting will need to be identified as part of the impact assessment scoping process.

3.3.171. Bearing in mind that the Toolkit was quoted as being the key methodology source for completion of the HIA, and that ICOMOS suggested in its TR at the PIER stage that a detailed setting study was needed to facilitate an understanding of the consequences of the proposed development, the ExA considers that the applicant's HIA [CR2-036] fails to provide the depth of understanding and assessment that is required to properly assess the potential impact of the proposed development on the wider setting.

3.3.172. The ExA considers the applicant's narrow stance, that because the proposed development cannot be seen from within the 'view cones' then it does not cause harm, to be untenable. Taking this position to the extreme would mean that a field of panels situated opposite the perimeter stone wall but just outside the visual cone would not have an impact. Given that the ExA has found that the stone wall has significant value in its own right. That would be fundamentally wrong.

3.3.173. The ExA also considers that views of the WHS are not just glimpsed views that are fleeting or only enjoyed briefly. The views to be had of the WHS are experienced in the broader, rolling countryside that surrounds it and those 'visual cones' happened upon whilst walking and enjoying the panoramic landscape, increase the splendour of the view revealed. The surrounding landscape and perimeter wall provide a fundamental understanding that one is close to an important historic site.

3.3.174. It can therefore be reasonably concluded that:

- Even if one takes the applicant's "view cone only" position, any landscape surrounding, or on the approach to those visual cones, would support the experience and enjoyment of the key visual links and therefore has associative value to this element of attributes 4 and 7.
- Taking an approach where it is recognised that the perimeter stone wall also falls within the designation of the WHS (and is itself part of a Grade I Registered Park and Garden), then the experience of this asset is supported by its setting, and the band of landscape that surrounds it, which is part and parcel of Attributes 4 and 7.

3.3.175. The landscape immediately surrounding the WHS, and the immediate villages within it such as Bladon, Woodstock and Long Hanborough, has remained largely the same for a significant period of time because of the single ownership of this land as part of the wider Blenheim Estate. Whilst not within any official buffer zone for the WHS, the planning restrictions referred to in the WHS Management Plan have protected its integrity in more recent years. It has been retained largely in agricultural use, albeit changed over the centuries, and can therefore be legitimately considered as depicting the traditional English countryside.

3.3.176. Notwithstanding that the applicant has made a connection between the wider ownership and management of the historic landscape and the influence of the successive Dukes of Marlborough, as outlined in paragraph 3.3.162 above, the ExA considers that the applicant has failed to understand the wider implications of that connection. The communities that have been established close to the WHS owe much of their character to the presence of the WHS and the management of the land by the Blenheim Estate and its ownership for over 300 years. This single ownership and management are understood within attribute 1 as commented upon by HE [REP1-086], reported above.

3.3.177. As a further matter, the ExA note that attribute 5 refers to veteran trees within Blenheim Park and that this has historical and cultural linkages to Wychwood Forest, a former royal hunting ground and deer park. The HIA [CR2-036], table 1.1, suggests there would be no impacts on this historical linkage because: "*No current areas of woodland would be removed or reduced in area. Some small areas of additional woodland would be planted as part of the landscape mitigation, but these would not affect any historic links between the WHS and the wider Wychwood Forest area."*

3.3.178. The ExA notes there is no further detail provided in the HIA, neither is this matter referred to in the tor&co report [REP5-063]; a symptom of again focusing on intervisibility and direct loss of features. There is no consideration of whether the traditional English countryside, consisting of veteran oak forests, would be affected or whether any historical or cultural connections would be lost.

3.3.179. The ExA returns to point that only visual impacts have been considered in the HIA and observes that the Toolkit [REP1-041] refers to 'values' of heritage beyond the visual and including aesthetic, architectural, biological, ecological, historic, geological, social and spiritual. It also reminds us that intangible dimensions of heritage, such as perception and association, can help to convey the OUV. Furthermore, the Toolkit refers to the three pillars of OUV as:

1) Meets the Criteria
2) Has defined integrity and authenticity and

3) Has protection and management processes in place

In its HIA [CR2-036] the applicant has given scant consideration to these other values and makes no mention of the pillars of OUV.

3.3.180. Whilst not submitted by the applicant, the tor&co submission [REP5-063] provides a broader understanding of setting, including the perimeter wall, and ties its assessment to the SoOUV, outlined in paragraph 3.3.69 above, and statements of authenticity and integrity:

"5.4 The criteria describe succinctly how Blenheim Palace represents both an interchange of human values through its inspiration and influence, and also an outstanding building type illustrating a significant stage in human history, in this case a turning-point in the War of the Spanish Succession. In both cases, these criteria are unambiguously linked to the building itself and its architecture, as well as to the whole designed landscape around the Palace, which serves both to reflect its inspiration and enhance the grandeur of the 'princely residence' it represents; the building and the designed landscape therefore go very much hand-in-hand when considering the OUV of the WHS

"5.5 The statement of integrity sets out the ways in which these criteria have remained whole. For example, the perimeter wall 'defines its extent and maintains physical integrity'; 'the layout of the principal buildings remains unaltered'; changes wrought by later owners 'have not detracted from the OUV'; the park contains important veteran trees; and 'important visual links [exist] between the gates, the parkland buildings [and] buildings in the surrounding villages and landscape".

"5.6. The statement of authenticity stresses that 'the overall relationship between the Baroque Palace and its Park is still clearly in place', enabling the OUV to be understood, whilst the 'form and design' of the Palace, including fittings and furniture' has a high degree of survival".

3.3.181. At paragraph 6.4, tor&co say "*The reasons for which the Blenheim Palace WHS is inscribed are bound up in the two criteria and are elucidated further in the SoOUV and attributes. It always merits reiteration that the latter two exist as elucidatory adjuncts to the criteria for inscription to form an understanding of OUV, and are not an entirely new corpus of OUV above and beyond the former. Therefore, for harm to arise setting, it would ultimately need to be shown how our ability to understand or appreciate these criteria is negatively affected."*

3.3.182. This assessment puts the focus entirely on the criteria (ii) and (iv) (outlined in paragraph 3.3.69 above) and, whilst mentioning the statements of integrity and authenticity, neglects to include these as one of the three pillars of OUV alongside, and equal to, the criteria and protection and management. The Toolkit [REP1-041] makes clear that the OUV, including its authenticity and integrity, must continue to remain protected for any property on the World Heritage list (Toolkit para 3.2.2).

3.3.183. Whilst the ExA appreciates that tor&co has tried to separate elements of setting that contribute to the OUV and elements that are simply adjacent, it considered that this approach has again been taken too far by focussing only on the two view cones (figure 3 above) that it says clearly express a tangible contribution to the OUV. In doing so it fails to fully assess or appreciate the intangible elements of wider setting and whether this makes any contribution to significance.

3.3.184. The ICOMOS Technical Review [REP7-117] takes a wider view:

"4. In ICOMOS' view it is more than visual appeal that contributes to the value of the estate and the contribution of the estate as the setting of the World Heritage property. The Duke of Marlborough was given an estate to match the status he was deemed to deserve, and its mosaic of historic parkland, rolling hills, farmland and woodland that anchored the new Blenheim Palace in its landscape gave it the status of an historic manor.

This estate still contains the integrity it had when Blenheim was built in terms of it still being linked to the Palace through ownership and use, and in terms of how its evolution still allows an understanding of its 18th layout. It is therefore a cultural unit that should be respected for its inextricable links to the Palace. The scope, extent and integrity of the estate is vividly shown in drone views.

The authenticity of a World Heritage property relates to how well it manifests its value, and the setting of a property can contribute to authenticity in facilitating the way the property is understood. In the case of Blenheim, the setting provides an understanding of the status given to Blenheim Palace as part of an estate, and its socioeconomic relationship with the surrounding communities. Moreover, it is a landscape that still has the capacity to reflect its history."

3.3.185. In these paragraphs, ICOMOS has linked the wider setting to the authenticity and integrity of the WHS. It has not gone so far as to state which elements of the wider setting directly contribute to the OUV in a tangible form and which elements support the contextual understanding of the development of the Blenheim Estate through its authenticity and integrity, but it provides the basis to understand that the setting cannot be confined to two small cones and must be considered more widely.

3.3.186. ICOMOS does not conclude on the level of harm but concludes that the proposed development should not be approved in the absence of a thorough understanding of the role the wider estate plays in providing the setting of the Blenheim Palace World Heritage property.

3.3.187. It is noted that in its first TR dated February 2024 [RR-0398], ICOMOS advised that a study should be commissioned that focussed on the relationship between the wider setting of the WHS and its OUV as a baseline assessment from which a further assessment of the impact on the OUV could be further developed.

3.3.188. The ExA considers that this early suggestion by ICOMOS should have been followed so that the applicant was in possession of focussed, project-specific data to inform the siting of the proposed development from the outset of the project.

3.3.189. The ExA also considers that CR2, whilst welcome, indicates that the applicant did not follow the four steps of mitigation hierarchy by, in the first instance, avoiding creating an impact altogether. Furthermore, without the deeper understanding of the wider setting and the evidence that the mitigation hierarchy was not properly followed, the ExA does not have confidence that no more could be done in order to further reduce the impact.

3.3.190. Furthermore, on the matter of the intangible elements of the WHS such as spirit and feeling, whilst the applicant has presented no evidence on this point, the ExA takes into account its own experience from the unaccompanied site inspections as well as the many comments made by IP's who walk the paths around Bladon and the surrounding landscape every day.

3.3.191. The approach to Blenheim Park from the southwest, southeast and east in particular give a very real sense of anticipation of being in the presence of a long-standing, important property of stature, with the Column of Victory a beacon in the landscape. The ExA's visit to Shipton Slade Farm [EV2-007], approximately 3km to the east of Blenheim Park, noted the views to the Column of Victory from within fields where solar arrays are proposed. The significance of this landmark, and of the features of the WHS, should not be understated.

3.3.192. Therefore, in relation to attributes 1, 4, 5 and 7, identified by HE [REP1-086] as having the potential to be affected, the ExA finds the following:

- Attribute 1. *"It remains the home of the same aristocratic family, the successive Dukes of Marlborough, for which it was built".* The huge Blenheim Estate was provided as a home for the first Duke of Marlborough, on which Blenheim Palace was constructed and the landscape park developed. The influence that the successive Dukes of Marlborough have had on the Estate as a whole has contributed to the authenticity and integrity of OUV, and as such any development within the wider Estate has the potential to have an effect on the OUV.
- Attribute 4. *"The surviving special relationship between the important architectural elements and their landscape setting are an exceptional piece of design and, together are greater than the sum of their parts".* It is acknowledged that while this attribute deals primarily with elements within the designed landscape, there are elements that have been completely overlooked in the HIA, such as the Grade II listed boundary wall that is integral to the OUV. In addition, the intangible value of understanding the proximity of the WHS in the wider landscape gives weight to the statement that the WHS is greater than the sum of its parts.
- Attribute 5. "*The UK has by far the greatest concentration of veteran trees in northern Europe and within High Park, which sits in the south-west section of Blenheim Park, is one of the finest areas of ancient oak-dominated woodland in the country. It is partially descended from the ancient Wychwood Forest, a 12th century deer park and an Anglo-Saxon chase".* The HIA completely overlooks the contribution made by woodlands and plantations outside the WHS that have an historic connection with the estate, even though these are specifically mentioned on figure 5 of the WHS Management Plan (see figure 3 above) as contributing to the setting.
- Attribute 7. "*The park retains a complete,18th century enclosing stone wall which protects its integrity, but views into and out of the site still provide key linkages between Blenheim and the traditional English countryside and villages surrounding it"*. The ExA considers that the HIA concentrates too narrowly on intervisibility, particularly relating to the key visual links in figure 5 of the WHS Management Plan (see figure 3 above), and ignores the intangible association with the historic nature and status of the Estate that is gained from approaches to, and glimpses of, the WHS boundary.

3.3.193. Therefore, the ExA find that there is evidence to support the concerns of HE in relation to these attributes and that the applicant has failed to properly assess the likely impacts of the proposed development on them.

ExA conclusions

3.3.194. The ExA appreciates that HE is the State Party for giving advice on the impacts on the WHS and for ensuring WHS matters are considered thoroughly in the English planning system. However, all three of the technical reviews from ICOMOS are important and relevant to the SoS decision-making, demonstrating a consistency of approach towards the proposed development.

3.3.195. The ExA acknowledges HE [REP7-118] has concluded: *"the removal of panels (change 1) appears to have minimised harm to OUV and avoided intervisibility with the WHS"* although has also commented that: *"The assessments at Table 1.1* [of the HIA] *do not, in our view, provide a robust basis on which to scope out the remaining attributes of OUV from more detailed assessment"* and that *"the second Technical Review from ICOMOS International (August 2025) was also shared for Deadline 4 and we would expect the HIA to respond to its recommendations in detail. However, it has not responded in detail to the specific concerns raised by ICOMOS."* The ExA observes that HE has said the proposal minimises harm, but not that there would be no harm.

3.3.196. The ExA concludes that ICOMOS has raised very valid, pertinent and salient points to the examination about the quality of the applicant's submissions and the distinct lack of project-specific assessment. Under the planning process, the applicant is required to submit a proportionate level of detail to the importance of the heritage assets and no more than is sufficient to understand the potential impact of the proposal on their significance (NPS EN-1 paragraph 5.9.10). Given that the property in question is a WHS, commanding international recognition, the ExA would have expected far more from the applicant. The fact that the original application proposed panels as close as it did to the WHS demonstrates a worryingly incomplete appreciation of the heritage value of the WHS.

3.3.197. The applicant's HIA [CR2-036] concludes that:

> *"The Heritage Impact Assessment has identified that there would be visual change within the setting of the Blenheim Palace WHS. However, this change would not occur within any the 'key visual links' identified as part of the integrity which contributes to the OUV, but within the wider setting of the WHS. The establishment of a greater buffer zone between the areas of solar pv panels and the WHS as set out in the amended design of the Project ensures that the proposed development would not result in any harm to the OUV of the WHS."*

3.3.198. The ExA firmly disagrees. The key visual links described are not isolated or divorced from any appreciation of a wider countryside setting. To disrupt the landscape that surrounds those key visual links would be to erode the spirit and sense of place that contributes to the authenticity and integrity of the WHS. Furthermore, the applicant has made no attempt to define or assess the wider landscape and stating that decommissioning would be positive by restoring the landscape clearly relies on a recognition that there would be harm to this landscape during the construction and operation phases.

3.3.199. The ExA considers that there has been insufficient attempt to recognise any of the other values or associated values that the WHS conveys either within or beyond its boundaries. Indeed, the setting of the perimeter stone wall, itself a contemporary feature of the WHS, is barely considered at all. The cultural significance of Blenheim Palace and the Blenheim Estate, with its dominance over surrounding land and land

practices for over 300 years, has been given less than a cursory thought in the HIA and the ES.

3.3.200. The ICOMOS third TR [REP7-117] concludes:

> *"In terms of the potential impact of the solar farm on the Outstanding Universal Value of the property, ICOMOS considers that the proposals as currently defined would in effect sever the connection between Blenheim Palace and its estate in terms of historical continuity and how the estate provides the essential geo-cultural context for the Palace and explains its history and rationale. The estate would no longer be seen to maintain its integrity as an agricultural landscape – it would become partly an industrial landscape, which could harm the way it contributes to an understanding of Blenheim Palace World Heritage property and its Outstanding Universal Value. Moreover, the landscape itself has high aesthetic qualities that strengthen its connection with the Palace and reflect the symbiotic relationship."*

3.3.201. Given our findings above, the ExA firmly concludes the same. There would be harm to the OUV of the WHS, principally through harm to attribute 7 and associatively through harm to attributes 1, 4 and 5. CR2 [CR2-073], though welcomed, would not go far enough. Whilst HE says it would minimise harm, it does not say that all harm is removed, as claimed by the applicant.

3.3.202. In recognition that the proposed development would have an overall lifespan of 42 years (the only permanent remaining above ground feature would be the National Grid substation at Cumnor which is significantly distanced from the WHS boundary), the harm would be temporary, and the harm would be fully reversible. This would include the return of any land compulsorily required, should such powers need to be exercised as included in the heads of terms for related agreements with the landowner. This does mean there would not be a permanent loss of significance, and therefore that the harm should be classified as less than substantial, to be weighed against the public benefits. This balance takes place in chapter 5 of this report.

3.3.203. However, we note that paragraph 5.9.27 of NPS EN-1 advises that great weight should be given to an asset's conservation, and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Such a position is echoed in the NPPF. There is no higher designation than a WHS and as such, the greatest weight should be accorded its conservation.

3.3.204. We consider that in the absence of full information and a detailed assessment of the all the heritage values of the WHS, added to a lack of assessment of the intangible elements of OUV that are wrapped up in its authenticity and integrity, the proper mitigation has not been undertaken for these elements. Therefore, the effects may be considered primary rather than residual. The reliance on the development being temporary does not mitigate potential primary effects on loss of significance, which would be significantly adverse, endured for 37.5 years and impact upon how future generations would perceive the heritage asset.

Scheduled Monuments

Background

3.3.205. The applicant submitted an archaeological desk-based assessment [APP-131] which was used to inform the production of the ES chapter 7 [APP-044].

3.3.206. The application also included the results of a geophysical survey of the site [APP-133] to [APP-140] and, based on the results of this survey, a number of areas of the highest archaeological interest and likely significance were removed from any intrusive works, which reduced the potential archaeological impact of the proposed scheme.

3.3.207. The application identified three scheduled monuments (SM) outside the WHS that required separate consideration, all of which are adjacent to or near the northern area. These were:

- Sansom's Platt Roman Villa.
- Rectangular Earthwork, Hensington.
- Blenheim Villa and associated field system.

3.3.208. The initial setting assessment [APP-143] concluded that the proposed development would have a negligible adverse impact on these three SMs. In its response to ExQ1.6.37 [PD-008], HE stated that it agreed with the assessment regarding Rectangular Earthworks, Hensington and Blenheim Villa but not with regard to Sansom's Platt [REP2-056]. It reiterated its comments from the RR that the area of nationally important archaeological remains could be greater than the area currently scheduled, and that the results of the further trial trenching would be able to inform this. It concluded that the results of additional trial trenching were important to be able to understand the extent of an additional buffer that may be required. Oxford County Archaeological Services (OCAS) [REP2-050] deferred to HE but stated that the extent and significance of the site could only be fully understood once the archaeological evaluation report had been produced and submitted.

3.3.209. The reason for the concerns over the size of buffer zones is that it was known that, although Sansom's Platt was scheduled as a Roman Villa, it was accepted from previous reports that it was also the site of a small Roman town, associated with the Roman road Akeman Street. As such, the minimal buffer zone proposed may be insufficient to protect this larger archaeological resource.

3.3.210. In response to EXQ1.6.45, at [REP2-025] the applicant promised to provide the trial trenching results to the examination at DL5. However, by DL5, HE expressed disappointment that the archaeological field evaluation reports had failed to materialise [REP5-098] paragraph 2.2 and requested whether any early indications may result in a change to the buffer area.

3.3.211. The applicant attempted to reassure the examination that the initial assessments undertaken with the ES were sound [REP4-037], stating:

> *"The trial trenching established that the geophysical survey was very accurate in identifying the location and extent of the significant archaeological sites. On this basis the Applicant considers that the examination of the reports setting out the results of the trial trenching will not lead to any major changes to the protected Areas of Archaeological Interest.*

Any changes would be very limited, amounting the extension of a protected Area of Archaeological Interest by no more than a few metres."

3.3.212. HE response to ExQ2.6.19 [REP4-066] noted that, as set out in its DL3 response, it was concerned by the proposed delay in receiving the report on the trial trenching until DL5. It requested that, in order to properly inform decision making in respect of the SM of Sansom's Platt, the reports should be supplied to both OCAS and HE as soon as possible and ideally within a timeframe which would allow consideration of their content and enable further amendments, should these be required. In the DL5 response [REP5-098], HE suggested one of two options at paragraph 2.4 being:

Rather than leave this key issue to so late a stage (when the issue may well remain unresolved), we suggest the following options might be considered:

a. Provide Historic England (and Oxfordshire County Council) with just the results of the trenches that were excavated in the fields that currently include the buffer zone (fields 1.11 – 1.14 in the geophysical report included with the Environmental Statement APP-134) in order that we can provide advice to help resolve this point before the determination of the DCO.

If this cannot be done due to the contractual issue, then:

b. Remove fields 1.12 and 1.13 entirely from the scheme and remove a greater proportion of field 1.11 and field 1.14. While it is (as we have previously stated) currently not possible to establish the boundaries of the Roman settlement, we believe that extending the buffer in this way is reasonably likely to reduce any harm to the potentially nationally important area to a minimum.

3.3.213. The trial trenching results were not received at DL5 and arrived, in draft form only, at DL6 [REP6-055] to [REP6-062] and [REP6-063]. The ExA's Rule 17 letter [PD-018] asked OCAS and HE whether, in light of this new information, they were content with the archaeological buffer zones as proposed. In particular, in the instances where there were several fields that had shown anomalies in which no buffer zones were proposed.

3.3.214. At DL7, HE [REP7-118] reiterated its continued concern regarding the delay in receiving the trial trenching results, which were seen as critical to being able to understand the extent of protection required for the SM at Sansom's Platt. HE confirmed that the trial trenching results made clear that significant archaeological remains extended beyond the current scheduled area and concluded that panels should be removed from field 1.13 entirely.

3.3.215. At DL7, OCAS responded to the Rule 17 letter [REP7-190] stating:

"The evaluation reports that have been submitted are incomplete and not of the standard we would have expected. The report from Wessex Archaeology is clearly not finished at this stage and the specialist reports, which are essential for understanding the significance of what has been found, have not been included. The plans contained within this report lack the level of detail we would have expected them to contain to fully understand the extent of the recorded archaeology and in most cases have not even included the geophysical survey results. This will require substantial amendment before the report can be considered to be appropriate. The report from Cotswold Archaeology is more complete but has clearly been produced in a very short

timeframe and although the specialist reports have been included it is clear that these have not been carried back across into the trench descriptions and overall narrative of the report. In the majority of cases the trench descriptions simply referring to Roman pottery or Roman coins with little or no attempt to define the period to more than just these very broad periods. This report will also require amending before it can be considered as appropriate."

3.3.216. It concluded that the reports highlighted that there would need to be revisions to the proposed buffers in order to protect the identified archaeological deposits. It therefore proposed an amendment to the archaeology requirement (R10) in the Development Consent Order (DCO) to read:

> 10.— (1) No part of the authorised development may commence and no part of the permitted preliminary works for that part comprising the intrusive archaeological surveys may start until;
>
> b) the evaluation reports and buffer zones have been amended and approved by the local planning authority and;
>
> b) following the agreement of the buffer zones and evaluation reports an archaeological written scheme of investigation for that part has been submitted to and approved in writing by the relevant planning authority.
>
> (2) For the purposes of sub-paragraph 10(1), "commence" includes part (a) of the permitted preliminary works insofar as the works relate to intrusive archaeological surveys.
>
> (3) The archaeological written scheme of investigation must be substantially in accordance with an outline written scheme of investigation, approved in advance by the relevant planning authority, and must be implemented as approved.
>
> (4) within two years of the completion of the archaeological mitigation fieldwork an updated project design and post excavation assessment detailing all processing, research and analysis necessary to produce and secure the delivery of an accessible and useable archive and a full report for publication must be submitted to and approved in writing by the relevant planning authority.

3.3.217. OCAS's closing statement [REP7-191] reiterated its concerns and reinforced the need for an amendment to R10 in the dDCO and further stated:

> *"Given the late submission of these documents, and the lack of time for OCAS to adequately consider them the Council contends that the applicant has failed to ensure that the significance of archaeological remains can be adequately considered based on the submitted application. The application therefore has failed to comply with paragraph 5.9.12 of NPS EN-1."*

3.3.218. The applicant did not respond to the potential amended R10 in the closing submissions at DL8 [REP8-001]. However, the applicant also responded to the question posed in the Rule 17 letter at [REP7-047]. It amended the works plans [REP7-004] to omit field 1.13 in line with HE advice. It also commented: *"To be clear, in terms of the fields with an asterisk (i.e. those identified as having archaeological features where no buffer zone is proposed), most of the archaeological features are former field boundaries that the Applicant can identify on historic maps. They are of very limited value and there is no reason for a buffer zone to be applied – these features will easily survive the construction of a solar farm with no harm to their significance. The remaining features are likely to be of local importance only and discussions with the Oxfordshire County Archaeology*

Service (OCAS) as part of the detailed design process will determine the appropriate course of action."

3.3.219. The issue of adequate protection around archaeological sites, and in particular Sansom's Platt was also raised by several IP's throughout the examination including, but not limited to [RR-1070], [REP3-121], [REP5-145] and [REP7-221].

3.3.220. In the signed SoCG with HE [REP7-037] it is reported that HE considers that the likely magnitude of impact on Sansom's Platt is greater than negligible. In its view the impact would be low adverse in EIA terms, notwithstanding the removal of panels from field 1.13. Whilst HE and the applicant disagree on the likely magnitude of impact, both parties agree that this is a matter that the ExA can come to a view on. In addition, the applicant considers that the removal of solar panels and associated infrastructure from field 1.13 would ensure the protection of all buried archaeological remains associated with the SM at Sansom's Platt, and also further reduces any impact on the SM as a result of the change within its setting.

3.3.221. In the signed SoCG with OCC [REP8-002], the proposed programme of further archaeological work (Outline Written Scheme of Investigation (OWSI)) was agreed between both parties. However, OCC stated that until the final evaluation reports have been provided and any additional buffer zones are agreed, it cannot agree that this issue has been resolved. The applicant accepts that this late submission means that OCC has not had sufficient time to review the report and further advise on the significance of the identified archaeological remains, but considers that Requirement 5 (R5) of the DCO provides the archaeological advisers to the planning authority with the opportunity to review the proposed archaeological protection zone for any identified area of significant archaeological remains and to advise on any adjustments that may be necessary in the light of the results of the programme of trial trenching.

ExA Considerations

3.3.222. Whilst many of the issues regarding archaeology were either resolved during the examination or can be resolved through R5 and amended R10, the ExA considers that the delay in providing the trial trenching results, that were first mentioned in RR's, undermines confidence in the applicant's ability to properly assess appropriate buffer zones.

3.3.223. This was compounded in the applicant's response to the Rule 17 letter [REP7-047] where it downplayed the findings of its own draft report by stating that many of the finds were of "very limited value and there is no reason for a buffer zone to be applied". This is despite the archaeological evaluation stating there were 66 trenches displaying "features or deposits of potential significance". The applicant's commentary does not align with the results of its own surveys, which is disappointing. The ExA sympathises with OCAS and HE when they both say that the applicant has underplayed the effects.

3.3.224. The ExA recognises that the version of R10 proposed by OCAS would provide additional safeguards for the archaeological resource, including Sansom's Platt. Furthermore, we consider that in view of the inadequacies and lateness of the applicant's further archaeological evidence, the OCAS proposal for augmentation of R10 is fully justified. The updated R10 can be found in the recommended DCO at appendix D of this report.

ExA Conclusions

3.3.225. It is acknowledged that the applicant has removed panels from field 1.13, as per the request from HE and as shown in the updated Works Plans [REP7-004].

3.3.226. Notwithstanding this, the delay in producing the important trial trenching results, and the fact that they are still only in draft form, means that the ExA cannot be satisfied that additional protection for Sansom's Platt SM is not required, as well as any other significant archaeological features or deposits which may be revealed by the most recent investigations.

3.3.227. It is acknowledged that these issues could be resolved through the amended R10 and to this end the ExA fully supports the augmented wording proposed by OCAS.

3.3.228. The ExA note that paragraph 5.9.27 of NPS EN-1 advises great weight should be given to an asset's conservation, and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Such a position is echoed in the NPPF.

3.3.229. The ExA consider that, in the absence of full information and trial trenching results being provided earlier in the process, the opportunity to properly consider the full extent of potential mitigation has been lost. As such, whilst based on the information available at the end of examination the level of harm would appear to be in the less than substantial range, there is potential for this to be raised to substantial harm on further consideration of the full trial trenching results.

Designated Heritage Assets

Background

3.3.230. A total of 773 heritage assets (HA) were identified within the study area, of which 36 individual assets were scoped in for further assessment. This assessment was primarily provided in ES appendix 7.5, Settings Assessment [APP-142].

3.3.231. Other than the WHS (and any designated HA's contained therein) and the Scheduled Monuments that are dealt with above, the remaining designated HA assessed comprised:

- 2 Grade I Listed Buildings (LB)
- 3 Grade II* LB
- 21 Grade II LB
- 5 Conservation Areas (CA)

3.3.232. The Setting Assessment [APP-142] followed the guidance within the HE documents "*Good Practice Advice in Planning Note 3 - The Setting of Heritage Assets (second edition, 2017)"* and the 5-step approach to assessment recommended therein. The Settings Assessment also used the tables in the ES chapter 7 [APP-044] to assess sensitivity (table 7.8), magnitude of impact (table 7.9) and significance of effect (table 7.10).

3.3.233. The Joint LIR [REP1-072] did not challenge or raise concern regarding those heritage assets scoped into the applicant's assessment. However, paragraph 4.43 commented: *"The Settings assessment lacks in describing the setting of the*

heritage assets and the contribution of the Site to it, giving too much weight to views". The individual assessments for each HA focussed on intervisibility rather than any wider experience and a set of unsupported observations led, in most cases, to a conclusion negligible impact, leading to minor adverse effect.

3.3.234. In its WR at DL1 [REP1-086], HE commented only on the 2 Grade I churches at Church Hanborough and Cassington, and the Grade II* church at Begbroke. For each asset, HE stated the applicant had underplayed the effects and disagreed with the applicant's findings of negligible adverse effects. HE took a contrary position stating that there would be a low adverse effect and thereby modest harm to the significance of each HA from development within its setting.

3.3.235. Furthermore, it suggested expanding the widths of public rights of way (PRoW) from which views of the spires were gained in order to maintain the sense of openness and view; this is discussed further in section 3.4 of this report, Landscape and Visual Impact.

3.3.236. In the joint LIR [REP1-072], OHA also commented on the inadequacy of methodology in the applicant's submission and provided an independent assessment by consultants LUC at appendix 1 of their LIR. Their conclusion was that overall, the contribution of the settings to the heritage assets' significance and the site's contribution to their setting have been underplayed.

3.3.237. This concern was raised in EXQ1 [PD-008, Q1.6.18 to 1.6.33], where the ExA requested expansion of the assessment, including a wider consideration of significance and the contribution that the setting made to it, along with a reasoned assessment of the level of harm ascribed.

3.3.238. At DL2, a revised assessment was submitted [REP2-014], which provided some limited and formulaic additional assessment of setting that still led to the same conclusions in relation to the level of effect. HE [REP3-081] and OHA [REP3-072] both responded to this revision stating that they still felt the effects had been underplayed.

3.3.239. At ExQ2 [PD-012] the ExA continued to question the applicant on the setting of the Church of St Peter and Paul, Church Hanborough; the Church of St Peter, Cassington; the Church of St Michael, Begbroke, Hordley House, Wootton; Shipton Slade Farm; Upper Whitley Farm; Burleigh Farmhouse; Begbroke Conservation Area and Cassington Conservation Area.

3.3.240. In its response to ExQ2 [REP4-037] the applicant reiterated the findings from the assessment and stated that in each instance the harm identified would be in the less than substantial range and would therefore be weighed against the public benefits of the scheme, in line with NPS EN-1 advice.

3.3.241. A further revision of the settings assessment was submitted at DL5 [REP5-035] that included some reference to historic maps in relation to conservation areas. CR2 [CR2-071] removed panels from fields surrounding Bladon (change 1) and Begbroke (change 2), which assisted in reducing the impact around the churches, other listed buildings and the conservation areas in these villages.

3.3.242. At DL4 OHA submitted a plan showing land parcels that should be omitted from the development to reduce either heritage or landscape impacts [REP4-075]. This was submitted following site visits with their landscape consultants. At DL6, the OHA

provided a detailed methodology and field-by-field justification for the proposed omissions [REP6-118].

3.3.243. Several of the fields had been omitted through CR2, but those remaining that OHA felt had an impact on HA's were fields 1.11 and 1.12 in the northern area, relating to the setting of Hordley House. Fields suggested for omission in the central area related to the setting of the WHS, which is covered in the previous section of this report. The whole of the southern site was suggested for exclusion for landscape reasons, and this is discussed in section 3.4 of this report.

3.3.244. Following ISH2 [EV7-010], several questions on landscape and heritage setting matters were posed in a Rule 17 letter [PD-017]. Question 9 related to the reduction in panel areas proposed by consultees and why no additional reductions had been proposed in relation to these suggestions.

3.3.245. The applicant's response at [REP6-052] stated that, in accordance with NPS EN-1, impacts are envisaged and accepted given the scale of solar projects and therefore it is a high bar to determine that they are so damaging to justify the loss of potential delivery of renewable energy.

3.3.246. The applicant went on to provide a 'without prejudice' offer of additional mitigation [REP6-052], if the ExA or SoS is minded disagreeing with the applicant and conclude that further mitigation is necessary under the policy tests.

3.3.247. This offer is mostly concerned with landscape and visual impacts and is therefore covered in greater depth within section 3.4 of this report. However, in relation to the potential effects on HA's, field 1.12 is suggested for removal.

3.3.248. The final positions at the end of examination are as follows.

3.3.249. HE SoCG [REP7-037]:

- Likely magnitude of impact of the project on the significance of the Grade I Church of St Peter and St Paul, Church Hanborough; the Grade I Church of St Peter, Cassington and the Grade II* Church of St Michael, Begbroke. In each of these instances HE disagrees with the findings of the applicant, but both parties agree this was a matter for the ExA to come to a view on.

3.3.250. Cherwell District Council (CDC) SoCG [REP8-003]:

- The assessment of likely impacts and effects on heritage assets at Yarnton. CDC considers that the listed buildings of Yarnton Manor (Grade II*) and the Church of St Bartholomew (Grade I) could be susceptible to harm through development in their setting. The applicant responded that these HAs had been scoped out because they were outside the ZTV.
- The assessment of likely impacts and effects on non-designated heritage assets within Kidlington. CDC considers that NDHA's in Kidlington had not been sufficiently considered in the assessment. The applicant noted that the proposal site was outside the setting of the conservation area in Kidlington and consequently there could be no impact on the setting of any NDHA's therein.
- The assessment of likely impacts and effects on heritage assets as a result of change within their setting. CDC considers that the overall size of the proposed development would unavoidably change the wider landscape and therefore the potential impact on the significance of the individual heritage assets should not

be disregarded. The applicant responded that the assessments had been undertaken in a comprehensive manner in accordance with all relevant guidance.

3.3.251. Vale of White Horse (VOWH) SoCG [REP8-004]:

- The likely impact and effect on the Grade II listed Red House Farmhouse as a result of change within its setting. VOWH states that, although there would be some intervening land remaining as an agricultural buffer to the farmhouse and farm group, there would be an adverse impact on the manner in which the listed building is understood and gains significance from its wider context. The applicant maintained that the significance of the farmhouse would be barely affected and that its assessment was fair.
- The consideration of likely impacts and effects on heritage assets as a result of the construction and operation of the NGET substation. VOWH states that the scale of the main and secondary substations, in an area not characterised by any large structures would result in a significant change to the character of the landscape and its contribution to nearby assets. It considers that this impact has not been fully assessed as specific plans do not appear to form part of this application. The applicant considers that the scale of the substations has been taken into account.

3.3.252. WODC SoCG [REP8-005]:

- The likely significance of effect on designated heritage assets as a result of the change within their setting. WODC considers that residual harmful impacts would be likely to arise from the proposed development on HA that are of international and national importance and that these impacts should be regarded as significant. The applicant considers that the assessments presented within the settings assessment are robust and accurate.

3.3.253. In their closing statement, OHA [REP7-191] stated:

> *"It remains the view of the OHA that the proposed development will harm the setting of heritage assets across the project area including heritage assets of the highest significance. Whilst it is accepted that conservation areas and Listed Buildings will not be physically impacted by the proposed development, the open agricultural and rural settings of heritage assets will be significantly changed. Overall, the impact on built heritage assets remains negative."*

3.3.254. Several IPs remained of the view that the significance of heritage assets would be harmed, (see for example [REP7-067], [REP7-189], [REP7-221] and [REP7-226]), in that the impacts on heritage assets remain misunderstood, understated and fundamentally incorrect.

ExA Considerations

3.3.255. Several of the questions over the extent of setting and the potential harm to significance were reduced through CR2 and overall, the ExA agree with the levels of impact and effect. However, this does not detract from the poor quality of information provided and the need, throughout the examination, to push for additional evidence to justify the findings. At the end of examination, the ExA still has concerns over the assessment and conclusions reached in relation to:

- Church of St Peter and St Paul, Church Hanborough (Gd I)
- Hordley House, Wootton (Gd II*)
- Shipton Slade Farm (Gd II)

3.3.256. Church of St Peter and St Paul, Church Hanborough (Gd I). At ExQ2.6.9 [PD-012], we asked for comment on the differences of opinion between the applicant and HE and detailed reasoning for the applicant's position. At DL4 the applicant responded [REP4-037] that *"the assessment of impacts and effects on the significance of a heritage asset as a result of change within its setting is largely subjective. As a consequence, it is not unusual for specialist to have different conclusions regarding the magnitude of impact".* It went on to say that it is in agreement regarding HE's conclusions that the level of harm would be less than substantial and therefore, in accordance with section 5.9 of NPS-EN1, the SoS would have to weigh any loss or harm to the significance of designated heritage assets against the public benefits.

3.3.257. We consider that the applicant has taken a very narrow view in its assessment of the setting of this asset and how it has historically been seen as a landmark feature in the predominantly open rural landscape. The visualisations from Viewpoint 38 [APP-078] shows a typical view from across the Evenlode valley, which we experienced at the ASI [PD-014]. This view clearly shows the sweeping open views towards the church spire and the discordant impact of the solar panels. The growth of the hedges shown at year 15 evidence the enclosing nature of this mitigation that does little to lessen the damaging effect of the panels on the view. Whilst it is true that neither the panels nor the mitigation would obstruct views of the spire, the overbearing nature of the mature hedges encloses the view and limits the perception of the rural setting.

3.3.258. The impact of the proposed mitigation has not been considered in relation to the effect on the setting within the Settings Assessment and as such, no consideration has been given as to whether some other form of mitigation, such as reduction in the panel area, might be more appropriate.

3.3.259. Using the applicant's matrices from ES chapter 7 [CR2-019], we consider that without consideration of the potential impact of the proposed mitigation, the proposed development would have a low adverse impact that would result in a minor or moderate effect, which differs from the applicant's conclusion of negligible adverse impact and minor adverse effect.

3.3.260. Hordley House (Grade II*) Following our request at ExQ2.6.2 [PD-012] for further assessment for Hordley House in relation to its historic development, the applicant provided a more detailed assessment of the setting, including historic maps [REP5-007]. This review found no conclusive evidence for any planned landscape at Hordley House and as such, did not propose to make any reductions to the areas of panels in this location.

3.3.261. We continued to seek the removal of panels in field no. 1.12 to the southeast of Hordley House in order to maintain the setting without the need for 3m tall mitigation hedging. The impact of this hedging, which would be on either side of the historic path through the panels, can be seen at viewpoint 8 [CR2-032]. We, along with several IP's, consider that the hedging is more intrusive than the panels, but this has not been assessed by the applicant, and it has not considered whether other mitigation measure may be more appropriate. The extent of panels has not been amended.

3.3.262. Using the applicant's matrices from ES chapter 7 [CR2-019], we consider that without consideration of the potential impact of the proposed mitigation, the proposed development would have a medium adverse impact that would result in a moderate or major effect, which differs from the applicant's conclusion of negligible adverse impact and minor adverse effect

3.3.263. Shipton Slade Farm (Gd II). The concern relating to this HA is the proximity of the panels to some of the residential dwellings.

3.3.264. The applicant's position in the ES Settings Assessment [CR2-038], confirmed in its response [REP4-037] to ExQ2.6.13 [PD-012] focusses entirely on the two Grade II buildings at the centre of the complex (Shipton Slade Farm and Barn 50m southwest). It refers to former farm buildings that have been largely converted to residential uses. It has not made any assessment of whether these former farm buildings may be curtilage structures and as such, require assessment of setting as part of the principal listed buildings.

3.3.265. The ExA consider that, in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, and with reference to the HE Advice Note 10, Listed Buildings and Curtilage, all the pre-1948 farm buildings are considered to be curtilage structures and as such, form part of the listing of the principal farmhouse and barn, akin to extensions.

3.3.266. During USI7 [EV2-007], we walked on public paths past the dwellings and noted that they appear to be relatively modern conversions. Consequently, Listed Building Consent may have been sought for their conversion. If this is the case, then they are most certainly curtilage structures and should have been included within the assessments, as part of the principal listed buildings.

3.3.267. The setting that contributes positively to the group is the adjacent agricultural land that provides context to the historic rural farm complex. The unmitigated installation of panels at a distance of some 25m from the boundary of the assets would clearly have a detrimental impact on this setting which has not been considered.

3.3.268. We consider that, in the absence of a fundamental understanding of the extent of the listing, the assessment of the setting is flawed, and the proper mitigation hierarchy has not been followed. As such, we consider that the installation of panels in the north and west fields adjacent to the group would have a medium adverse impact that would result in a moderate effect, which differs from the applicant's conclusion of negligible adverse impact and minor adverse effect.

3.3.269. The proximity of the panels at Shipton Slade is also covered in section 3.4 of this report in relation to residential visual amenity.

3.3.270. With regard to the OHA proposed reductions in panel area outlined above, [REP4-075] and [REP6-118], the ExA considers that the areas proposed to reduce the impact on the setting of heritage assets have been largely dealt with through CR2. The exception to this is field 1.12 south east of Hordley House, which we agree should not contain panels for the reasons given above.

3.3.271. In addition, many of the reductions proposed in relation to landscape and visual issues support the overall historic environment, such as around the conservation areas at Cassington, Church Hanborough and Bladon, and the multiple heritage assets therein. These are considered in section 3.4 of this report.

3.3.272. In respect of the applicant's Without Prejudice offer [REP6-052], this would be beneficial to the setting of Hordley House (Grade II*), and a positive step towards reducing the potential effect on the significance of this high-grade HA. Consideration of the implications of this are set out in chapter 7 of this report.

3.3.273. Whilst not a major issue during the examination, in its joint LIR [REP1-072], OHA noted at para 7.2.67 that the Grade II listed Milestone on the Oxford Road lies within the cable route area. In the response to ExQ2 [REP4-074] they requested modification to Requirement 8 of the dDCO to make special provision and protection for the milestone.

3.3.274. The applicant rejected this because it had concluded that there would be only minor residual adverse effects, with no further mitigation or monitoring required. The ExA viewed the position of the milestone at USI4 [EV2-004] and agree with the applicant that a change to the requirement is unnecessary.

3.3.275. In their final SoCGs, CDC, VoWH and WODC have all noted that the proposed development fails to meet several of their historic environment Local Plan policies and the Cassington Neighbourhood Development Plan. Along with other IP closing statements noted, this indicates a lack of trust in the applicant's methods and conclusions.

ExA Conclusions

3.3.276. The ExA considers that, overall, the applicant has undervalued the contribution that setting makes to a variety of HA's and consequently, the proper mitigation hierarchy has not necessarily been applied.

3.3.277. Understanding that, other than the National Grid substation at Cumnor, the proposed development would have an overall lifespan of 42 years, the harm identified would be temporary and fully reversible.

3.3.278. The ExA considers that the harm to designated heritage assets should be classified as less than substantial, to be weighed against the public benefits; this balance takes place in chapter 5 of this report.

3.3.279. However, the ExA notes paragraph 5.9.27 of NPS EN-1 that advises great weight should be given to an asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. This position is echoed in the NPPF.

Non-Designated Heritage Assets

3.3.280. Non-designated Heritage Assets (NDHA) can be either above ground or archaeological and are generally identified either through conservation area reviews, neighbourhood development plans or during an application process. Whilst several of the conservation area appraisals available note locally important non-listed buildings, only one, Tumbledown Hill in Cumnor, was considered to have the potential to be affected by the proposed development and therefore taken forward to assessment.

3.3.281. In the Settings Assessment [CR2-038], it is noted as of low sensitivity and its setting is noted as making a limited contribution to its significance. Panels would be

situated about 450m to the south, although it is likely that the Project Main Substation will be visible in the view.

3.3.282. The applicant assesses the magnitude of impact to be low adverse and the resulting effect to be minor.

3.3.283. In relation to archaeological NDHA, the Historic Environment Desk Based Assessment, ES Appendix 7.1 [APP-131], identified many known and potential sites of archaeological interest. They were outlined in the 8-part Geophysical Survey Report [APP-133] to [APP-140].

3.3.284. Dealing with these potential sites during construction was covered in the initial OWSI [APP-237]. In response to question ExQ1.6.37 [PD-008], OCAS considers this document insufficiently detailed. However, it found Rev 2 [CR1-005] to be acceptable. A final revision (Rev 3) was submitted with CR2 [CR2-053] and R10 in the dDCO [REP7-006] provides for the final Written Scheme of Investigation to be submitted to and approved in writing by the relevant planning authority.

3.3.285. At the close of examination, the SoCG with OCC [REP8-002] notes that the OWSI (Rev 3) is agreed, however OCC note that:

> "*There are a number of impacts for cable connection that have not been subject to archaeological evaluation as the specific locations have not yet been finalised. These works however could impact on currently unidentified archaeological deposits which could be of such significance to require physical preservation. This has the potential to have a considerable impact on the viability of the scheme. These areas will also need to be subject to archaeological evaluation to assess the significance of any archaeological heritage assets within these areas before the impact of this proposed scheme on this significance can be assessed".*

3.3.286. The applicant responded by stating: *"The Outline Written Scheme of Investigation (Rev 3) [CR2-053] sets out a proposed programme of further archaeological investigation to be undertaken in the event of the DCO being granted. This programme would include completion of the second phase of trial trenching described above, if it has not been possible to complete this work before the Examination has concluded"*

ExA Conclusions

3.3.287. In relation to the standing NDHA, the ExA agrees with the applicant's assessment provided in the settings assessment [CR2-038]. In terms of unknown potential archaeology, the ExA consider that the OWSI [CR2-053] and R10 in the dDCO [REP7-006] provide sufficient safeguards for OCAS to be provided with the information required in order to ensure adequate protection of these sites. In terms of the wider cable corridor connecting the north, central and south project areas, the ExA is content from the applicant's evidence and the views of all IPs that the likelihood of finding significant archaeological interest in the cable corridor is sufficiently low that the viability of the scheme would not be at risk.

CONCLUSIONS

3.3.288. The ExA has given careful consideration to the views of IPs to the evidence presented and the responses received, including the views of HE (acting as State Party advisors) and other important and relevant bodies for heritage considerations such as ICOMOS-UK and ICOMOS International.

3.3.289. In respect of the WHS, its associated HA of various designations and grades, and both its immediate and wider setting, the ExA finds that the absence of full information and a detailed assessment of the all the heritage values of the WHS added to a lack of understanding and assessment of the intangible elements of OUV that are wrapped up in its authenticity and integrity, and that the proper mitigation has not been undertaken to reduce the potential harm to the OUV. The solar panels would encroach upon and within the setting of the WHS, impacting the OUV and the significance of the asset and how future generations would interpret it.

3.3.290. This harm would be in the less than substantial range, but as paragraph 5.9.27 of NPS EN-1 advises, great weight should be given to an asset's conservation, and the more important the asset, the greater the weight should be. There is no more important heritage designation than a WHS and as such, the harm should be ascribed very great weight.

3.3.291. In respect of Scheduled Monuments, the ExA considers that the applicant failed to provide the required information to the statutory bodies and local authorities in a timely manner to enable them to properly assess the potential impact on the Sansom's Platt SM. The archaeological interest associated with this SM was known to be of greater size and significance than reported in the scheduling document. This lack of information impeded proper examination of the issues and as such the ExA is recommending the augmented R10 on archaeology in the rDCO as being wholly necessary in order to ensure that the proposed development complies with NPS EN-1 and NPS EN-3.

3.3.292. Providing the proposed new amended R10 in the rDCO is agreed and imposed by the SoS, the ExA considers that extended archaeological buffer zones, if required, can be agreed through the discharge of this requirement in any post-consent phase. As such, the ExA consider that in the matter of SM, the level of harm would be neutral. However, if the amended R10 is not agreed and imposed by the SoS, the level of harm could be substantial.

3.3.293. In respect of Designated Heritage Assets (DHA), the ExA considers that the applicant has undervalued the contribution that setting makes to a variety of HA's and as such, the proper mitigation hierarchy has not necessarily been carried out. The ExA concludes that the harm to DHA should be classified as less than substantial. However, the ExA notes paragraph 5.9.27 of NPS EN-1 that advises great weight should be given to an asset's conservation, and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

3.3.294. The HA's affected are Grade I, Grade II* and Grade II. Therefore, great weight must be ascribed any harm, particularly to the higher graded assets as required by NPS EN-1.

3.3.295. In respect of Non-Designated Heritage Assets, the ExA agrees with the assessment and conclusions regarding the standing NDHA and is satisfied with the level of protection offered at post-consent phase by the OWSI for as yet undiscovered or unknown NDHA. As such, the ExA considers that in the matter of NDHA, the level of harm would be neutral.

3.3.296. In conclusion, the ExA considers the issue of cultural heritage weighs heavily against the case of the development consent order. This conclusion is to be

weighed against the public benefits of the proposed development in chapter 5 of this report.

3.4. LANDSCAPE

INTRODUCTION

3.4.1. This section considers the effects of the proposed development in relation to landscape and visual impacts, including upon the Cotswold National Landscape (formerly Area of Outstanding Natural Beauty).

POLICY BACKGROUND

3.4.2. Paragraph 5.10.1 of the Overarching National Policy Statement for Energy 2024 (NPS EN-1) states that the landscape and visual effects of energy projects will vary on a case-by-case basis according to the type of development, its location and the landscape setting of the proposed development. Paragraph 5.10.5 notes that virtually all nationally significant energy infrastructure projects will have adverse effects on the landscape, but there may also be beneficial landscape character impacts arising from mitigation.

3.4.3. Paragraph 5.10.6 notes that projects need to be designed carefully, taking account of the potential impact on the landscape. Having regard to siting, operational and other relevant constraints, the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate.

3.4.4. Paragraph 5.10.7 refers to Areas of Outstanding Natural Beauty (AONB) (now National Landscapes) and notes that these areas have the highest status of protection and that projects should be designed sensitively, given the various constraints. The Secretary of State (SoS) should be satisfied that measures which seek to further the purposes of the designation are sufficient, appropriate and proportionate to the type and scale of the development.

3.4.5. It is important at this stage to note that the legislative framework concerning National Landscapes has changed following the Royal Assent of the Levelling-up and Regeneration Act 2023 (LURA 2023). Originally, the Countryside and Rights of Way Act 2000 (CROW 2000) imposed a duty on public authority decision makers under s85, which required authorities *to: "have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty"*. The LURA 2023 s245 amended this duty and now authorities *"must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty"*.

3.4.6. Paragraph 5.10.14 of NPS EN-1 states that the SoS will have to judge whether the visual effects on sensitive and other receptors outweigh the benefits of the proposal.

3.4.7. Paragraphs 5.10.16 to 5.10.10.25 outline the requirements of the applicant's assessment, indicating that this should report on the landscape and visual impacts, cumulative effects, light pollution effects on dark skies, local amenity and nature conservation, and noise pollution.

3.4.8. Paragraph 5.10.26 states that reducing the scale of a project can help to mitigate the visual and landscape effects, although reducing the scale or otherwise amending the design of a proposed energy infrastructure project may result in a significant operational constraint and reduction in function. However, where mitigation could have a very significant benefit and warrant a small reduction in

function, the SoS may decide that the benefits of the mitigation to reduce the landscape and/or visual effects outweigh the marginal loss of function.

3.4.9. Paragraph 5.10.27 states that adverse landscape and visual effects may be minimised through appropriate siting of infrastructure within that site.

3.4.10. Paragraph 5.10.29 states that the SoS should take into consideration the level of detailed design that the applicant has provided and secures within the Development Consent Order (DCO) and the extent to which design details are subject to future approvals.

3.4.11. Paragraph 5.10.34 states that the duty to seek to further the purposes of nationally designated landscapes also applies when considering applications for projects outside the boundaries of these areas, which may have impacts within them. The aim should be to avoid harming the purposes of designation or to minimise adverse effects on designated landscapes, and such projects should be designed sensitively.

3.4.12. Paragraph 5.10.35 states that the scale of energy projects means that they will often be visible across a very wide area and that the SoS should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits of the project.

3.4.13. Paragraph 5.10.36 refers to timescales and notes that in reaching a judgement, the SoS should consider whether any adverse impact is temporary and/or whether any adverse impact on the landscape will be capable of being reversed in a timescale they consider to be reasonable.

THE APPLICATION

3.4.14. The applicant's Landscape and Visual Impact Assessment (LVIA) is primarily contained within chapter 8 of the Environmental Statement (ES) [APP-045]. The supporting figures and appendices are listed in Table A1 in Appendix A of this report.

3.4.15. For the purposes of the Environmental Impact Assessment (EIA), any effects with a significance level of moderate or less were not considered to be significant.

Baseline and methodology

3.4.16. The assessment gathered information on the existing baseline through a desk-based study of existing studies and datasets, with some fieldwork.

3.4.17. A study area of 5km was considered appropriate and a Zone of Theoretical Visibility (ZTV) was produced that generally followed the principal development areas of the Project Site, with the potential highest visibility confined to within 3 km of the Order limits (OL). The ZTV took into consideration significant blocks of woodland and built form but did not consider the screening effect of all vegetation.

3.4.18. The ZTV was based on the development of solar panel at heights of up to 2.3 metres (m), Power converter station (PCS) heights of 3.5m, National Grid Energy Transmission (NGET) substation height of 12.5m, main project substation height of 11m and secondary Project substation height of 6m. The ZTV was based on a viewer height of 2m.

3.4.19. There was limited overlap of the ZTV for the northern, central and southern fields, which indicated that intervisibility of the three Project Sites was unlikely to happen from any location apart from a single elevated location southwest of Bletchingdon, that indicated potential visibility of northern and central fields.

3.4.20. The study area identified several key National Landscape Character Areas (NCA) and features comprising:

- Cotswold National Landscape (CNL).
- Cotswolds National Character Area (NCA) (NCA107)*.
- Upper Thames Clay Vales NCA (NCA108)*; and
- Midvale Ridge NCA (NCA109)*.

*These were also identified as Regional Character Areas (RCA)

3.4.21. In addition to these National and Regional Character Areas, district and local Landscape Types (LT), Landscape Character Types (LCT). Character Areas (CA) and Landscape Character Areas (LCA) were identified within the study area and are listed within ES chapter 8 [APP-045].

3.4.22. The Cotswolds was designated as a National Landscape in 1966 (previously known as AONB), in recognition of its special landscape character. The outstanding natural beauty of the area is derived from its remarkable visual unity, and yet scenic diversity. The unifying factor is the underlying geology. The project site does not fall within the CNL, nor within any other designated landscape area. However, all of the defined landscape areas were assessed as being of high or medium to high sensitivity.

3.4.23. Visual receptors included in the assessment were the public and community at large, residents, and visitors to the area. Views were considered from public rights of way (PRoW), the surrounding road network, outdoor recreational facilities, commercial property, the railway network and private views from residential properties.

3.4.24. The key sensitive receptors taken forward to assessment were identified in table 8.18 [APP-045]:

- Walkers using long distance/promoted footpaths.
- Walkers using PRoW.
- Equestrians using PRoW.
- People using access land/open country.
- Cyclists using national cycle routes.
- Occupiers of residential properties.

3.4.25. Of these, the cyclists were considered to be medium sensitivity; and all other receptors were high sensitivity.

3.4.26. The assessment included an assessment of 55 representative viewpoints, of which 31 were chosen for photomontage imagery. Photomontages illustrated the

proposals at winter of year 1 and summer of year 15 to show the effect of mitigation planting.

3.4.27. The LVIA methodology was based on the Guidelines for Landscape and Visual Impact Assessment third edition (GLVIA3). Additional best practice guidance followed included:

- Countryside Agency in conjunction with Scottish Natural Heritage (2002) Landscape Character Assessment Guidance for England and Scotland.
- Landscape Institute Technical Guidance Note (06/19) Visual Representation of Development Proposals (September 2019).
- Landscape Institute (2021) Technical Guidance Note 02/21: Assessing landscape value outside national designations.
- Design Manual for Roads and Bridges (Highways England).

3.4.28. The stages of assessment were identified and addressed with reference to the guidance in GLVIA3:

- Establishment of the study area.
- Desk studies.
- Field surveys and representative viewpoint photography undertaken in Winter 2022/2023 and Summer 2023.
- Consultation.
- Iterative design.
- Assessment of impacts and evaluation of the likely significance of effects.

3.4.29. In addition, photography for the representative viewpoints and photomontages followed guidance in GLVIA3 and Landscape Institute Technical Guidance Note 06/19: Visual Representation of Development Proposals, September 2019. The applicant found that visually, post mitigation at year 15, the project would not be significantly visible or adverse in views.

3.4.30. Cumulative Impacts with other nearby projects were also considered in ES chapter 8 [APP-045] [APP-057]. A total of 32 schemes were identified in the “long list” and 13 were taken through to review. The other 19 were disregarded for a variety of reasons including:

- The cumulative development is outside the 5 km Study Area identified for the LVIA.
- The cumulative scheme is not located within the same landscape character area / type as that of any part of the Project.
- The ZTV demonstrates no potential intervisibility with any part of the Project and cumulative scheme(s).
- The cumulative scheme is of a type / scale which is anticipated to not cause a significant or any cumulative landscape and visual effect.
- The cumulative scheme has already been built out and therefore forms part of the baseline situation for the LVIA.

3.4.31. A description of the significance of the cumulative effects upon the identified landscape and visual receptors for each scheme and each phase of the proposed development was provided.

Construction Phase Effects

3.4.32. The assessment of the potential effects of the development through the construction phase is outlined in ES chapter 8 [APP-045], section 8.9, and is summarised in Table 8.24.

3.4.33. As stated above, for the purposes of the EIA, any effects with a significance level of moderate or less were not considered to be significant. This led to there being no significant effects recorded during construction for any landscape features or character areas, or the National Landscape, with the effect levels ranging from no effect to moderate adverse.

3.4.34. No significant effects were recorded for any visual receptors, or from any of the recorded viewpoints; again, the effect level ranged from no effect to moderate adverse.

3.4.35. No significant effects were recorded for any of the cumulative projects during the construction phase.

Operational Phase Effects

3.4.36. The assessment of the potential effects of the development through the operational phase is outlined in ES chapter 8 [APP-045], section 8.9, and summarised in table 8.24.

3.4.37. Effects were recorded at winter, year 1 and summer, year 15 to indicate the effectiveness of the mitigation planting.

3.4.38. At year 1, 12 significant (major, or moderate to major) effects were noted. These were to:

- PRoW within or immediately adjacent to the project.
- Viewpoint 5b: View looking east from footpath 416/5/20.
- Viewpoint 5c: View looking west from footpath 416/5/10.
- Viewpoint 13: View looking northeast from bridleway 342/1/10, near Banbury Road.
- Viewpoint 17: View looking west from footpath 265/24/20.
- Viewpoint 26: View looking north from footpath 238/5/20.
- Viewpoint 33: View looking southeast from footpath 152/7/10.
- Viewpoint 38: View looking west from footpath 152/6/10 near Purwell Farm.
- Viewpoint 39: View looking southeast from footpath 152/6/10 near Purwell Farm.
- Viewpoint 50: View looking southeast from footpath 184/50/20, Oxford Green Belt Way adjacent Farmoor Reservoir.
- Viewpoint 54: View looking north from footpath 184/16/20.

3.4.39. At year 15, the significant effects recorded at year 1 (as listed above) were reduced to moderate or less and as such, were not considered to be significant in the applicant's assessment. This included a conclusion of no significant effects on residential receptors. The applicant concluded that on balance, the quality and character of the landscape and visual resources would largely be maintained

Decommissioning Phase Effects

3.4.40. No significant landscape effects were recorded for any visual receptors, or from any of the recorded viewpoints during the decommissioning phase. This is the reported case even with the National Grid substation being a permanent built feature in the southern area that would not be removed during decommissioning.

3.4.41. The proposed planting that would remain post-decommissioning would have a longer-term benefit reinforcing the landscape character of the local landscape.

ISSUES CONSIDERED DURING THE EXAMINATION

3.4.42. Landscape and visual effects were a major consideration during the examination, taking up much hearing time and written submissions.

3.4.43. Over 700 relevant representations (RR) provided comment in respect of landscape and / or visual matters and the possible impacts of the proposed development on these. Having taken these into account, alongside the submitted application documents, the ExA considered that landscape and visual matters should be one of the initial principal issues for the examination [PD-006].

3.4.44. Impacts on green belt became a separate issue that was dealt with during the examination, and this is covered in section 3.2 of this report.

3.4.45. There were some significant matters that were a constant thread throughout the examination. These are considered in detail within this section of the report and consist of:

- The methodology and approach.
- Landscape and visual effects and viewpoints
- The effects of, and approach to, mitigation.
- Approach to Residential Visual Amenity Assessment (RVAA).
- National Landscape.

Methodology and Approach

Definition of significant effects

3.4.46. In all chapters of the ES, the applicant used an assessment matrix of no change, negligible, minor, moderate, major, substantial. However, for ES chapter 8, Landscape and Visual Impact Assessment (LVIA), the applicant removed the 'no change' column from the Assessment Matrix ([APP-045], table 8.12). There was no explanation or justification given as to why there was this discrepancy in methodology compared to other chapters in the ES or its supporting material at the application submission stage.

3.4.47. Inclusion of the 'no change' column provides six categories, thereby creating a natural split between significant and not significant effects between the minor and

moderate effect categories. Given that the 'no change' column appeared across the rest of the ES, the ExA and IPs challenged the applicant's methodology and approach to the LVIA at [PD-008] [PD-009] [PD-012] [PD-017] and in issue-specific hearing (ISH) 1 [EV5-006].

3.4.48. The applicant's general response was that moderate effects fell within the middle of the assessment matrix range, and, in this position, professional judgement could be used to determine whether moderate effects were significant or not [REP2-025] [REP4-037] [REP5-006]. It referenced box 3(5) of the Landscape Institute's Notes and Clarifications on Aspects of GLVIA3 2024 (GLVIA3 Note) whereby:

> *"typically, effects falling below the middle of the range of overall effect are assessed as not significant. For example, if using a scale of minor/ moderate/ major, then major effects will be significant and minor effects will not be significant. In this example, moderate effects may or may not be significant and justification would be needed in the methodology or receptor assessment as to whether a moderate effect is significant or not."*

3.4.49. The applicant stated that the matrix used to evaluate the significance of effect had been adapted from the Design Manual for Roads and Bridges (DMRB) LA104 (Highways England et al., 2020) [REP5-005]. The applicant declared:

> *"The main adaptation to the matrix in DMRB to the matrix used in the Botley West ES is the removal of the 'no change' magnitude of impact column. This is because if there is no change, then the impact is scoped out of the ES so this column is redundant."*

3.4.50. However, dropping the no change column solely from this chapter of the ES set it apart from the other assessments and created nervousness amongst consultees, IP's and the ExA as to the consistency of approach across the documentation. The consequential definition of a moderate effect as not significant contributed to the LVIA [APP-045] reporting that there would not be any significant adverse landscape or visual effects during construction or operation of this 1,400Ha solar farm.

3.4.51. The OHA heavily and persistently criticised this approach, stating on several occasions that applicant had downplayed the effects and that other made development consent orders for solar farms, recent and historic, had concluded significant effects would occur [REP1-069] para 5, [REP1-072] para 7.3.39 and [REP2-049].

3.4.52. In the Local Impact Report (LIR) [REP1-072], the OHA provided a report they had commissioned to give an independent review of the LVIA ES chapter. The report, carried out by consultants LUC, included in appendix 1 to the LIR, observes that: *"…..effects of Moderate or less are not considered to be significant. This seems to set the bar high in terms of the threshold of significance, particularly as the definition for a medium magnitude in the applicant's methodology refers to 'Where proposed changes would be noticeably out of scale or at odds with the character of an area' and 'introduction of elements that may be prominent' and 'change may be prominent" (Table 8.11 of ES Volume 1 Chapter 8). These sound like significant effects".*

3.4.53. In the applicant's response [REP2-026] to the LIR [REP1-072] it states that it has followed best practice advice and that *"On determining significance of effects GLVIA3 explains that "there are no hard and fast rules about what effects should be deemed 'significant'… (GLVIA3, paragraph 3.32). Paragraph 3.33 explains that it is*

not essential to establish a series of thresholds for different levels of significance of landscape and visual effects, provided it is made clear whether they are considered significant"

3.4.54. The applicant's approach and methodology were questioned at ISH1 [EV5-006], ExQ1.14.10 [PD-008] and Q1 in the Rule 17 letter (R17) dated 17 June 2025 [PD-009]. The response was the same; that the applicant's position was based in best practice and that neither the GLVIA 3 nor the EIA regulations required a set approach and that it relied on professional judgement.

3.4.55. However, at ISH1 [EV5-006, minute 01:09:44 to 01:12:45], the applicant attempted to justify the approach taken by quoting from paragraph 1.17 of GLVIA3. This paragraph states:

> *"…….Identifying significant effects stresses the need for an approach that is in proportion to the scale of the project that is being assessed and the nature of its likely effects. Judgement needs to be exercised at all stages in terms of the scale of investigation this is appropriate and proportional. This does not mean that the effects should be ignored or their importance minimised but that the assessment should be tailored to the particular circumstances in each case…."*

3.4.56. The applicant then went on to state that having moderate adverse effects included as significant would result in a disproportionate level of significant effects, which is the same position quoted in the applicant's response to RR's [REP1-020]:

> *"For the purposes of the Project, those effects of Moderate adverse or below are considered to be not significant. Taking the proportionality approach to the assessment, it is judged that having Moderate adverse as significant would have resulted in a disproportionate level of significant effects, when considering the circumstances of individual landscape and / or visual receptors"*.

3.4.57. This point was picked up by OHA in its response [REP2-049], where they stated:

> *"The LVIA should clearly assess the Landscape and Visual effects of the scheme to feed into the Planning Balance. Just because there is a disproportionate level of significant impacts does not mean that the level of significance should be reduced so that these levels are not recorded as significant."*

3.4.58. Other IPs that objected to the project expressed shock and anger that a solar farm on the scale of the proposed development, over 1400ha of undulating land including valleys and ridges, was considered to have little or no landscape or visual impact (for example [REP1-078] [REP1-079] [REP3-078] [REP3-107] [REP4-071]).

3.4.59. Representations at DL3 continued to question the methodology and approach taken including, but not limited to [REP3-089], [REP3-101], [REP3-106] and [REP2-120]. This criticism included commentary on 1) viewpoints, 2) approach to the landscape setting of heritage assets and 3) methods of mitigation; all these alleged failings, IPs argued, stemmed from the applicant's definition of significant effects. Point 1 is covered below, point 2 is covered in the Cultural Heritage section of this report (3.3) and point 3 is covered later in this section.

3.4.60. In the application LVIA, [APP-045], table 8.13 provided a Definitions of Significance of Effects Matrix that showed the following descriptions for moderate and minor effects:

Table 2 – Extract from table 8.13 of [APP-045]

Significance	Landscape Resource	Visual Resource
Moderate	Where proposed changes would be noticeably out of scale or at odds with the character of an area	Where proposed changes to views would be noticeably out of scale or at odds with the existing view
Minor	Where proposed changes would be at slight variance with the character of an area	Where proposed changes to views, although discernible, would only be at slight variance with the existing view

3.4.61. The updated LVIA (Rev 2) [REP5-026] removed this table and instead stated that: "*Where the landscape or visual impact has been classified as Major and Major to Moderate this is considered to be equivalent to a significant effect. Moderate effects may or may not be significant, depending on the particular circumstances arising and professional judgement. In this instance justification has been provided in the receptor assessment."*

3.4.62. The Landscape Clarification Note [REP5-006], which sought to justify the methodology used, did not mention the DMRB at all.

3.4.63. As noted by Stop Botley West (SBW) [REP3-120], whilst GLVIA3 sets out that there are no hard and fast rules, it is beholden on the author of the LVIA to explain robustly their reasons for the methodology used, which in this case has not been done with any clarity.

3.4.64. The revised LVIA [REP5-026] and additional documentation concluded that several moderate effects would be significant (representative viewpoints 5b, 5c, 23, 25, 32, 38, 48 and 50). This revised judgement was due in part to the amount of development in fields in close proximity to the visual receptor. However, all were considered to be not significant by year 15, other than viewpoints 23, 48 and 50 and no further action was advocated and no further mitigation proposed.

Viewpoints

3.4.65. The viewpoints and photomontages chosen by the applicant were questioned throughout the examination by IP's and OHA, in particular the choice and direction of viewpoint locations, the lack of photomontages given the scale of the project and the unrealistic static nature of the views [RR-0998], [REP1-154], [REP2-120], [REP3-116], [REP4-074], [REP5-115] and [REP6-119].

3.4.66. Following the ExA's R17 of 17 June 2025 [PD-009], the applicant re-assessed the significance of effects in relation to the representative viewpoints where visual receptors were judged to experience moderate, not significant effects [REP2-029].

3.4.67. In [REP3-066] the applicant also reviewed the significance of effects on viewpoints that had been raised by the OHA [REP2-049] in response to the ExA's R17 letter. The applicant concluded:

> *"In the case of seven viewpoints, year 1 winter operational effects have subsequently been judged to be slightly higher than those assessed in the LVIA. Where changes have been made this has been the result of an internal review of the original assessment, as set in the LVIA [APP-045] and with reference to specific Representative Viewpoints as set out in the OHAs response to the Rule 17 letter [REP2-049]. Where the significance of effect has been altered this is because of changes to the magnitude of impact from individual Representative Viewpoints.*

3.4.68. Following this review an updated LVIA (ES chapter 8) [REP5-026] was produced alongside a Landscape and Visual Resources Clarification Note (clarification note) [REP5-006] and a separate Representative Viewpoint Assessment (appendix 8.7) [REP5-038]. These new and updated documents sought to justify the applicant's methodology approach and no new viewpoints or photomontages were included.

3.4.69. The clarification note continued to justify the applicant's approach to the methodology and relied on paragraphs from NPS EN-1 [REP5-006], noting in particular the following NPS paragraphs:

- Paragraph 5.10.5 notes that: *"Virtually all nationally significant energy infrastructure projects will have adverse effects on the landscape, but there may also be beneficial landscape character impacts arising from mitigation."*
- Paragraph 5.10.13 goes on to explain that: *"All proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites."*
- Paragraph 5.10.35 states *"The scale of energy projects means that they will often be visible across a very wide area. The Secretary of State should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project."*

Close of examination

3.4.70. The final version of the ES chapter 8, LVIA was submitted at DL6 (Rev 4) [REP6-012], and summarised the findings of the LVIA (in relation to methodology) as:

- The project is located within multiple landscape character areas / types, as derived from the available local authority landscape character assessment(s). There would be a minor to moderate adverse (not significant) significance of effect upon those landscape character areas as a whole within which the Project is located. At a local level, effects on the landscape characteristics of the project site, which makes up a small part of the LCA(s), is considered to be moderate adverse (not significant).
- No significant effects are predicted during construction, operation and maintenance or decommissioning of the Botley West project on landscape character areas within the 5 km study area.
- Of the 55 representative viewpoints assessed it is concluded that there will be 15 moderate or major adverse (significant) visual effects at winter year 1 following the construction phase of the project. These effects would diminish over time, with no residual significant visual effects predicted at summer year 15, with the exception of representative viewpoints 23, 48 and 50. This is

because new hedgerow planting, planted at a height of 60-90 cm, would achieve a growth rate of approximately 30 cm per year. Therefore, by year 5 of the project, it is anticipated that newly established hedgerows, if suitably managed, would have achieved a height of approximately 3 metres and therefore screen views to much of the project.

- A total of 15 significant effects on representative viewpoints, detailed above, have been identified. Of the remaining 40 representative viewpoints, no other significant effects have been identified. On balance, it is considered that the quality and character of the landscape and visual resources would largely be maintained and would have the capacity to accommodate the project without significant effects beyond hose identified at a very local level.

3.4.71. At the close of examination, there were still significant disagreements between the applicant and OHA regarding the application of the methodology. This is outlined in the various Statements of Common Ground (SoCG); Oxfordshire County Council (OCC) [REP8-002], Cherwell District Council (CDC) [REP8-003], (Vale of White Horse District Council (VWHDC) [REP8-004], West Oxfordshire District Council (WODC) [REP8-005].

3.4.72. The OHA closing statement [REP7-191] stated that notwithstanding the applicant's minor amendments to methodology, key concerns raised in the LIR [REP1-072] had not been adequately addressed. The concerns can be summarised as methodology (including the applicant's use of DMRB guidance in combination with GLVIA3), the setting of significance thresholds, the treatment of duration and reversibility, consideration of the geographical extent, addressing cumulative effects, landscape and visual baselines and lighting.

3.4.73. Overall, OHA [REP7-191] remains of the view provided in the LIR [REP1-072], that the potential effects have been consistently underplayed and it is not clear how the LVIA was used to inform the siting, scale and design of the scheme, including master planning, to avoid areas where landscape and visual impacts would be most significant. This also had consequences for how the applicant had applied mitigation to the project, as set out below.

3.4.74. One IP, [RR-0919] provided a technical evaluation of the LVIA and concluded on the methodology used: *"The standard LVIA assessment method adopted, whilst applicable to a one off standalone solar farm of say 9 hectares, is inadequate to accurately reflect the magnitude of landscape and visual impacts arising from the cumulative loss equating to 100no x 9 hectare sites which currently comprise 151 historic individual and well managed fields interconnected across a mosaic of high value sensitive landscapes"*

3.4.75. Stop Botley West (SBW) stated outright that the intent of the applicant was always to ensure that there were limited significant effects arising from the project [REP6-130].

The mitigation hierarchy

3.4.76. The mitigation hierarchy is avoid, minimise, mitigate, compensate.

3.4.77. The OHA, like other IPs (for example [REP4-060] [REP4-063] [REP4-064]), doubted that the applicant had properly applied the mitigation hierarchy to landscape effects when undertaking initial design work for the project. This consequently meant that some effects were not being mitigated as much as they could be.

3.4.78. IPs, and specifically SBW [REP6-130], expressed concern with the applicant's reliance on particular paragraphs of the NPS as a defence, stating the approach implied that a level of harm is inevitable/ acceptable rather than actively seeking and exploring all opportunities for harm to be avoided. This was particularly acute when considering the applicant's second change request (CR2) [CR2-001] to [CR2-073] where solar installations were removed from circa 100ha of land with no reported impact on the overall generation capacity of the project.

3.4.79. Other comments regarding mitigation include [REP6-104] where the IP has quoted from the applicant's updated Representative Viewpoint Assessment [REP5-038] in relation to viewpoint 24:

> *"Seen though a gap in the hedgerow adjacent to the PRoW, which is otherwise very well vegetated for its entire length to the south of Church Hanborough. There would be views in the immediate foreground and on rising ground across the Evenlode Valley of solar panels across majority of the view. At winter Year 1, although without leaf, existing layered vegetation would have limited screening effect due to the position of the view. Solar panels closest to the PRoW would screen views to parts of the wider Project Site. There would be a Medium magnitude of impact to this fleeting view resulting in a Moderate significance of effect, which is not significant". (ExA emphasis)*

3.4.80. This highlighted text implies that the applicant considers the position of panels closest to the Public Right of Way (PROW) would screen, and therefore mitigate, the loss of wider views across the Evenlode Valley.

3.4.81. The applicant maintains that the reductions in the Order limits and areas of solar installation in CR2 [CR2-001] to [CR2-073] represents the ongoing application of the mitigation hierarchy [REP6-047] and is responsive to concerns being raised by IPs. To further evidence this, the applicant has made an offer, on a without prejudice basis, to remove panels from sensitive locations [REP6-052]. The consideration of the without prejudice offer is set out in a further section below.

3.4.82. It is, however, noteworthy that the OHA firmly dispute the applicant's claim of a continued application of the mitigation hierarchy, instead noting that reductions came around under pressure from IPs and some of the changes should have occurred at the outset had the mitigation hierarchy been properly applied [REP7-190] [REP7-191].

ExA Considerations

3.4.83. The ExA acknowledges that there is no prescriptive way of undertaking and preparing an ES, which does enable different approaches to be taken. The ExA also appreciates that professional judgement would likely be exercised more in landscape-related matters than some other topics since landscape assessment is less responsive to scientific analysis.

3.4.84. However, the issue of consistency across the EIA topics is at the heart of the ExA's concerns on the application of methodology, and the applicant has not demonstrated, to anyone's satisfaction, that the approach taken has resulted in a robust assessment of the landscape effects.

3.4.85. Whether in relation to GLVIA3 or the DMRB, the applicant has chosen to be selective about which part of the guidance it follows, which obfuscates the reasons

for its choices. For instance, in its response [REP2-026] to the OHA LIR [REP1-072], the applicant states that it has followed best practice advice and quotes just part of paragraph 3.33 of GLVIA3

> "*Paragraph 3.33 explains that It is not essential to establish a series of thresholds for different levels of significance of landscape and visual effects, provided it is made clear whether they are considered significant".*
>
> However, para 3.33 goes on to say:
>
> *"The final overall judgement of the likely significance of the predicted landscape and visual effects is, however, often summarised in a series of categories of significance reflecting combinations of sensitivity and magnitude. These tend to vary from project to project but they should be appropriate to the nature, size and location of the proposed development and should as far as possible be consistent across the different topic areas in the EIA". (ExA emphasis)*

3.4.86. The selective nature of the assessment is amplified by the applicant's own statement in ISH1 [EV5-006, minute 01:09:44 to 01:12:45], where the applicant replied: *"it is judged that having moderate adverse as significant would have resulted in a disproportionate level of significant effects when considering the circumstances of individual landscape and visual receptors."*

3.4.87. This appears to the ExA to be a misinterpretation of guidance, not the exercising of professional judgement. It appears as a conscious decision to lessen the reported effects, leading to a methodology that sought to downplay the potential harm that the proposed development could cause, rather than presenting a well-considered assessment that IPs and the ExA could trust and work with.

3.4.88. By dropping 'no change' from the assessment matrix in ES chapter 8 in isolation, the moderate effect comes into the middle of the range referred to in box 3(5) of the GLVIA3 note. This gave the applicant the ability to exercise judgement where previously it would not have existed. The consequence of this is that the true impacts of the proposal are either unknown, uncertain or likely to be greater than the applicant purports them to be.

3.4.89. The omission of table 8.13, assessment matrix, from the revised LVIA [REP5-026] is considered to be a clear indication of the applicant's desire to justify its position post hoc rather than provide a transparent assessment, as required by the guidance (GLVIA3) that the application is purported to have followed. Removal of this table also disregards the GLVIA3 para 3.34:

> *"…..Descriptions should be provided for each of the categories to make clear what they mean, as well as a clear explanation of which categories are considered to be significant and which are not. It should also be made clear that effects not considered to be significant will not be completely disregarded"*

3.4.90. Removal of table 8.13 from later revisions of the LVIA [REP5-026] was unexplained, and this lack of explanation further blurred rather than clarified the likely effects. Whilst the later revisions of the LVIA concluded that there would be some significant effects, the professional judgement that was used in making the decision about whether something was significant or not significant was not explained. This led to

some confusing statements. For instance, in [REP5-037], Viewpoint 9 (operation phase) it states:

> "*There would be a Low magnitude of impact as a result of the Project, resulting in a Moderate adverse significance of effect for users of High sensitivity as solar panels in the middle ground would occupy the whole view and be noticeably at odds with the baseline situation. This effect is not significant". (ExA emphasis)*

3.4.91. There is no explanation as to how a "not significant" effect is arrived at, given the previous sentence that the view would be noticeably at odds with the baseline situation. This is just one example.

3.4.92. The ExA welcomes that the applicant, following pressure, undertook a review of the effects reported [REP2-029] and undertook to explain the approach taken. However, the ExA fully endorses the view of the OHA in its closing statement [REP7-191], that the applicant's responses throughout the DCO process have predominately focused on justifying the approach rather than trying to achieve the best possible outcome in landscape and visual terms. The ExA notes that the reductions in CR2 are primarily to resolve matters regarding other ES topics, with consequential improvements for the receiving landscape. Such changes are considered in a further section below but are nonetheless welcomed.

3.4.93. However, the inconsistency shown across documents relating to landscape and visual matters obfuscates findings, leading to a general mistrust of the applicant's ability to properly assess this very important topic.

3.4.94. As such, we share the reservations expressed by IPs about the applicant's overall approach, interpretation of guidance and application of the mitigation hierarchy, and remain unconvinced that the landscape and visual assessment is robust.

3.4.95. The ExA therefore has serious concerns over the conclusions of ES chapter 8 and considers that there are effects that are underestimated arising as a result of the flawed application of the methodology, inadequate application of the mitigation hierarchy and poor quality of reporting.

Landscape and Visual effects, including Viewpoints

Background

3.4.96. IPs raised concern that the true landscape and visual effects of the proposed development were not adequately described, citing a number of matters such as poor assessment of viewpoints, inadequate photomontages, and the arriving at conclusions without a clear evidence trail (for example, [REP1-154]). The ExA also had concerns in this regard, issuing a separate R17 letter dated 17 June 2025 [PD-009] raising the following queries (amongst others):

- Views would not return back to baseline conditions after construction, so why are construction impacts termed temporary?
- Why are the effects on the landscape of the mitigation planting, which would remain post-decommissioning, not assessed?
- How has the mitigation hierarchy been applied in the assessment of landscape and visual effects?

3.4.97. The applicant's response stated that [REP2-029]:

- The residual effects arising as a result of the construction process itself are assessed as being short-term and temporary, only occurring during the period of the construction phase, and differing in nature from the operational effects.
- The Botley West Solar Farm is time-limited and temporary due to Requirement 14 in the draft DCO which imposes a decommissioning obligation on the undertaker after a 37.5 year operational period. ES chapter 8 explains that for the purposes of the LVIA, the Project is considered to be fully reversible.
- It is intended that the proposed landscape mitigation would be retained, post-decommissioning, as part of the landscape legacy of the project and enhance the overall landscape structure of the local areas, at the same time improving connectivity between habitats. It is acknowledged that this would result in a change in views available within the landscape. However, with the undulating nature of topography and suitable widths for PRoW corridors, views of the wider landscape and key features such as church spires, distinctive landforms (including Burleigh Wood) would remain open and available to visual receptors.
- In respect of NPS EN-1, the applicant acknowledges paragraph 4.1.5 which sets out the need to avoid, reduce, mitigate or compensate for any adverse impacts (the mitigation hierarchy). As confirmed by paragraph 4.2.11 of NPS EN-1, applicants must apply the mitigation hierarchy and demonstrate that it has been applied. However, for clarity, the applicant also reiterates that paragraphs 5.10.5 and 5.10.13 of NPS EN-1 which state that virtually all nationally significant energy infrastructure projects will have adverse effects on the landscape and all proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites.

3.4.98. The ExA and IPs continued to press the applicant for more information, greater clarity and more transparency for its conclusions. All members of the OHA individually expressed disappointment with the lack of agreement on the LVIA methodology, and the viewpoints chosen, during the PEIR stage [REP1-053] [REP1-068] [REP1-078].

3.4.99. This ultimately led to the production of the following documents, each of which considered to represent the applicant's final position on landscape matters:

- Revised ES chapter 8 [REP6-012].
- Landscape Character Assessment [REP5-031].
- The PRoW assessment [REP5-037].
- The Representative Viewpoint Assessment [REP5-038] as supported by the photomontages [CR2-039].

3.4.100. The final Landscape Character Assessment [REP5-031] predicts that there would be no significant effects during construction, operation and maintenance or decommissioning of the proposed development on any receptor within the 5km study area.

3.4.101. In terms of visual effects, [APP-085] provides a plan of the locations of 55 viewpoints and 31 photomontages prepared to support the conclusions of ES chapter 8. These viewpoints were reviewed in the revised documents listed above. Of the 55 representative viewpoints, 15 significant effects were predicted at year 1,

which subsequently reduced to 3 significant effects in year 15 of operation. The LVIA [REP6-012], paragraph 8.14.4 explains that the planting of hedgerows would be responsible for reducing the number of significant effects.

3.4.102. In relation to views that other potential receptors might experience, the LVIA [REP6-012] concluded the following:

- Construction phase effects on users of public rights of way (PRoW) were predicted to be the same as operational phase and were not separately assessed. Significant effects were found at year 1 in all three site areas (north, central and south) reducing to not significant by year 15. Decommissioning effects were not considered [REP5-037].
- No significant effects were predicted for users of the road network from any phase of the development [REP6-012, paragraph 8.6.118].
- Little potential for the proposed development to visually affect users of any outdoor recreation facilities as they would be focussed on other activities and they were therefore not taken forward to assessment [REP6-012, paragraph 8.6.124].
- Owners and employees of commercial properties, including farms, would be focussing on other activities and not on their surroundings and were therefore excluded form assessment [REP6-012, paragraph 8.6.128].
- Effects on users of the rail network were not taken forward to assessment due to the transitory nature of the views [REP6-012, paragraph 8.6.132].
- Private views would be unaffected [REP6-012, paragraph 8.6.135].

3.4.103. The LVIA concludes:

"A total of 15 significant effects, detailed above, have been identified. Of the remaining 40 Representative Viewpoints, no other significant effects have been identified. On balance, it is considered that the quality and character of the landscape and visual resources would largely be maintained and would have the capacity to accommodate the Project without significant effects beyond those identified at a very local level or where it would be difficult to entirely mitigate visual effects. In addition, proposed planting would have a longer-term benefit reinforcing the landscape character of the local landscape."

3.4.104. The viewpoint assessment [REP6-012] paragraph 8.9.9 concluded:

- *"All close-proximity views illustrate a good setback of the low-lying development from the PRoWs.*
- *Solar panels do not form a skyline feature. The existing landscape features take prominence.*
- *The closest parts of the development would occupy a limited angle of the view.*
- *Solar panels do not appear as prominent features."*

3.4.105. In its response to DL6 submissions, the OHA [REP7-190] disagreed with the applicant's findings in relation to visual effects, stating that:

> *"The photomontages clearly illustrate that panels are located in close proximity to PRoWs, on rising or elevated land, and are in many areas of a*

scale that the existing landscape characteristics are being severely impacted upon. There are also numerous areas where the development rather than only occupying a limited extent of a view will expand in several directions and appear as prominent features in views in the open countryside. This summary does also not cover the impact of other elements of development including the substations, and in particular the main project substation and grid connection. The OHA also note that this section predominately focusses on representative viewpoints rather than the impact of the scheme on receptors such as users of the PRoW routes travelling through the landscape."

3.4.106. In its closing statement, the OHA [REP7-191] reiterates the conclusions from the Joint LIR [REP1-072] that the proposed development would result in significant effects to both landscape character and views, it is not clear how the LVIA has been used to inform the siting, scale and design of the scheme, and that the proposed mitigation methods such as hedges around Public Rights of Way will fundamentally change the way the landscape and views are appreciated.

3.4.107. The OHA retained the view that the revised LVIA still underestimates the impact on landscape character and views and that the mitigation hierarchy of avoid, minimise, mitigate, compensate has not been adequately applied with regard to landscape and visual impacts when developing the scheme. At paragraph 2.3.3 of its closing statement [REP7-191], the OHA state:

"*The applicant has made minor amendments and additions to the LVIA since the submission. However, changes have been minor and have not gone far enough to adequately address the issues the OHA have with the LVIA."*

3.4.108. One IP, whose landscape credentials are listed in [RR-0919] provided a critical appraisal of the original LVIA as it related to landscape and visual effects. The following is a summary of the key points raised:

- The 'representative viewpoints' are selective, in most instances taking a view that has the potential for least impact, whereas directing the view 10m either side, or moving further forward down a footpath, would have considerably greater effects.
- The use of discrete static imagery to illustrate landscape and visual impacts of a development of this magnitude which extends over an area 22 kilometres in length is largely ineffective in conveying the cumulative impact upon the landscape.
- At over 20 km, a local resident driving from say Wootton to Cumnor could be aware of the degraded historic rural landscape for up to 30 minutes. Both tourists and local residents should therefore be considered visual receptors groups of Very High Sensitivity.
- The assertion that: *" …..it is anticipated that there would be no significant effect upon users of the local road network……"* is therefore baseless given the scale of development proposed and the time that receptors would be exposed to the degradation of the countryside.
- Farmoor Reservoir is a major recreational destination for a variety of users, whose views would be subject to a high visual impact on what would be classed as highly sensitive recreational receptors.

3.4.109. The applicant responded to [RR-0919] at DL1, reiterating the findings of the ES as being accurate [REP1-020], page 131. No further commentary was provided in respect of these matters, and the applicant did not amend its position.

ExA considerations

3.4.110. The ExA acknowledges that there is no prescriptive way of undertaking and preparing a LVIA and appreciates that professional judgement would likely be exercised more in landscape-related matters where assessment is not responsive to scientific analysis.

3.4.111. However, GLVIA3 is clear at paragraph 2.21 that landscape is a resource in its own right and assessment of any effects is distinct from an assessment of visual effects. The ExA consider that landscape and visual matters have been conflated, and the conclusions consequently result in a reduction in the levels of harms reported. This conflation is evidenced in the applicant's position being that a low-lying development such as a solar farm would not alter the visual perception of the topography. Quoted below is a sequence of paragraphs the ExA has observed in the Landscape Character Assessment [REP5-031] where the initial assessment reports a 'high magnitude of change' but is then subsequently reported, through reference to visual aspects, as a conclusion of 'not discernibly affected':

1.3.44 - High magnitude of change would occur within the extent of the site, given that there would be a change in the existing landscape character from agricultural fields to a solar farm development. High magnitude effect of the Project on landscape character, where the land use would be notable different from the current agricultural uses would be contained to within the Site and its immediate proximity, occurring only in a localised extent of the Semi-enclosed flat vale farmland LCT and Open rolling vale farmland LCT in the Medium-term, until such time as the proposed mitigation planting develops and matures.

1.3.47 - The landscape of the Semi-enclosed rolling vale farmland LCT and Open rolling vale farmland LCT would retain its expansiveness with a dominant sky, views of focal features such as the church spire of Hanborough, and a skyline formed by the wooded landform of Burleigh Wood. The low-lying nature of the solar panels would not affect the exposed character of the landscape. The proposed mitigation planting would slightly reinforce its semi-enclosed character with visual containment provided by woodland belts

1.3.49 - Direct perceivable effects on the landscape character would be predominantly contained within the site or in the immediate proximity of the development, and its local context up to approximately 0.5 km. Beyond this distance, effects on landscape character would rapidly decrease to a Negligible scale (Viewpoint 19, 21, 28, 29, 30, 31, 32, 34, 35, 40). Also, the ZTV is limited and fragmented, as shown in Figure 8.7, 8.8, 8.8a and 8.9 to 8.11. It is judged that the intrinsic and prevailing characteristics of the Semi-enclosed rolling vale farmland LCT and Open rolling vale farmland LCT would not be discernibly affected through the introduction of the Project.*

**Underlining is ExA Emphasis*

3.4.112. The ExA considers this example, which is not isolated, demonstrates the blurring of lines between landscape and visual effects, creating an opaque and potentially inaccurate assessment of the reality of the likely landscape effects.

3.4.113. In another example of this blurring between landscape and visual effects, [REP5-031] paragraph 1.3.13, it states: *The effects upon completion would be of a Low magnitude, resulting in moderate/minor and not significant effects. It is judged that the impact would be adverse due to the noticeable change from an agricultural landscape to a solar farm development, where visibility would be available.* This is just one example of many where the impact on the landscape character has been erroneously conflated with a perception of whether or not it is visible rather than of the physical changes to the landscape that alter its character.

3.4.114. In addition, the ExA considers that there has been insufficient cross referencing between the landscape impacts and the historic setting of Blenheim Palace. One reference in response to the LIR at [REP2-026], notes that *"Extensive existing vegetation within and outside the palace ground, along with topographical variation, prevent view to the Project from the Blenheim Palace WHS. It is the Applicant's position that the assessment of the landscape and visual effects on the WHS is correct"*. This is covered in more detail in section 3.3 of this report, but it is the ExA's view that the applicant's position is not correct.

3.4.115. In terms of the visual impacts, the ExA finds it extraordinary that the applicant has not given detailed consideration to the impacts of the mitigation upon landscape and visual resources, as evidenced in the responses at [REP2-029]. In a landscape that offers panoramic views, open and vast vistas and long-distance appreciation of the topography, it is curious that the applicant concludes that planting 3m high hedgerows along the length of footpaths in and around the project area would not have an adverse visual effect. This is discussed further in paragraphs below.

3.4.116. There are many examples of the reliance on planting to screen the proposed development, without any assessment of how this planting may affect the landscape. For instance, in the baseline landscape character for the Open Wolds LCT, one of the describing factors is: *"typically large or very large fields, with rectilinear pattern of dry-stone walls (typical of later enclosures and often in poor condition) and weak hedgerows, with frequent gaps and very few trees"* (paragraph 8.6.20 [REP6-012]). Yet the significance of effect noted in [REP5-031] (paragraph 1.3.14) states: *"Long-term effects, as proposed mitigation planting matures, further enhancing the existing landscape structure, would reduce to a Low-negligible magnitude, resulting in Minor and not significant and neutral effects, with perceptual effects reducing in accordance with distance from the site's boundaries, as the proposed planting establishes and filters/screens the Project to a greater degree."*

3.4.117. Apart from being poorly expressed, this assessment takes no account of the existing baseline landscape character. Whilst the scope of mitigation is considered in further depth in a following section of this chapter, the ExA also notes that the hedgerows themselves would not actually serve to reduce the visual effects in many cases. For example, viewpoint 5b [REP5-038] (paragraphs 1.2.6 and 1.3.11 to 1.3.13, photomontage at [CR2-039]) is concluded as having a significant visual effect during construction and year 1 of operation. By year 15, the effect is described as follows:

> "*…. the new hedgerow planted adjacent to footpath 416/5/20 to the east of this view would have matured screening parts of the Project Site from view. Due to the undulating nature of the topography, solar panels would remain a noticeable feature within the landscape, however. The character of the view would remain that of a developed solar farm, but the new planting will better integrate it into its' landscape setting and slightly diminish its overall effect. The magnitude of the impact would remain at Medium, but the resulting*

significance of effect would be reduced slightly to Minor to Moderate adverse, which is not significant." (ExA emphasis)

3.4.118. The ExA fully accepts that there will be landscape and visual impacts as a result of the proposed development. However, we find the 'smoke and mirrors' approach to assessment of these matters untenable and raises too many questions as to the robustness and accuracy of the documentation. The ExA concludes that there are fundamental issues with the applicant's assessment of landscape and visual effects, potentially leading to higher impacts that those accounted for in all the submitted documentation. The ExA notes that its conclusions are supported by the OHA and IPs, who equally consider there to be:

- Persistent under-assessment of effects.
- Inadequate or misrepresentative viewpoint locations.
- Lack of consideration for road users and outdoor recreational users.

Effects of Mitigation

Background

3.4.119. Mitigation for the proposed development is set out in ES chapter 6, appendix 6.1, Mitigation Measures and Commitments Schedule [APP-129], updated (Rev 1) at [REP4-014]. The principal measures relied upon by the applicant are the creation of new areas of woodland and the planting of 3m high hedgerows either side of footpaths.

3.4.120. A prominent theme through the examination related to the applicant's proposal to plant hedgerows of up to 3m in height either side of public footpaths and PRoW [APP-045], paragraph 8.9.122. IPs, across 190 RRs and a host of other submissions, raised the following issues:

- Impact on health and wellbeing from loss of views and the tunnelling effect on public rights of way [EV5-007, minute 01:34:04 to 01:34:53].
- Loss of views to landmarks, sweeping views of a panoramic landscape and of historic landscape character [EV5-005, minute 36:05 to 37:19].
- Whether the hedges would be permanent, remaining after decommissioning and thus impact the views once the built development has been removed [EV5-005, minute 01:14:53 to 01:17:16].
- No assessment of the impacts on the landscape of mitigation measures in the ES [REP1-072], paragraphs 7.3.107 to 7.3.109.

3.4.121. The applicant made clear that hedgerows would remain post-decommissioning as part of the project's landscape legacy [REP2-029]. The applicant maintained that hedge-lined paths are characteristic of the local area, such as 416/11/20 passing through a narrow green lane, and therefore the proposals would enhance the local landscape [REP2-026] [REP4-037], ExQ2.13.8. The applicant continued that paths would have a minimum 5 metre width and there is no intention to remove any planted hedgerows or trees at decommissioning, as doing so would be counterintuitive [REP1-019]. The proposed mitigation would allow for a more generous corridor within which the public rights of way would pass, in the majority of cases. Creating a wide green corridor would also be characteristic of the existing landscape, and this mitigation would reinforce the landscape character.

3.4.122. Several IPs disagreed with this generalisation and the comprehensive submission by Forever Fields, consisting of artist impressions and photographic memories [REP1-101] illustrated this. IPs also raised that the photomontages for viewpoints 5b, 8, 13, 23, 25, 38 and 54 show that the hedgerows would be particularly impactful and yet, because they are static and singular viewpoints, do not give an accurate experience a walker would have when travelling through the countryside on the PRoW [REP1-154].

3.4.123. In view of the concerns regarding the loss of open aspect views and rebuttals of the applicant's assertion that hedge-lined paths were common in the project area, the ExA asked whether IPs would prefer to see hedgerow planting removed from the proposals altogether [PD-012], ExQ2.13.8. Almost all responses received stated the applicant should look at removing panels from sensitive areas and vistas as a first principle (for example [REP4-060], [REP4-063] [REP4-064] [REP4-077] [REP4-079] [REP4-093]).

3.4.124. During the accompanied site inspection (ASI) [PD-014] and the unaccompanied site inspections (USI) [EV2-001] to [EV2-007], the ExA experienced first-hand the sweeping open landscape views that the IP's referred to. On the basis of this experience, the ExA requested further clarity and information from the applicant in a Rule 17 letter of 14 October 2025 [PD-017].

3.4.125. The applicant responded at [REP6-052] that hedgerows would be managed to approximately 3m to ensure that sufficient screening is secured, whilst retaining flexibility to enable lower hedgerow heights to be maintained where doing so would prioritise retention of the open views over screening. The applicant further responded to say that landscapes are dynamic and change due to societal needs. The landscape in and around the project would change further at decommissioning, as built development is proposed elsewhere and any woodland will have matured, changing the nature of views still further.

3.4.126. The applicant noted that at that point in time, a decommissioning plan can be finalised, taking into account this future landscape context. This is included in the outline Decommissioning Management Plan (ODMP) secured in the draft Development Consent Order (dDCO).

3.4.127. In its response to DL6 submissions, the OHA [REP7-190] noted that the applicant has included a commitment to maintain hedges to a height of 3m unless a lower height is agreed with the OHA to enable important and / or more open views. It goes on to say:

> *"Although the OHA would support this approach, it does not address the OHA's concerns that the choice of mitigation measures, and the design and management of the hedgerows should go hand in hand with the design of the areas in which solar panels are proposed. Agreeing hedge heights is also likely to be a difficult process since the applicant's LVIA includes very limited information that can help inform where hedgerows should be reduced*."

> *"Throughout the consultation and examination processes the OHA have retained the view that it is important that the mitigation hierarchy of avoid, minimise, mitigate and compensate is followed and that effects should be avoided or minimized in the first instance. Where mitigation is the most appropriate action to be taken it should be informed by the local landscape characteristics rather than adopting a standard approach throughout. This is*

not an issue that can be covered retrospectively once the Operational Development Areas have been agreed."

"There are also other constraints that need be designed into the scheme, such as the bat mitigation areas where the heights of hedgerows may need to be adjusted. As mentioned in the OHA's Joint LIR [REP1-072] and subsequent representations there appears to be no or little coordination between the different disciplines to ensure that mitigation is appropriate and coordinated."

Without prejudice offer

3.4.128. The ExA was told by IPs that, as the effects of the development had been downplayed, the consequent mitigation proposals were equally downplayed and insufficient (for example [REP4-054] [REP4-071] [REP4-074, ExQ2.9.4] [REP4-079]).

3.4.129. In a similar vein, ICOMOS UK proposed substantial areas for solar installation removal [REP2-071] [REP2-072] [REP2-073] [REP2-074] to benefit the World Heritage Site and also the historic pattern and character of villages surrounding the World Heritage Site. The OHA proposed a large series of areas that should be omitted from the Order limits [REP4-075] and provided a thorough detailed rationale underpinning the suggested omissions at DL6, [REP6-118], concluding that the removals would help reduce the level, extent and seriousness of the effects. A host of IPs supported the field-by-field analysis of the OHA and pushed for the reductions (for example [REP7-063] [REP7-069] [REP7-111] [REP7-205]).

3.4.130. The applicant maintained that detailed assessments of the impacts had been submitted to the examination [REP5-005] and referred IPs/ the ExA to the landscape clarification note [REP5-006]. The applicant stated the proposed omissions had been taken on board as part of CR2 [CR2-001] but there was no intention of reducing the Order limits further, due to the risk of prejudicing the overall benefit, functionality and viability of the proposed development The applicant also quoted paragraph 5.10.35 of NPS EN-1 as justification.

3.4.131. Towards the end of the examination, the applicant made a without prejudice offer to exclude solar panels from land a) on higher ground, ridges and slopes and b) specific residential properties to enhance the buffers from 25m to 75m [REP6-052], appendix 2. Greater rationale behind the 75m buffer and the reasons underpinning the without prejudice offer was provided at DL7 [REP7-047] but, in total, the applicant proposed removing 23.48ha of solar installation, resulting in a total capacity loss of 39.14MWp.

3.4.132. The applicant also noted that: *"Two other areas in the northern section have been suggested as areas that might be removed. These are to provide an additional buffer to Samson's Platt. The removal of these areas would also have beneficial effects for landscape character and also views from publicly accessible locations and from private properties."*

3.4.133. IPs, principally the OHA, responded to the offer with the following commentary [REP7-190]:

- The without prejudice offer did not go far enough to reduce the landscape and visual impacts of the development.

- There was no logic to a 75m buffer, and the distance of 75m did not have any basis in research or assessment.

3.4.134. In response to the ExA's Rule 17 (R17) letter [PD-018], the applicant responded that if the ExA or the SoS wanted to pursue or accept the without prejudice offer, they would need to request amended Works Plans from the applicant in the decision-making process [REP7-047], paragraph Q19.

ExA Considerations

3.4.135. The ExA has concerns relating to the permanent change that the proposed mitigation, in the form of hedgerow-lined footpaths, would have on the prevailing landscape character of the locality. The mitigation would permanently affect views available while walking a significant number of the paths crossing the Order limits. The ExA does sympathise with all IPs regarding the loss of these views, which would adversely affect the enjoyment and character of the surrounding landscape. The ExA does however consider this adverse impact to be residual and secondary, given that the alternative would be unmitigated views of the solar panels for the 42-year life of the project.

3.4.136. In terms of a wider picture, the ExA acknowledges NPS EN-1 paragraph 5.10.5 states that: *"Virtually all nationally significant energy infrastructure will have adverse effects on the landscape."* However, we are also mindful of para 5.10.6; "*Projects need to be designed carefully, taking account of the potential impact on the landscape".* The applicant was able, through CR2 [CR2-001] to [CR2-073] to remove circa 100ha of solar installation without any effect on the 840MW target, subject to adjusted parameters regarding slightly increasing panel density in suitable zones. The ExA therefore believes that the mitigation hierarchy of avoid, minimise, mitigate has not been properly followed and that effects should have been avoided or minimised in the first instance.

3.4.137. In the preceding sections of this chapter, the ExA has noted a beleaguered landscape assessment that suffered from first submission. Allegations of a lack of engagement, a failure to take on board advice, a failure to produce landscape evidence in the ES from the outset and not tackling key issues early has led to a lack of confidence in the landscape assessments and conclusions. Whilst the ExA welcomes the efforts that the applicant has made during the examination to clarify matters and substantiate its position, the net result is a perception that there could be greater impacts than predicted or even some primary impacts which have not been sufficiently mitigated.

3.4.138. To this extent, the suggested omissions by ICOMOS UK and the OHA have both merit and weight. Nonetheless, the ExA has to consider the benefits of the proposed development on the scale upon which it is proposed. Significant reductions, whilst still leaving a sizeable solar farm, would limit the project's contribution to reducing greenhouse gas emissions and meeting the government's renewable energy targets.

3.4.139. For this reason, the ExA looks upon the without prejudice offer [REP6-052] primarily as a means to reduce the impact of the proposed development. There are some areas that the ExA experienced from the site inspections, particularly the views over the River Evenlode from Purwell Farm, where panels would have a dominating and unwelcome intrusion into the landscape. Enclosing or restricting views of the solar landscape with hedgerows would detract from the panoramic nature of the vista in general. The without prejudice offer would therefore be of benefit to some receptors in some locations.

3.4.140. The full impact of the without prejudice offer on the overall generating capacity is unclear from the applicant's submissions. It is claimed to be a loss of 54MW [REP6-052]. Nonetheless, the ExA notes that the applicant maintains the solar farm would be viable with the without prejudice offer in place. For this reason, the ExA considers the benefits of the offer would far outweigh any loss of function.

3.4.141. The ExA therefore considers that the without prejudice offer qualifies as a circumstance allowed for in paragraph 5.10.26 of NPS EN-1 whereby a relatively small loss of function would yield significant landscape benefits. Also, in relation to NPS EN-1, paragraph 5.10.26, the ExA consider that the historic landscape setting of the internationally significant World Heritage Site is a circumstance that might be considered exceptional

3.4.142. It is frustrating that, despite the ExA asking directly how this offer could be implemented in the dDCO [PD-018], the applicant deferred a full submission of relevant material to the post-Examination and post-Recommendation phase. The ExA deals with this in more detail in chapter 7 of this report.

Residential Visual Amenity Assessment (RVAA)

Background

3.4.143. At scoping stage, the Planning Inspectorate (PINS) noted that the RVAA was proposed to be scoped out as no significant effects were expected that would overwhelm existing properties nor render properties an unattractive place to live. PINS pointed out that in line with guidance, the requirement for a RVAA is generally dependent on the outcome of a LVIA, and in the absence of those conclusions, it did not agree to scope out a RVAA at that time [APP-126, paragraph 3.2.3].

3.4.144. The applicant's response was that the need for an RVAA would be determined through the outcome of the ES and through further consultation with relevant parties as required. It further noted that, as part of the ongoing iterative design process through the LVIA and wider ES, residential properties (predominantly individual farmsteads) in proximity to the project had been identified. As part of the embedded mitigation, a minimum 25 m offset from any residential property to the edge of any part of the solar array had been included [APP-045], table 8.5.

3.4.145. The RVAA is then referred to in the LVIA [APP-045, paragraphs 8.6.78 to 8.6.80]. The mitigation of a 25m buffer was reiterated and the Landscape Institute Technical Guidance Note 2/19 Residential Visual Amenity Assessment (LI TGN 2/19) was referenced.

3.4.146. The applicant stated that professional judgement and applicable guidance was used to determine a minimum 25m buffer zone between the solar arrays and individual properties and settlements. This was embedded mitigation, after which the applicant reported:

> *"Due to the low level (no more than 2.3 m high) of the Project, in particular the solar arrays, it is anticipated that views of the Project would neither overwhelm existing properties within the Study Area, nor render these properties so unattractive a place to live that planning permission should be refused.*
>
> *Due to the low level of the Project, particularly the solar arrays, and proposed mitigation, there is no potential for any private views to be*

adversely affected to an extent that would result in a level of harm of Substantial, which trigger the threshold for an RVAA being required. As such, private views are not considered further in this Chapter".

3.4.147. At ExQ1.14.4 [PD-008] the ExA queried the applicant's approach and requested a more in-depth assessment, in accordance with the LI TGN 2/19. We requested demonstration that the four-step approach advocated in LI TGN 2/19 had been followed, which comprises:

- Step 1 – Define the study area and identify the properties to be assessed
- Step 2 – Evaluate the baseline visual amenity of these properties
- Step 3 – Assess the likely change to this baseline and identify of which properties requiring further assessment
- Step 4 - Detailed further assessment of the individual properties identified in step 3 as having the greatest magnitude of change such that the Residential Visual Amenity Threshold may be engaged.

3.4.148. The applicant's response [REP2-025, ExQ1.14.4], reiterated that professional judgement had been used to determine a minimum 25m buffer to minimise any likely effects. It also noted that individual properties were looked at on a case-by-case basis and that at some, such as Purwell Farm, it was considered appropriate to have a greater buffer. It again reiterated that due to the low level of the proposed development and mitigation, it was anticipated that there was no potential for any private views to be adversely affected to an extent that would trigger the requirement for RVAA.

3.4.149. IPs did not accept that swathes of solar panels could be constructed within 25m of a private residence and not be adjudged to cause harm (for example [REP1-138] [REP1-155] [REP1-120] [REP1-161]). The OHA [REP1-072], paragraph 7.3.39, rejected the idea of a standard 25m buffer and suggested mitigation should be bespoke on a property-by-property basis to ensure aspects such as topography and vegetation could be considered. In fact, none of the relevant consultation bodies agreed that an RVAA could be scoped out neither in the pre-application nor examination phases of this project [APP-045 table 8.5] [REP1-053] [REP1-068] [REP1-069] [REP1-071] [REP1-078].

3.4.150. In addition, [RR-0135] states that while data on buffer zones is often not available for solar farm developments, an examination of other projects in the UK shows that 25m is below what other developers consider a reasonable distance and quotes three UK solar farms where buffers of 50m to 100m have been agreed. Furthermore, it quotes from European academic studies that indicate that a buffer of 500m should be considered to avoid the most direct impacts, and resistance of local communities.

3.4.151. At ExQ2.13.15 [PD-012], the ExA requested further information that might assist in understanding the work that had been carried out. The applicant's response at [REP4-037] reiterated that individual properties had been looked at on a case-by-case basis and listed 18 properties that had been considered.

3.4.152. At ISH2 [EV7-009] the ExA asked a question regarding the continued lack of an evidence-based RVAA assessment. We referred to the guidance in LI TGN 2/19, and in particular to paragraph 4.7, which gives guidance on the scale of areas that might be assessed. It states:

"other development types including potentially very large but lower profile structures and developments such as road schemes and housing are unlikely to require RVAA, except potentially of properties in very close proximity (50-250m) to the development".

3.4.153. The applicant confirmed its position that the proposed development would be classed as 'large but low profile' and so the ExA asked how many properties fell within the 250m zone described as 'very close proximity' in LI TGN 2/19 paragraph 4.7.

3.4.154. The applicant was unable to answer this question. IPs suggested there may be up to 300 properties falling within that distance bracket whilst the applicant had no information about this [EV7-010] (minute 09:02 to 10:11).

3.4.155. The applicant declined to provide an RVAA for most of the examination. However, after ISH2, at DL6, the applicant submitted an RVAA that concluded that the residential visual amenity threshold was not reached. [REP6-064] [REP6-065],

3.4.156. The ExA issued a R17 letter [PD-018] questioning the robustness of this new document, noting a significant number of errors. In addition, the R17 letter [PD-018] proposed a precautionary approach to RVAA be adopted post-consent, with a requirement suggested to secure a 250m buffer zone around each dwelling unless the applicant was able to demonstrate to the relevant local authority that a lesser buffer would be sufficient. This figure was proposed as a direct reference to the LI TGN 2/19 para 4.7 example of very close proximity.

3.4.157. At DL7, the applicant provided an updated RVAA document covering off the errors and omissions flagged by the ExA [REP7-043] [REP7-045], although standing by the conclusions provided. The RVAA [REP7-042], table 4, notes 20 properties or groups of properties judged to have potentially significant effects, and of those, 12 are considered to have the effect reduced to not significant with the minimum 25m buffer and/or landscape mitigation. Of the other eight, four were identified as benefitting from an increased buffer (75m, shown on the without prejudice plan) and four were not. This was because the applicant did not consider that there would be a significant landscape or visual benefit achieved and therefore its approach aligns with national policy.

3.4.158. The applicant also rejected the ExA's suggested requirement, stating that it was unnecessary, unreasonable and would serve only to compromise the project's viability [REP7-047]. The applicant went on to produce a table of the likely loss of capacity if a 250m buffer was imposed; it notes that this would result in the loss of an area of over 210ha and loss in capacity of 350MWp.

3.4.159. However, at DL7, a substantial number of IPs challenged the content of the RVAA and the conclusions drawn within; a number of IPs also undertook to provide their own photographic evidence of how the landscape could be viewed and experienced from their respective properties (for example [REP1-142] [REP7-172] [REP7-095] [REP7-210] [REP7-063] [REP7-169] [REP7-101] [REP7-092] [REP7-086]). The criticisms were numerous with matters ranging from:

- Properties were not actually visited.
- Poor photographs and photomontages, taken through a car windshield on driveways in some instances, not accurately representing views from actual dwellings or the immediate curtilage;

- The mitigation schedule to the document assumes the land was flat, when in reality the land undulates considerably;
- Properties completely missed off despite the claim of a 1km study area; and
- It was hurriedly prepared document undertaken shortly before deadline 6 with photos taken a week after the applicant had claimed in a public hearing to have completed the study.
- The document, as a whole, was an insult.

3.4.160. Unfortunately, since the RVAA came in at DL6, there was only one further substantive examination deadline remaining, that being DL7 (at which all IP comments were received). Therefore, despite all the IP comments and criticisms that were received, none of those issues were addressed by the applicant or even responded to in closing submissions at DL8. Equally, IPs had no opportunity to comment on the amended RVAA [REP7-042].

3.4.161. The OHA recorded an objection to the standard 25m buffer fits all approach and suggested more bespoke mitigation should be adopted [REP7-191]. A large number of IPs, particularly those whose properties were omitted from the RVAA, supported the 250m buffer requirement proposed by the ExA (for example [REP7-070] [REP7-086] [REP7-194] [REP7-176] [REP7-236]).

ExA Considerations

3.4.162. At the close of the examination, the ExA was presented with a knotty conundrum that should have been avoided. On one hand, the applicant strives for commercial viability, and any reductions in the extent of the solar array installation areas would not only affect that viability, but also the contribution the project would make to fighting climate change.

3.4.163. On the other hand, the RVAA document [REP7-042] contains multiple flaws and faults, not least that no actual views from any actual properties are depicted because the applicant did not visit any property or immediate grounds thereof in its preparation. There are substantive objections and concerns lodged against this document and its findings, plus a continual theme from all IPs throughout the examination that a 25m buffer is not enough.

3.4.164. The ExA considers that the applicant has been dismissive in its approach to the RVAA and, like with other elements of landscape and visual assessment, has relied on defending its approach, rather than seeking to reassure the ExA, consultees and IP's that it has carried out a robust assessment in line with policy and guidance.

3.4.165. The ExA is mindful of the urgent need to combat climate change and to decarbonise the energy industry. However, this does not justify poor or hastily prepared evidence. The over reliance on professional judgement, as found by the ExA in respect of the overall methodology above, is considered misplaced.

3.4.166. The RVAA was requested at scoping, at both sets of written questions and at ISH2, and only after this was a rushed and incomplete assessment provided, which was full of errors and with poor supporting photographs. As noted in [REP7-221], *"The Applicant has not provided a property-by-property analysis commensurate with the scale of risk. It appears that the applicant has not visited any private properties as part of the RVAA and all of the views are recorded from public locations."*

3.4.167. The applicant is firmly against the inclusion of a new requirement requiring a minimum buffer to all residential properties of 250m [REP7-047]. It states that it is not necessary or reasonable and would not achieve a justifiable visual benefit above that already achieved through the 25m or 75m buffers proposed. However, the applicant did not respond to the latter part of the proposed requirement: "…..*unless otherwise demonstrated to be acceptable in writing to the satisfaction of the relevant local authority".*

3.4.168. The ExA fully understands that a 250m buffer is highly unlikely to be required at every property but given the lateness and inadequacy of the information provided, we consider that the requirement would obligate the applicant to carry out a more robust assessment than has been provided during the examination. The ExA strongly considers that a precautionary approach must be observed in the circumstances, without full knowledge of whether or not primary (i.e. not residual) adverse effects would occur to residential addresses.

3.4.169. The ExA considers the requirement proposed need not be seen as unduly restrictive, nor a blanket approach in the end [PD-018]. It would allow the property-by-property assessment the OHA advocated in the LIR [REP1-072] to be adopted. Should actual tangible evidence come forward to the member councils of the OHA demonstrating that a buffer of less than 250m is appropriate, an agreed, reduced buffer could be reasonably applied, and this should not harmfully compromise the output of the solar farm. Whether the buffer could be as low as the applicant's own belief that 25m is sufficient would be discerned on thought-out evidence.

3.4.170. Therefore, with some regret that this measure has to be imposed, the ExA recommends that the SoS adopt and impose the requirement stipulating further submissions on this matter. This is covered more in chapter 7 of this report.

Cumulative Effects

3.4.171. Cumulative landscape and visual effects remain an area of disagreement between the applicant and several IPs at the close of the examination (for example [REP7-058] [REP7-191] [REP7-221]).

3.4.172. The applicant maintains, as it has done throughout the examination, that there would only be a few significant adverse cumulative effects at year 15 [REP5-022] [REP6-013]. The ExA requested more detailed information regarding four specific projects that IPs had raised [PD-012], ExQ2.9.3, [PD-017] and a summary table was produced at DL6 [REP6-052], appendix 4, concluding that there would not be any significant adverse cumulative effects.

3.4.173. The ExA observes that the optionality built into the ES chapter 8 matrix to deem moderate adverse impacts as not significant may have affected the outputs of the cumulative assessment. This is however tempered by the applicant's review of moderate adverse effects [REP2-029] [REP3-066]. The potential for cumulative effects would be higher immediately after construction, though would reduce by year 15 due to landscaping proposals contained in the Outline Landscape and Ecology Management Plan (OLEMP).

National Landscape

Background

3.4.174. To the west of the central site area for the applied project sits the Cotswolds National Landscape (formerly Area of Outstanding Natural Beauty), approximately

300m away from the edge of the Order limits [REP6-012] table 8.14. In this respect, section (s) 85 of the Countryside and Rights of Way Act 2000 (CROW 2000), as amended by s245 of the Levelling Up and Regeneration Act 2023, is applicable to this project. S85 requires that authorities *"must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty".*

3.4.175. In ES chapter 5 on alternatives [APP-042], paragraphs 5.6.18 and 5.7.1, the applicant stated the application site was suitable because it was beyond key landscape and environmental designations, such as National Landscapes. In the subsequent list of early design changes [APP-042], paragraph 5.7.3 there is no mention of any concessions to provide a buffer to the National Landscape.

3.4.176. The applicant contended that [APP-045]:

- The influence of the project components on the special qualities due to construction works and associated activities, such as vehicle movements, upon the Cotswolds AONB as a whole would be very limited.
- The magnitude of impact on the AONB's qualifying special qualities (tranquillity, and remoteness and wildness, space and freedom, expansive views/seascapes) is considered to be negligible at most during the construction phase.
- No significant effects are predicted during construction, operation and maintenance or decommissioning of the Botley West Project on nationally designated landscapes, including the Cotswolds National Landscape.

3.4.177. The Cotswold National Landscape Board (CNLB) expressed frustration that the applicant had ignored repeated requests for information and had not provided a more comprehensive assessment including actual viewpoints from the National Landscape [REP2-068].

3.4.178. In the absence of the information, the CNLB states that it undertook its own assessment and concluded, on the basis of what it could ascertain, that [REP2-068]:

- The proposed solar farm would have, at worst, a temporary negligible to minor adverse significance of effect at all stages of the project (i.e. construction, operation and decommissioning) on the landscape character and special qualities of the CNL and a temporary negligible adverse effect on views to and from the CNL.
- The impacts of the proposal would not represent an impediment in respect of relevant authorities' adequate discharge of the s.85 CROW Act duty.

3.4.179. Furthermore, the OHA highlighted that there were no representative viewpoints from the National Landscape in the applicant's submissions and that, without any proper assessment, there could be an adverse impact arising [REP2-050], ExQ1.1.6.

3.4.180. Annex 3 of the applicant's response to ExQ2 [REP4-037] provides a more focused look at the specific qualities of the National Landscape including mapping, a review of the zone of theoretical visibility and a selection of viewpoints. The applicant concludes indirect effects upon the special qualities of the National Landscape would be no greater than minor adverse. As such, there would be no significant effects upon the Cotswolds National Landscape.

3.4.181. No further comments were received from the CNLB during the Examination. The OHA did not respond to the applicant's study [REP5-125]. The OHA did make submissions regarding where panels should be removed from sensitive areas, [REP6-118] and there is a single entry within that document where removal of panels from the escarpment northwest of Purwell Farm was said to reduce the landscape and visual effects of the project, including upon the CNL.

3.4.182. Nonetheless, the matter of the National Landscape is recorded as being resolved in the Statement of Common Ground with the OHA [REP8-002].

ExA Considerations

3.4.183. The ExA notes that the applicant failed to produce information at the initial stages of the project, resulting in the CNLB having to undertake its own study and assessment. Only when prompted by the ExA did the applicant supply the necessary material. The ExA conclude from this that the National Landscape did not have any bearing on the early design choices taken by the applicant.

3.4.184. From the ExA's own site inspections ([EV2-001] to [EV2-007]) and the evidence submitted by the CNLB and the OHA, it would appear there is limited potential for visual impacts upon the National Landscape. Similarly, after the temporary construction period, there is unlikely to be any notable effects on any of the special qualities of the National Landscape.

3.4.185. On this basis, the ExA agrees with the CNLB conclusion that there would not be any impediment to the discharge of the s85 CROW 2000 duty. There would, nonetheless, be some low-level residual harm during both construction and operation, as attested to by the CNLB, the OHA and the applicant.

ExA Summary

3.4.186. The ExA fully accepts that there will be landscape and visual impacts as a result of development of the type proposed and that potentially the proposed mitigation will also bring its own challenges. However, the applicant's approach since the inception of the project, through pre-application, through preparation of the ES and through the examination leaves the ExA concerned that the full impacts of the proposal have not been presented or understood. The ExA notes that it is not alone in this view, one that is shared by the OHA and a significant number of IPs.

3.4.187. The without prejudice offer made by the applicant [REP6-052] is considered necessary to reduce general landscape harm. The requirement proposed by the ExA for a 250m buffer to be imposed [PD-018], with the caveat such a buffer could be produced in agreement with the relevant local authority, is considered reasonable, relevant to planning, relevant to the development, precise, enforceable and necessary to reduce the potential for primary adverse effects on residential properties.

CONCLUSIONS

3.4.188. NPS EN-1 paragraph 5.10.6 states projects need to be carefully designed, and the aim should be to minimise harm to the landscape. NPS EN-1 paragraph 5.10.19 states the applicant should consider landscape and visual matters in the early stages of siting and design, which will allow demonstration of how negative effects have been minimised. It is the ExA's firm view that the applicant has not done this. The effects have been 'minimised' by adopting a methodology that diminishes or 'plays down' the effects. The applicant has then relied on selected paragraphs from

the NPSs as a defence to the approach, stating that NPS EN-1 recognises that virtually all nationally significant energy infrastructure will have adverse effects on the landscape (paragraph 5.10.5). This does not, in the ExA's view, represent good design, as required by NPS EN-1 paragraphs 4.7.2 to 4.7.4 or the appropriate use of the mitigation hierarchy as required by NPS EN-1 paragraph 4.2.11.

3.4.189. NPS EN-3 paragraph 2.10.95 outlines that whilst solar developments may cover a significant surface area, effective screening and appropriate land topography can limit the zone of visual influence. In light of this, the ExA concludes:

- The undulating topography would not hide nor screen the project. The use of prominent slopes to construct solar arrays would make the arrays more visible from wider vantage points.
- The undulating topography would mean a proportion of the proposed 3m high hedgerows relied upon as mitigation screening would only be partially effective because the fall of the land is such that views over the top of the mitigation could be discerned.
- Once established, the proposed screening, consisting principally of 3m high hedgerows around footpaths and field boundaries, would block views and detract from the panoramic nature of vistas from many public vantage points, creating an uncharacteristic intrusion into the countryside.
- The zone of visual influence is not limited given the expansive nature of the project.

3.4.190. To this extent, the need for the project to be designed carefully to minimise harm to the landscape in NPS EN-1 paragraph 5.10.37 has not been met. Landscape effects may be reduced once the landscape mitigation matures at around the 15-year mark. However, this still represents a significant proportion of the proposed development's estimated lifetime. The wide and open characteristics of large parts of the project site, combined with the undulating topography, significantly limit the effect of mitigation planting, even beyond 15 years of operation in some instances such as in and around the village of Cumnor.

3.4.191. We consider that the applicant has underestimated the visual impact of the proposed development. We therefore disagree with the applicant that there would not be any significant residual adverse landscape and visual effects during the operational phase of the development. It is acknowledged that the operation phase would be time-limited to 37.5 years, and the SoS should take this into account as per NPS EN-1 paragraph 5.10.36. The ExA considers that 37.5 years is an unreasonable timeframe to wait for the project's harmful effects to be reversed given the circumstances.

3.4.192. Concessions have been made in CR2 [CR2-001] to [CR2-073]) and further concessions are presented in the applicant's without prejudice offer [REP6-052]. The alterations as part of the official change request are welcomed and would represent an improvement over the originally submitted scheme, and the ExA strongly considers the further volunteered reductions should be adopted. The ExA considers that this mitigation measure would have a very significant benefit and would only result in a marginal loss of function and is therefore supported under NPS EN-1 paragraph 5.10.26.

3.4.193. The ExA considers that adverse visual effects on the outlook from residential properties would be likely to occur, with the evidence provided by IPs appearing far

more convincing than that submitted by the applicant. Until further work is done, the ExA cannot decisively say whether or not significant primary or residual adverse effects would be experienced by residents nor that the 25m buffer proposed by the applicant would be sufficient. In light of NPS EN-1 paragraph 5.10.14, we urge caution on this matter and the ExA recommends an additional requirement is imposed securing further work to justify buffers on a property-by-property basis.

3.4.194. The ExA recognises that NPS EN-1 paragraph 5.10.12 states that locally valued landscapes should not be used in themselves to refuse consent, as this may unduly restrict acceptable development. However, the landscape and visual harm would be significant adverse and weigh greatly against the order being made. In this vein, the adoption of the without prejudice offer is considered essential to bring the project in line with the NPS.

3.4.195. Furthermore, it is the view of the ExA that, unless further mitigation is applied by way of securing further reductions of solar panel areas and securing a proper evaluation of the 25m buffer to residential properties, the project would fail to meet the expectations of paragraph 5.10.21 of NPS EN-1. The adoption of the ExA's proposed requirement is therefore also essential to bring the project in line with the NPS.

3.4.196. Even then, with both of these measures in place, we would still attribute moderate negative weight to the landscape and visual harm, which would be caused by the proposed development in isolation and when considered cumulatively with other development.

3.5. GEOLOGY AND LAND USE

INTRODUCTION

3.5.1. This section considers the likely impact and effects of the proposed development on land use and soils, specifically considering the best and most versatile land (BMVL) and the future condition of the soils at the site. Although this section considers soil quality, nothing emerged during the examination to suggest concerns regarding other aspects of geology, such as land stability.

POLICY BACKGROUND

3.5.2. The Overarching National Policy Statement for Energy 2024 (NPS EN-1) paragraph 5.11.2 states that applicants should seek to minimise impacts on the BMVL (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification (ALC)) and preferably use land in areas of poorer quality (grades 3b, 4 and 5). Paragraph 5.11.2 states that applicants should also identify any effects and seek to minimise impacts on soil health and protect and improve soil quality taking into account any mitigation measures proposed.

3.5.3. Paragraph 5.11.34 states that the Secretary of State (SoS) should ensure that applicants do not site their scheme on the BMVL without justification. Where schemes are to be sited on BMVL the SoS should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

3.5.4. The National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) paragraph 2.10.11 cites The Powering Up Britain: Energy Security Plan and highlights that government seeks large scale ground-mount solar deployment

across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land. It explains how solar PV development and farming can be complementary, supporting each other financially, environmentally and through shared use of land. It also encourages deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental enhancements.

3.5.5. Paragraph 2.10.29 says that, while land type should not be a predominating factor in determining the suitability of the site location, applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of BMVL where possible.

3.5.6. Paragraph 2.10.30 states that whilst the development of ground mounted solar arrays is not prohibited on BMVL, or sites designated for their natural beauty, or recognised for ecological or archaeological importance, the impacts of such are expected to be considered.

3.5.7. In paragraph 2.10.31 it is recognised that at this scale, it is likely that applicants' developments will use some agricultural land. Applicants should explain their choice of site, noting the preference for development to be on suitable brownfield, industrial and low and medium grade agricultural land.

3.5.8. Paragraph 2.10.33 highlights that the ALC is the only approved system for grading agricultural quality in England and Wales and, if necessary, field surveys should be used to establish the ALC grades in accordance with the current, or any successor, grading criteria and identify the soil types to inform soil management at the construction, operation, and decommissioning phases in line with the Department of the Environment, Food and Rural Affairs (DEFRA) construction code.

3.5.9. Paragraph 2.10.145 advises the SoS should take into account the economic and other benefits of the BMV agricultural land. The SoS should ensure that the applicant has put forward appropriate mitigation measures to minimise impacts on soils or soil resources.

3.5.10. The NPS for Electricity Networks Infrastructure (NPS EN-5) says the SoS should only grant development consent for underground power cables when the applicant has made a commitment, as set out in its Environment Statement (ES), to mitigate the potential detrimental effects of undergrounding works on any relevant agricultural land and soils (including peat soils), particularly regarding BMVL, including development and implementation of a Framework Soil Management Plan (FSMP).

3.5.11. On 15 May 2024, a Written Ministerial Statement (WMS) was published on solar infrastructure and protecting food security and BMV land. This seeks to reinforce the protection of BMV land for food production, the consideration of the cumulative of such solar development schemes and their impact on the land and sets out proposals for improvements in the soil surveying standards for agricultural land classification.

3.5.12. The Joint Local Impact Report (LIR) from the Oxfordshire Host Authorities (OHA) [REP1-072, section 7.13] reports conflicts with policies of the development plan, which seek to protect soil resources and steer new development away from BMVL.

THE APPLICATION

3.5.13. The consideration of soils and land use is primarily within chapter 17 of the ES [APP-054], though there are some crossovers with detail in ES chapter 15 on socioeconomics [APP-052].

Baseline

3.5.14. The ES considers a study area of 1418.2 ha of land, of which 1,351.2 ha comprises agricultural land distributed over three broad locations:

- Land between Wootton and Tackley.
- Land west of Yarnton and north of Cassington.
- Land west of Botley at Oxford.

3.5.15. The main areas of grassland within the study area are located adjacent to the River Dorn and around Burleigh Wood. Across the study area, the overall topography is gently undulating at altitudes between around 65 m and 120 m Above Ordnance Datum (AOD). The altitude generally falls with distance south, other than into the river valleys. The slopes are shallow and are not limiting to agricultural land quality.

3.5.16. Agro-climatic data for the study area have been interpolated from the Meteorological Office's standard 5km grid point dataset at seven representative points and altitudes. Agro-climatic data indicates that the study area is moderately warm with moderate rainfall.

3.5.17. The underlying geology (provided by the British Geological Survey) across most of the study area, from Burleigh Wood and south, comprises the Oxford Clay Formation and the West Walton Formation mapped together as one unit.

3.5.18. Table 17.14 of ES chapter 17 [APP-054] details the provisional ALC Mapping for Oxfordshire whilst table 17.17 provides the applicant's ALC survey results. The survey results show that of the land considered, 36.4% comprises BMV land.

Construction Phase

3.5.19. The permanent loss of agricultural land as a result of the project would occur during the construction period. This would include areas of land where the substations are located, including the National Grid substation, together with the main and small substations. Although it is proposed that the power converter stations (PCS) would be removed during decommissioning, on a precautionary basis it is assessed that there could be some permanent effects on agricultural land quality in these areas and therefore these are also included within the area of potential permanent sealing of soils and loss of agricultural land quality. The areas of permanent loss are therefore as follows:

- Maximum of 6 small substations x approximately 180 m². Total of approximately 0.108 ha.
- Main substation - approximately 1 ha.
- National Grid (NGET) Substation – approximately 3.8 ha.
- PCS locations – 156 locations x approximately 42 m². Total of approximately 0.65 ha.

3.5.20. An Outline Soil Management Plan (OSMP) would be produced under the Outline Code of Construction Practice (OCoCP) [APP-232] [APP-233] to ensure the conservation and maintenance of soils during the construction process.

3.5.21. The applicant reports [APP-054, paragraph 17.9.6] that the total of area of best and most versatile agricultural land to be permanently lost is approximately 5.5 ha, which equates to 0.4 % of the total quantity of surveyed best and most versatile land within the wider Project site.

3.5.22. Overall, the applicant considers that the implementation of the OSMP would minimise effects as far as possible. With the project being temporary, save for the permanent losses detailed above, the applicant concludes that there would be a medium-term temporary minor adverse significance of effect on agricultural land quality and soils during the construction period.

Operational Phase

3.5.23. ES chapter 17 [APP-054, paragraph 17.9.28] reports that no further effects on agricultural land quality and soils are assessed during the operational period of the project. Table 17.7 details that, as there would not be any works during the operation and maintenance phase of the project that would result in the temporary or permanent loss of best and most versatile land, no likely significant effects are going to occur.

3.5.24. The applicant stated that 'conservation grazing' would take place whereby sheep would be grazed underneath the solar arrays for grass and weed control, and secured this within the Outline Landscape and Ecological Management Plan (OLEMP).

ISSUES CONSIDERED DURING THE EXAMINATION

3.5.25. The main issue examined was the impact of the development on agricultural land and food production, particularly given the high amount of BMVL within the Order limits.

3.5.26. Approximately 500 of the relevant representations (RRs) made reference to the loss of agricultural land and productivity (for example [RR-0093] [RR-0249] [RR-0380]).

BMVL

3.5.27. At the onset of the examination, ES chapter 17 [APP-054] and the applicant's response to first written questions [REP2-025, ExQ1.11.1] stated:

- The Agricultural Land Classification (ALC) surveys determined that 38.35% of the project area comprises BMVL (Grades 1, 2 and 3a). 839ha would be used for the solar array.
- The total of area of BMVL to be permanently lost is approximately 5.5 ha, which equates to 0.4 % of the total quantity of surveyed best and most versatile land within the wider project site. This would be below the 20ha threshold where consultation with Natural England is mandatory.
- Natural England had previously written in respect of the made Longfield Solar Farm Order 2024 (where 150ha of BMVL would be affected) that: *"We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future*

generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards"

3.5.28. ES table 17.7 [APP-054] states that temporary and permanent loss of BMVL were scoped out of the ES because there would not be any likely significant effects. The applicant stated in ES chapter 5 on Alternatives that efforts had been made to avoid permanent impacts on BMVL by siting permanent infrastructure away from these areas [APP-042, paragraph 5.7.3].

3.5.29. Following the second change request ([CR2-001] to [CR2-073]), it was confirmed that BMVL comprised 42% of the project area. This equates to 314ha of BMVL being affected by the project.

3.5.30. When challenged by the ExA [PD-017, Q7] about the significant amount of BMVL implicated by the project, the applicant stated [REP6-052]: *"Section 2.10 of NPS EN-3 does not prohibit the development of mounted solar arrays (Paragraph 2.10.30) and land type should not be a predominating factor in determining the suitability of the site location (paragraph 2.10.29). It is also recognised that at this scale it is likely that developments will use some agricultural land (paragraph 2.10.31)."*

3.5.31. In respect of land sterilisation for over 40 years, the applicant responded [REP6-052]: *"The best and most versatile land within the site will remain in agricultural land during the operational period. In accordance with NPS EN3 Paragraph 2.10.32, the proposal will enable the continued use of the land for agricultural purposes within the area of the solar installation. The OLEMP includes the description of the use of conservation grazing within the Site."*

3.5.32. In all conclusions, the applicant iterated that only 5.5ha of BMVL would be permanently lost. The applicant also relied on Natural England registering no objection on the matter of BMVL loss subject to appropriate soil management plans being undertaken [REP1-087] [REP7-040].

3.5.33. In response to ExA questions the applicant [REP4-037], confirmed several development aspects such as:

- The applicant cannot commit to cable burial at 1.5m depth below ground level, albeit that is the aim. If burial cannot be achieved to the depth (i.e. shallower) then concrete slabs would be laid to protect the cables. The use of slabs is expected to be rare and localised. Their inclusion would not materially alter the conclusions of the ES (Q2.1.14).
- The ALC grade is dependent upon physical characteristics, including climate, soil, topography and drainage and reflects the inherent potential of land for agricultural use (not its current usage). As such, construction of the project would not change the underlying ALC but does reduce the availability of certain ALC grade land for future agricultural use. Taking this into account, the applicant does not consider that further commitments are required in the Outline Decommissioning Plan (ODP) to maintain the same ALC grade of land following decommissioning of the Project (Q2.11.8).
- Paragraph 2.1.5 of the Outline Decommissioning Plan [APP-236] would ensure that the land would be restored to its preconstruction condition, as far as

practicable, in accordance with measures such as those set out in the Outline Soil Management Plan (Q2.11.8).

- Table 1.6 [REP4-037] provides sufficient justification for land use by ALC grade.

3.5.34. The Campaign for the Protection of Rural England, amongst other IPs, were critical of the applicant's approach citing [RR-0204] [REP1-100] [REP3-090] [REP4-058] [REP5-075] [REP6-082]:

- Putting sheep underneath the panels to graze on the grass is not a substitute for the high-quality arable farming land that would be lost.
- The applicant made no efforts to avoid BMV land when designing the project. Evidence of this is that the National Grid (NGET) substation, a permanent feature, would be located on BMV land.
- Too much BMV land has been lost to solar farms in the UK as a whole, impacting on food productivity and resilience. There should be a ban on solar farms being developed on BMV.

3.5.35. CPRE concluded [REP7-075] that there was non-compliance with NPS EN-3 because the applicant had not justified why the use of BMV land is necessary, or whether it was feasible to locate the scheme on lower-grade land.

3.5.36. The Oxfordshire Host Authorities (OHA) ended the examination concluding [REP7-191] that there was a large loss of Grade 2 and Grade 3a BMV land, the NGET substation is unequivocally permanent and that the loss of BMV land should be considered a harm. The LIR [REP1-072, paragraph 7.13.8] and the ES [APP-054, paragraph 17.14.3] report that when the proposal is considered cumulatively with other plans and projects in the area, there would be a major adverse permanent effect on BMVL.

3.5.37. Many other IPs also closed the examination considering that deeming the project as temporary would not justify sterilising BMV land for 42 years at a time when becoming self-sufficient in food production should be a rising priority (for example, [REP7-068] [REP7-221]). One IP suggested that there should be a break clause entered into the dDCO requiring the solar farm to be removed in the event of a food shortage emergency being declared [REP7-231]. The applicant did not respond to this in closing submissions [REP8-001].

ExA Considerations

3.5.38. ES chapter 5 does not detail any options or alternatives for avoiding BMV land altogether or the efforts to minimise BMV land-take during site selection. It only seeks to place permanent development on areas away from BMVL to safeguard the soil resource after having established the Order limits. The ExA note that this mission has failed, with the applicant reporting a permanent loss of 5.5ha of BMVL overall.

3.5.39. The ExA accepts that, in accordance with Natural England guidance, the loss of less than 20ha of BMV land would not be considered significant. The permanent loss in this instance would only be 5.5ha.

3.5.40. However, 42% of the project area comprises BMV; this would be a substantial amount of BMV land sterilised for 42 years. Whilst the applicant has committed to restoring soils at the decommissioning stage, it has not committed to restoring to the same ALC grade. The applicant has not sought to locate the scheme on poorer

quality land nor given robust justification as to why BMV was needed. The primary justification given is that the proposal would be temporary.

3.5.41. The suggestion of a break clause to allow the reclaiming/ reversion of land to agriculture in a food crisis would be a novel approach [REP7-231], though the ExA note it is not precedented nor have any of the key stakeholders provided commentary or legal representation on the prospect. The ExA considers this to be complex and difficult, so not realistically workable at this current time.

3.5.42. The ExA acknowledges that 314ha of BMV land would register as only a small percentage of the total BMV land available in England, so therefore could be considered insignificant. However, in light of the WMS and concerns nationally about the development of solar farms on BMV agricultural land, the ExA considers that the loss of 314ha of BMV for 42 years would be significant, particularly when taken cumulatively with other projects nationwide. The ExA concludes that impacts have not been avoided and there could, as a result, be a harmful impact on food production arising.

Agricultural Land Quality

3.5.43. This matter is separate from, but intrinsically related to, the loss of BMVL.

3.5.44. ES chapter 17 [APP-054] identifies the issue of poorer quality agricultural land in respect of NPS EN-1 and NPS EN-3 but defers attention and assessment of this to ES Chapter 5 [APP-042]. However, the applicant makes no reference to sequentially seeking poor or lower quality land when assessing locations for the proposed development.

3.5.45. Blenheim Palace, working alongside and with the applicant as the largest land donor, made submissions to the examination that, even though the land was classed as BMV land, it was of poor quality and could not support farming [REP1-098] [REP2-067]. The solar farm would help protect and restore these soils by leaving the land fallow for an extended period of time, regenerating soil health. A couple of farmers also voiced the view that the land was of poor quality and could not sustain high food yields [REP1-151] [EV8-005, minute 10:47 to 14:31].

3.5.46. IPs including CPRE repeatedly requested soil sample surveys and soil survey results to be provided to the examination. The applicant stated that the Blenheim Estate had surveyed its own land and so the applicant was not to blame for not supplying them to the examination. Blenheim Palace did not provide the soil results direct to the examination, but the results were sent to an IP, Tom Lewis, who duly provided them to the ExA at deadline (DL) 7 [REP7-237]. Mr Lewis points out that the survey finds soil of good fertility, strong soil health and good nutrient availability.

3.5.47. CPRE, in responding to these soil survey results, is unequivocal [REP7-075]:

> *"RB209, the accepted UK guidance on soil fertility used by DEFRA, Natural England and the Environment Agency, is explicit about the relationship between nutrient indices and yields. RB209 states the recommended soil indexes for both arable and grassland. Section 1 ''Principles of nutrient management and fertiliser use'' (updated June 2023), page 24 states: "Typically, maximum yield of arable crops or of grass is reached at Index 2 for phosphorus (P)." The manual also notes that when levels fall below this target, yields may be reduced and additional phosphate should be applied; it does not state that land below a given index is unsuitable for farming. As for*

potassium (K) and magnesium (Mg), RB209 (Section 1, page 24 and page 30) recommends an index of 2- for potassium and an index of 2 for magnesium for both arable and grassland. The majority of the soil samples provided are at or above the RB209 recommendations, and organic matter levels are consistently high. On the basis of the submitted data, we therefore reject the claim that the land is of low productivity."

3.5.48. Other IPs opined that there was no evidence to suggest leaving the soil fallow for such a long time actually benefited soil health (for example [REP6-094] [REP7-193] [REP7-199] [REP7-209] and that the applicant had ignored the soils surveys available to it [REP7-097].

3.5.49. The applicant's closing statement does not tackle the soil surveys at all nor does it provide any reasoning for the large disparity in its findings compared to what was claimed orally, stating that BMVL was not a huge focus of the examination and that the challenges to BMV inclusion in the Order limits are a "popular area of focus for large scale solar project(s)." The applicant reiterates NPS EN-3 paragraphs 2.10.30, 2.10.29 and 2.10.31 insofar that land type should not be a predominating factor.

ExA Considerations

3.5.50. The ExA notes that the late evidence submitted demonstrates the land is of good agricultural quality and has an abundance of nutrients and vitality. This evidence was available to the applicant and to Blenheim Palace during the pre-application stage (May 2024) and yet was a) not submitted and b) not represented correctly during the examination, with claims of poor soil quality seeking to undermine the findings of the ALC survey.

3.5.51. The soil is in good condition from the evidence before the examination. The ExA is aware that past farming practices advocated leaving land fallow on a crop-rotation basis in order to restore health. However, the ExA has not been presented with any scientific evidence to demonstrate that leaving land for 40 years would be of any great benefit to soil health, nor that having a solar farm with closely managed vegetation would provide betterment. It occurs to the ExA that the local climatic conditions and topography appear conductive to agricultural land use.

3.5.52. Whilst the OSMP would ensure the preservation of soils and appropriate management of them during construction and operation, the ExA considers that BMV land and good quality agricultural land would be taken out of productive use for an extended period of time, which would be an adverse impact of the project.

CONCLUSIONS

3.5.53. NPS EN-1 paragraph 5.11.12 states that applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5). The ExA considers that the applicant did not attempt to do this during the site selection and optioneering phases and, even when seeking to locate the permanent NGET substation away from BMV land, failed to provide adequate mitigation.

3.5.54. NPS EN-1 paragraph 5.11.34 states that the SoS should ensure that applicants do not site their scheme on the best and most versatile agricultural land without justification. The ExA consider, along the same lines as the CPRE, that the applicant has not sought to justify the reliance on BMVL to deliver the proposed development. Other than saying the proposed development is CNP infrastructure

and temporary, there is no substantiated case that it is essential to have 42% of the project area constituting BMV land. 42% of the 749ha project area constitutes a total of 314ha. The ExA also note that, when taken cumulatively with other plans and projects, there would be a major adverse permanent effect on agricultural land quality and on BMVL availability.

3.5.55. NPS EN-1 paragraph 5.11.34 continues that, where schemes are to be sited on best and most versatile agricultural land the SoS should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The ExA recognises this is a policy preference rather than a policy mandate. Nonetheless, the land has been shown to be in good quality and in good health.

3.5.56. The ExA recognises that the effects on BMVL would be considered temporary by reason of NPS EN-3 paragraph 2.10.66 and that the applicant would prepare a soil management plan as part of the Outline Code of Construction Practice secured under R11 of the dDCO. However, given that 314ha of BMVL within the Order limits would be sterilised for over 40 years, taking it out of food production for which conservation grazing would not mitigate, the ExA consider this to be a significant adverse impact.

3.5.57. The ExA therefore consider the matter of geology and land use carries very great negative weight against the order being made.

3.6. ECOLOGY AND BIODIVERSITY

INTRODUCTION

3.6.1. This section considers the effects of the proposed development on biodiversity and the natural environment. It includes effects on protected species and consideration of sites of national, local and regional interest.

3.6.2. The effects on European sites in the context of the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) are separately considered in chapter 4 and appendix C of this report, although there are some linkages with the content of this section.

POLICY BACKGROUND

3.6.3. Paragraph 5.4.17 of the Overarching National Policy Statement for Energy 2024 (NPS EN-1) requires applicants to set out clearly any effects on internationally, nationally, and locally designated sites of ecological or geological conservation importance (including those outside England), on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity, including irreplaceable habitats.

3.6.4. Paragraphs 5.4.7 and 5.4.8 of NPS EN-1 state that Sites of Special Scientific Interest (SSSIs) should be given a high degree of protection. Development on land within or outside a SSSI, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits (including need) of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSIs.

3.6.5. Paragraph 5.4.35 states that applicants should include appropriate avoidance, mitigation, compensation and enhancement measures as an integral part of the proposed development. This is echoed in paragraph 2.1.8 of the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3), and paragraph 2.10.78 advises that an ecologist should be involved during the design process.

3.6.6. Paragraph 4.6.6 reinforces that energy projects should seek opportunities to contribute to and enhance the natural environment by providing net gains for biodiversity, and the wider environment where possible. Biodiversity net gain, as per paragraph 4.6.11, can be delivered onsite or wholly or partially off-site, with details of any off-site delivery set out within the application.

3.6.7. Paragraph 5.4.42 requires the Secretary of State (SoS) to determine whether the development, in line with the mitigation hierarchy, aims to avoid significant harm to biodiversity and geological conservation interests, including through consideration of reasonable alternatives. Where significant harm cannot be avoided, impacts should be mitigated and as a last resort, appropriate compensation measures should be sought. Paragraph 5.4.43 confirms that if significant harm to biodiversity resulting from a development cannot be avoided (for example through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then the SoS will give significant weight to any residual harm.

3.6.8. NPS EN-3, in paragraph 2.10.82, requires consideration of security and lighting installations upon local ecology whilst paragraph 2.10.83 requires sensitive management of development site boundaries. NPS EN-3 continues in paragraph 2.10.90 that the enhancement, management and monitoring of biodiversity should be in line with the ambition set out in the Environmental Improvement Plan and any relevant measures and targets.

3.6.9. The National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) relies mainly on the policies within NPS EN-1 regarding ecology and biodiversity. Paragraph 2.11.1 does however require the SoS to be satisfied that all feasible options for mitigation have been considered and evaluated appropriately.

3.6.10. Biodiversity Net Gain (BNG) is not yet mandatory for nationally significant infrastructure projects (NSIPs).

3.6.11. The National Planning Policy Framework (NPPF) provides additional policy guidance and requires planning decisions to contribute to and enhance, the natural and local environment, and provide net gains for biodiversity. It requires that where significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Paragraph 193(c) states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons.

3.6.12. Development plan policies amongst the host authorities seek to protect and enhance biodiversity and ensure ecological enhancement through good design.

THE APPLICATION

Baseline

3.6.13. Environmental Statement (ES) chapter 9 [APP-046] assesses the effects of construction, operation and decommissioning on the ecology and nature

conservation. A number of supporting figures and appendices were also submitted including a Phase 1 Habitat Survey. A full list of the surveys undertaken can be found in appendix A of this report.

3.6.14. The key measures being undertaken to mitigate and compensate the effects of the proposed development on habitats and the species they support are contained in an Outline Landscape and Ecology Management Plan (OLEMP) [APP-235] alongside numerous written commitments within the Outline Code of Construction Practice (OCoCP) [APP-232] [APP-233]. The Applicant also submitted a Biodiversity Net Gain Assessment (BNGA) [APP-162].

3.6.15. ES chapter 9 details the analysis and assessment of likely significant effects predicted to arise from the proposed development on the following categories of ecological receptors:

- Statutory designated sites.
- Non-statutory designated sites.
- Habitats of principal importance and species of principal importance.
- Protected species and notable habitats and species.

3.6.16. Protected species surveys were carried out in relation to bats, great crested newts, badger, dormouse, reptiles, breeding and wintering birds.

Construction Phase

3.6.17. The ES assumed the effects of decommissioning to be no worse than those of construction. It identified that likely effects from construction and decommissioning include disturbance and clearance of habitats, disturbance to protected species and the risk of water borne pollutants from plant and machinery.

3.6.18. Mitigation would be carried out to reinstate, create or enhance habitats within the Order limits as set out in the OLEMP. Measures would also be put in place to manage and mitigate effects on protected and notable species during site clearance, construction and decommissioning activities. These measures are set out in the OCoCP [APP-232] [APP-233], which is secured under Requirement (R) 11 in the draft Development Consent Order (dDCO) [APP-015]. The OLEMP would be secured under R6 of the dDCO whilst BNG would be secured under R7.

3.6.19. Following the implementation of mitigation measures, set out in table 9.8.1 of ES chapter 9 [APP-046], the applicant considered that during construction there would be no significant effects on statutory designated and non-statutory designated sites or protected species. Wintering birds would be adversely affected during construction by way of habitat loss, although measures for BNG and enhancements along the River Evenlode channel would mitigate this during the operational phase.

3.6.20. No further or additional mitigation, beyond that considered embedded by the applicant, would be undertaken.

Operational Phase

3.6.21. ES chapter 9 [APP-046] establishes the likely effects from the operation of the scheme to include habitat loss, disturbance from plant and lighting, noise and emissions. In all instances the applicant considers that non-significant (negligible)

effects would occur during the operation of the proposed development to all ecological receptors.

3.6.22. No specific additional mitigation was proposed for the operational phase. The applicant anticipated that there would be no significant adverse effects during operation on statutory designated and non-statutory designated sites, protected species and habitats, otter, vascular plants and fish.

Mitigation

3.6.23. The applicant's approach takes the significant effects reported for protected and notable species and habitats and then considers embedded and additional mitigation measures set out in the OLEMP [APP-235]. The OLEMP provides a framework for the planting, management and monitoring of landscaping and ecological mitigation and enhancement habitats. Table 9.16.1 [APP-046] predicts either minor adverse or negligible residual effects, or no change, across all ecological sites and interests.

ISSUES CONSIDERED DURING THE EXAMINATION

3.6.24. The Oxfordshire Host Authorities (OHA) Local Impact Report (LIR) [REP1-072] stated that the surveys and assessments submitted with the ES regarding bats, otters and water vole, great crested newts, 'the lake effect' for birds, nature recovery, woodlands and BNG were not sufficient to consider the full impacts related to each of these receptors/ issues. This would have consequences for the proposed avoidance, mitigation and compensation methods [REP1-072]. Table 8 on page 90 of the LIR sets out clearly the extent of the problems identified.

3.6.25. In addition, the LIR noted that the cabling routes proposed appeared to significantly impact on the root protection areas for multiple trees.

3.6.26. A large number of relevant representations (RRs) expressed concern over the impacts upon local wildlife and loss of habitats (for example [RR-0098], [RR-0147], [RR-0791] and [RR-1047]). Key themes arising were:

- The impact on biodiversity due to reduction in landscape connectivity.
- Impacts on wetland and farmland birds.
- Impacts on ancient woodlands and bat populations.
- Impacts on protected species and habitats within and adjacent the Order limits.

Statutory Designated Sites

3.6.27. In proximity to the Order limits are a number of statutory designated sites. Principally, though not exclusively, the designations relate to the following natural assets:

- Cothill Fen Special Area of Conservation (SAC)
- Oxford Meadows SAC
- Wytham Woods SSSI
- Blenheim Park SSSI
- Rushy Meadows SSSI

- Sheep's Bank SSSI
- Wytham Ditches and Flushes SSSI
- Hurst Hill SSSI
- Pixey and Yarnton Meads SSSI
- Cassington Meadows SSSI

3.6.28. Further statutory designated sites, those being over 2 kilometres (km) from the Order limits, are listed in table 9.6.2 in ES chapter 9 [APP-046]. All recognised statutory designated assets are plotted geographically on the applicant's plan reference 9.1 [APP-086].

3.6.29. Natural England (NE) confirmed at the onset of the examination [RR-0761] that the project would be unlikely to result in an adverse effect on integrity (AEoI) for any statutory designated sites falling within the Conservation of Habitats and Species Regulations 2010. This matter, and the impacts of the proposed development on internationally designated sites, are considered in greater detail in appendix C and summarised in chapter 4 of this report. Therefore, this section focuses primarily on nationally designated sites.

3.6.30. Also, at the onset of the examination [RR-0761], NE stated agreement with the conclusions of the applicant's assessment of effects upon all SSSI. Although amendments were made to the presentation of the applicant's case across the examination, this level of agreement did not change [REP1-087] [REP3-054] [REP7-040].

ExA Conclusions

3.6.31. The ExA recognise the role of NE and that all matters relating to nationally designated sites are agreed with the applicant [REP7-040]. There is no substantive evidence before the Examination to dispute this position, or to disprove the applicant's assessments in this regard.

3.6.32. The mitigation measures set out in the OCoCP [REP7-025] [REP7-026], secured by R11 in the dDCO, emerging from the HRA process would be effective for the SSSI as well. The ExA is satisfied suitable mitigation exists to avoid or minimise the interference and disturbance with nationally designated habitats.

Non-statutory designated sites

3.6.33. A full list of the non-statutory designated sites considered by the applicant is contained in Table 9.6.2 in ES chapter 9 [APP-046]. There were no dissenting voices in the examination regarding the completeness of this list.

3.6.34. Neither the joint LIR [REP1-072] nor the individual LIRs [REP1-052], [REP1-070] specifically raise local wildlife sites or other non-statutory designated sites as areas of particular concern. Interested parties (IPs) did not volunteer any information regarding the integrity or ecological wellbeing of any local nature reserves or sites.

ExA Conclusions

3.6.35. The ExA is content that adequate assessment and mitigation have been adopted by the Applicant in respect of non-statutory designated sites as well as features of ecological and geological interest.

Protected Species and Habitats

Bats

3.6.36. The joint LIR [REP1-072] highlights that ecological surveys of Oxfordshire highlighted the presence of some important species for the County, most notably the presence of maternity roosts for Bechstein's bats (a rare species listed under Annexe II of the Conservation of Habitats and Species Regulation 2017, which has not previously recorded breeding in Oxfordshire) and barbastelles (also an Annexe II species). NE noted that the initial bat surveys supporting the proposed development uncovered much greater number of rare annex II bat populations than expected [REP7-180].

3.6.37. The LIR reports that the bat survey undertaken by the applicant [APP-153] clearly demonstrates the presence and importance of bats in the project area. The LIR continues that there is comparatively brief information about how bats could be impacted in the ES, despite the colonies being considered of national importance [REP1-072, paragraphs 7.4.13 to 7.4.15]. Paragraph 7.4.43 particularly raises:

> *"The Environmental Statement concludes that the impact on the local bat population will be negligible on the basis that all landscape features that are used by foraging, commuting and roosting bats will be retained and protected by buffers (paragraphs 9.9.131 to 9.9.135 of [APP-046]). However, very little information has been presented regarding proposed avoidance or mitigation measures in relation to bats."*

3.6.38. NE raised significant and substantial concerns at the outset of the examination regarding the approach, baseline data, methodology, monitoring, surveying, assessment and discernment of mitigation measures [RR-0761]. NE stated there was a distinct lack of detail across all aspects of the applicant's submissions regarding bats, and the limited bat survey data that had been obtained did not appear to have informed the project design. A list of 10 recommendations was made on page 10 [RR-0761], which NE required to be addressed at the earliest opportunity.

3.6.39. The applicant argues that the initial project design was formulated taking the presence of bats into account, including a decision to retain all woodland, watercourses and hedgerows used for foraging and commuting [REP4-037, Q2.3.5]. In addition, as per ES chapter 9, providing the designed and embedded buffers along commuting habitat (i.e. hedgerows and areas of woodland) would be sufficient to reduce impacts on bats to a negligible effect [APP-046].

3.6.40. IPs, most notably Cassington Parish Council, raised a study by Tinsley, noting that bats had been recorded extensively using undeveloped open arable land for faster and straighter movements [EV7-006, minute 34:34 to 43:04]. The applicant responded that Tinsley assessed bat movements over grassland rather than over intensive arable land as was the case for the proposed development [EV7-006, minute 43:43 to 47:08], so its findings were not of relevance.

3.6.41. However, the applicant was compelled by NE to produce a Bat Technical Note and update the bat surveys containing the relevant information requested from NE [REP5-009], [REP5-039] and [REP5-040]. These studies showed an abundance of bat species across the project site and identified key bat habitat areas and commuting corridors not previously recognised in the earlier surveys. Adverse impacts on bats were identified and caused the applicant to incorporate further

mitigation measures into its design [REP6-034] [REP7-027] including, though not limited to, a three-tier system defined as:

- Tier A: Known key flightlines and features identified from survey work (primarily radio tracking and static detectors) – 25m corridor either side of feature.
- Tier B: Landscape features with similar characteristics to Tier A or link key features such as woodland or riparian habitats – 10m corridor either side of feature.
- Tier C: Other landscape features – 5m corridor either side of feature.

**underlining is ExA emphasis*

3.6.42. NE responded complaining of incomplete data from the applicant and requesting further technical detail include a) the location and size of each buffer and b) a proper synthesis and interpretation of all the underlying data. Until the full data has been presented, NE could not fully advise on whether the extent of buffering was appropriate or not. The 'A' tier is the most vital, and NE advised that the location and extent of these should be certain prior to decision. [AS-045].

3.6.43. The additional information was received at DL6 [REP6-034] [REP6-044], as well as commitments to monitoring bats at various intervals during construction and operation. Those commitments were secured in the OLEMP [REP7-027, Table 13.1].

3.6.44. The final position of NE on this point was expressed as being [REP7-180]:

- All of our points and concerns had been sufficiently addressed.
- Provided the measures within the OLEMP and OCoCP are carried out, we have no further formal concerns.
- We welcome future engagement on the location of the 'Tier B' buffers and outputs from the monitoring strategy.
- Botley West has produced a novel and innovative mitigation strategy which we advise is likely to avoid or mitigate any potential impacts to bats.

3.6.45. Cassington Parish Council recorded this matter as being of grave concern for nationally important and rare bat populations at close of the examination [REP7-068], believing the mitigation approach followed old understandings of bats and bat movements, and that vital open rural land would be lost to foraging and commuting bat species.

ExA Conclusions

3.6.46. The ExA considers that the applicant failed to take bats seriously in the initial application even after completing a bat survey. The evidence for this is the substantial new tiered buffer approach introduced by the applicant during Examination, which eclipses what was originally proposed. This has resulted in solar panels being set back further from natural features that originally intended.

3.6.47. However, the ExA does acknowledge that the detail has improved during the Examination, with the re-shaping of the buffers around key bat habitat, now largely endorsed by NE [REP7-180].

3.6.48. The ExA acknowledges that Cassington Parish Council have an alternate view and are of the opinion that avoidance of impacts would be near impossible given the pattern and mobility of bat species particularly across arable land as evidenced by the bat reports [REP5-039] [REP6-044]. The ExA considers that the solar farm would impact on the natural patterns of movements of bats, but that the tiered buffers would provide a suitable retained habitat for commuting and feeding. NE believes that the buffer strategy would mitigate the effects and the ExA has no substantive scientific evidence to the contrary.

3.6.49. Commitments for monitoring in the OLEMP under R6 of the dDCO would ensure the effects on bat populations are understood. However, the OLEMP [REP7-027, table 17.1] only offers that, if monitoring finds there is a shortfall in the mitigation, remediation would be via repairing or resitting bat boxes. Whilst the ExA recognise the OLEMP is a working document and would be evolved if consent is granted, there appears to be a lack of a credible commitment to responding to monitoring results if the results found a greater adverse effect than anticipated.

Otters, water voles and fish

3.6.50. ES chapter 9 [APP-046] found that the water courses around the site, including the River Evenlode and River Thames, are suitable for otter, water vole, fish, aquatic invertebrates and aquatic macrophytes. Having discerned this, the applicant states: "*Given that all water courses will be protected with appropriate buffers during both construction and operation of the Project, no specific surveys for these species have been undertaken*."

3.6.51. The Environment Agency (EA) [RR-0308] [REP1-083] wholly disagreed with the approach of the applicant, firmly requesting surveys in respect of all aforementioned species and robust evidence to substantiate conclusions reach in the ES.

3.6.52. The applicant did not provide any greater details on the species during the course of the examination and undertook no surveys. However, in response to ExQ2 [REP4-037, Q2.8.1], the applicant agreed to strengthen the commitments for pre-commencement surveys set out in the OCoCP [REP4-022, paragraph 1.0.5] to specifically require those relating to otter and water vole, as necessary. The OHA welcomed the changes, but drew attention to the unsatisfactory nature of leaving such surveys to a post-consent stage, citing paragraph 99 of government circular 06/05 which states that [REP5-125]:

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been made in granting the decision."

3.6.53. With respect to fish, the applicant and the EA have agreed that horizontal directional drilling for cable routing under watercourses would avoid the fish spawning season (October to June) unless full details of geology and associated noise/ vibration propagation associated with such works is submitted to the appropriate authority, in consultation with relevant stakeholders to demonstrate that no impact on fish would occur. The appropriate changes were made to the OCoCP accordingly [REP4-022, paragraph 1.10.8].

ExA Conclusions

3.6.54. The ExA recognises the position of the OHA and are disappointed that survey work was not undertaken. The ExA take some solace in that the applicant would

undertake pre-commencement surveys for those identified species, allowing for mitigation or micro-siting to take place. The ExA considers that this not an ideal situation, since all relevant detail is not available at this time of making a recommendation and decision on the DCO. Pre-commencement surveys would however seek to address concerns in respect of these species, so the ExA is satisfied that protection would be in place prior to construction.

Reptiles and Invertebrates

3.6.55. The Joint LIR [REP1-072] stated that insufficient survey work had been undertaken with respect to reptiles, particularly great crested newts (GCN) [APP-154]. Paragraph 7.4.21 iterated that a single eDNA survey would not be sufficient to confirm absence from a pond and that, although the applicant would have to seek licencing for GCN post-consent, it was unclear which route would be followed. The OHA preferred the district licensing scheme [REP1-072, paragraph 7.4.48].

3.6.56. With regard invertebrates, the OHA requested an assessment upon behavioural changes that might occur to aquatic invertebrates, with the potential for them to be drawn to the solar panels believing them to be water bodies [REP1-072, paragraph 7.4.41].

3.6.57. IPs, particularly in the region of Shipton Slade Farm to the east of the project's central area, raised issues about an abundance of GCN (for example [REP5-067] [REP5-099] [REP5-138] [REP5-147]) and that further work needed to be done to protect the species.

3.6.58. The applicant responded that GCN populations would benefit from habitat creation secured via the OLEMP [REP2-026], that NE had agreed the survey methodology for GCN and that further surveys to inform license applications would be ongoing through 2025. It was also said that: *"it is anticipated that the Project will use a Natural England mitigation licence for GCN and discussions with NE in respect of this are on-going. However, the Project may make use of the DLL, if that is more appropriate."*

3.6.59. In respect of invertebrates, the applicant responded that the project would deliver over 26km of new species-rich hedgerow that would benefit invertebrates. In addition, the panels would be coated with an anti-reflection coating that would make them appear darker and static compared to water bodies, thus there would not be any confusion amongst invertebrates that the solar panels were in fact a lake [REP2-026].

3.6.60. Cassington Parish Council [REP5-068] claimed that evidence suggests that whilst non-reflective surfaces are less attractive to certain groups of insects, under overcast conditions they may be more attractive to aquatic insects, a situation known as an ecological trap. Aquatic insects are in abundance across much of the central area of the Botley West proposal because of the high number of water bodies and therefore a proper assessment was needed.

3.6.61. The applicant did not reply directly to the concerns raised, referring instead to glint and glare issues and that the anti-reflective coating would be utilised across the site [REP6-049, page 22].

3.6.62. At the close of the examination, the OHA considered the matter of GCN had not been fully resolved because no pond provision had been made in the landscape

design to provide improvements or enhancements for GCN habitat [REP7-191, paragraph 2.4.8].

3.6.63. In respect of the potential for the 'lake effect' attracting aquatic invertebrates, the OHA considered that the concerns had not been fully addressed, and monitoring should be included in the OLEMP [REP7-191]. Cassington Parish Council, amongst other IPs, also considered the matter unresolved [REP7-068].

ExA Conclusions

3.6.64. The ExA is content that the issues regarding GCN have been reviewed and endorsed by NE. The ExA note that the measures to tiered buffer system to mitigate for bats, as secured in the OLEMP [REP7-027], includes the provision of scrapes and shallow ponds as potential features to support GCN and aquatic invertebrates.

3.6.65. The monitoring commitments in table 13.1 [REP7-027] include some limited monitoring of invertebrates, though appears under-developed when compared to what the OHA expected. The ExA also notes that the applicant's position of no adverse effects on invertebrates could have been substantiated by more scientific evidence and research. Nonetheless, the ExA is satisfied that adequate consideration and provision have been made in the OLEMP, and the wider biodiversity strategy, to provide enhancements that would, overall, be a benefit for the species involved.

Birds

3.6.66. One line of discussion during the examination revolved around the 'lake effect' whereby birds mistake areas of solar panels as large waterbodies and are attracted thereto. The LIR [REP1-072] requested this to be assessed, with appropriate mitigation measures to be designed into the scheme. Oxford Aviation Services and the Defence Infrastructure Organisation also requested additional detail to demonstrate how the effect would be managed [PDA-002] [REP1-082]. Cassington Parish Council suggested that the panels, appearing like water, could attract aquatic insects by mistake, thus leading to birds and bats mistakenly foraging in the solar farm and hitting the panels [REP7-068].

3.6.67. The applicant submitted a document entitled 'Evidence review of the impact of solar farms on birds, bats and general ecology,' published by NE in 2017 [REP1-043], pointing to the conclusion drawn in paragraph 17 that although the lake effect has been hypothesised as a possibility, there is no scientific evidence of collision risk associated with solar PV arrays in the UK and the risk of collision with solar panels is likely to be very low [REP1-019]. The response to the LIR [REP2-026, page 36] reiterated that there is no scientific evidence of collision risk associated with solar arrays and the risk of collision with solar panels is likely to be very low but not impossible.

3.6.68. However, Oxford Aviation Services iterated that the issue was not so much of birds colliding with the solar panels, but more that birds would be wrongly attracted to the area and thus collide with aircraft [PDA-002] [PDA-006]. The applicant however stated that [REP2-026, page 36]:

> *"the panels the Project would use are covered with a specific anti-reflection coating that reflects circa 0.5-1.5% of light. They would therefore appear far darker than any surrounding water and would not exhibit the variations in reflection that a water surface would have; they do not move like water does (a lake's surface will always be in motion due to wind except on very still*

days). So, side by side, solar panels and a lake would look very different in the UK where days without wind are few."

3.6.69. The matter of aviation safety is considered in further detail in section 3.7 of this report. For the purposes of ecological assessment, the applicant concludes that there would be minimal risk to birdlife as a result of the so-called 'lake effect.'

3.6.70. On a separate issue, the OHA stated that there was insufficient consideration given to the 15 species of farmland birds listed in section 42 of the Natural Environment and Rural Communities Act 2006 (NERC Act) [REP4-073, Q2.8.8]. Given the perceived lack of coverage in the ES on this matter, the OHA requested a farmland bird strategy alongside evidence that the mitigation hierarchy had been adopted [REP1-072] [REP4-074]. This was supported by Cassington Parish Council, which drew attention to the fact that farmland bird species had been in national decline [REP6-079].

3.6.71. The applicant's response can be summarised as:

- Recent research demonstrated there would be benefits for farmland birds of solar sites managed for biodiversity benefit [REP2-026, page 36].
- Creation of 36ha of new grassland that would be managed specifically for nesting birds, primarily skylark [REP2-026, page 36].
- A further 17.6ha made available by the removal of panels in change request 2 would be managed for the benefit of birds, primarily skylark [REP4-037, Q2.16.8] [CR2-073].
- Protection regimes would be developed at detailed design stage [REP2-026, page 29].
- A dedicated Farmland Bird Strategy was not necessary [REP6-051].

3.6.72. The OHA did not agree with the skylark technical note produced by the applicant, raising that the assumptions made by the applicant did not tally with government guidance or standard practices [REP5-125]. The OHA reiterated that a requirement for a farmland bird strategy would allow more detailed consideration of suitable measures both on and off-site to maintain the skylark population during the operation of the solar farm.

3.6.73. The ExA suggested a new requirement securing a farmland bird strategy be added into the dDCO [PD-016, PC004]. At ISH2 [EV7-006, minute 56:57 to 01:00:34] the OHA revised its position insofar that the primary concern was regarding skylark, rather than other farmland species. Cassington Parish Council maintained its stance [REP6-079] that a broader strategy was needed to halt farmland bird decline; the applicant maintained a stance that no such strategy was required [REP6-047].

3.6.74. The applicant confirmed orally at ISH2 and in writing [REP6-051, page 22] that the 17.6ha retained land "*would not be particularly beneficial for other species*." In light of this, the OHA reverted back to requesting a full farmland bird strategy at the end of the Examination having further reviewed the survey evidence [REP7-191, paragraph 2.4.9].

ExA Conclusions

3.6.75. The ExA considers that the ecological impacts on birdlife from the proposed project have been considered by the applicant and, during Examination, attention has been

given to mitigation measures. The ExA welcome that significant land would be set aside within the Order limits to manage the impacts on skylarks, although the management of this land is key to ensure success and the ExA considers that other bird species should not be excluded from this benefit. To this end, the ExA suggests a precautionary approach is adopted, particularly in light of concerns from the OHA regarding skylark, and from Cassington Parish Council regarding a loss of farmland species generally nationwide. The ExA considers it appropriate for land to be managed to benefit multiple species where possible.

3.6.76. Given that the issue of bird populations occupied a fair amount of Examination time and the coverage of the matter featured at every deadline, the ExA considers that there is a need for ongoing management and monitoring of the impacts on the species during construction and operation. Therefore, the imposition of a requirement securing a farmland bird management plan is justified and necessary. This is discussed in more detail in chapter 7 of this report.

Ancient woodland and trees

3.6.77. ES chapter 9 [APP-046] reports that the project has been designed to avoid areas of ancient woodland. Measures would be put in place to ensure that a minimum 15m buffer is retained between ancient woodland and construction areas. Appropriate fencing in accordance with BS 5837, would be erected around the 15m buffer to prevent access by people, materials or machinery to avoid compaction of soils or roots and to avoid any accidental damage.

3.6.78. NE concluded early that as there was no ancient woodland or ancient/ veteran trees within the Order limits or within close proximity, there were no detailed comments to make [RR-0761]. In providing general advice, NE referred to impacts being considered in line with paragraph 180 of the NPPF.

3.6.79. However, the Joint LIR advocated a different approach [REP1-072, paragraphs 7.4.26, 7.4.32] in which a 50m buffer zone should be adopted in line with the 2019 guidance from the Woodland Trust, which would also have the benefit of protecting woodland margins for protected bat species. IPs also advocated for greater buffers in view of a micro-climate effect caused by solar panels, where reflected light and heat may have an impact on the integrity of the woodlands [REP1-179]. The Forestry Commission also criticised the 15m buffer from ancient woodland, noting tree canopies could extend much closer to the proposed development and that tall trees with the potential to fall onto the proposed development could be at pressure to be felled under articles 37 and 38 within the dDCO [REP2-054] [REP4-062].

3.6.80. The applicant responded [REP3-064] that: *"The proposed management principles and maintenance activities for woodland is set out in sections 11.2 and 16.2 of the OLEMP…The Applicant's approach to Ancient Woodland and Veteran Trees already complies with the Forestry Commission's co-authored guidance with Natural England."*

3.6.81. The bat technical note [REP5-009] [REP6-044] altered and widened some of the ecological buffers to ancient woodland features for the sake of bats (as reported above), but otherwise the applicant simply responded that it [REP4-037, Q2.3.6]: *"has adopted minimum or appropriate buffers areas based upon relevant guidance/best practise. There is, therefore, no need to exceed these buffer distances."* The applicant did not respond to the Forestry Commission's specific concerns regarding the vulnerability of ancient woodland from the felling/ lopping powers of the dDCO.

ExA Conclusions

3.6.82. The ExA recognises the threat to ancient woodland as a protected and irreplaceable habitat. There is tension between the Forestry Commission (with NE) guidance of a 15m buffer versus the Woodland Trust's reported guidance of a 50m buffer. Only the former made submissions to the examination. The applicant's inflexible approach to woodland buffering is therefore not without merit, given the available guidance. However, the ExA welcome that the mitigation measures to be adopted for bat species would have consequential benefits for ancient woodland and associated margins.

3.6.83. The ExA considers that a loss or deterioration of the ancient woodland habitat would not occur on the basis of NE's conclusions. For this reason, the ExA consider that there would not be any significant adverse effects on ancient woodland during the construction, operation or decommissioning periods of the proposed development.

Landscape connectivity

3.6.84. IPs commented that areas of woodland would be surrounded by the extensive spread of the solar arrays and, together with disruption of hedgerows, this would fragment habitats and nature corridors [REP1-179]. The OHA referred to the draft Local Nature Recovery Strategy being produced by Oxfordshire County Council and stated the proposal would lock-up woodland rather than allowing room for expansion and connectivity [REP1-072, paragraph 7.4.56]. The Forestry Commission [REP2-054] [REP4-062] considered the buffers around areas of woodland would not be an improvement on the current situation due to obstacles such as panels and fences discouraging wildlife movement.

3.6.85. The applicant however pointed out that intensive agricultural activities, with associated machinery and land-treating chemicals, can currently take place right up to the edge of woodland and habitats [REP2-027, page 20]. Having the embedded buffer zones would assist and enhance connectivity between habitat areas [REP3-064, page 6] and reduce the level of disturbance being experienced.

3.6.86. NE responded to say whilst it is generally fair to characterise the increased buffers of hedgerows and water courses as a benefit, woodland species maybe prevented travelling between parcels of woodlands through what is currently open arable land post-construction because of fencing and panel avoidance [REP4-072]. The applicant maintained [REP5-005] that fencing around the site would be designed to be permeable to all wildlife except deer for operational security reasons.

3.6.87. The applicant also pointed to an area some 160m wide where Bladon Heath and Burleigh Wood meet that is free of panels that would be managed to ensure connectivity between the woodlands is maintained [REP7-046].

ExA Conclusions

3.6.88. The ExA does not doubt the presence of woodland species and consider it reasonable to suggest that the species benefit from areas of open land around woodland fringes. These fringes would be maintained by the applicant and, with the imposition of buffers (including the enlarged buffers as per the bat technical note), it is unlikely the solar farm would represent a significant impediment to movement of wildlife once operational.

3.6.89. The ExA considers that, whilst the short-term construction could have a harmful effect, measures in the OLEMP [REP7-027], such as the buffer corridors for bat

mitigation, would serve to mitigate this to an appropriate level once the development becomes operational.

Trees and Tree Protection

3.6.90. The OHA reported to the examination that concerns about tree health, including the potential routing of electrical cables through the root protection areas of many trees, had been raised to the applicant during pre-application stage [REP1-072]. The OHA cited NPS EN-3 paragraph 2.10.101 that: *"The impact of the proposed development on established trees and hedges should be informed by a tree survey and arboricultural/ hedge assessment as appropriate."* The OHA stated that the strategic arboricultural impact assessment and method statement (AIA) [APP-145] contained insufficient detail for a judgement on impacts to be made.

3.6.91. The applicant finally provided an updated AIA at DL6 ([REP6-014] to [REP6-018]. However, the OHA declared there was insufficient time left in the examination to fully appraise, review and comment on the effectiveness of the AIA [REP7-190] [REP7-191]. The OHA offered that, if asked during the post-examination and pre-decision phase of this project, they could provide the necessary commentary.

3.6.92. Other IPs referenced impacts on existing trees and hedgerows from a general perspective, though none provided detailed consideration of the AIA (for example [RR-0341] [RR-1035]).

ExA Conclusions

3.6.93. The ExA has reviewed the AIA from DL6 and considers the contents to be logical and practical. However, the OHA would be responsible for ensuring compliance with the documents and ultimately have not commented on the adequacy or implications of the AIA package.

3.6.94. The ExA cannot say with utmost certainty that impacts to trees would be avoided or minimised, with the potential for more trees than necessary to be cut down or removed under articles 37 and 38 of the dDCO. Adopting a precautionary approach, until proven otherwise, the proposed development could have an adverse impact on existing trees and woodland areas. The ExA therefore concludes, on the basis of the information available, there would be an unacceptable impact on tree health both in and adjacent to the Order limits.

Biodiversity Net Gain

3.6.95. The applicant's BNGA [APP-162] proposed a strategy of habitat creation and enhancement consisting of:

- Circa 100ha of new floodplain mosaic habitats along the River Evenlode Corridor.
- At least 26.5km of new species rich hedgerow.
- Over 25km of enhanced hedgerows.
- Circa 5ha of new native woodland creation.
- Wildflower grasslands to be managed for wintering and breeding birds.
- Tussocky grasslands alongside hedgerows. Hedgerow buffers will range from 5m to 25m, depending on whether such features are important bat flight lines.

- Flood attenuation features to north of Cassington.
- Additional mixed scrub habitats alongside hedgerows.
- A range of grasslands within the solar arrays to be managed for conservation value.

3.6.96. The OLEMP anticipates the delivery of 70% net gain of habitats units across the project as well as 50% net gain in hedgerow units [REP2-019, paragraph 9.1.4]. The BNGA forecasts 80% and 57% respectively [APP-162]. This difference was queried by the ExA, and the applicant's response suggested that the full extent of net gains in the BNGA would be achieved only if the final landscape design of the project followed that set out in the Illustrative Masterplan exactly [APP-062] [REP4-037, Q2.8.15]. As such, the project has committed to the delivery of at least 70% habitats BNG and 50% hedgerow BNG and it is these figures that are relied upon within ES chapter 9. It was considered that these values are sufficiently ambitious that they match the scale of the project while also being precautionary enough that IPs, the ExA and the SoS can have confidence they can be achieved.

3.6.97. The Joint LIR and the EA requested that watercourse units were also factored into the metric equation and that the management/ monitoring of the BNG should be secured in the OLEMP [REP1-072] [REP4-061]. The applicant confirmed watercourse units would increase by 20% [REP6-019] [REP6-021]. The OHA doubt the claimed watercourse units on the basis that the facts and data underpinning the target had not been presented [REP7-190]. However, the applicant was unable to respond to this issue before close of the Examination and the evidence behind the 20% watercourse unit forecast is therefore absent.

3.6.98. The applicant submitted a change request at DL5 ([CR2-001] to [CR2-073], which marginally changed the approach to BNG. An uplift was predicted in the revised BNGA [CR2-040] to 81.2% net gain in habitat units and 59.18% increase in hedgerow units. Watercourse units, added after the change request, remained at 20%.

3.6.99. The approach to delivering BNG is secured both through R6 (OLEMP) and R7 (BNG) of the draft Development Consent Order (dDCO). The OHA requested that an amendment should be made to R7 in order to specify legally the delivery of the % habitat gains stated in the applicant's submissions [REP4-074, annex 1], drawing upon wording in the Cottom Solar Project Order 2024 and the East Yorkshire Solar Farm Order 2025. This features in the ExA Proposed Schedule of Changes [PD-016, PC008].

3.6.100. The applicant subsequently adapted R7 of the dDCO to incorporate and stipulate % delivery figures for BNG. However, lower targets than those in the BNGA Statement were set out in the Requirement to accord with those in the OLEMP at 70%, 50% and 20% respectively [REP6-004] [REP6-040]. The reasons given for this were that the figures included for habitat units and hedgerow units reflect those set out in section 9 of the OLEMP [CR2-051], which is being relied upon in the planning balance.

3.6.101. NE [AS-045] [REP7-180] confirm matters relating to BNG were resolved.

3.6.102. The OHA however have the outstanding concern about watercourse units and whether the target is realistic or achievable. An IP also noted that the applicant's reasons for keeping land within the Order limits to deliver BNG were not wholly certain, quoting the applicant as saying [REP7-163]:

"there may be some areas of the Project site that are required for the generation of solar energy instead of as 'natural habitat'. Therefore, it is important for the Applicant to have a degree of flexibility with respect to where habitat creation associated with the delivery of BNG is able to be undertaken to ensure that the solar generation level and BNG commitments are both met [REP6-052, Question 2]."

ExA Conclusions

3.6.103. The ExA is concerned that the applicant appears to have suggested that land set aside for BNG and for habitat creation could be flexibly repurposed for solar energy generation instead. This flexibility is considered to stretch the Rochdale Envelope and perhaps explains the disparity between the BNG Statement and the OLEMP, with the residual land susceptible to solar expansion, contrary to the assessment of the ES and the Works Plans.

3.6.104. However, the ExA does note that the works plans would provide security in terms of areas to be developed for solar generation, and these should be strictly adhered to from an enforcement perspective. The ExA welcomes the commitments for BNG delivery at the levels as written on the face of the dDCO as this provides the legal basis to secure the applicant's ambitious BNG targets. The ExA has no legislative or policy reason or justification for pushing the applicant to deliver the greater BNG figures predicted in the BNGA. There appears sufficient scope within the OLEMP and the land available to the applicant for such targets to be realised over the lifetime of the project.

CONCLUSIONS

3.6.105. The ExA has given careful consideration to the views of IPs, to the evidence presented and the responses received, including the views of the relevant Statutory Nature Conservation Body, NE.

3.6.106. In respect of Statutory and Non-Statutory Designated sites, the ExA is satisfied with the environmental information provided and that adverse effects have been minimised appropriately. The ExA finds, like NE, that there would not be any significant adverse effects on such sites or features of those sites.

3.6.107. With regard to protected and priority species, the ExA has reservations about the quality of assessment and mitigation documented in the ES. Regarding paragraph 5.4.42 of NPS EN-1, the ExA remains concerned as to the extent that the mitigation hierarchy was originally applied, particularly when surveys were either not undertaken (otters, voles etc) or when the project mitigation had to be developed towards the end of the examination (bats).

3.6.108. A number of matters remain unsatisfactorily outstanding, such as mitigation for farmland birds, water-based wildlife and protective measures for existing trees. For the former, the ExA is recommending an additional requirement in the rDCO. For the other aspects, the ExA notes a reliance on post-consent processes. In absence of resolution in the examination, the ExA considers the matters are best dealt with via discharge of requirements in any post-consent phase.

3.6.109. If the proposed new requirements in the rDCO are agreed and imposed by the SoS the ExA considers that, in the long term during the operational phase, adequate mitigation measures would be in place to ensure that there would be no significant residual effects on ecology and biodiversity. The creation/ enhancement measures secured in the OLEMP would result in a beneficial effect for some species. The ExA

also considers that the BNG proposed would represent a modest benefit which weighs positively in favour of the Proposed Development.

3.6.110. Given the evidence presented, the ExA considers that biodiversity and ecology matters have adequately been assessed and that the policy requirements of NPS EN-1 and NPS EN-3 are met. The rDCO would adequately secure the mitigation necessary to address any effects, albeit some residual impacts are likely and there are no firm commitments to follow up on monitoring results with robust mitigation options at this stage. Overall, the ExA considers that the residual adverse impacts, tempered by mitigation, weighed alongside the proposed substantive BNG arising from the proposed development would be of equal consequence. As such the ExA considers ecology and nature conservation matters weigh neither for nor against in the planning balance.

3.6.111. The ExA's conclusions on HRA are addressed separately in chapter 4 and appendix C.

3.7. TRAFFIC AND TRANSPORT

INTRODUCTION

3.7.1. This section considers the effects of the proposed development in relation to traffic, transport and Public Rights of Way (PRoW). PRoW are considered here in terms of access and accessibility. Effects on users' experiences of PRoW are considered in sections 3.4, 3.8 and 3.11 of this report.

POLICY BACKGROUND

3.7.2. The Overarching National Policy Statement of Energy 2024 (NPS EN-1) recognises that transporting materials, goods and personnel to and from a project during all of its phases can have a variety of impacts on the surrounding transport infrastructure. NPS EN-1 outlines that consideration and mitigation of transport impacts is an essential part of the government's wider policy objectives for sustainable development. Paragraph 5.14.3 states that disturbance caused by traffic and abnormal loads during the construction phase will depend on the scale and type of the proposal.

3.7.3. Paragraph 5.14.5 of NPS EN-1 states that where a project is likely to have significant transport implications, the applicant's Environment Statement (ES) should include a Transport Assessment and a travel plan to mitigate transport impacts.

3.7.4. Paragraph 5.14.21 of NPS EN-1 states that the Secretary of State (SoS) should only consider refusing development on highways grounds if there would be an unacceptable impact on highway safety, residual cumulative impacts on the road network would be severe, or where it has not been demonstrated that consideration has been given to the provision of adequate active public or shared transport access and provision.

3.7.5. In respect of airports and aviation safety (both civil and military), including communications and surveillance infrastructure, paragraph 5.5.41 of NPS EN-1 requires consideration of bird strike risk, building induced turbulence and thermal plume turbulence. Paragraph 5.5.50 states that the SoS should be satisfied that the proposal has been designed, where possible, to minimise adverse impacts on the operation and safety of aerodromes. Paragraph 5.5.60 states that only where the SoS is satisfied that developments do not present risk to national security or

physical safety and, if the risks do exist, that mitigation is appropriate, then development consent maybe granted.

3.7.6. In relation to construction, NPS EN-3 states that applicants should assess the various potential routes to the site for delivery of materials and components, where the source of the materials is known at the time of the application and select the route that is the most appropriate (paragraph 2.10.123).

3.7.7. NPS EN-3 paragraph 2.10.161 states that once solar farms are in operation, traffic movements to and from the site are generally very light. Should there be a need to replace components, this may generate heavier commercial vehicle movements, but these are likely to be infrequent.

3.7.8. Generally, the Local Impact Reports (LIR) submitted to the examination contain policy support for renewable energy and a presumption in favour of sustainable development. Some local authorities, in addition to referencing national policy statements, have stated local policies applicable to traffic and transport which seek to safeguard and promote public transport, including cycling, walking and the protection of PRoW, national trails and open access areas.

THE APPLICATION

3.7.9. The applicant's assessment of traffic and transport impacts is contained within chapter 12 of the Environmental Statement (ES) [APP-049]. The supporting figures and appendices are listed in table A1 in appendix A of this report.

Assessment methodology and scope

3.7.10. The study area for the assessment of traffic and transport is shown in appendix 12.1 [APP-196] and is formed of those parts of the strategic road network (SRN) and the local road network (LRN) to be used by construction traffic to/from the construction compounds.

3.7.11. The significance of transport environmental effects was assessed by considering the interaction between the magnitude of the impacts and the sensitivity of the receptors in the traffic and transport study area. The assessment was prepared in accordance with the Institute of Environmental Management (IEMA) Guidelines (IEMA, 2023) with reference to the Design Manual for Roads and Bridges (DMRB) LA104: Environmental Assessment and Monitoring (Highways England et al., 2020) where relevant.

3.7.12. The assessment considered the effects on traffic flows, delays, road safety, fear and intimidation, severance and pedestrian amenity. The sensitive receptors identified in the assessment included motorised and non-motorised users of the surrounding highway network, including drivers, pedestrians, cyclists and users of the PRoWs. The assessments included those potential effects on public transportation services [APP-202] and blue-light services operating on the network.

3.7.13. The scope of the assessment was split into the three phases of construction, operation including maintenance, and decommissioning. The impacts from cumulative effects associated with the proposed development together with other projects and plans, was also assessed.

Baseline

3.7.14. The applicant's study area comprises all the links into and around the project site that were considered for use by construction traffic [APP-196], as opposed to a physical distance calculation.

3.7.15. Roads were assessed on their qualities using desktop studies and site-specific surveys. Automated traffic counters and radar surveys were deployed on those identified links in the study area to gauge baseline highway traffic conditions.

Construction Phase Effects

3.7.16. In terms of the assessment of the environmental impacts of traffic and movement, the IEMA Guidelines sets out the following two 'rules' to delimit the geographic extent of assessment:

- Rule 1: include highway links where traffic flows will increase by more than 30% (or the number of heavy goods vehicles will increase by more than 30%); and
- Rule 2: include any other specifically sensitive areas where traffic flows will increase by 10% or more.

3.7.17. In accordance with the IEMA Guidelines, for rule 1, any highway link with increases in total traffic flows that exceed 30% or heavy goods vehicles (HGV) that exceed 30% are screened into the assessment. For rule 2, those highway links that were not screened into the assessment under rule 1 but are deemed to be sensitive and have increases in total traffic flows that exceed 10% were also screened into the assessment.

3.7.18. Table 12.40 of ES chapter 12 [APP-049] concludes that there would only be negligible to minor adverse effects across the whole study area during construction.

Operational and Maintenance Phase Effects

3.7.19. Table 12.7 of the ES [APP-049] scopes out operational stage effects of the proposed development. The reason cited as being that these activities do not require any manned facilities and requires only infrequent maintenance activities and will generate a limited number of additional vehicle movements on the LRN and SRN.

Decommissioning Phase Effects

3.7.20. This phase of the proposed development is also scoped out of the assessment. The applicant's justification for this being that vehicle movements generated during the decommissioning phase would be less than those during the construction phase. For this reason, the determination of effects resulting from traffic generated during the construction phase were also applied to the decommissioning phase.

3.7.21. The applicant would submit a decommissioning traffic management plan to the relevant highway authorities prior to any decommissioning works commencing.

Cumulative Effects

3.7.22. ES chapter 20 [APP-057] takes into account the impact associated with the project together with other projects and plans. Whilst the cumulative projects considered for traffic and transport are grouped into different tiers, these have been assessed as

contributing to one cumulative impact. The cumulative effects are predicted to be negligible adverse, which is not significant.

Other Considerations

3.7.23. No assessment is made in any specific chapter of the ES regarding airports, civil aviation safety or military aviation safeguarding.

3.7.24. The Planning Support Statement [APP-225, paragraph 8.4.35] refers to removing panels from beyond the southern edge of Oxford Airport at the preliminary design stage. The Glint and Glare Assessment [APP-128] referred to potential effects on the air traffic control tower.

ISSUES CONSIDERED DURING THE EXAMINATION

3.7.25. A total of 212 relevant representations (RR) raised concerns on the impact of the proposed development on traffic and transport in the region. The main issues from RR's and other interested parties (IP) on this topic were:

- Traffic congestion increasing on the local road network (for example [RR-0770] [RR-0766] and [RR-1035]).
- Construction vehicles passing through villages and damaging narrow country roads (for example [RR-0509] and [RR-0520]).
- Lack of clarity over the applicant's proposed methodology for routing the cable beneath the A40 (for example paragraphs 7.8.29 to 7.8.32 of LIR [REP1-072]).
- Impacts of the proposed development on users of the PRoW network and the need for improvements to active travel routes (for example [RR-0794] and paragraphs 7.8.42 to 7.8.65 of LIR [REP1-072]).
- Restricted access to Siemens Healthcare facility [RR-0967].
- The close proximity of the proposed development to local airports may cause glint and glare issues, increased bird strike potential, thermal radiation effects and an increased risk of loss of life if flights need to make an emergency landing on development free land close to the airport (for example [RR-0610], [RR-0784] and [RR-0788]).

3.7.26. These matters are dealt with as part of the consideration of the highway network, PRoW and aviation safety which follows.

Strategic Road Network (SRN)

3.7.27. The A34 forms the outer boundary of the traffic and transport study area. It forms part of the SRN and is located on the eastern side of the project, routeing broadly north to south between the M40 and the M4/ M3 respectively (in a local context). The applicant anticipates using the A34 for construction vehicles bringing materials to the various parts of the project site, entering via the Peartree Roundabout or the Botley Interchange.

3.7.28. National Highways (NH), whilst noting no direct dialogue with the applicant prior to the examination stage of the project, confirmed it was satisfied with the integrated transport assessment contained within ES chapter 12 [REP2-058]. NH also stated,

in terms of the impact on the strategic road network, the construction traffic movements estimated by the applicant, are likely to be far lower, and that NH does not require further assessment by the applicant.

3.7.29. NH requested to be a named party for the review and discharge of any construction traffic management plan (CTMP) under Requirement (R) 11 of the dDCO. The applicant duly amended the dDCO at deadline (DL) 4 [REP5-047].

3.7.30. No further correspondence was received from NH during the examination, and no other IP raised any specific issues about the functioning, operation or safety of the SRN.

ExA Considerations

3.7.31. On this basis the ExA considers there would be no residual adverse effects on the SRN and no outstanding concerns.

Local Road Network (LRN)

Generality of construction traffic impacts

3.7.32. A number of IPs (for example, [RR-0721] [RR-0783] [RR-0784] [RR-1035] [REP5-111]) raised concerns about construction traffic including, though not limited to, the following:

- Impacts on quiet villages.
- Impacts on narrow country roads.
- Noise, disturbance and dust from construction vehicles.
- Safety of roads for all users.

3.7.33. The applicant responded to a number of these objections stating that, where possible, construction of the scheme would take place using project-internal haul roads direct from construction compounds [REP1-020]. A number of specific roads were also named not to receive day-to-day material deliveries [REP1-020, page 234], as secured in the Outline CTMP [APP-232, annex A]. In all circumstances, the applicant contends that there would not be any significant effects on any road users or any settlement in the study area. In its response to the relevant representations on this matter the applicant stated [REP1-020] that the ES had been prepared in accordance with industry standard guidance and good practice and that it concluded impacts would not result in any significant effects.

3.7.34. At issue-specific hearing 1 (ISH1) ([EV5-009, minute 40:31 to 43:22], the applicant was asked to explain how large increases on the number of heavy vehicles such as a 207% increase on link 7, had been taken into consideration in its assessment of traffic impacts, particularly through villages such as Yarnton. The applicant explained baseline traffic flows for heavy vehicles were low, therefore small increases in numbers result in high percentage increases. However, where percentage increases were high, the applicant followed up with taking a look at more detailed aspects, before concluding on the impact.

3.7.35. In terms of managing traffic and enforcing agreed HGV routes, section 1.11 of the Outline Construction Traffic Management Plan (OCTMP) [APP-232] sets out how traffic, including the numbers and routeing of HGV, will be managed during the construction phase.

3.7.36. With regard to enforcing agreed HGV routes, this was confirmed by the applicant in its response to ExQ1.17.6 [REP2-025], *"Paragraph 1.3.7 of the OCTMP [APP-232] sets out that the Principal Contractor and any sub-contractor(s) will be required to comply with the agreed routeing plans".*

3.7.37. Paragraph 12.9.22 of the applicant's ES chapter 12 [APP-049] states construction traffic flows would not have any noticeable impact upon the operation of key junctions within the traffic and transport study area. This is due to the low number of peak hour construction vehicle movements and their temporary nature. When asked to justify and provide evidence of this conclusion, the applicant in its response to ExQ1.17.6 [REP2-025] referred the ExA to the Department for Transport publication 'Guidance on Transport Assessment', 2007. The guidance states vehicle movements of less than 30 per hour (which is the case as stated by the applicant (para 12.9.21 [APP-049]), creates negligible impacts upon highway capacity and the operation of junctions/ highways.

3.7.38. In respect of pedestrian safety, the applicant pointed to the access strategy set out in section 12.7 of ES volume 1, chapter 12 [APP-049] and appendix 12.6 [APP-204]. The access strategy would be in place during construction and would form part of the OCTMP. These strategies, which include restricting construction HGVs to only suitable parts of the road network, are intended to help ensure the risk to pedestrian and resident safety, is minimised from construction traffic.

3.7.39. When asked about the condition of the local highways and their suitability for use by construction traffic, the applicant explained (response to ExQ1.17.4 [REP2-025]) as part of the OCTMP [APP-232], highway condition surveys would be undertaken to identify and remedy any damage to highways. The applicant also confirmed that the OCTMP [APP-232], would detail methods and schedules of surveys to be agreed with the relevant highway authorities.

3.7.40. In response to ExQ1.17.15 [REP2-025], the applicant explained, that with construction along the highway being linear in nature, in that the traffic moves along as work progress, cumulative driver delay effects do not occur due to work in adjacent locations. The applicant also confirmed its intention to comply with the Oxfordshire Permit Scheme for Road Works and Street Works (2019). This scheme organises and co-ordinates street works to maintain the safe and efficient use of road space including minimising driver delay.

3.7.41. The Oxfordshire Host Authorities (OHA) did not advance any substantive concerns about the assessment of construction traffic impacts, nor the conclusions drawn in the ES, throughout the examination. It was considered any impacts could be suitably controlled via a CTMP [REP1-072, paragraphs 7.8.66] [REP7-191].

ExA Considerations

3.7.42. The ExA recognises that construction traffic would impact on residents throughout the construction period. However, this period is forecast to be 24 months [APP-043] and not all of those months would experience peak traffic movements. The ExA is content that the majority of construction traffic (aside from material deliveries to construction compounds) would take place using internal haul roads and not the wider LRN. The securing of traffic management measures within the latest version of the Outline CTMP [REP6-029], as secured under R11(a) of the dDCO, would sufficiently mitigate the impacts in the ExA's opinion.

3.7.43. The ExA accepts that whilst traffic would increase during the construction phase, the applicant's construction management procedures [APP-232], would ensure roads, junctions and links, remain within capacity. The ExA therefore does not consider the that the surrounding road network would be adversely affected by construction traffic.

Operation and Decommissioning Phase Effects

3.7.44. Under the definition of 'maintain' within the dDCO [REP7-006], the applicant would be entitled to:

> *"inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of the authorised development (but not remove, reconstruct or replace the whole of Work No. 1 at the same time)."*

3.7.45. Work No.1 consists of the ground mounted solar generating station. Whilst operational phase traffic effects had been scoped out of the assessment, there was concern from IPs that the definition of maintenance could allow significant replacement of solar panels, with associated highway impacts (for example [REP4-074]). The OHA made a compelling case that a new CTMP should be required for such replacement works given the large number of vehicles needed to carry out the works, especially since much of the internal haul road network would have been removed post-construction [REP1-072].

3.7.46. The discussions continued through the examination to a point of resolution, whereby the outline operational management plan (OOMP) [REP6-032] was amended to state: *"panel replacement will not exceed 30% in a single year within any one site area (North, Central, or South)."* The OHA were satisfied that the concerns had been addressed [REP7-191, paragraph 2.7.2]. Following these discussions, no other concerns on traffic during the operational phase, were raised by IP's during the examination.

ExA Considerations

3.7.47. The ExA observes that the scale of the project in general could result in large-scale maintenance activities. The ExA therefore welcomes the commitment in the OOMP to limit panel replacement in any one area at any one time to reduce construction traffic effects in the operational life of the project. The OHA would have suitable control, via a bespoke CTMP, should there be a scenario where a greater proportion of the solar panel infrastructure requires replacing at any one time, as per the OOMP secured under R12 in the dDCO.

3.7.48. The ExA agrees with the applicant's reasoning for scoping out the assessment of traffic impacts during both the operational phase and the decommissioning phase. Operational impacts were scoped out due to low and controlled (maintenance activities phased) vehicle movements. With the construction phase representing the worst-case, impacts during decommissioning were not assessed, as vehicle movements generated during this phase will be less.

Eynsham

A40 Improvement works by Oxfordshire County Council (OCC)

3.7.49. The OHA are preparing to undertake improvement works to the A40 / B4449 roundabout to the northeast of Eynsham [REP1-072]. The applicant's cabling works, connecting the central and southern sections of the project, would pass under the

A40 [CR2-005]. The OHA therefore requested clarity on the crossing and protection for the intended works, wishing to agree the methodology prior to the commencement of any highway works.

3.7.50. The applicant noted OCC's comment and confirmed willingness to ongoing dialogue on this matter [REP2-026]. In its response to the ExA's Second Written Questions [REP4-074, ExQ2.16.2], OCC stated that if the applicant's construction works were to impact upon the completed A40 improvements, OCC would prefer a highways side agreement (S278) to ensure the satisfactory reinstatement of the highway. A timetable of the A40 improvement works was also provided by OCC as part of this submission.

3.7.51. The OHA proposed a new requirement to ensure satisfactory and safe delivery of the A40 improvement works [REP4-074], which the applicant rejected. However, it appeared that an agreement was being reached outside of the examination [REP5-008] [EV7-010, minute 46:50 to 49:35], though provisions were written into the Outline CTMP [REP6-029] to secure a fallback position.

3.7.52. The applicant latterly confirmed that discussions with OCC were ongoing [REP6-047]. However, in the event such an agreement could not be reached, the applicant updated the OCTMP at DL6 to include an obligation on itself, to enter into a separate highways side agreement with OCC, should it need to carry out cabling after the A40 improvement works [REP6-028, paragraph 1.9.9].

3.7.53. In comments submitted at DL7 [REP7-190], OCC confirmed agreement with the applicant's submission to the ExA at DL6 [REP6-028]. With the Outline CTMP in place, the OHA reported the issue was resolved satisfactorily [REP7-191, paragraph 2.7.8]. This position between OCC and the applicant, was again confirmed in the signed SoCG between the two parties submitted at DL8 [REP8-002].

ExA considerations

3.7.54. With a position now agreed and considered resolved by all parties involved, the ExA believes the issue does not need further consideration.

Siemens Healthcare Limited

3.7.55. To the southeast of Eynsham is the Swinford Toll Bridge across the River Thames, providing a key conduit in the LRN. On the northern side of the river is the premises of Siemens Healthcare Limited (Siemens), manufacturing and transporting MRI scanners and healthcare apparatus to the UK and worldwide. In its relevant representation [RR-0967], Siemens provided a brief overview of its operations and concerns about the proposed dDCO application's potential impact on its manufacturing operations, should the applicant decide to use Wharf Road as a cable route option. A summary of the points raised in [RR-0967] are as follows:

- World leader in the design and manufacture of superconducting magnetic resonance imaging (MRI) magnets for medical applications.
- Site is currently operating at maximum capacity 24 hours a day 7 days a week including bank holidays and the Christmas period.
- Takes delivery of parts and components for its manufacturing process by articulated lorries and large vans 4 - 6 times per day.

- Relies on uninterrupted access via Wharf Road, which is the sole access road to the Siemens' facility for incoming and outgoing deliveries and for its employees.

3.7.56. The applicant proposed using Horizontal Directional Drilling (HDD) to cross under the River Thames. The HDD compound would be accessed either via Wharf Road or via Cassington Road to the east of Eynsham [CR2-005].

3.7.57. Siemens opposed the use of Wharf Road for construction traffic, and the granting of any powers conferred to the applicant in the dDCO to be exercised over Wharf Road [RR-0967] [REP1-110] [REP4-080] [REP5-134]. This was on the basis that the business required 24-hour access, with time-critical components involved in the manufacturing that could not be unreasonably delayed. The powers in the dDCO articles to close the road at any time would therefore have severe repercussions for the functioning of the business.

3.7.58. In response to ExQ1.5.38 [REP2-025], the applicant listed mitigation measures it intended to implement, in an attempt to alleviate some of Siemens concerns. The applicant also referred to Change Request 2 submission ([CR2-001] to [CR2-073]), which contains a proposal to remove a discrete area of land area along Wharf Road, confirming the area would not be used for the development. The applicant also stated that the alternative cable route along Cassington Road could still be used, however no agreements have been reached with the landowner for that cable route.

3.7.59. The applicant provided a Cable Optionality Report [REP4-039] explaining the environmental and technical factors underpinning the Wharf Road/ Cassington Road choice. The applicant's full position as to why the Cassington Road route is less suitable, is set out in the Cable Optionality Report [REP4-039]. The applicant also confirmed in its response to ExQ2.16.1 [REP4-037], that the construction works along Wharf Road in the vicinity of the Siemens Healthcare facility is estimated to last three weeks and that these works can be timed and forewarned to Siemens. Siemens rejected the findings of the optionality report, stating that the Cassington Road option would be less disruptive to everyone involved and would avoid impacts on the business premises altogether.

3.7.60. As part of its response to ExQ2.17.4 [REP4-080], when the ExA asked if differences between the applicant and Siemens could be solved via bespoke protective provisions, Siemens quoted the following as a worst-case scenario:

> *"if the Wharf Road access was completely closed off, within 6 hours, some aspects of fabrication would have to halt, with a full shut down of the facility required within 12 hours due to lack of available components, impacting the delivery of superconducting magnetic resonance imaging (MRI) magnets for medical application and research on a global scale".*

3.7.61. However, Siemens, did list issues that would need to be addressed in any protective provisions agreed between the applicant and themselves [REP4-080, Q2.17.4].

3.7.62. The applicant initially took the position that protective provisions would not be pragmatic since Wharf Road was a public highway over which Siemens were not the only possible user [EV6-004, minute 19:58 to 39:12]. However, at the close of the examination the applicant conceded to include protective provisions in the dDCO to reassure Siemens that construction works would not significantly impede on the use of Wharf Road [REP6-004, Schedule 15 Part 8].

3.7.63. At DL7 [REP7-214] Siemens submitted its closing statement to the ExA, in which it confirmed that updated protective provisions had been agreed with the applicant and that these reduce the risk to operations at the Siemens facility in Eynsham.

3.7.64. The final position of Siemens [REP7-214] is stated as being:

- primary position - remove Wharf Road entirely from the Order limits; or
- if the primary position is not agreed, accept the inclusion of robust protective provisions and associated amendments to the dDCO and OCoCP to safeguard Siemens operations

3.7.65. In the applicant's closing submissions at DL8 [REP8-001], the applicant confirms that protected provisions as listed in the dDCO [REP7-006] have been agreed with Siemens.

ExA Considerations

3.7.66. The ExA understands and accepts the reasons for the applicant selecting the option of Wharf Road over Cassington Road for laying down cables, as explained in the applicant's Cable Optionality Assessment Report [REP4-039].

3.7.67. The ExA also understands with Wharf Road being selected, the risk of disruption causing access issues to Siemens remains, and that this could have a huge impact on its operations.

3.7.68. The ExA welcomes the negotiations that have progressed during the examination and the positive conclusion of protective provisions being agreed. The ExA recognises the necessity of optionality in this area and that a design choice would be made post-consent; the ExA does not consider there to be a sound reason to restrict the applicant's construction options in this instance. Protective provisions as listed in the dDCO [REP7-006] have been agreed with Siemens and measures requested by Siemens to further mitigate potential risk on its operations, secured in paragraph 1.9.6 and 1.9.7 of the OCTMP.

3.7.69. Should the applicant choose to access the HDD compound via Wharf Road, the ExA is satisfied that suitable provisions are in place to ensure that the aims of both parties could be accommodated by suitably tailoring the powers in the dDCO. The ExA also notes that the applicant, via the Outline CTMP, has committed not to routing construction vehicles over the grade II listed Swinford Toll Bridge.

PRoW

3.7.70. The original application submission contained proposals for the temporary closure, diversion and stopping up of PRoW across the Order limits. Following the second change request [CR2-001], the applicant deleted article 12 in the dDCO as it no longer required powers for permanent stopping up and diversion of PRoW. Schedule 6 of the dDCO was also amended to confirm paths would not be permanently stopped up, only temporarily closed [REP6-040].

3.7.71. The impacts upon the qualities and experiences of the footpath network users are covered under other sections in this report. However, ES Chapter 6 [APP-043], ES chapter 12 [APP-049] and the Outline Landscape and Ecology Management Plan (OLEMP) [APP-235] confirm the applicant's position that retained PRoW in the project site would become 5m wide corridors, lined with hedgerows planted and maintained at 3m in height.

3.7.72. Both the relevant representation by OCC [RR-0793] and the LIR submitted by OHA [REP1-072], state impacts of the proposed development on users of the PRoW network have not been adequately considered by the applicant. Many IPs felt that 5m wide paths would be insufficient, creating a tunnelling effect with high hedges oppressively enclosing the pathways (for example [RR-0915] [RR-1095] [EV3-005, minute 24:28 to 25:00] [REP1-134]). The OHA suggested the user experience would be visually improved by having pathways as a 15m corridor, with the full width dedicated as a PRoW [REP1-072, paragraph 7.8.51]. The OHA also considered that there should be no use of PRoW for development purposes other than if essential as a crossing point between fields. All vehicle crossing points should be monitored when active. Crossing points over a PRoW must be protected from HGV movements by weight spreading mats, appropriate stone reinforcement, and making good within 24 hours.

3.7.73. In response to these comments the applicant [REP2-026], referred the ExA to its PRoW Management Strategy contained within the OCoCP [APP-232]. In section 1.5.25 of the PRoW management strategy [APP-232], the applicant states: *"Surfaces directly affected during construction of the Project and temporary diversion routes would be reinstated to a suitable condition post construction".*

3.7.74. With regard to permanent diversions, the applicant in its submission at deadline 2 (DL2), confirms that following the applicant's change notification 2, the OCoCP and the dDCO [CR2-009] [CR2-045] had been amended so that there would not be any permanent diversions. The applicant provided an updated assessment of PRoW and other recreational routes [REP5-037] and updated the outline PRoW strategy [REP5-041, Annex B] to incorporate various changes made during the examination. However, the applicant did not yield to the requests for 15m wide pathways, stating that a full detailed PRoW strategy would be developed post-consent [REP2-026]. A detailed PRoW management plan would be developed under the Outline Code of Construction Practice (OCoCP) [REP7-023] [REP7-025] to handle any interaction between construction traffic and recreational walkers.

3.7.75. The OHA requested active travel improvements to the scheme [REP1-072, paragraphs 7.8.56 to 7.8.64]. In its closing statement [REP7-191], the OHA acknowledged the active travel improvements the applicant had agreed to.

3.7.76. However, with some improvements not agreed to, or not yet finalised and therefore not committed to by the applicant, the OHA [REP1-072] in paragraph 7.8.55 states

> *"Whilst some improvements have been proposed and are welcomed, these are limited and do not go far enough to mitigate the impact of the development on PRoWs. OCC therefore seek further improvements to address this".*

3.7.77. In paragraph 3.9.9 of its closing statement [REP8-001], the applicant states that no residual effects on PRoW are expected and that it continues to engage with the OHA to secure a voluntary agreement for the delivery of additional offsite benefits.

ExA Considerations

3.7.78. Although OHA consider the impact on PRoW to be negative, this is not based on traffic and transport issues. OHA believe the impact to be negative overall, due to the fact PRoW users will suffer from amenity issues, such as noise and landscape visual impacts. These matters are considered elsewhere in this report.

3.7.79. The ExA considers that, from a network and connectivity perspective, creating 5m wide corridors would be more than sufficient for access in and around the countryside affected by the project by users of different mobility. Extending the corridor to 15m may have qualitative benefits in terms of a user experience but, in a strictly transport-related context, there would not be any justification for requiring this greater width. The health impacts of this are considered in section 3.13 of this report.

3.7.80. In respect of the construction and operation phases of the development, the ExA is confident that the surfacing of the paths and the safety of crossing points would be secured in a future iteration of the PRoW strategy, secured by R11 in the dDCO.

3.7.81. In this chapter, the ExA is considering the impacts on PRoW from a traffic and transport perspective in isolation. On that basis, the ExA does not consider the impacts on PRoW to be significant.

Aviation Safety

3.7.82. Oxford Aviation Services Limited (OASL) raised significant and substantial concerns at the outset of the examination regarding the potential impacts upon London Oxford Airport, the biggest pilot-training airport in England [RR-0788] [PDA-002] [PDA-006] [REP1-107] [REP1-108]. The airport has reported that over 12,500 passengers used the airport in 2024, with 320 different international destinations involved. The concerns included:

- Emergency landing areas for planes suffering engine failure after take-off (EFATO).
- Glint and glare.
- Bird strike.
- Heat-induced turbulence/ thermal plumes.

3.7.83. The major problem identified by OASL was the proposal by the applicant to have solar panels on land immediately adjacent to the end of the airport's runway, on all sides [APP-006]. It was an issue that OASL were adamant had been expressed to the applicant during the Preliminary Environmental Information Report (PEIR) stage and during the pre-application stage. OASL told the examination that EFATO was an occurrence at the airport with planes undertaking emergency landings in the fields at the end of the runway at a frequency of roughly once every two years. Placing panels there would be highly dangerous and an immediate risk to life, almost certainly resulting in the death of the pilot [REP1-107]. In addition, surrounding the runway with panels would represent a significant glint and glare issue, likely to temporarily blind or impair pilot vision.

3.7.84. OASL was backed by a large number of IPs, most notably from medical staff that had to attend plane crashes [RR-0950] [REP3-119] [REP5-137] [AS-044].

3.7.85. The applicant commissioned an update to its Technical Aerodrome Safeguarding report [APP-128] commenting on these concerns. The technical report produced by Pager Power [REP1-042] arrived at the following conclusions:

- Obstacle Limitation Surfaces (OLS) are imaginary planes defined in three dimensions for physical safeguarding purposes. They would be infringed by the proposed development by a maximum of 1.15m. Given existing road

infrastructure and vegetation which is located much closer, breaching the OLS threshold already, it is expected that this small breach of the OLS by the proposed development would be accommodatable.

- Due to the distance between the solar panels and radio communications infrastructure any potential electromagnetic interference impacts, would be mitigated.
- Due to the risk of EFATO, options for safeguarding zones are presented in the report.
- Windshear turbulence from the solar arrays is not expected to be significant.
- With regard to heat-induced turbulence, there is the potential that the proposed solar development could result in thermal updrafts, but it is expected that these would result in turbulence no more severe than is currently likely to occur from the nearby infrastructure.
- For solar reflections causing glint and glare, a low impact is predicted, and no mitigation is recommended.

3.7.86. Examples of solar farms in the vicinity of UK aerodromes were also included within the report (response to action point 12 from ISH1 [EV7-002]).

3.7.87. The applicant commented in ISH2 [EV7-003, minute 26:29 to 27:02] that the airport did not have a safeguarding zone. An IP directed the ExA's and the applicant's attention to an action plan entitled Local Airspace to London Oxford Airport An 'Area of Intense Aerial Activity' (incl. diagrams of aircraft holds, recoveries & the circuit – a guide for local residents & neighbours) January 2023, within which a safeguarding map was shown [REP6-075].

3.7.88. Eventually the applicant realised the dangers of EFATO and, via the second change request [CR2-001 to CR2-073] removed 46.55ha of land from the Order limits at the end of the Oxford Airport runway [CR2-073, paragraphs 2.5.1 to 2.5.7].

3.7.89. The applicant took the view that the National Policy Statement for Airports was of little or no relevance because the focus of that NPS was for Heathrow Airport and runway capacity and airport infrastructure [REP2-025, Q1.1.2]. The Civil Aviation Authority (CAA) agreed with this stance [REP2-052]. However, OASL commented that the NPS supported airport growth in general to support regional businesses and development and, therefore, development which risks the operational capacity at the Airport, not least of all impacting its role as a leading pilot training airfield, would run counter to the intent of the NPS [REP2-077].

3.7.90. In respect of the four issues raised above, the following represents a summary of the positions at the close of the examination.

EFATO

3.7.91. The OASL prepared a series of maps to explain the danger of EFATO and the areas of land subject to the most frequent impacts [PDA-002]. The final map showed areas in green where, it was described, removal of the solar panels was an "absolute minimum" to safeguard the future of single engine flight training.

3.7.92. The applicant removed the green areas shown on the OASL plan from the extent of the proposed development, though kept a construction compound within the northernmost of those areas [REP7-004]. The OASL did not specifically remove the

objection to the proposed development in this regard [REP7-188]. The statement of common ground (SoCG) [REP7-038] appears to suggest this matter is resolved, although the ExA notes that the reported 'current position' of OASL finishes with a meeting on 21 May 2025.

3.7.93. Following change request 2, there were fears from IPs that the applicant has only removed the minimum number of panels possible to address OASL's concerns, and much more could be done to protect the lives and safety of trainee pilots, giving much wider corridors and lenience in the event of an accident [REP5-137] [REP6-103] [REP6-121] [REP7-060]. The applicant states that removal of the panels close to the airport was a "hard commercial decision" but demonstrated application of the mitigation hierarchy [REP6-047].

ExA Considerations

3.7.94. The ExA considers that the applicant has removed the most immediate threat to life via the second change request, although this could have been avoided had the OASL been listened to earlier in the process [REP6-113, paragraphs 2.11 to 2.14]. The ExA does however note that the position taken by the applicant represents the 'absolute minimum' scenario the OASL requires [PDA-002], and note that the same document states: *"It is not possible to define specific fields as every event is different based on the height of the aircraft above the ground at the point of engine failure and also environmental factors such as wind speed and direction."* The ExA is acutely aware that getting this matter wrong could result in the death of a pilot and, secondarily, damage to the solar farm.

3.7.95. The Works Plans [REP7-004] still show a considerable bank of solar panels to the west of the airport runway, in the fields between the airport and the nearest area of woodland. Any aircraft reaching even a low level of height and then turning west at take-off could potentially come into conflict with the panels if EFATO occurs. Although it would be construction-time limited, the construction compound located off the A44 would remain within the zone that OASL requested remain absolutely clear of development. Evidence from other IPs, whilst anecdotal, suggests the threat is real and the probability of an accident is real over a wider area than allowed for by the applicant in the change request works plans [REP7-160] [REP7-217]. FTE Jerez, a flight training organisation, though not an IP, made representations at the close of the examination about the threat to aviation safety and the impact that would have on any business decision to train at London Oxford Airport [REP7-187].

3.7.96. For these reasons the ExA considers that, even without adopting a precautionary approach, there is a genuine risk to life remaining from the proposed project. It may be deemed residual because of the second change request, but the ExA considers any threat on the level provided by the proposed development would be wholly unacceptable in this instance.

Glint and Glare

3.7.97. The applicant produced a glint and glare study [APP-128]. This concluded that there would be at least 36 minutes, on any given day, of glint and glare impact on the Air Traffic Control (ATC) Tower at London Oxford Airport. Following requests from OASL [PDA-002], the applicant amended the orientation of the solar panels in proximity to the airport, and a revised glint and glare study was subsequently updated at DL4 [REP4-012]. The study concluded that no solar reflections would occur towards the ATC Tower at the airport and that whilst solar reflections are predicted towards the approach paths for the runway, they should be outside of a pilot's primary field-of-view.

3.7.98. After receipt of the amended study, OASL did not comment directly on the matter of glint and glare in any of the subsequent submissions, and nor did OASL confirm that the matter had been satisfactorily resolved [REP6-113] [REP6-114] [REP7-188]. The applicant has asserted, in the signed SoCG [REP7-038], that glint and glare is no longer a matter of concern between the parties and that the risk is managed to a level that is acceptable as far as reasonably practical. The 'current position' of OASL is however reported to be back to a meeting dated 21 May 2025, prior to the revised glint and glare study.

3.7.99. IPs remain concerned about the potential for glint and glare, citing the situation at Schipol airport in the Netherlands that had been forced to close runways at certain times because the glint and glare issues were so bad, leading to an eventual removal of solar panels [RR-0950] [REP3-119] [REP5-137] [AS-044].

ExA Considerations

3.7.100. The ExA observes that the amended glint and glare study concludes that there would not be a direct effect on the functioning of the ATC Tower at the airport.

3.7.101. The ExA acknowledges that panels would not be directly aligned with the approach to the runway and, such, pilots seeking to land aircraft would not be directly subjected to the impacts of glint and glare. The ExA cannot however rule out the potential for the distraction, particularly when there would still be solar panels in the field directly west of the airport within approximately 300m of the runway. The ExA also notes with some concern the findings of the literature provided by IPs on the effects of glint and glare on other airports, even though the applicant has sought to demonstrate that solar farms do exist in proximity to some airports [REP1-042]. Any glint and glare impacts, even if residual, could impact on the operation of the airport and its attractiveness to airline operating/ training companies.

3.7.102. The ExA notes that the OASL and the CAA [REP7-035] have not expressly endorsed the applicant's position on this matter. The ExA therefore advocate a precautionary approach must be taken and, in its professional judgement, considers that glint and glare risks have not been fully mitigated by the applicant.

Bird strike

3.7.103. The dangers of bird strike have been a constant theme throughout the course of the examination from OASL [PDA-002] [REP1-107] [REP1-108] [REP6-113]. The basic principle argued is that the scale of the project reduces the land available for flocks of large birds to graze and rest, displacing those birds onto other land; if the flocks move closer to the airport, then there could be a risk of birds colliding with the aircraft, bringing a risk to life.

3.7.104. The issue of bird strike was raised by OASL in part 3 of ISH1 [EV5-007, minute 11:25 to 13:16]. OASL was concerned that the proposed development through displacement of birds onto its airport and attracting more birds towards the airport due to the lake effect (solar panels seen as a body of water from afar), could increase the potential for birds in flight in and around the airport, and therefore bird strike risk.

3.7.105. In response to ExQ2.16.8 the applicant [REP4-037], gave reference to the following research paper "Bird Use of Solar Photovoltaic Installations at US Airports: Implications for Aviation Safety" published by the University of Nebraska. The paper suggests solar panels do not increase the risks to airports from hazards associated with birds.

3.7.106. The applicant maintained that bird strike was not an issue and the proposed coverage of many agricultural fields with solar panels would not cause birds to be displaced onto fields closer to the airport [REP6-047] [REP6-049]. In ISH2, the applicant stated the following [REP6-047]:

- That the overall bird strike risk associated with the site would be lower than that posed by the existing agricultural landscape. Agricultural land is recognised as a land use type requiring caution due to its potential to attract large flocks of birds, particularly gulls, following ploughing activity. The removal of such practices from approximately two-thirds of the site is expected to reduce the presence of large flocks and thereby lower aviation risk.
- The site had been subject to extensive bird population surveys, including two wintering periods, which was said to be double the standard effort for solar farm assessments. These surveys did not identify significant flocks of aviation-sensitive species such as gulls, except on isolated occasions.
- Any displacement of birds would likely be absorbed by the surrounding landscape.
- The reinstated agricultural land near the runway end had been part of the original survey area and did not show evidence of large flocks of birds during the assessment period.

3.7.107. A bird strike technical note was also provided at [REP6-047].

3.7.108. IPs however submitted photographic and video evidence of large flocks of birds in and around the project site as well as anecdotal accounts of witnessing large birds, and large numbers of those birds, flying in the area [REP6-084] [REP6-103] [REP6-124] [REP6-125] [REP6-126]. In addition, OASL stated that whilst the applicant claims that it has complied with all necessary CAA guidance for development around airports, none of this work has considered or addressed the potential for displacement of birds [REP6-113].

3.7.109. By the close of the examination, it appeared some resolution had been agreed between OASL and the applicant with regard to the funding and provision of an additional bird scaring unit at the airport [REP7-188, paragraph 3.1]. OASL stated it was content to remove the objection, conditional on the funding of such a unit. The SoCG [REP7-038] records that a letter of understanding has been agreed between the parties securing the bird-scaring unit. However, the applicant's reported position in the SoCG states that this is "subject to reasonable costs." Only at paragraph 3.9.5 of its closing submission [REP8-001], does the applicant claim that the matter of bird strike has been resolved.

ExA Considerations

3.7.110. The ExA note that, as a result of change request 2, the fields at the end of the Oxford Airport runway would be retained as agricultural land. The fact that there were limited flocks of birds recorded on this land during the survey period, as reported by the applicant [REP6-047], misses the point that any retained agricultural land available could potentially be used by birds displaced from other land by the solar arrays. Clearly, from the evidence produced by IPs, flocks of larger birds are not uncommon in the general locality. By default, there appears a very reasonable prospect of displaced birds being attracted to parcels of land in proximity to the airport.

3.7.111. The ExA accepts that the project's proposed ecological enhancements to the west of the central site area would attract some of the displaced birds, but the ExA observes that other areas maintained for ecological purposes and biodiversity net gain may also, from time to time, attract such birds.

3.7.112. The risk to aircraft and aviation safety is real and necessitates further mitigation. It appears to the ExA that a fallback position for a bird-scaring unit has been reached outside of the examination. In the absence of seeing such an agreement in the examination, the ExA is relying on the signed SoCG as evidence that this measure would be secured. However, even this is conditioned by applicant with the caveat that the bird-scarer unit would only be provided subject to reasonable costs. Without the bird-scaring unit in place, the ExA would have great concerns about the residual risk of bird strike on aviation safety. However, assuming such an agreement is in place, and the reasonable cost caveat is removed/ withdrawn by the applicant, it is considered the matter of bird strike could be suitably resolved.

Heat-induced turbulence/ thermal plumes

3.7.113. OASL raised concerns regarding heat induced turbulence affecting planes and inexperienced pilots as well as distorting primary radar returns giving an inaccurate radar picture [REP1-107]. OASL reported relying on both primary and secondary radar data returns given the significant number of non-transponding aircraft such as gliders operating from the airport [REP4-073]. OASL said it was critical that thermal inclines do not obscure, weaken, refract or dilute radar returns.

3.7.114. At ISH1 [EV5-007, minute 11:25 to 12:33], OASL raised concerns that solar panels could act as a heat store, which when released could create a thermal plume. This was again confirmed by OASL in its response to ExQ1.17.27 [REP2-077], in which it stated concerns regarding the potential impact of thermal plumes on aircraft radar systems. However, following discussions after ISH1, OASL reported that the applicant acknowledged that the ES was not supported by any modelling of the possible heat-induced turbulence and the potential implications for the type of aircraft using the airport, but that the applicant confirmed the study would be done [REP1-107].

3.7.115. The study eventually was submitted to the examination at DL6 [REP6-066] several months after the initial agreement to undertake it. The applicant provided two reports tackling thermal plume impacts [REP6-066] [REP6-067]. The combined reports suggested that:

- The maximum increase in air temperature associated with the thermal effect of the solar farm is 1.1 °C, with an average increase across all assessed cases of 0.6 °C.
- It is estimated that the resulting increase in exceedance of the vertical turbulence threshold commonly applied to building-induced turbulence is of the order of 1.1% over the course of the year, across the assessed wind directions.
- Calculations undertaken suggest that impact significance would be negligible, with the maximum change in perceived position of aircraft observed by radar at Oxford Airport expected to be no more than three metres and this is not deemed to be significant relative to the size and speed of a typical aircraft.
- Consequently, it is expected that the impact of the proposed solar farm would be minor and thus may be considered not significant.

3.7.116. The CAA in its SoCG [REP7-035], stated that subject to a peer review by OASL to verify the conclusions of the report, it had no further comment to make.

3.7.117. OASL expressed disappointment with the late submission of the document and said it was too late to obtain a critical peer review to inform the examination [REP6-113, paragraph 2.1]. It is important to note that in aviation, airport safety does not deal with 'maybes' and 'don't think'. An airport must deal with absolutes. It must be demonstrated that there will be no effect, before OASL will be able to say that it will have no objection [REP6-113, paragraph 2.2].

3.7.118. The final position of OASL [REP7-188] confirmed that, until the findings of the technical studies had been reviewed and verified:

> *"Oxford Aviation Services Limited cannot be confident of the conclusions reached by these reports produced by experts in these fields".*

3.7.119. The applicant [REP8-001] maintains that any effect is minor. The applicant confirmed it would continue to work with OASL to achieve an agreement in this regard, with a view to updating the SoS during the recommendation or decision period.

3.7.120. The applicant concludes by reiterating its position on the issue, which based on its evidence, is that heat induced turbulence is not a concern and that evidence to the contrary has not been produced.

3.7.121. IPs raised general concerns about thermal plume modelling in the main, but one provided a critical reflection on thermal information provided by the applicant detailing that the science behind the calculations was inappropriate and very questionable [REP7-161]. FTE Jerez lodged an objection at the close of the examination that also raised the concern about thermal plumes de-stabilising an aircraft's flight path [REP7-187].

ExA Considerations

3.7.122. The ExA is concerned that the thermal reports have not undergone any form of professional assessment by London Oxford Airport. The ExA does not have the expertise to determine categorically that the increases in air temperature predicted by the applicant would not have an adverse effect on radar equipment or upon aircraft navigating around the airport or wider airspace. The evidence indicates that there would be some effect and the ExA is concerned that its severity has not been verified, particularly on those affected most.

3.7.123. The ExA is disappointed this situation has occurred, but it is an issue of the applicant's own making by not engaging with the concerns of the airport in the pre-application phase of the project, not undertaking proper modelling to substantiate its position and then producing key documents late in the examination. The ExA has no option but to adopt a precautionary approach, bearing in mind it is human health and life that is at stake in this instance, to proceed on the basis that there would be an adverse impact on the safe operation of the airport as a result of thermal/ heat induced turbulence.

Summary of civil aviation safety matters

3.7.124. The ExA considers this matter demonstrates the applicant failed to apply the mitigation hierarchy properly, overlooked or ignored the critical information from a key stakeholder and put forward a poorly designed scheme from the outset. The

fact the applicant described reducing the Order limits in the vicinity of the airport as a difficult commercial decision [REP6-047, page 8] only confirms to the ExA that the implications of this issue are still not fully recognised by the applicant.

3.7.125. There remains uncertainty about the mitigation for bird strike risks, risks to pilots from a narrow EFATO corridor, an impact of glint and glare that remains unresolved and potential interference with radar equipment. Taking these matters together alongside the objections from OASL at the close of the examination, to convey that the net effect of all the uncertainties amounts to a real risk, the ExA can only conclude that the risk to public safety and to life as a result of the proposed development's impacts on civil aviation safety is real. There are no certain mitigation measures in place to reverse or alter these conclusions, given that the bird scarer may or may not be provided depending on whether the applicant is willing to pay.

3.7.126. The ExA notes the position of the CAA regarding the applicability of the NPS for Airports and concludes that it is not important or relevant to the decision-making process because of the focus the NPS takes. Nonetheless, the impacts on London Oxford Airport, as a major pilot training facility and airport in its own right, would be significantly harmful to its operations and to growth in the surrounding region.

Military Aviation

3.7.127. The matter of national security is considered in section 3.13 of this report. For the purposes of this section, it is noted that the Defence Infrastructure Organisation removed its objection to the project at DL7 [REP7-087] on the basis of the information submitted by the applicant at DL6.

CONCLUSIONS

3.7.128. The ExA concludes that, with the CTMP and OOMP developed further under R11 and R12 of the dDCO [REP7-006], there would be no residual adverse effects on highway safety during any phase of the proposed development. Equally, the proposed development would not lead to any significant residual cumulative transport effects during any phase of the proposed development.

3.7.129. In terms of access, accessibility and connectivity through the countryside, the ExA concludes the proposed development would not cause significant adverse effects on the PRoW network. The ability for existing rights of way to be retained and restored post-construction is welcomed.

3.7.130. Overall, there would not be an unacceptable impact on highway safety; residual cumulative impacts on the road network would not be severe. The proposed development therefore complies with the policies and guidance contained within NPS EN-1, EN-3 and EN-5 as well as the NPPF and relevant development plan policies.

3.7.131. However, there are significant and unresolved objections with regard to the safety of civil aviation at London Oxford Airport. In summary:

- NPS EN-1 paragraph 5.5.5 – says it is essential that that new energy infrastructure is developed collaboratively alongside aerodromes, but OASL has demonstrated that concerns raised in the pre-application stage were overlooked or ignored in the initial design of the application.

- NPS EN-1 paragraph 5.5.37 – the proposed development could affect the performance of civil aviation communications infrastructure, but no assessment was made in the ES.
- NPS EN-1 paragraph 5.5.41 – requires assessment of bird strike risk and thermal plume turbulence. Whilst some detail was provided on bird strike, the thermal plume modelling report was only delivered at DL6, leaving no time for OASL to appraise the findings or ascertain the risks. Consequently, there are unresolved objections here.

3.7.132. The ExA does not accept the applicant's claims [REP6-047] that the issues regarding Oxford Airport only became clear during discussions in the examination stage. Whilst the ExA acknowledges that the applicant has made some efforts during the examination to catch-up with aviation issues, we consider that, for the reasons set out above, there is a clear breach of NPS EN-1 paragraph 5.5.50. This is because it has not been adequately demonstrated that the proposal has been designed to minimise adverse impacts on the operation or safety of the aerodrome. The applicant has belatedly made changes to the project's layout rather than actively realising the public safety concern, as demonstrated by its own dismissive comments [REP6-047] that: *"These changes were commercially difficult."*

3.7.133. The ExA concludes that the design of the project, and the full effects arising therefrom, has not been wholly informed by detailed assessments and therefore the mitigation is undeveloped. Should the heat-induced turbulence reports be reviewed by OASL and it is determined that mitigation is required, the applicant has not proposed or prepared any such mitigation. In the absence of any evidence to show that current or future technological solutions would be achievable, it would be unsafe to rely on the use of 'Grampian' style requirements as set out in NPS EN-1 paragraph 5.5.58.

3.7.134. The ExA also considers that, whilst concessions have been made by the applicant in its second change request to remove panels close to the airport, only the minimum has been done to protect trainee pilots against fatality from engine failure after taking off incidents. This could not only impact on public safety, but also on the security and viability of the solar farm's energy production. The project would therefore cause harm to the aerodromes training needs, operational functions, safety and contribution to the regional economy.

3.7.135. This would be contrary to NPS EN-1 paragraph 5.5.59, and also present a real threat to public safety, contrary to NPS EN-1 paragraph 5.5.60. This also has implications for consideration of the presumption in favour of development, as set out in NPS EN-1 paragraph 4.1.7, which is considered further in chapter 5 of this report.

3.7.136. On this basis, the topic of traffic and transport carries very great negative weight against the order being made.

3.8. SOCIO-ECONOMICS

INTRODUCTION

3.8.1. This section of the report addresses the socioeconomic effects of the proposed development. Effects on human health and agricultural land use (which is also considered here in respect of socioeconomics), and public rights of way are considered in sections 3.5 and 3.13 of this report.

POLICY BACKGROUND

3.8.2. The Overarching National Policy Statement for Energy 2024 (NPS EN-1) addresses socioeconomic impacts of proposed developments. Paragraph 5.13.4 outlines that the applicant's assessment should consider all relevant socioeconomic impacts of a proposed development, including:

- Job creation and training opportunities.
- Contribution to the development of low-carbon industries.
- Provision of additional local services and improvement to infrastructure.
- Effects on tourism.
- Any indirect beneficial impacts for the region.
- Changes in employment levels and influx over the lifetime of the proposal.
- Cumulative effects, for example a potential shortage of construction workers to meet the needs of other industries and major projects within the region

3.8.3. NPS EN-1 paragraph 5.13.5 also acknowledges that socioeconomic impacts may be linked to other impacts. For example, visual impacts may have an impact on tourism and local businesses.

3.8.4. NPS EN-1 paragraphs 5.13.9 and 5.13.10 state that the Secretary of State (SoS) should have regard to effects that it considers are important and relevant to its decision and it may afford limited weight where assertions are not supported by evidence. In addition, at paragraph 5.13.11 it is stated that the SoS should consider any positive provisions that the applicant proposes to mitigate effects. Paragraph 5.13.12 further notes that a requirement for an employment and skills plan may be one means of securing such mitigation.

3.8.5. In relation to decommissioning, the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) paragraph 2.10.69 states that applicants should set out what would be decommissioned and removed from the site at the end of the operational life of the generating station. It also outlines that applicants should consider whether there may be socioeconomic benefits in retaining site infrastructure after the operational life, such as retaining pathways through the site or a site substation.

3.8.6. The National Planning Policy Framework (NPPF) outlines that significant weight should be placed on the need to support economic growth and productivity. Paragraphs 85, 87 and 88 state that support is to be given to the sustainable growth of all types of business in rural areas and to the development and diversification of agricultural and other land-based rural businesses. Paragraph 105 advises that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.

3.8.7. The Local Impact Reports (LIR) submitted by Cherwell District Council (CDC) [REP1-052], Oxfordshire County Council [REP1-070] (OCC) and the Joint LIR submitted by CDC, Vale of White Horse District Council (VWHDC), West Oxfordshire District Council (WODC) and OCC [REP1-072] refer to various development plan policies. Local development plan policies relevant to the proposed development in respect of socioeconomic considerations are also set out at appendix A of this report.

THE APPLICATION

3.8.8. The applicant's assessment of socioeconomics was primarily contained within chapter 15 of the Environmental Statement (ES) [APP-052] and the assessment of cumulative and inter-relationship socioeconomic effects was included in ES chapter 20 Cumulative Effects and Inter-relationships [APP-057].

3.8.9. [APP-052] was also supported by the following documents:

- ES appendix 15.1 Socioeconomic Baseline Assessment [APP-217]
- ES appendix 15.2 Outline Skills, Supply Chain & Employment Plan [APP-218]

3.8.10. The OCC Statement of Common Ground (SoCG) submitted at deadline (DL) 3 [REP3-056] stated at paragraph 1.4.6 that the SoCG included contributions from the socioeconomic topic discipline. table 2.10 on the contents page also referred to socioeconomics, but the ExA noted that this table was not included within the body of the SoCG.

3.8.11. A revised SoCG was submitted at DL8 [REP8-002] and whilst paragraph 1.4.5 referred to socioeconomics as being a topic included within the SoCG, no further reference was made to this topic area. The ExA notes that this is contrary to the response provided by the applicant to ExQ1.1.21 [REP2-025] where it was confirmed that some socioeconomic matters would be included in the emerging SoCG.

3.8.12. Paragraph 15.13.3 of ES chapter 15 [APP-217] confirmed no residual significant adverse effects were identified. Additionally, no significant inter-relationship or cumulative residual adverse effects in terms of socioeconomics were found in relation to any phase of the development. However, the impact of employment on unemployment rates was assessed to be moderately beneficial at construction and decommissioning phases and minor beneficial at the operational and maintenance phase.

3.8.13. Whilst no significant adverse effects were identified, two additional mitigation measures were proposed by the applicant:

- The provision of space for at least two food growing community groups of up to 30 hectares (ha) to operate on the site.
- The monitoring of supply chain and employment records to allow the benefit of the proposed development to be confirmed, support engagement of those not in employment, education or training with any relevant opportunities and to also allow further tailoring to target local vulnerable groups, if found necessary.

Baseline and methodology

3.8.14. The socioeconomic methodology is detailed in section 15.4 of [APP-052], with the full Environmental Impact Assessment (EIA) methodology being contained in ES chapter 4 Approach to Environmental Assessment [APP-041].

3.8.15. [APP-052] assessed the effects of construction, operation and decommissioning in respect of socioeconomics. Key mitigation and enhancement measures are detailed in section 15.7 of [APP-052] and are also contained within ES appendix 6.1 Project Mitigation Measures and Commitments Schedule [APP-129].

3.8.16. The applicant confirmed in [APP-052] that the scope of the socioeconomic assessment was developed in consultation with relevant statutory and non-statutory consultees. The study area initially included the three local authority areas where the proposed development would be located:

- CDC, WODC and VWHDC

3.8.17. The applicant also identified that a number of residents from other neighbouring local authorities would be likely to commute in and out of the locality for employment. Accordingly, the Study area was expanded to include the local authorities of Oxford City Council and South Oxfordshire District Council.

Construction Phase

3.8.18. The assessment confirmed that the total estimated employment during construction would equate to 17,472 person years, which included both direct and indirect employment. In terms of a conversion to Full-Time Equivalent (FTE) jobs this was calculated as 199 local direct FTE jobs during construction.

3.8.19. However, as result of the change of use from agriculture to solar, a loss of 8 FTE agricultural jobs would occur. Accordingly, the overall net gain would equate to 191 local direct FTE jobs during the 2-year construction phase.

3.8.20. The assessment concluded that this increase in employment opportunities would lead to a moderate beneficial effect, which was considered significant in EIA terms.

3.8.21. In respect of Gross Value Added (GVA), paragraph 15.9.59 of [APP-052] confirmed that the construction phase would result in a total net gain in GVA of approximately £64.7 million. The significance of this effect was considered to be minor beneficial, which was not significant in EIA terms.

3.8.22. Turning to improved skills and qualifications, the applicant submitted an Outline Skills, Supply Chain and Employment Plan (OSSCEP) [APP-218] into the Examination, and this made an overarching commitment to the provision of targeted skills development for local people.

3.8.23. The assessment concluded that this would result in a minor beneficial effect, which was not considered significant in EIA terms.

3.8.24. Paragraph 15.9.17 of [APP-052] noted that the study area comprised approximately 1351.2 ha of agricultural land, and as such the majority of the land for the proposed development was used either for arable crops or is otherwise down to pasture. The agricultural land within the study area formed part of 10 land holdings.

3.8.25. Paragraph 15.9.95 of [APP-052] acknowledged that landownership would not change as a result of the proposed development, as the required land would be leased to the applicant and not sold. Nevertheless, the construction, operational and decommissioning phases would have an effect on the land use and farming operations would be changed.

3.8.26. ES chapter 17 Agricultural Land Use and Public Rights of Way [APP-054] confirmed that the construction of the proposed development would result in the loss of approximately 1351.2 ha of arable agricultural land. Of this, only 5.5 ha would be permanently lost. This would include areas of land where the substations would be located, including the National Grid substation, together with the main and small substations.

3.8.27. Paragraph 15.9.99 of [APP-052] confirmed that the agricultural land which would be lost would consist of approximately:

- 2.1 ha of Agricultural Land Classification (ALC) Grade 1 land
- 96.9 ha of ALC Grade 2 land
- 391.2 ha of ALC Grade 3a land
- 797 ha of ALC Grade 3b land

3.8.28. The ALC survey work completed for the proposed development identified that approximately 36.4% of the land surveyed comprised land within the category of Best and Most Versatile (BMV) agricultural land (ALC Grades 1-3a) and approximately 59% of the land comprised lower quality Subgrade 3b agricultural land.

3.8.29. Over the 2-year construction phase, based on the loss of agricultural land, this would result in a loss to GVA of £0.6m and a loss of agricultural output of approximately £4.1m. Also, as mentioned previously, a loss of 8 FTE agricultural jobs would occur. The significance of this effect was considered to be minor adverse which was not significant in EIA terms.

3.8.30. Turning to possible changes to the visitor economy, it was acknowledged at paragraph 15.9.125 of [APP-052] that during construction, effects on tourism and recreation may be experienced due to noise, visual and air quality effects. It was however further confirmed that the proposed development would not result in the loss of any existing PRoW.

3.8.31. In relation to tourism impacts upon the Blenheim Palace World Heritage Site, the Heritage Impact Assessment [APP-141] found that construction of the proposed development would result in a minor negative impact on one of the defined attributes for the World Heritage Site (WHS). However, this would not impact significantly on the attractiveness of the WHS as a tourist destination and would be time-limited/ reversible in any event.

3.8.32. For all other construction-based impacts on tourism and visitor attractions, including traffic and transport, noise and human health, the applicant found that there would not be any significant adverse residual effects (ES chapter 12 [APP-049], ES chapter 13 [APP-050], ES chapter 16 [APP-053]).

3.8.33. In respect of possible landscape and visual effects, ES chapter 8 Landscape and Visual Impact Assessment [APP-045] found that the quality and character of the landscape and visual resources would largely be maintained and would have the capacity to accommodate the proposed development without significant effects beyond those identified at a very local level or where it would be difficult to entirely mitigate visual effects. In addition, the assessment found that the proposed planting would have a longer-term benefit reinforcing the landscape character of the local landscape.

3.8.34. The assessment concluded in terms of the effects on the tourism study area, a minor adverse effect would be experienced, which was not considered significant in EIA terms.

Operational Phase

3.8.35. During the operational phase, which is anticipated to be 37.5 years, the proposed development is anticipated to create 20 direct FTE jobs. As noted above, 8 direct FTE jobs would be lost in the agricultural sector in the construction phase. However, as a result of the proposed sheep grazing under the installation area of the solar array, 6 FTE jobs would be retained in agricultural enterprises.

3.8.36. The assessment concluded that the operational phase would create 18 direct FTE jobs in the local economy. The applicant also contended that the OSSEP would ensure that the employment and skills offered during the operational phase would be delivered appropriately for residents living in the Study Area, thereby delivering maximum local benefit. However, the overall significance of the effect was considered to be minor beneficial, which was not significant in EIA terms.

3.8.37. It was acknowledged by the applicant that there would be a temporary loss of agricultural output during the operational phase, equating to a GVA loss of approximately £6.0m. However, paragraph 15.9.58 [APP-052] confirmed that the effects on economic output as a result of the operational phase of the proposed development would equate to a GVA of £29.1m. The significance of this effect was concluded as being minor beneficial, which was not significant in EIA terms.

3.8.38. In terms of skills and qualifications, the operation of the proposed development would require highly skilled employees. As such, it was considered by the applicant that there would be opportunities to improve the knowledge and skills in the study area in relation to the renewable energy industry. An initial commitment was made by the applicant to provide an education facility, to consist of an open and covered space in the solar farm for use by school field trips.

3.8.39. However, as discussed below, the facility was removed from the application prior to the close of the Examination. The significance of this effect was concluded as being minor beneficial, which was not significant in EIA terms.

3.8.40. In respect of possible changes to the visitor economy, paragraphs 15.9.150 to 15.9.151 of [APP-052] stated no restrictions were anticipated in respect of PRoWs and it was envisaged that the proposed new permissive routes would improve public access across the site. As such, any effects on the visitor economy during the operational phase would relate to the effect of the visual change in landscape from agricultural fields to fields with ground mounted solar arrays.

3.8.41. Whilst the overall impact is assessed as being long-term, paragraph 15.9.155 of [APP-052] stated that available research suggested that wider perceptions held by tourists in relation to climate change and renewable energy play a role in how tourists weigh up the positive and negative effects of renewable energy infrastructure and may this influence their reactions.

3.8.42. Whilst accepting that little research into the tourism impact of large-scale solar development was available, the assessment concluded that the significance of the effect would be minor adverse, which was not significant in EIA terms.

Decommissioning Phase

3.8.43. The decommissioning phase is anticipated to be 2-years. For all socioeconomic effects described above, the applicant concluded that the decommissioning effects would be less than or equal those in the construction phase (table 15.16 of [APP-052]).

Mitigation

3.8.44. Paragraph 15.7.3 of [APP-052] confirmed that the embedded mitigation measures for the construction phase were detailed in [APP-043] and [APP-129] and various management plans

ISSUES CONSIDERED DURING THE EXAMINATION

3.8.45. Over 120 relevant representations (RR) provided comment in respect of socioeconomic effects of the proposed development. Having taken these into account, alongside the submitted application documents, the ExA considered that socioeconomics should be one of the principal issues for the examination. The initial assessment of principal issues (IAPI) is set out in annex C of the Rule 6 letter [PD-006]

3.8.46. The ExA further considered that the following issues should be examined in greater detail:

- Socioeconomic assessment methodology.
- Effect on employment and Gross Value Added.
- Effect on tourism and recreation economy.
- OSSCEP.
- Community benefits.
- Siemens Healthcare Limited.
- London Oxford Airport.

3.8.47. During the course of the examination, the applicant updated the socioeconomic chapter of the ES to take into account various comments made by IPs, with the most recent version being [REP7-017]. The below table depicts the main changes made to the ES chapter 15 Socioeconomics between DL3 [REP3-018] and DL7 [REP7-017].

Table 3: Changes made to ES Chapter 15 Socioeconomics

Topic	REP3-018	REP7-017
Total area of proposed development	1400 ha	1328 ha
Total amount of agricultural land required for the proposed development	1351.2 ha	1328.13 ha
Operational phase GVA	£64.7 million	£19.26 million
Changes in amount of agricultural land classification (ALC) grades	Grade 1 - 2.1 ha Grade 2 - 96.9 ha Grade 3a - 491.2ha Grade 3b - 797 ha	Grade - 2.1 ha Grade 2 - 86.4 ha Grade 3a – 352.2 ha Grade 3b – 759.7 ha

Topic	REP3-018	REP7-017
Total amount of Best and Most Versatile agricultural land required for the proposed development	ALC Grades 1-3a – 36.4% ALC Grade 3b – 59%	ALC Grades 1-3a – 37% ALC Grade 3b – 63%

Socioeconomic assessment methodology

3.8.48. In terms of the overall methodology, the applicant confirmed at paragraph 15.4.1 of [REP7-017] that there was currently no UK legislation or guidance that specified the detailed content required to prepare a socioeconomic assessment. Whilst the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs) identify population as a factor to be considered within the assessment process, it does not provide any definitive guidance on the approach, process, or methodology to follow.

3.8.49. At paragraph 15.4.1 of [REP7-017] the applicant confirmed that the methodology used for the socioeconomic assessment was based on professional experience and best practice, and in consideration of the policy requirements and tests set out within the NPFF, relevant NPS, and local planning policy.

3.8.50. The applicant at paragraph 15.8.11 of [REP7-017] did however acknowledge that one limitation of the assessment was the age of some of the data that had been used to inform the baseline position. In some instances, this had been taken from the 2011 Census, which was over 10 years old.

3.8.51. This issue was raised in the ExA's first round of written questions (ExQ1). At ExQ1.16.2 [PD-008], the ExA asked why, given that 2021 Census data was readily available, the most up-to-date data had not been used in respect of the baseline position. In response, the applicant at [REP2-025], confirmed that [REP7-017], they already used the 2021 Census data and the 2011 Census data had only been used for the 'Travel to Work Area' boundary analysis which was derived from community inflows. Also, it was confirmed that the economic analysis had used the most up-to-data available. The ExA notes that the Joint LIR [REP1-072] raises no fundamental concerns with the applicant's approach to the assessment.

ExA's considerations

3.8.52. The ExA notes that the applicant has used the most up to date information readily available to them at the time of the submission of the application. As such, the ExA is content that the limited use of the 2011 Census data does not affect the robustness of the assessment for EIA purposes.

3.8.53. The ExA is therefore satisfied with the evidence utilised in respect of the baseline characterisation and that the applicant has undertaken an appropriate assessment in terms of socioeconomics. Additionally, the ExA is content that the assessment has adequately identified the key effects of the proposed development.

Effect on employment and GVA

3.8.54. At ExQ1 [PD-008] the ExA asked the applicant to provide clarification in respect of the net number of jobs to be generated in both the construction and operational phases of the proposed development. Responses were provided to ExQ1.16.3,

1.16.4 and 1.16.17 at [REP2-025], with further clarification provided at DL3 in tables 15.17 and 15.18 of [REP7-017].

3.8.55. Table 15.17 of [REP7-017] confirmed that 191 net direct local FTE jobs would be provided during the construction phase, with table 15.18 of [REP7-017] confirming that there would be an additional 18 FTE direct local jobs during the operational phase.

3.8.56. In relation to GVA, table 15.17 of [REP7-017] confirmed that the construction phase would result in a total net gain in GVA of approximately £16.4 million. Table 15.18 of [REP7-017] confirmed that total economic output of the operational phase would equate to a GVA net gain of approximately £19.26 million over the lifetime of the proposed development.

3.8.57. In terms of the decommissioning phase, paragraph 15.9.40 of [REP7-017] confirmed that the number of construction jobs would be similar to the construction phase. However, the number of indirect jobs created in the supply chain would be reduced as there would be no requirement for manufacturing the solar panels. The GVA created by employment associated with the decommissioning stage would also be similar to that of the construction phase.

ExA's consideration

3.8.58. Whilst the actual increase in employment as a consequence of the proposed development is limited, the ExA notes that there would be an increase in GVA to the local economy. As such, the ExA accepts that the proposed development would have minor beneficial effects in respect of local employment opportunities.

3.8.59. It is also evident that the applicant has been communicating with the relevant local authorities and regional stakeholders with the aim of maximising the benefits in terms of employment opportunities that would be created. This is further discussed below in respect of the OSSCEP.

3.8.60. As such, the ExA is satisfied that the proposed development would result in a modest but long-term economic benefit to local communities.

Effect on tourism and recreation economy

3.8.61. In respect of the tourism and recreation economy, the applicant acknowledged at table 15.10 of [REP7-017] that tourism was a key receptor as it provided a number of employment opportunities and was a large economic contributor. Paragraph 15.9.142 of [REP7-017] stated that within the Study area, the tourism sector provided approximately 36,969 jobs in 2022 and generated a total tourism value of £2.17 billion. Alongside of visits to Blenheim Palace, walking and cycling are noted as being popular tourist activities in the study area.

3.8.62. Concern in respect of the potential effects on the tourism and recreation economy as a direct result of the proposed development was a constant theme raised by IPs during the course of the examination. Concern primarily related to the loss of land for recreational uses such as walking and potential loss to the tourism revenue. Representations relating to such issues included but are not limited to: [RR-0106], [RR-0242], [RR-0288], [RR-0292], [RR-0522], [RR-1095], [RR-1108], [REP1-113], [REP1-114], [REP1-120], [REP1-056], [REP2-090], [REP4-045], [REP5-068], [REP5-148], [REP6-076].

3.8.63. The applicant responded to concerns raised at the deadlines in [REP2-027], [REP3-064], [REP4-038], [REP5-005] and [REP6-049]. In summary to the concerns raised, at paragraph 15.9.125 of [REP7-017] the applicant confirmed that potential adverse effects may arise from impacts on the tourism economy, including the operation of nearby attractions and accommodation providers, as well as users of the PRoW network. It was acknowledged by the applicant that during the construction and decommissioning phases, effects on tourism and recreation could arise from the noise, visual and air quality effects of construction, whilst during the operational phase the effects were more associated with the visual impact of the proposed development. However, [REP7-017] concluded that across all of the phases, no significant adverse residual effects would be experienced in respect of tourism and recreation economy.

3.8.64. The Joint LIR [REP1-072] also identified tourism as a significant contributor to the local economy, particularly in respect of the Cotswold National Landscape and Blenheim Palace. Paragraph 7.11.7 of [REP1-072] identified that the landscape is an important part of the tourism offer in the local area and, as such, any changes to the natural landscape could significantly impact its appeal.

3.8.65. The OHA considered that the proposed development had the potential to negatively impact both the Cotswold National Landscape and Blenheim Palace. At paragraph 7.11.9 of [REP1-072] the OHA stated *"Any threats to the integrity of these assets or negative impacts arising from the scheme could substantially impact local tourism and its value to the local economy. Blenheim Palace World Heritage Site alone significantly benefits the local economy through tourism, employment and local spending. Losing World Heritage Site Status could have a significant negative economic impact, through diminished reputation and reduced tourism".* At DL7, the OHA [REP7-191] reiterated that its position during the course of the examination in terms of the potential impact on tourism had not altered.

3.8.66. The ExA noted that [APP-052] did not provide an assessment of the impacts on Blenheim Palace in respect of tourism and as such, requested the applicant to provide this information at ExQ1.16.7 [PD-008]. In response, the applicant directed the ExA to the Heritage Impact Assessment [CR2-036].

3.8.67. The ExA noted the response but at ExQ2.15.3 [PD-012] asked why the Heritage Impact Assessment did not provide detail in respect of tourism effects upon heritage assets including Blenheim Palace. The applicant responded at [REP4-037] confirming that a tourism analysis was contained within [APP-052] This analysis concluded that a minor adverse effect would be experienced in respect of the overall change in visitor economy, which is not significant in EIA terms.

3.8.68. At paragraph 15.9.156 of [REP7-017] the applicant acknowledged that little research had been undertaken in respect of the tourism impact of large-scale solar projects. However, reference was made to the Welsh Government 2014 report '*Study into the Potential Economic Impact of Wind Farms and Associated Grid Infrastructure on the Welsh Tourism Sector*'. The applicant confirmed that this report found little evidence that wind farms have had or are having a negative effect on tourism across Wales and the UK as a whole. Furthermore, the report also found that there was an increased preference for biomass and solar energy solutions relative to wind power. The applicant suggested therefore that the negative effects on tourism may be slightly lower for solar than for wind farms.

3.8.69. Furthermore, at paragraph 15.9.129 of [REP7-017] the applicant also identified that alongside of both temporary and reversible effects on Blenheim Palace, the

proposed development would also result in direct benefits to the Blenheim Palace WHS in terms of long-term revenue for the maintenance of the World Heritage Property.

3.8.70. Clarity in respect of this was requested by the ExA at ExQ2.5.1 [PD-012] regarding what the legal methods for the transfer of funds would be and how funding would be secured. At annex 5 of [REP4-037] it was confirmed by the applicant that the Blenheim Palace 1984 Maintenance Fund was a His Majesty's Revenue and Customs (HMRC) approved trust that owns some of the land outside of the Park. As some of the land optioned by the applicant is owned by this Fund, it would therefore benefit from the rents paid by the applicant. Under the terms of the Fund's designation, its net income funds the WHS. This would be done by remitting the funds to the Blenheim Palace Heritage Foundation.

3.8.71. The applicant further stated (annex 5 of [REP4-037]) that the obligation to transfer the money would be secured by the legal requirement from the Blenheim Palace 1984 Maintenance Fund to spend the net income on the heritage property and this would be monitored by HMRC. When the money is transferred to Blenheim Palace Heritage Foundation, it must be in accordance with the terms of the distribution.

3.8.72. Blenheim Palace [REP5-062] provided a further note detailing the rents payable to the maintenance fund as a consequence of the option payments. The note concluded that the amount that the maintenance fund would pay to the Heritage Foundation would increase from the current figure of £88,000 to approximately £440,000 per annum with the proposed development. This figure included the reduction of approximately £67,500 per annum due to the removal of 90 acres south of Bladon under change 2 made by the applicant.

3.8.73. As part of the suite of examination documents, an Outline Landscape and Ecology Management Plan (OLEMP) was submitted [CR2-052]. The OLEMP, which would be secured by R6 of the dDCO, sets the overarching natural environment vision for the proposed development and provided details of the biodiversity and landscape aims and objectives for habitats during the operation of the proposed development. It also established the proposed management actions and specifications which would be used to achieve such objectives. Paragraph 2.2.1 of [CR2-052] further stated that the management aims are to '…*balance the Site's operational objectives / needs within the existing vegetation and context of the locality. It will lead to the retention, enhancement and management of the existing hedgerows and trees; particularly strengthening and maintaining hedgerow boundaries*.'

3.8.74. At [REP2-026] the applicant contended that the impacts of the proposed development would be minimised by the measures contained within the OLEMP and as also illustrated on the Illustrative Masterplan [CR2-026] and Landscape, Ecology and Amenities Plan [CR2-043]. In particular, section 6 of the OLEMP detailed embedded mitigation measures in respect of potential impacts to the visitor economy. Such measures were proposed to ensure that any new or existing routes which travel through the solar arrays would be appealing to people to encourage their use. Routes would also include signs and information boards, including in formats that respond to visual impairments, with appropriate maintenance, as required.

3.8.75. The OHA at [REP1-072] requested that all PRoW across the proposed development that would pass through or would be adjacent to the fields containing the solar panels should be provided as landscaped 'greenway' PRoW and:

- have a minimum overall corridor width of 15m;
- provide access for small PRoW maintenance vehicles; and
- be planted with an appropriate non-injurious/thorny hedge, shrub & tree planting.

3.8.76. Additionally, the OHA requested that all fenced-in PRoW would need to be stone surfaced to 3m width with 3-4m clear grass verges each side of this.

3.8.77. In response the applicant confirmed at [REP2-026] that the detailed landscape design would be developed in general accordance with the OLEMP, which would be secured by R6 of the dDCO [REP7-006] and the Landscape, Ecology and Amenities Plan [REP7-022], and this would include the arrangements for 'greenways'.

3.8.78. The applicant also confirmed that the proposed outline measures for the management of PRoW during the construction phase, in the Outline Public Rights of Way Management Plan (OPRWMP) which would be secured by R11 of the dDCO [REP7-006], would contain signage, safety fencing, arrangements for managed crossings, monitoring requirements and reinstatement of routes. The OPRWMP confirms that a full and detailed PRoW Management Strategy would be developed in general accordance with the OPRWMP and submitted post consent. The preparation and submission of the final CoCP and PRoW Management Strategy would require approval from the relevant planning authority.

3.8.79. Additionally, in respect of PRoW the applicant proposed the provision of new and reinforcement planting along existing retaining PRoW corridors, which would be maintained at a minimum height of 3m [CR2-052]. In response to ExQ2.13.8 [REP4-037] the applicant confirmed that the proposed hedgerows on either side of PRoW would obscure some available views of the wider landscape at lower levels. However, the applicant considered that PRoW flanked by hedgerows and / or trees were characteristic elements within parts of the existing landscape.

3.8.80. At the close of the examination, the OHA noted that whilst several representative plans and sections of the proposed 'greenways' were included within the OLEMP [REP7-006], not all contained a full 3-4m clearance from hedges and trees. However, the OHA accepted at [REP7-191] that the drawings were only indicative and that they hoped to be able to resolve the issue of greenway design at detailed design stage.

3.8.81. Matters relating to PRoW, including severance and mitigation, heritage matters, and wider landscape and visual considerations are discussed in sections 3.3, 3.4 and 3.7 of this report.

ExA's consideration

3.8.82. The ExA is satisfied that the applicant has undertaken a proportionate assessment in terms of tourism and recreation, and that the assessment adequately identified the effects of the proposed development. Furthermore, the ExA accepts that, to a certain extent, people's perception of their own likely future actions, and those of others, may produce a stronger reaction than in reality. The importance of the tourism economy in this location is considerable, however significant adverse harm to the tourism visitor economy is not predicted at any phase of the proposed development. The ExA is satisfied that there is no evidence before them which leads them to disagree with this finding.

3.8.83. Additionally, the ExA considers that the mitigation and controls for the avoidance and reduction of potential adverse effects on the tourism and recreation economy, where reasonable and appropriate, would be adequately secured through the dDCO. This includes R6 of the dDCO in respect of the OLEMP.

Outline Skills, Supply Chain and Employment Plan

3.8.84. As part of the suite of application documents, an OSSCEP [APP-218] was submitted into the examination. The OSSCEP was updated during the examination, with the final version being [REP6-026]. The executive summary confirmed that the purpose of the OSSCEP was to maximise and proactively expand the economic benefits of the proposed development for the local community. Seven opportunities or work areas were identified within the OSSCEP which the applicant could take forward. These included:

- apprenticeships;
- other workforce training;
- STEM education and careers;
- local recruitment;
- maximising diversity of the workforce;
- business networking and support; and
- procurement strategy.

3.8.85. In response to the Rule 17 (R17) letter [PD-017], the applicant confirmed that the final organisational framework of the SSCEP would be determined when discharging R13 of the dDCO. This requirement would ensure that the final SSCEP submitted for approval would be substantially in accordance with the OSSCEP. The applicant considered that R13 would give certainty that the final organisational structure would be sufficiently similar to that shown in the outline plan, whilst retaining the necessary flexibility to allow the most suitable organisations to be involved at the time of discharge of the requirement discharge [REP6-052].

3.8.86. The OSSCEP further states at paragraph 7.2.3 of [REP6-026] that the delivery of the proposed measures would be led by a Skills, Supply Chain and Employment (SSCE) Function Lead and governed by a steering group. The SSCE work programme would be broken down into several activities or workstreams. Each activity would have a named lead, along with internal partners from the applicant's project team. External partners and stakeholders, including local authorities, education and training providers, job brokerage agencies and Chambers of Commerce would continue to be engaged as appropriate, as their detailed local knowledge and experience was considered critical to success by the applicant.

3.8.87. In respect of the OSSCEP, during the Examination the following main issues were examined:

- content;
- commitments and monitoring; and
- output.

Content

3.8.88. At ExQ1.16.5 [PD-008], the ExA asked the OHA to comment on the proposed OSSCEP. In response, the OHA [REP2-049] made several suggestions in respect of amendments to the OSSCEP. At [REP3-065], the applicant confirmed that further discussions with stakeholders, including Enterprise Oxfordshire, would be held both during the examination and if consent was granted, during the discharge of requirements. It was also confirmed that there would be a specialist person responsible for the co-ordination and delivery of the proposed benefits. The applicant also confirmed that conversations had been held with Enterprise Oxfordshire in respect of the provision of skills bootcamps.

3.8.89. An updated OSSCEP was submitted into the examination at [REP3-028] to reflect the changes made by the applicant. The OHA [REP4-041] acknowledged and welcomed the amendments.

Commitments and monitoring

3.8.90. The ExA noted that the initial OSSCEP submitted into the examination [APP-218] referenced several suggestions of possible opportunities and / or measures which the applicant may enter into in the final SSCEP. As such measures appeared optional, at ExQ1.16.14 [PD-008] the ExA asked the applicant to review the content of the OSSCEP and amend it to reflect those opportunities and measures that it intended to fully engage in.

3.8.91. At ExQ1.16.16 [PD-008] the ExA also reflected that the OSSCEP, as drafted, referred to monitoring in section 8. However, there was no detail in respect of what actions would be necessary should the monitoring indicate that the full SSCEP had failed to deliver the potential outputs.

3.8.92. The revised OSSCEP [REP3-028] submitted into the examination at DL3 contained amendments which provided a clearer picture of the opportunities the applicant intended to fully commit to. In respect of monitoring, table 8.1 of [REP3-028] provided targeted measurable outputs and outcomes of the SSCEP, with figure 2 illustrating the process for what would happen if any of the outputs listed in table 8.1 were not achieved.

Output

3.8.93. At ExQ2.15.7 [PD-012] whilst the ExA acknowledged the amendments made to table 8.1 at [REP3-028], it was considered that the figures quoted for both the targeted and stretch outputs were low. Given the location of the proposed development in proximity to both the Oxford – Cambridge Growth Corridor and well-established education facilities, the ExA considered the listed targets represented limited ambition for the local area. As such, it was requested that the applicant provided both an explanation as to how the proposed targets were arrived at and also undertook a review of the targets.

3.8.94. In response, the applicant confirmed in [REP4-037] that whilst most stakeholders agreed with the proposed targets, amendments had been made to increase the '*Opportunity 2: Other Training'* target which focused on skills training. This was increased from a target of 5 to 15 and a stretch target of 15 to 45, which represented a 300% increase.

ExA's considerations

3.8.95. As detailed in [REP7-017], the applicant demonstrated that employment opportunities would be created by the proposed development. The ExA notes that

the applicant had been working with the local authorities and regional stakeholders to maximise the benefits of the opportunities that would be created.

3.8.96. The ExA is aware that the availability of employment lies at the heart of inclusive economic growth and the alleviation of poverty. It is also widely accepted that good quality employment can have positive influences on an individual's overall health and wellbeing. The ExA therefore considers that the measures included within the OSSCEP would, through training, employment and procurement initiatives, aid in removing barriers to employment.

3.8.97. The initiatives secured within the OSSCEP would also assist in maximising the employment and skills development opportunities created by the proposed development. Such measures would also assist in mitigating any potential negative effects with respect to concerns about the cumulative impact of a number of large infrastructure projects in the region once the proposed development is operational

3.8.98. The ExA is therefore satisfied that the provision of the OSSCEP and associated targets could provide a mechanism to maximise economic benefits for communities and businesses. Furthermore, the ExA is satisfied that, given the amendments and additional provisions made to the OSSCEP during the course of the examination, it could provide suitable conditions to deliver sustainable employment, skills development and career progression for communities and enhancements in the productivity and growth of business.

Community benefits

3.8.99. As part of the suite of application documents, a 'Planning Supporting Statement' (PSS) [APP-225] was submitted. Appendix 8 of [APP-225] included a Green Belt Statement, with the 'Very Special Circumstances' (VSC) case detailed at section 8.4. The Green Belt and associated VSC case are discussed in detail in chapter 5 of this report. However, as there is cross over into socioeconomic considerations, this matter is also discussed here.

3.8.100. The issue of the provision of adequate community benefit was a key theme throughout the whole examination. Several representations were made in respect of whether the applicant was proposing sufficient community benefit. Representations regarding this issue included, but are not limited to, [REP1-052], [REP1-121], [REP1-122], [REP5-141], [REP5-073],[RR-0792],[REP5-074],[RR-0982] and [REP1-112].The issues of community benefit and funding were also raised by several IPs during open floor hearing (OFH) 1 ([EV3-002] and [EV3-004]), OFH2 ([EV4-002] and [EV4-004]) and OFH3 ([EV8-002] and [EV8-004]).

3.8.101. The VSC case, at section 8.4 of [APP-225] included nine VSC, with VSC 7 relating to a community benefit fund. Paragraph 8.4.73 of [APP-225] stated that once the proposed development was operational, a Community Fund would provide £200,000 per annum. Furthermore, the Community Fund would be delivered as part of a Community Benefits Package to be agreed outside of the scope of the DCO, with relevant local authorities. Paragraph 8.4.74 of [APP-225] further noted that whilst the fund should not be considered in the planning balance, it would be a socioeconomic benefit to those living in the local area.

3.8.102. The ExA questioned the applicant during issue-specific hearing (ISH)1 ([EV5-002], [EV5-004], [EV5-006], [EV5-008]), as to why VSC 2 to 9 were not listed as being 'other considerations' in favour of the proposed development. The ExA also asked

whether the proposed community benefit fund should be secured in the dDCO if it formed part of the VSC case being argued.

3.8.103. In response the applicant acknowledged that the VSC list included items that would and would not contribute to the overall planning balance. Furthermore, the applicant stated that there was also a clear distinction between the monetary elements of the community benefits, which should not be included in the planning balance, and the resulting social or economic benefits to communities which would flow from the funding elements. The applicant confirmed that the proposed community benefit fund would be a discretionary offer which would fall outside the planning balance and was therefore intentionally not secured under the dDCO [REP1-019].

3.8.104. The ExA made a request to the applicant during ISH1 [EV5-010] to provide an update in respect of the community benefit package and how the package would ultimately be secured either in the dDCO or via other legislative provisions. At DL1 [REP1-018] the applicant confirmed that the fund had been amended and would provide £440,000 every year of the lifetime of the proposed development, therefore equating to £16,500,000 over the 37.5-year operational period.

3.8.105. Additionally, the applicant confirmed that the following aspects of the proposed development were considered to be 'benefits to the community' and are to be relied upon in the planning balance. As such they would be secured via Schedule 1 of the DCO and include:

- Community growing areas – the proposed development would consist of at least two food growing community groups, up to 30ha. These would be secured via the oOMP, R12 in the dDCO [REP7-006].
- Biodiversity Net Gain (BNG) – stated to achieve a BNG of at least 70% for habitat units across the proposed development. This would be secured via R7 of the dDCO [REP7-006].
- Landscape enhancement - substantial new tree and hedgerow planting would be embedded within the proposed development, alongside management of the land to deliver significant BNG. New public access routes would also be created to allow for greater access than is currently available. This would be secured via the OLEMP, R6 in the dDCO and the Outline Operational Management Plan R12 in the dDCO [REP7-006].
- PRoW and permissive paths - new recreational routes, including permissive paths, would be provided to mitigate potential adverse effects on public health associated with changes in the use of the PRoW network. This would be secured via R6 of the dDCO [REP7-006].

3.8.106. At DL1, a revised Planning Supporting Statement was submitted [REP1-012], and both VSC 7 - community benefit fund and VSC 8 - discounted electricity prices had been removed from the VSC list. Following discussions during ISH1 ([EV5-002], [EV5-004], [EV5-006], [EV5-008]), and the confirmation that the community benefit fund should not be considered in the wider planning balance, the justification for the removal of VSC 7 was understood. However, at ExQ1.16.22 [PD-008], the applicant was asked to provide justification for the removal of the discounted electricity prices.

3.8.107. The applicant confirmed that feedback at the statutory consultation phase showed little interest in the retail electricity offer and it was decided to remove VSC 8 and instead increase the size of the community fund [REP2-025]. Additionally, in response to ExQ2.15.1, the applicant confirmed that the community fund figure

would be increased to £441,000, which equated to £525 per megawatt (MW) [REP4-037].

3.8.108. In terms of securing the proposed funding, at ExQ2.15.2 the applicant confirmed that the fund would be secured by means of a Section 111 agreement with the relevant local authorities outside the scope of the DCO [REP4-037].

3.8.109. The ExA notes that despite the matter of community benefit funding sitting outside of the Examination, at the close of the examination several IPs and non-IPs reiterated their concern in respect of the level of funding proposed by the applicant. For example, at [REP7-080], the IP noted that the proposed community fund on offer equated to £525/MW, whereas the Great North Road Solar and Biodiversity Park, located in Newark, was proposing a figure which equated to £1200/MW. The IP further considered that given the scale of the proposed development, the local community should be able to share in the associated wealth and therefore the proposed offer should be increased.

3.8.110. Additionally, both Layla Moran MP ([RR-0611], [REP2-117], [REP7-154]) and Calum Miller MP ([REP2-093], [REP2-094], [REP7-067]) raised similar concern that the amount per installed MW capacity proposed was inadequate and should be increased to match other UK-based projects. Both MPs also made reference to the May 2025 Government working paper entitled "Community benefits and shared ownership for low carbon energy infrastructure" which was seeking views on:

- The potential introduction of a mandatory community benefits scheme for low carbon infrastructure.
- How best to facilitate shared ownership of renewable energy generation infrastructure.

3.8.111. The ExA noted several submissions raising concern in respect of a lack of community consultation regarding the proposed location of the community education facility, including but not limited to, [REP3-072], [REP3-073], [REP3-094], [REP3-095], [REP3-099] and [REP3-123]. This matter, and concerns raised by Hill End Outdoor Education Centre regarding Change Request Notification 2 are discussed in more detail in chapter 3.13.

3.8.112. In response to the ExA's R17 letter [PD-017], the applicant confirmed that it was necessary to retain the 1.15ha to enable flexibility regarding the location of habitat creation associated with the delivery of BNG. Also, that the additional land would act as extra mitigation for farmland/wintering birds and other bird species [REP6-052].

3.8.113. Turning to the proposed community food growing areas, the locations of which are depicted on the Illustrative Masterplan [CR2-026], the two proposed areas are sited in the Bladon and Church Hanborough localities. The applicant confirmed at [REP7-046] it was intended that that the users of the community growing areas would be drawn from nearby settlements.

3.8.114. A reoccurring theme throughout the examination was the perception of a lack of consultation regarding the proposed locations for the community food growing areas. Representations regarding this issue were received from, but not limited to, [REP3-073], [REP3-094], [REP3-099], [REP3-122], [REP5-072] and [REP5-097]. Additionally, in response to ExQ2.5.5, WODC also commented on the lack of consultation undertaken to assist in determining the appropriateness or suitability of the locations for community food growing [REP4-074].

3.8.115. The applicant confirmed [REP6-052] that the phase one consultation materials, appended to [APP-026], included the design principle that would provide *"the opportunity for continued agricultural use, to include sheep grazing, bee keeping, allotments and community gardens*". Furthermore, that the Phase One Consultation Summary Report [APP-027] stated that the applicant was working with a number of local groups to explore benefits to the area, *"including engaging with local agricultural organisations about using areas of the site to enable community food production".*

3.8.116. At the phase two consultation, the applicant confirmed that site maps were provided which showed areas set aside for "*proposed mitigation and enhancement areas*", of which three were discussed at the consultation events as ideal for community food growing, two at Bladon and one at Church Hanborough. The applicant confirmed that the location of the proposed community food growing sites had been selected for ease of access and close proximity to settlements, enabling growers to potentially walk or cycle to the site [REP6-025].

3.8.117. Concern regarding the introduction of new structures such as storage sheds, polytunnels, machinery and other paraphernalia associated with food growing in the Church Hanborough Conservation Area was also raised by [REP5-082]. Similarly, in response to ExQ2.5.5 [REP4-074] WODC raised concern in respect of such equipment causing conflict with the heritage objectives of the Conservation Area.

3.8.118. At [REP5-005] the applicant commented that whilst the view of WODC was noted, many similar elements were present at Farthings Lea Farm which was located immediately to the north of the area in question and was also within the Conservation Area. Accordingly, the applicant considered the introduction of such equipment to be reflective of the existing diversified rural, agrarian landscape of which the Conservation Area formed part of. However, at [REP6-049], the applicant reported that there was no intention to construct any structures.

3.8.119. In a R17 letter [PD-017], the ExA asked the applicant whether the possible involvement of OxFarmtoFork constituted a commercial enterprise, given that they supply produce to local Oxford colleges. In response, the applicant [REP6-052] commented that OxFarmtoFork was a collaborative project led by Good Food Oxfordshire that connects Oxfordshire's institutions directly with local agroecological food growers. Also, that OxFarmtoFork is a short food supply chain initiative that means that anyone growing food using agroecological farm methods has a local market for their produce, whatever the volume. OxFarmtoFork charges buyers for using the platform, enabling it to make small grants to growers to help them get started. For every £1 spent on local produce, £2.50 is generated in social, economic and environmental value, driving prosperity for local communities.

3.8.120. The issue of the location of the community food growing projects was also raised as a concern by Bladon Parish Council in [REP3-073], particular whether the food growing areas would support local communities directly affected by the proposed development. At [REP4-038], the applicant confirmed that the Cherwell Collective aimed to serve approximately 8,000 clients experiencing food poverty or mental health crisis across Oxfordshire and would be serving villages adjacent to the proposed development. The Cherwell Collective is also based in Kidlington, approximately 2.8km from the boundary of the proposed development. Additionally, that Chris Goodall's initiative, which would include growing food to supply a number of local food banks, including Cutteslowe Larder and other food initiatives across Oxfordshire.

3.8.121. The ExA noted that at [REP5-005], the applicant confirmed that, should the DCO be granted, and it is evident that little or no interest in community food growing, then then land would be retained as managed grassland within the proposed development. This issue is also discussed in chapter 6 of this report.

3.8.122. In respect of the potential delivery of wider benefits resulting from the proposed development, the ExA acknowledges that any benefits arising as a result of the proposed development in respect of the Blenheim Estate are separate to those forming part of the applicant's suite of community benefits.

3.8.123. At DL7 [REP7-191], the OHA confirmed that the community benefit fund figure of £441,000 per annum for the duration of the proposed development had been agreed in May 2025. Further discussion however was still ongoing between the parties in respect the possible refinement of:

- Timing of payments.
- Scope for an additional funding mechanism from year 15.
- A potential scheme that offers low-cost solar panels to affected communities in the early stages of the development.

3.8.124. Issues relating to the compulsory acquisition of land for the proposed community growing areas and in relation to Blenheim Palace is discussed in chapter 6 of this report.

ExA's considerations

3.8.125. The ExA has some concern regarding the apparent 'flexibility' of the proposed community benefits, particularly in regard to the delivery of the community food growing areas. If this initiative is not delivered the applicant has stated that the land would instead be managed as grassland. It is unclear as to the level of community benefit which would be delivered from such an initiative.

3.8.126. Such 'flexibility' in respect of community benefits was evident from the removal of the proposed discounted electricity prices and education facility. From discussions during the examination, it was clear that the removal occurred due to a lack of appetite for such initiatives, from both the local communities and local authorities. In respect of the education facility, the ExA considers a lack of consultation with existing education providers, such as the Hill End Outdoor Education Centre, was a potential missed opportunity in respect of possible expanded community benefits.

3.8.127. The ebbing and flowing of community benefits demonstrated to the ExA that matters were not being taken seriously, not being thought through or just being proposed without much community backing. This led to the ExA proposing a requirement in the dDCO to secure the benefits. More consideration is given to this in chapter 7 of the report.

3.8.128. Nonetheless, the ExA has reviewed the key principles of the proposed community benefits and overall, consider them to be appropriate. The proposed governance arrangements would be adequately secured within the existing requirements in the dDCO and would allow for the relevant local authorities to be part of the process in delivering the benefits which would, if fully realised, result in the delivery of proportionate community benefits.

3.8.129. The ExA accepts that the proposed Community Benefit Fund is not material to the planning balance. Additionally, we also note the content of the Department for Energy Security and Net Zero (DESNZ) working paper 'Community Benefits and Shared Ownership for Low Carbon Energy Infrastructure' (DESNZ 2025) which says that community benefits are not material to the planning decision.

3.8.130. However, given the importance of the fund to the local community, it was considered both necessary and appropriate to consider this issue during the examination. Whilst accepting no weight is to be attributed to this matter, given the agreement reached between both the Applicant and the OHA, we are satisfied that the use of a s111 agreement is an appropriate mechanism rather than that of a Requirement.

Siemens Healthcare Limited

3.8.131. Siemens Healthcare Limited (Siemens) raised objection to the proposed development from the beginning of the Examination ([RR-0967, REP1-110, REP4-080, REP5-134, REP6-128] and [REP7-214]).

3.8.132. The main objection raised related to the Siemens facility located on Wharf Road, Eynsham. The facility is one of only two such factories operated by Siemens worldwide and produces approximately 2,000 superconducting magnets each year, primarily serving the European, American, South American, and African markets. The superconducting magnets produced at the Siemens facility are for use in MRI scanners [REP6-128].

3.8.133. In terms of operations, the facility operates 24 hours a day, 7 days a week, including bank holidays and the Christmas period. The facility takes delivery of parts and components for its manufacturing process by articulated lorries and large vans four to six times per day.

3.8.134. The completed super conducting magnets are mainly transported to Germany for further assembly but also to end customers globally. Due to the size of the products, Siemens confirmed that this is only feasible by articulated lorry, which takes place two to three times per day, with the traffic movements taking place across a 24-hour period [REP1-110]. It was further stated that Wharf Road was the sole access road to the Siemens' facility for the incoming and outgoing deliveries and for its employees. As such, Siemens stated that it was imperative that Wharf Road remained unobstructed at all times so as not to disrupt the operation systems [REP1-110]. The main concern related to the cable route proposed by the applicant to run along Wharf Road and the consequent impact this would have on the facility, including unexpected road closures and delays to the production and distribution of the superconducting magnets [REP6-128].

3.8.135. In response to ExQ2.16.1 and 2.7.14 [REP4-080], Siemens confirmed that the Order limits had identified two possible routes for the proposed cabling, Siemens' land or Cassington Road. Siemens confirmed that they had requested further dialogue with the applicant and also to be provided with an analysis and options appraisal for both cable routes options.

3.8.136. Additionally, Siemens stated that if the Wharf Road cable route option was pursued, then they would require bespoke protective provisions to be included within the dDCO to ensure that satisfactory and legally compliant access to Wharf Road was maintained, its business operations and supply chain would be protected, and the requirements of applicable certifications would be complied with.

3.8.137. The applicant, also in response to ExQ2.16.1 [REP4-037] commented that the proposed construction works along Wharf Road in the vicinity of the Siemens facility would last three weeks or 15 working days. Furthermore, the applicant confirmed that such works could be timed and forewarned to Siemens so as to limit impacts upon their operations. In response to ExQ2.7.14 [REP4-037], the applicant did not agree that bespoke protective provisions were required as it was considered that there would be sufficient mitigation captured through various management plans to ensure that any potential impact on Siemens would be suitably protected.

3.8.138. Furthermore, that as a result of a change proposed in Change Request 2, the area of Wharf Road owned by Siemens was to be removed from the proposed development and the area of highway to be used would be adopted highway. As such, the applicant considered it would be unreasonable and unjust to impose protective provisions on an area of road when no limitations otherwise applied to existing users of the adopted highway [REP4-037].

3.8.139. At DL4 the applicant submitted a Cable Optionality report [REP4-039] into the Examination which provided further evidence that the proposed cable route was required. Additionally, the applicant also confirmed it had provided confirmation to Siemens of the proposed mitigation methods which had been designed to minimise any potential impact [REP4-037].

3.8.140. This matter was also discussed during compulsory acquisition hearing 1 (CAH1) ([EV6-003 and EV6-005]). During CAH1, Siemens confirmed that their position remained that Wharf Road should be removed entirely from the Order limits. However, if this was not forthcoming, Siemens would require the inclusion of robust bespoke protective provisions to safeguard their operations.

3.8.141. During CAH1 ([EV6-003 and EV6-005]), the applicant confirmed that ongoing dialogue and discussions had taken place with Siemens. The ExA requested that the applicant provided further detail as to how the proposed mitigation measures in the dDCO would ensure Wharf Road remained open and unobstructed. In response, the applicant confirmed that whilst the works powers contained within the dDCO and its commitment to comply with the Oxfordshire Permit Scheme would facilitate delivery of the works in a manner that ensures Wharf Road could be managed and remain open, the commitment was not fully reflected in the secured documents. However, this issue was to be addressed by DL6, specifically through the Construction Traffic Management Plan (CTMP) [REP6-046].

3.8.142. In respect of the Cable Optionality report [REP4-039], the applicant confirmed that Wharf Road would remain open during the works, whereas the alternative option of Cassington Road could not. In terms of overall effect, the effect on Wharf Road would be the presence of road works, whereas for Cassington Road the effect would be a road closure. In respect of Cassington Road, a closure would sever access along that road, including for emergency vehicles, whereas the option of Wharf Road would not result in any such severance as it would remain open.

3.8.143. The applicant expressed confidence that the proposed works would not have an operational impact on Siemens. It was further observed that, if single-lane use of Wharf Road was to pose such a significant threat to operations, measures would have been implemented previously by Council, but currently the road remains open to general public use. The applicant further reiterated that the proposed works would be limited to a period of up to 3 weeks, providing greater certainty and security than the current situation [REP6-046].

3.8.144. Following CAH1, in its post hearing submission [REP6-046], the applicant confirmed that both parties had agreed to the following:

- Additional wording would be added into the CTMP to facilitate continued access for Siemens along Wharf Road.
- Bespoke protective provisions would be added into the dDCO to secure an indemnity in favour of Siemens.
- The dDCO would be updated to add Siemens as a consultee in respect of the discharge of the CTMP, insofar as it related to Wharf Road.

3.8.145. At DL6, the above revisions were made to the dDCO [REP6-004] at part 8 of schedule 15 and to R11 and to the wording of the CTMP to confirm that operational vehicular access would remain available to Siemens [REP6-028].

3.8.146. At DL7, a final version of the dDCO was submitted into the examination by the applicant [REP7-017]. In respect of the protective provisions for the protection of Siemens at part 8 of schedule 15, this had been amended to include the provision that operational vehicular access to the Siemens factory would be maintained at all times during the construction of the proposed development, without the closure of Wharf Road.

3.8.147. At the close of the examination, while Siemens agreed to the amendments to the dDCO and CTMP, it maintained that its preferred position would be that Wharf Road be entirely removed from the Order limits, for the reasons discussed above. Additionally, it maintained that the Cassington Road option should be preferred and prioritised by the applicant over Wharf Road due to the significant impacts which may be caused to Siemens [REP7-017].

3.8.148. In the closing submissions [REP8-001], the applicant reiterated the point that whilst the remaining objection from Siemens was noted, it maintained its stance that the controls secured by the dDCO would be sufficient to avoid or mitigate any potential risk to Siemens' operations should Wharf Road be the proposed route. Additionally, the applicant stated that as Wharf Road is open to all users of the adopted highway, the additional controls proposed by the applicant would result in more certainty for operations as there would be a commitment to continued operational access.

3.8.149. Issues relating to the compulsory acquisition of land in respect of Siemens are also discussed in chapter 6 of this report.

ExA's considerations

3.8.150. The ExA accepts the need for Wharf Road to remain open and unobstructed to enable the Siemens facility to function 24 hours a day. The ExA notes that this issue was outlined by Siemens at the beginning of the examination and dialogue from the applicant appears to have been minimal in the initial stages of the examination.

3.8.151. Nevertheless, whilst we are mindful of the differences of opinions between both parties, the ExA has reviewed the additional wording within the proposed CTMP, the inclusion of Siemens as a consultee to the CTMP on the face of the dDCO [REP7-006] and also the proposed bespoke protective provision wording. The ExA is content that the applicant has adequately identified potential effects and proposed appropriate mitigation measures to ensure that Wharf Road remains open and obstruction free during the proposed period of construction works.

3.8.152. The ExA is therefore satisfied that the approach adopted adequately addresses the issues raised by Siemens and the works would not result in delays to their production and distribution programme.

London Oxford Airport

3.8.153. Oxford Aviation Services Limited (OASL), the operators of London Oxford Airport, raised significant concern from the outset of the examination regarding the potential impact on safety and operations at the airport ([RR-0788], [REP1-107], [REP1-108], [REP2-077], [REP4-073], [REP6-113], [REP6-114], [REP7-188]).

3.8.154. Matters in relation to safety, technical concerns and ecology in respect of London Oxford Airport are discussed in further detail in sections 3.6 and 3.7 of this report.

3.8.155. In the OASL written representation (WR) [REP1-108] and during ISH1 ([EV5-002], [EV5-004], [EV5-006], [EV5-008]), it was confirmed that the airport was one of the UK's pre-eminent training airports, specialising in the training of commercial airline pilots. Whilst it was acknowledged that there were likely to be other airports which had solar panels under flight paths, the context at London Oxford Airport was very different. This was explained as being due to the fact that the majority of aircraft using the airport are light aircraft, including single engine.

3.8.156. In the event of an engine failure, the aircraft would be forced to land in the fields immediately underneath the approach, in which solar panels were proposed. Additionally, it was explained that as the airport is a training facility, the aircraft were often being flown by trainee pilots. In the event of an engine failure, pilots would have no option but to land in an off-aerodrome location. Should that forced landing be into a solar array, the chances of survival were described as being nil. As such, the increased risk posed by the proposed development was not considered acceptable and could have implications for the operation of the aerodrome and its attractiveness to air-operators.

3.8.157. Other safety concerns included the likelihood that the proposed development has the potential to attract more birds and other wildlife to the site, due to the installation of new green infrastructure and the effect of the solar panels appearing as waterbodies. There were also concerns with the displacement of wildlife from the existing open land.

3.8.158. The issue of lake effect as a result of solar arrays was also a consideration as the airport stated that waterbodies attract larger bird species which can be extremely dangerous for jet aircraft, such as the larger business jets that use London Oxford Airport. Issues such as the potential for thermal plume and turbulence and glint and glare were also raised as having potentially serious safety concerns.

3.8.159. OASL concluded that there was a need to protect the safety of its customers and tenants and with it the viability of the business. If built as proposed, the airport would probably have to close to flight training, as the risk to life would be too great.

3.8.160. OASL confirmed that following a meeting with the applicant it had been agreed that a number of the proposed solar panels would be removed from the proposed development in order to address the concerns raised ([REP1-107] and [REP1-108]).

3.8.161. Change 2 in the applicants 'Change Request Report July 2025' [CR2-073] confirmed that there would be a reduction in the original Order limits boundary so as to reduce the solar installation area in proximity to London Oxford Airport. It was

confirmed by the applicant that this change was necessary in response to the airports concern regarding the safe operation of the airfield with regard to take-off and landing of light aircraft. The change would result in a reduction in the Order limits of approximately 46.55ha and the proposed installation area would be reduced by approximately 40.8ha. The change also included the re-siting of the existing secondary substation approximately 25-50m to the north, and a reduction in height to approximately 5m, with associated lattice structure lightning rods being no higher than 10.5m.

3.8.162. During OFH1 [REP1-107], OASL commented that it considered that the applicant had failed to submit sufficient evidence into the examination in respect of matters such as heat induced turbulence and the potential for primary radar refraction caused by thermal plume from the proposed solar panels. OASL provided an updated position at [REP1-108] stating that, following a meeting with the applicant, additional modelling and the provision of reports would be undertaken by the applicant.

3.8.163. However, at ISH2 ([EV7-003], [EV7-005], [EV7-009]), OASL commented that the reports promised by the applicant in respect of heat induced turbulence had not been delivered. Furthermore, it was noted that in respect of airport safety, an airport must deal with absolutes. Accordingly, OASL was clear that for its objection to the proposed development to be removed, it would be necessary for the applicant to demonstrate that there would be no effect in respect of airport safety.

3.8.164. In the SoCG submitted at DL7 [REP7-038], the applicant confirmed that the relevant reports were shared with OASL on 17 October 2025 [REP6-066] [REP6-067]. Regarding the thermal modelling report, the applicant stated that the report concluded that the issue of heat induced turbulence would not adversely impact on the airport's operation in any material way. In respect of radar refraction, the report concluded that impact significance would be negligible, with the maximum change in perceived height position of aircraft observed by radar at Oxford Airport expected to be no more than three metres at 100km.

3.8.165. In its DL7 Closing Submission [REP7-188], OASL stated, given the time needed to precure and receive a peer review of the reports, it was unable to verify the findings of the technical studies, in so far as they might impact on aviation safety. Therefore, OASL concluded it could not be confident of the conclusions reached by these reports and its objection in respect of aviation safety remained.

3.8.166. A representation from FTEJerez [REP7-187], who provide professional flight training and use London Oxford Airport as its UK base, stated that the use of London Oxford Airport had been selected due to its '*strong safety record, high quality facilities, and the suitability of the surrounding airspace and environment for pilot training*". However, concern was raised in respect of the proposed development and the following flight safety hazards, which could cause significant destabilisation of an aircraft's flight path and could be a threat to aviation safety:

- Reflected glint and glare from the solar panels.
- Bird displacement from nearby heathland that could cause engine bird strikes.
- Thermal plumes.

3.8.167. It is also noted that in the Civil Aviation Authority (CAA) SoCG [REP7-035], there was no outstanding objection in respect of safety issues at the close of the

examination, though the CAA delegated certain matters to the aerodrome itself for comment and review.

ExA's considerations

3.8.168. The matter of public safety is considered in more detail in section 3.7 of this report (traffic and transport). Taking into consideration the detailed information provided by both parties in respect of London Oxford Airport, the ExA accepts that the proposed development has the potential to affect the economic viability of the airport if the applicant does not provide sufficient evidence to enable OASL to be satisfied that it could continue to operate safely. If such concerns remain, and as demonstrated by the submission from FTEJerez, it is possible that flight training organisations may no longer wish to operate from London Oxford Airport due to safety concerns. This would be a significant economic blow for the region as a whole.

3.8.169. The ExA notes the changes made to the proposed development by the applicant in respect of the Order limits and the conclusion provided in respect of the reports that no adverse operational effects would be experienced. However, given the remaining uncertainty in terms of potential safety considerations, the ExA cannot be satisfied that, as stated at paragraph 5.5.50 of NPS EN-1, the proposed development has been "*designed, where possible, to minimise adverse impacts on the operation and safety of aerodromes*". As such, currently the ExA considers that due to uncertainty in respect of safety matter, the proposed development could significantly impact on the economic viability of London Oxford Airport.

3.8.170. The ExA is however aware that within the applicants closing submissions, a commitment has been made by the applicant to continue working with OASL with the aim of achieving an agreement. The applicant aims to provide an update for the SoS during either the recommendation or decision period.

CONCLUSIONS

3.8.171. In terms of the socioeconomic assessment, the ExA accepts that a standardised methodology which specifies the detail required to prepare socioeconomic assessments, or that provides defined standards or thresholds for assessing the significance of socioeconomic effects does not exist. Despite this, the ExA considers that the applicant has used an appropriate methodology in considering socioeconomic effects, including the approach taken to selecting a study area. As such, the ExA is content that the applicant has adequately assessed the effects of the proposed development in line with both paragraphs 5.13.4 and 5.13.5 of NPS EN-1 and has provided sufficient evidence to support its conclusions on those effects.

3.8.172. The ExA welcomes the social and economic benefits that would arise as a result of the proposed development, albeit at a modest level. However, weighing against the economic gains of the proposal would be the potentially economic losses to Oxford Airport and the subsequent impacts on associated businesses.

3.8.173. On balance, accordingly, we therefore ascribe a neutral weight to socioeconomic matters with regard to the consideration of making the development consent order.

3.9. AIR QUALITY

INTRODUCTION

3.9.1. This section considers the effects of the proposed development in relation to air quality and emissions on human receptors. Impacts upon ecological receptors are assessed in chapter 4 and appendix C of this report.

POLICY BACKGROUND

3.9.2. The Overarching National Policy Statement for Energy 2024 (NPS EN-1) recognises that energy infrastructure can have adverse effects on air quality for human health, habitats and species during the construction, operational and decommissioning phases. It also highlights that the planning and pollution control systems are separate but complementary and that the examination should work on the assumption that pollution control regimes will be applied and enforced by the relevant regulator.

3.9.3. Paragraph 5.2.3 of NPS EN-1 states it is important that energy infrastructure schemes consider not just how a scheme may impact statutory air quality limits, objectives or targets, but also sets out measures to mitigate all emissions to minimise human exposure to air pollution, especially for those who are more susceptible to the impacts of poor air quality.

3.9.4. Where a project is likely to have adverse effects on air quality, paragraph 5.2.8 of NPS EN-1 states the applicant should assess the effects of the proposed development in the Environment Statement (ES). Paragraph 5.2.9 of NPS EN-1, states the ES should describe existing emissions, any significant air quality effects and mitigation emission levels after mitigation.

3.9.5. The Secretary of State for Energy Security and Net Zero (SoS) needs to consider duties under other legislation and give air quality considerations substantial weight where a project would lead to a deterioration in air quality. After taking into account relevant statutory air quality limits, objectives and targets, if a project leads to non-compliance with any of these, the SoS should refuse consent (paragraphs 5.12.15 – 5.12.19 of NPS EN-1).

3.9.6. Whilst air quality matters relating to solar projects are not raised in NPS EN-3, it does refer to the need for the applicant to assess air emissions resulting from the proposed infrastructure and demonstrate compliance with the relevant regulations, as set out in Section 5.2 of NPS EN-1.

3.9.7. The policies and requirements of both the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG), broadly align with those stated in the NPS's. Both emphasise the importance of taking into account air quality management areas, clean air zones and other areas including sensitive habitats or designated sites of importance for biodiversity where there could be specific requirements or limitations on new development because of air quality impacts. The importance of considering air quality in habitats assessment, strategic environmental assessment and sustainability appraisal is also mentioned.

3.9.8. Legislation, policies and guidance deemed relevant by the applicant on air quality, are set out in paragraph 19.2.17 of ES chapter 19 [APP-056].

3.9.9. Generally, the Local Impact Reports (LIR) submitted to the examination contain policy support for renewable energy and a presumption in favour of sustainable development. Some local authorities have referenced local policies which require air quality assessments for development proposals likely to increase air pollution. References to policies requiring demonstration of mitigation measures to minimise

impacts have also been made, particularly for those within relative proximity to existing air quality management areas (AQMA's).

THE APPLICATION

3.9.10. The applicant's assessment of the proposed development's effect on air quality is primarily set out in ES chapter 19: Air Quality [APP-056]. ES chapter 12 in respect of traffic and transport, is also relevant to the assessment [APP-049].

Baseline

3.9.11. Baseline data on air quality, including background concentrations was derived by the applicant from the following sources:

- Annual status reports from local councils.
- Monitoring data derived from urban background locations.
- Defra (Department for Environment Food, and Rural Affairs) Mapped Annual-Mean Background Concentration Estimates.

3.9.12. Through a review of these existing studies and datasets, information on air quality within the study area, was collated by the applicant. The study area extended up to 250m from the Order limits.

3.9.13. There are a number of AQMA's in the vicinity of the study area, the nearest one being Botley AQMA which is 1.9km from the proposed development.

3.9.14. As construction traffic would pass through some of these AQMA's and heavy-duty vehicle (HDV) traffic flows would increase by more than 25 AADT (annual average daily traffic), in accordance with table 6.2 (picture below) of the guidance provided by the Environmental Protection UK (EPUK) & the Institute of Air Quality Management (IAQM), the requirement for an air quality impact assessment is triggered.

3.9.15. For construction traffic effects, background NO_2, PM_{10}, and $PM_{2.5}$ concentrations used in the air quality assessment have been derived from Defra mapped concentrations at the modelled receptor, as listed in table 19.40 to 19.43 of the ES chapter 19 [APP-056].

3.9.16. For all 3 key pollutants, the highest concentrations were found to be at receptor ID Red Barn Farm/Trax.

Table 4 - Extract from [APP-056] Air pollutant measurements

Receptor ID	Concentration (µg.m-3)		With - Without Dev as % of the AQS Objective	Impact Descriptor
	Without Botley West	With Botley West		
Red Barn Farm/Trax	**Annual-Mean NO_2**			
	21.7	22.8	3	Negligible
	Particulate Matter (PM_{10})			
	18.9	19.3	1	Negligible

	Particulate Matter ($PM_{2.5}$)			
	11.9	12.2	1	Negligible

Construction effects

3.9.17. The following matters were scoped out of the assessment:

- Impacts on ecological receptors from vehicle air emissions during all 3 phases of the proposed development.
- Impacts of vehicle air emissions on human receptors during the operation, maintenance and decommissioning phases of the proposed development.
- Dust impacts on ecological receptors and human receptors during the operation and maintenance phases of the proposed development.

3.9.18. Taking into account the information gathered from the scoping and consultation process, only the following issues were considered as part of the assessment:

- Dust impacts on property, ecological receptors and human receptors.
- Impacts of air emissions from vehicles on human receptors.

For both the above issues, these were only considered relevant during the construction and decommissioning phases of the proposed development.

3.9.19. For each of the 3 phases of the proposed development, maximum design scenarios were identified as those having the potential to result in the greatest effect on an identified receptor or receptor group (table 19.34 of ES chapter 19 [REP4-056]). Impacts were then assessed for each of the 3 phases using these identified scenarios to represent the worst case.

3.9.20. Two possible sources of emissions from the proposed development were identified as having the potential to impact air quality. These were traffic emissions and dust, with both sources having the greatest impact during the construction phase.

3.9.21. A two-stage process was then used, involving magnitude of the impact and sensitivity of the receptor to determine the significance of effects.

Dust

3.9.22. In line with IAQM guidance, the magnitude of potential dust sources was calculated and the sensitivity of people, property and ecological receptors to dust and particulate matter with diameters of 10 micrometres (PM_{10}) or smaller, categorised.

3.9.23. A risk-based assessment using the source-pathway-receptor approach was then undertaken by the applicant to determine the severity of impact.

3.9.24. The overall risk of dust impacts without the implementation of appropriate mitigation measures, is considered to be high (paragraph 19.8.11 [REP1-056]). However, referring to tables 19.46 and 19.47 [REP1-056], through adopting the mitigation measures as listed in table 19.35 [REP1-056], the residual effect of dust on receptors is considered to be negligible.

Traffic

3.9.25. The EPUK and IAQM Land-Use Planning & Development Control: Planning for Air Quality (EPUK and IAQM, 2017) guidance document, was used by the applicant to assess air quality impacts arising from traffic emissions.

3.9.26. Following the EPUK and IAQM Planning for Air Quality guidance document, the applicant only took into consideration road links where identified threshold criteria would be exceeded.

3.9.27. Air quality impacts were then assessed for all 3 key pollutants, nitrogen dioxide (NO_2), PM_{10} and $PM_{2.5}$, for both short term and long-term durations.

3.9.28. For long term impacts, annual-mean NO_2, $PM_{2.5}$ and PM_{10} concentrations were predicted at representative sensitive receptors using the atmospheric dispersion modelling system ADMS-Roads. This figure was then added to relevant background levels to calculate the final concentration of pollutants due to changes in traffic on the local road network during construction.

3.9.29. For NO_2, the change in magnitude of concentrations (modelled concentration – baseline concentration) at receptors, was 1% or below, with the exception of Red Barn Farm/Trax (3%) and Holiday Inn Oxford (2%). For both PM_{10} and $PM_{2.5}$, the change in magnitude of concentrations at receptors, was 1% or below.

3.9.30. Taking the EPUK and IAQM approach for determining long-term air quality impacts, referring to table 19.21 of ES chapter 19, as the change in magnitude of concentration is 3 % or below, the long-term impact is considered to be negligible for all 3 key pollutants.

3.9.31. For short term impacts, traffic emissions from the proposed development were compared against air quality strategy (AQS) objectives.

3.9.32. Local Air Quality Management Technical Guidance 22 (LAQM TG22) sets out a relationship between annual mean concentrations and AQS objectives, which was used by the applicant to determine the likelihood of AQS objectives being exceeded and thereby predicting short term impacts.

3.9.33. As all predicted annual-mean NO_2 concentrations are below 60 µg.m-3, the hourly-mean and AQS objective for NO_2 is considered to be met at all receptors. The short-term NO_2 impact is therefore considered negligible.

3.9.34. This is also true for PM_{10}, for which the predicted annual mean at all receptors is below 31.5 µg.m-3. The same also applies for $PM_{2.5}$, however the upper-level concentration figure for annual mean for $PM_{2.5}$ has not been stated by the applicant.

3.9.35. Overall, both short term and long-term impacts on the surrounding area from NO_2, PM_{10} and $PM_{2.5}$ were considered to be negligible by the applicant.

Mitigation measures

3.9.36. The applicant intends to reduce impacts through adopting mitigation measures, the majority of which focus on adopting industry standard construction practices within the Outline Code of Construction Practice (OCoCP) [APP-232] [APP-233] and Outline Operational Management Plan (OOMP) [APP-234]. These mitigation measures have been summarised by the applicant in table 19.35 of ES chapter 19 [APP-056] and comprise of the following key actions:

- Development and implementation of a dust Management Plan (DMP) approved by the local authority.
- Daily on-site and off-site inspections to monitor dust levels.
- Enclose site or specific operations where there is a high potential for dust production.
- Plan site layout so that machinery and dust causing activities are located away from receptors.
- Only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques.
- The use of diesel, or petrol, powered generators to be avoided and where practicable mains electricity or battery powered equipment to be used.
- Bonfires and burning of waste materials to be avoided.
- Ensure vehicles entering and leaving sites are covered.
- Switching off vehicles and plant when not in use and ensuring vehicles conform to current EU emissions standards.
- Implement a Travel Plan that supports and encourages sustainable travel.

ISSUES CONSIDERED DURING THE EXAMINATION

3.9.37. Although air quality was listed as a principal issue, local authorities did not raise significant concerns on this issue throughout the examination process, including any potential impact on AQMA's.

3.9.38. The LIR submitted does not raise any concerns regarding the content of the applicant's air quality ES chapter 19 [APP-056]. Whilst the LIR acknowledges an increase in dust emissions from construction traffic that could be generated, provided the proposed dust management plans as secured in the dDCO are implemented, no further mitigation/ improvement measures are suggested. A total of 22 interested parties (IP) raised the issue of air quality in their relevant representations (RR).

3.9.39. Following an update to the list of cumulative developments, which led to increased traffic numbers, a revised assessment for ES chapter 19 on air quality was submitted under [REP5-020]. The conclusion remains unchanged.

Operational and maintenance traffic emissions

3.9.40. Emissions generated during the operational and maintenance phases of the proposed development, were scoped out by the applicant in their ES chapter 19 [APP-056]. In the Examining Authority's (ExA) first written questions and requests for information (ExQ1) [PD-008], the ExA sought further justification for this.

3.9.41. The applicant's position on this is that, as the detailed modelling assessment of construction traffic undertaken demonstrates that traffic would not be significant, with operational traffic being considerably less than the construction phase, air quality impacts would remain insignificant [REP2-025, Q1.2.2].

3.9.42. At deadline (DL) 6, the applicant amended its Outline Operational Management plan (OOMP) [REP6-032] to confirm its panel replacement will be phased over a five-year period and not exceed 30% of the total number of panels in a single year,

within any one site area (North, Central, or South). This phased replacement of panels, during the maintenance period, would help ensure that traffic emissions due to maintenance needs would not significantly increase during the operational phase.

3.9.43. The ExA is satisfied that sufficient justification has been provided by the applicant, regarding the scoping out of traffic emissions during the operational phase of the proposed development.

Major hazard potential due to air pollution in the event of fire

3.9.44. Given the proximity of human populations to the proposed development, in ExQ1 [PD-008] the ExA asked the applicant to confirm the potential pollutants that could be released in the event of a fire at any part of the proposed development. In the response at DL2 [REP2-025], the applicant explained that the solar panels would not contain any liquids or hazardous substances and would contain a very low proportion of flammable material. The applicant further explained, that due to the material composition of the panels, a sustained fire that could spread is unlikely. Nevertheless, measures to manage associated risks and avoid or minimise potential effects on air quality, will be prepared prior to the start of construction, as part of the OOMP [APP-234] (secured through requirements in the dDCO).

3.9.45. The ExA accepts the applicant's view on the potential for a major fire at the proposed development to be considered low. To ensure the risk of fire remains low, the applicant will remove the main fuel source by managing the clearing of vegetation, including from hedge and scrub maintenance, as stated in the OOMP [APP-234] (secured through requirements in the dDCO).

CONCLUSIONS

3.9.46. At the close of the examination, the Oxfordshire Host Authorities (OHA) closing statements [REP7-191] and the Statements of Common Ground ([REP8-002] [REP8-005]) recorded no outstanding concerns or comments in regard to air quality.

3.9.47. Whilst the ExA acknowledges that there would be an increase in emissions from the proposed development at all stages of the project, mainly due to traffic emissions, we are satisfied that the applicant's control and management measures would be sufficient to mitigate any negative impacts to an acceptable level.

3.9.48. The ExA considers that the requirements of NPS EN-1, NPS EN-3 and the NPPF as set out above would be met, with no suggestion the proposed development would lead to a deterioration of air quality in existing AQMA's. Air quality effects are therefore neutral and do not weigh for or against the making of the order.

3.10. CLIMATE CHANGE

INTRODUCTION

3.10.1. This section considers the effects of the proposed development in relation to climate change effect. The resilience of the proposed development to potential extreme weather events due to climate change is also considered.

3.10.2. Issues raised on the benefits, or otherwise, of greenhouse gas (GHG) emissions are not considered in this section, as they have been included in chapter 3.2 of this report. This is also true for GHG emissions from a planning balance perspective.

POLICY BACKGROUND

3.10.3. The issue of climate change forms much of the basis for the policies contained in Overarching National Policy Statement for Energy 2024 (NPS EN-1) and the National Policy Statement for Renewable Energy Infrastructure 2024 (NPS EN-3). NPS EN-1 emphasises that large-scale infrastructure will be required to ensure that the UK can meet its decarbonisation targets (paragraph 2.1.6). These targets include a 2050 net zero greenhouse gas ('GHG') emissions target (paragraph 2.2.1) and a requirement for the UK to reduce GHG emissions by 78 per cent by 2035 compared to 1990 levels (paragraph 2.2.1).

3.10.4. NPS EN-1 requires that all proposals for energy infrastructure projects include a GHG assessment as part of their ES (paragraph 5.3.4). The GHG assessment should be used to drive down GHG emissions at every stage of the proposed development (paragraph 5.3.7). Steps taken to minimise and offset emissions should be set out in a GHG Reduction Strategy, secured under the DCO.

3.10.5. Paragraph 4.10.1 of NPS EN-1 states new energy infrastructure needs to be sufficiently resilient against the possible impacts of climate change, if it is to satisfy the UK energy needs as outlined in Part 3 of the NPS. Paragraph 4.10.2 of NPS EN-1 then emphasises how adaptation is necessary to deal with the potential impacts of changes that are already happening.

3.10.6. Paragraphs 4.10.8 to 4.10.11 of NPS EN-1 require the applicant to consider the direct and indirect impacts of climate change in the location, design, build, operation and decommissioning of new energy infrastructure. A wide range of climate change scenarios should be used when assessing the impacts on, and from, the proposed development. A high level of climate resilience should be built-in from the outset and adaption over the life of the scheme should be demonstrated. Paragraph 2.4.11 of NPS EN-3 advises that particular consideration should be given to the effects of flooding and higher temperatures.

3.10.7. The Secretary of State for Energy Security and Net Zero (SoS) should be satisfied that the applicants have taken into account the potential impacts of climate change using the latest UK Climate Projections and associated research and expert guidance (paragraph 4.10.13 of NPS EN-1).

3.10.8. The government's policy on energy and energy infrastructure development, including tackling emissions while continuing to ensure secure and reliable supply, is explained in part 2 of NPS EN-1. Paragraph 5.3.2, informs applicants that addressing greenhouse gas emissions is part of that policy, as is climate change adaptation mentioned above.

3.10.9. Paragraph 5.3.4 of 2024 NPS EN-1 states the applicant as part of its ES, is required to include a whole life GHG assessment showing construction, operational and decommissioning GHG impacts, including impacts from change of land use. As required under paragraph 5.3.7 of 2024 NPS EN-1, the applicant also needs to set out in a GHG Reduction Strategy, secured under the DCO, the steps taken to minimise and offset emissions.

3.10.10. The National Planning Policy Framework (NPPF) broadly echoes NPS EN-1 with regard to climate change resilience and the support for reducing carbon emissions.

3.10.11. Generally, the Local Impact Reports (LIR) submitted to the examination contain policy support for renewable energy and a presumption in favour of sustainable development. Some local authorities in addition to mentioning national policy statements, have referenced local policies on climate change which require:

- Mitigation and adaptation to climate change.
- Design measures to combat the effects of changing weather patterns.
- Supporting Oxfordshire in maintaining momentum to achieve net zero emissions by 2050.

THE APPLICATION

3.10.12. The applicant's assessment of climate change is contained within chapter 14 of the Environmental Statement (ES) [APP-051]. The supporting figures and appendices are listed in table A1 in appendix A of this report.

Baseline and Methodology

3.10.13. The study area was defined by the applicant as the boundary of the proposed development, however indirect emissions due to transportation and those embedded within materials were not confined to this boundary and were included within the applicant's assessment.

3.10.14. When determining the significance of effects, the applicant took into consideration all three phases of the proposed development (construction, operation and maintenance, and decommissioning), to calculate the full life cycle of GHG emissions. With emissions having a global effect on GHG atmospheric concentrations, rather than directly affecting any specific local receptor, impacts due to the proposed development, are expressed in CO_2- equivalents (tCO_2e).

3.10.15. The applicant has categorised the development site area to be agricultural land and, as such, considers the change in carbon storage value of the land use to be minimal.

3.10.16. The worst-case scenario was considered to be when the maximum amount of GHG emissions are likely to occur, this has also been referred to as the maximum design scenario. For each of the 3 phases of the proposed development, the maximum design scenario, as detailed in table 14.9 of ES chapter 14 [APP-051], consists of where the energy generated is at the maximum capacity for which consent is being sought, requiring the maximum number of PV modules plus associated equipment and building works.

3.10.17. The applicant has used the current average grid electricity carbon intensity (270 gCO_2e/kWh) as the baseline for the operational phase of the proposed development, when electricity generated by solar is being exported and emissions are being offset.

3.10.18. Knowing sulphur hexafluoride (SF_6) is a powerful greenhouse gas, it is the applicant's intention to avoid the use of SF_6 components in the proposed development, where possible. Manufacturers of equipment that do contain SF_6, are now able to offer sealed-for-life with extremely low leakage rate components. For this reason, the applicant has assumed that emissions of SF_6 from the project will be negligible and not material to the GHG assessment.

3.10.19. The following issues were scoped out of the assessment by the applicant:

- Climate risk in general, but also from increased ambient temperatures, extreme weather events and flood risk.

- Land use change impacting GHG emissions as a result of a change in use from the current agricultural use, as the land is deemed to have very low carbon storage value. Carbon sequestration where plants remove carbon dioxide from the atmosphere, has also been scoped out.

3.10.20. With the proposed development's operational emissions calculated as 0.82 gCO_2e/kWh, compared to the current grid average emissions of 270 gCO_2e/kWh, the magnitude of avoided emissions resulting from the operational stage are such that, the applicant has estimated a carbon payback from its 6th year of operation. This is despite the significant GHG emissions resulting from the construction stage.

3.10.21. The applicant considers the net emissions estimated at – 6,545,595 tonnes of CO_2 equivalent (tCO_2e) from the proposed development throughout its lifecycle, to represent a significant beneficial effect.

3.10.22. Flooding and flood risk is considered separately in this report.

ISSUES CONSIDERED DURING THE EXAMINATION

3.10.23. A total of 62 relevant representations (RR) raised climate change as being an issue (for example [RR-0424] [RR-0554]). The main issues on the topic of climate change resilience arising during the examination, largely encapsulated in the LIR [REP1-072] were:

- Concerns about the resilience of the project to extreme weather events and that the risks have not been adequately assessed, including a lack of a Climate Change Resilience Assessment to assess the potential of future climatic risks that could disrupt the solar farm.
- Major hazards such as fire, heatwaves and flooding.

Extreme weather events

3.10.24. The Planning Inspectorate's Scoping Opinion [APP-126] stated that, on the premise that the ES explained how and to what degree the design and technology accounted for climate change events, such matters could be scoped out.

3.10.25. The Oxfordshire Host Authorities (OHA) note that section 4.10 of the Overarching National Policy Statement for Energy 2024 (NPS EN-1) highlights the need for considering climate resilience across projects. However, table 14.6 of ES chapter 14 [APP-051] states "risks to the Project from climate change are scoped out of the assessment, as these are not considered likely to be significant during the Project's operating lifetime". Table 14.6 further states that "... extreme weather events are not considered to cause significant environmental effects on the Project ".

3.10.26. The OHA reported [REP1-072, paragraph 7.10.23] that the applicant had not given clear scientific justification for excluding climate risks from the assessment. Key hazards such as heatwaves, flooding, high wind, wildfires and storms had not been given any coverage, despite the threat of climate change being real and ever-increasing, particularly as the project would exist for 42 years. Interested parties (IPs) directly raised climate resilience as a concern noting, amongst other matters, that some solar farms had suffered damage during very recent storms and that this area of Oxfordshire had experienced tornados (for example [RR-0208] [RR-0482] [RR-0719] [REP4-054] [REP4-055] [REP4-056]).

3.10.27. The ExA notes that the requests from the Scoping Opinion, to justify scoping out these matters, had not been fulfilled and therefore raised concerns in issue-specific hearing 1 (ISH1) [EV5-009, minute 41:00 to 43:05] and commented that the Porth Wen Solar Farm in Anglesey, the Cirencester Hybrid Solar Farm and the Verwood Solar Farm in Dorset all suffered damage in recent storms. The ExA queried what made the proposed development different and any more robust compared to those examples.

3.10.28. The applicant [REP1-019] provided a document explaining the approach at the scoping stage that led to climate risks being excluded. Within that document, and within the applicant's responses to ISH1, the following is of note:

- In line with the 2020 Institute of Environmental Management and Assessment (IEMA) Climate Resilience and Adaptation guidance, the assessment of risk is based on professional judgment.
- The assessment also used probabilistic climate projections from the UKCP18 database.
- The consideration of likely significant effects took into account embedded mitigation measures. The proposed development would be built in compliance with EN 1991-1-4 (Eurocode 1, Part 1-4) of the English/British standard BS EN 1991-1-4:2005 + UK National Annex (NA to BS EN 1991-1-4:2005) taking into account country-specific wind zones, reference velocities, terrain categories, roughness lengths etc. for the United Kingdom.
- Panels and mounting systems would be designed in accordance with BS 62584-1 specification, which ensures a safe design for winds up to 90 mph.
- The design and module height of 2.2m at a low angle reduces the risk of panel damage due to extreme weather events.

3.10.29. In reflecting on other solar farms that had sustained damage during storms [EV5-009, minute 11:25 to 17:37], the applicant responded to confirm panels would be built to design standards that take into account likely maximum wind speeds and temperatures [REP1-019].

3.10.30. A revised ES chapter 14 was provided at deadline (DL) 3 [REP3-016], though this did not provide any further detail on climate resilience. The ExA pursued further justification for the scoping out of extreme weather events at second written questions [PD-012, Q2.4.3, Q2.4.7]. The applicant [REP4-037] referred back to the information provided at [REP1-019] and in addition to this stated that, given wind speeds during Storm Eunice registered gusts of 62mph in Oxfordshire, the risk of potential wind speeds in the local area to be in excess of 90 mph is considered to be low.

3.10.31. The ExA was not satisfied and requested more information in a Rule 17 letter [PD-017]. The applicant responded [REP6-052] with more robust detail and stated that an analysis of cases where structural damage occurred was undertaken to identify structural vulnerabilities and to incorporate targeted improvements into the design of its proposed development. Design improvements listed by the applicant are summarised below as being:

- The project is being designed with enhanced resilience measures (for example, lower structure height, cross bracing between posts, lower tilt angles, and high

wind monitoring) that reflect the latest industry standards and lessons learned from earlier sites, including Porth Wen Solar Farm, which experienced structural damage during severe wind events, as well as comparable sites in Germany that have faced similar storm-related issues.

- The design adopts the improved engineering practices now reflected in UK guidance. A key difference from the Porth Wen site is the overall structure height: the proposed installation has a maximum module height of 2.3m, compared to around 3m at Porth Wen.
- The mounting structures will use deep-driven or screw pile foundations verified through geotechnical testing, and additional metal cross bracing between posts to increase frame stiffness and resistance to movement under high winds. Module tilt angles between 12° and 18° are intentionally lower than those used in many UK solar farms, which typically exceed 25° (noting Porth Wen was 25°), further reducing wind loading on the panels.
- Recent updates such as IEC 62808 (2020, Wind Load Testing of Solar Mounting Systems) and MCS 012 Issue 3.0 (2021, UK Mounting Requirements) introduced stricter testing and anchoring criteria than those applied when earlier solar farms were constructed.
- Manufacturing standards for PV modules (IEC TS 63126:2020, IEC 62548 and IEC 61215-1:2021) require consideration for extensive weathering (such as from hailstorms) and extreme thermal fluctuations [REP5-005].

3.10.32. At DL6 the applicant updated its Outline Operational Management Plan (OOMP) [REP6-032] and Outline Code of Construction Practice (OCoCP) [REP6-028] to include measures which further strengthen the resilience of the proposal to extreme weather events. As part of this update, procedures for monitoring weather conditions, securing equipment ahead of severe storms, and carrying out inspections before restarting the site, have been added.

3.10.33. In the OHA's submissions at DL7 [REP7-190] [REP7-191], the OHA expressed concerns on the resilience of the development to the impacts of climate change, and the adequacy of the climate risk assessment. The OHA feel that the applicant's response does not sufficiently take into account any extreme value analysis and that the applicant used conservative extremes in climate change projections. The OHA acknowledges the applicant's late-stage clarification ([REP6-052] page 29) about the additional mitigations built into the design to address concerns about wind speeds.

3.10.34. The OHA also state they are pleased to see that learnings from other solar farm incidents highlighted during the examination process have been integrated into design of the development. However, the OHA still have some outstanding concerns about whether the standards quoted to which the proposed development will be built, are sufficient to deal with the reduction in efficiency as a result of extreme heat. The OHA also questioned how the applicant could address any issues that arose from extreme heat without amending the draft Development Consent Order (dDCO).

3.10.35. The OHA finally closed the issue of climate change resilience in [REP7-191] by saying that: *"The issue of Climate resilience is therefore unresolved".*

ExA Considerations

3.10.36. The applicant has placed reliance on industry-standards of engineering, design and construction, which have been modified following recent storm events. The ExA considers that this ensures a 'lessons learned' approach is adopted by the applicant going forward.

3.10.37. The ExA sympathises with IPs living locally and recognise that there would never be a scenario where risks could be fully predicted or mitigated, particularly with the unpredictability of future weather patterns. Nonetheless, adherence to the most up-to-date industry standards and practices is considered to mitigate the known risk as far as practicable. On this basis, the ExA is satisfied that the effects of extreme weather events would be suitably managed in the Outline Code of Construction Practice (OCoCP) and the Outline Operational Management Plan (OOMP), secured by R11 and R12 of the dDCO.

Major Hazards

3.10.38. IPs raised issues regarding electrical faults, high temperatures and storm damage giving rise to fires. In addition, given that the solar farm would sit in areas where drainage and surface water flooding was an existing concern, the possibility for flood and water ingress causing failure to the solar farm was raised (for example [RR-0135] [RR-0205] [RR-0979]).

3.10.39. In responding to RRs, the applicant comments that [REP1-020]:

- The internal access network has been designed to accommodate emergency vehicles, including fire engines and ambulances, with durable, all-weather tracks maintained across the site.
- The risk of fire from thermal effects is very low, as the PV modules are certified to international safety standards and designed for safe operation across varying conditions.
- Fire safety risks, including those from dry vegetation, are mitigated through setbacks from homes, clearance buffers from vegetation, and use of industry-standard infrastructure meeting all safety regulations.
- With regard to the issue of heat island effects and microclimates, the scientific literature on this issue is sparse and the available evidence indicates that any effect is likely to be relatively small and geographically limited.

3.10.40. Following further representations regarding major hazards and risks, the applicant's position on these matters is set out as follows [REP4-037]:

- Electrical faults leading to fires: Electrical faults leading to fires are mitigated by installing high-voltage cables underground to minimize the risk of ignition, ensuring safe and secure operation. In addition, substations are equipped with CCTV for fire identification, and preventive fire protection measures and regular safety checks are carried out to enhance safety.
- Component overheating: Component overheating in substations is monitored using infrared thermography and temperature sensors for early detection of hotspots, partial discharge monitoring to identify insulation faults, gas-in-oil analysis for thermal issues in oil transformers, and internal systems for real-time data integration and alerts. Artificial Intelligence based analysis helps detect abnormal temperature trends early.

- Flood and water ingress causing failure: Sensitive cable routing (e.g., HDD under rivers), creation of flood alleviation pond north of Cassington as a resilience measure, providing betterment.

3.10.41. The LIR [REP1-072] had raised the issue of extreme heat and the impact this could have on the proposed development. In response [REP2-026], the applicant reaffirmed its stance that the risk was scoped out for assessment. The applicant further explained the reasoning for this as relevant manufacturing standards for PV modules (IEC TS 63126:2020, IEC 62548 and IEC 61215- 1:2021) require PV modules to be functional over a wide range of temperatures, humidity and UV radiation.

3.10.42. In table 3 of [REP1-019], the applicant submits evidence that the development would be in accordance with IEC TS 63126:2020PV, which requires panels to be designed to operate within a temperature range less than or equal to 80°C. The table also refers to standard safety measures the proposed development will include such as monitoring and cooling plant where required to prevent overheating.

3.10.43. The OHA concluded that climate resilience is an unresolved issue at the close of the examination, as the applicant has not clarified whether the industry-standards of construction are sufficient to deal with extreme heat [REP7-191]. The applicant had also not referred to Oxfordshire's Climate Vulnerability Assessment and Extreme Value Analysis.

ExA Considerations

3.10.44. The OHA concerns on extreme heat and panel efficiency are valid. However, the applicant agreed to install systems that would continually monitor performance as well committed to adopting the most up-to-date engineering standards. This leads the ExA to consider the risk of efficiency reduction as a result of extreme heat to be acceptable. Had the applicant completed a climate change resilience assessment, this would have alleviated some of the concerns raised in the examination much earlier. However, the ExA considers such an assessment would be of limited benefit now.

3.10.45. The ExA is satisfied that sufficient consideration has been given to operational risks and conflicts in the application documents. The applicant has explained the position clearly and the ExA considers the reliance upon the most up-to-date industry practices and engineering design represents a robust solution to managing the risks effectively. There is nothing to suggest that higher standards than those used by the applicant are available, and no IP has offered substantive evidence to suggest that, if the proposed development was designed to those standards, it would suffer the damage incurred by the other solar farms cited.

CONCLUSIONS

3.10.46. With respect to climate change resilience only (as impacts on climate change due to GHG emissions have been included in chapter 3.2), the applicant has provided satisfactory evidence in response to the questions asked by the close of the examination. Although it does not contain a climate change risk assessment as requested by the OHA, we consider there is sufficient information to enable climate resilience to be properly examined. Reasonable measures to reduce climate impacts at each stage of the proposed development have been provided and the mitigation relevant to this topic is secured in R11 and R12 of the dDCO.

3.10.47. As such, we find that the proposal would comply with the climate change requirements of NPS EN-1, NPS EN-3, NPS EN-5 and the NPPF as well as relevant development plan policies. The ExA concludes that climate change resilience measures have been embedded within the proposed design and along with the outline OMP (secured through requirements in the dDCO), would deem the proposed development as being resilient against climate change. For this reason, the ExA attributes neutral weight in the planning balance to climate change resilience matters.

3.11. NOISE AND VIBRATION

INTRODUCTION

3.11.1. This section considers the effects of the proposed development in relation to noise and vibration on human receptors. Noise and vibration effects on ecology and biodiversity are considered separately in section 3.6 of this report.

POLICY BACKGROUND

3.11.2. The Overarching National Policy Statement for Energy 2024 (NPS EN-1) paragraph 5.12.1 recognises that excessive noise can have an impact on the quality of human life and health. The environment can also be impacted, as can the enjoyment of areas of value such as quiet places and areas with high landscape quality.

3.11.3. Paragraph 5.12.2 outlines that the government's policy on noise is set out in the 'Noise Policy Statement for England' (NPSE), which promotes good health and good quality of life through effective noise management.

3.11.4. NPS EN-1 paragraphs 5.12.6 to 5.12.12 set out how applicants should assess noise impacts within a noise assessment. Paragraph 5.12.6 requires applicants to describe the noise generating aspects of the development, identify the nearest noise sensitive receptors, establish the characteristics of the ambient environment and then predict how the noise environment would change as a result of the proposed development. Operational noise, with respect to human receptors, should be assessed using the principles of the relevant British Standards.

3.11.5. Paragraphs 5.12.13 to 5.12.16 set out possible mitigation measures that the SoS may require in order to control operational and construction noise. Specifically, paragraph 5.12.13 suggests that engineering and layout options would be the principal forms of mitigation, with the use of insulation and/ or noise-limiting conditions to control the spread and experience of noise.

3.11.6. NPS EN-1 paragraph 4.12.1 outlines that issues relating to discharges or emissions from a proposed project, which include noise and vibration may be subject to separate regulation under the pollution control framework or other consenting and licensing regimes. Paragraph 4.12.10 states that the SoS should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes, will be properly applied and enforced by the relevant regulator. It also states that the SoS should act to complement but not seek to duplicate these regimes.

3.11.7. NPS EN-1 paragraph 5.12.17 states the SoS should not grant development consent unless they are satisfied that the proposals will avoid significant adverse impacts on health and quality of life from noise, as well as mitigate and minimise other adverse impacts on health and quality of life from noise.

3.11.8. The National Policy Statement for Renewable Energy infrastructure 2024 (NPS EN-3) paragraph 2.5.2 states that proposals for renewable energy infrastructure should demonstrate good design to mitigate impacts such as noise. NPS EN-3 paragraph 2.10.162 states that the SoS is unlikely to give any more than limited weight to traffic and transport noise and vibration impacts from the operational phase of a project.

3.11.9. NPS EN-5 for electricity networks infrastructure (NPS EN-5) paragraph 2.9.37 outlines that audible noise effects can also arise from substation equipment such as transformers, quadrature boosters and mechanically switched capacitors. Paragraph 2.9.38 states that transformers at substations a low frequency hum. Whether the noise can be heard outside a substation depends on a number of factors, including transformer type and the level of noise attenuation present.

3.11.10. Paragraph 2.11.7 of NPS EN-5 advises that for decision making there is a need to ensure that the relevant noise assessment methodologies have been used by applicants and that appropriate mitigation options have been considered and adopted. Where applicants can demonstrate that appropriate mitigation measures would be in place, the residual noise impacts are unlikely to be significant.

3.11.11. The National Planning Policy Framework (NPPF), National Planning Policy Guidance (PPG) and the Noise Policy Statement for England (NPSE) all provide further policy and guidance on noise in planning. This includes appropriate assessment methodologies and the need to meet relevant British Standards.

3.11.12. Generally, the Local Impact Reports (LIR) submitted to the examination contain policy support for renewable energy and a presumption in favour of sustainable development. Some local authorities, in addition to mentioning national policy statements, have referenced local policies on noise and vibration which:

- Seek to ensure that proposals will not result in significant adverse impacts on amenity.
- Seek mitigation for noise sensitive development.
- Support development proposals that would enhance the recreational use of Farmoor reservoir and its surroundings.

THE APPLICATION

3.11.13. The applicant's assessment of noise and vibration impacts is contained within chapter 13 of the Environmental Statement (ES) [APP-050]. It is accompanied by technical appendices comprising a baseline sound survey [APP-211], construction phase assessment [APP-212] and an operational phase assessment [APP-213]. The supporting figures and appendices are listed in table A1 in appendix A of this report.

Baseline and methodology

3.11.14. Baseline sound surveys were undertaken by the applicant at locations deemed to be suitably representative of the nearest noise receptors to the project site. Those locations and the background noise levels recorded are set out in table 13.21 [APP-050]. Representative ambient sound levels were derived in accordance with the guidance presented in British Standard 4142:2014+A1:2019. Key residential receptors were taken forward for further assessment, listed in table 13.22 [APP-050].

3.11.15. To determine the scope of the assessment, the applicant considered the potential impacts at each phase of the proposed development:

- Construction - noise and vibration effects due to all construction activities along the cable corridor (including cable route options), solar photovoltaic (PV) array areas and substations.
- Operation - noise effects due to associated plant and equipment.
- Decommissioning - noise and vibration effects due to all decommissioning for solar PV array areas.

3.11.16. By focussing on receptors where potential noise and vibration impacts are most likely to occur, the study area was defined by the applicant as:

- Noise sensitive receptors located within 300 m of the export cable corridor (including cable route options), solar PV array areas and substations.
- Vibration sensitive receptors located within 100 m of construction activities.
- Noise sensitive receptors located within 1 km of any operational noise sources.
- The specific locations of the noise sensitive receptors.

3.11.17. A total of 50 noise sensitive receptors, spread across all three development areas of the project, were identified and taken forward into the assessment. These addresses are listed in table 13.22 of ES chapter 13 [APP-050], along with the sensitivity of the receptor. The baseline sound survey results are shown for the representative noise monitoring stations in table 13.21 [APP-050]. Construction and decommissioning were considered together as it was assumed that noise and vibration sources associated with decommissioning would be equivalent to those assessed for the construction phase.

3.11.18. Construction and decommissioning noise effects were assessed in terms of Lowest Observed Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL), as defined in the Noise Policy Statement for England (NPSE). The threshold levels which quantify the LOAEL and SOAEL were derived from Example Method 2 in annex E 3.3 of British Standard 5228- 1:2009+A1:2014.

3.11.19. The applicant derived impact criteria for vibration based on guidance provided in British Standard 5228-2:2009+A1:2014.

Construction Phase Effects

3.11.20. The worst-case construction period used for the ES was 24 months. Three construction compounds, each serving one part of the overall project area, would be established. Approximately 22km of cables would be laid, along which there would 10 locations where horizontal directional drilling (HDD) would occur. ES chapter 13 [APP-050] assumed between 780,000 and 1,600,000 piles would be used at a depth of between 1-3m to hold solar panels in place.

3.11.21. The applicant reports moderate adverse impacts during construction and, for HDD operations, a potential major adverse noise and vibration impact [APP-050, table 13.32]. However, such effects would be temporary and time-limited in any one area

at any one time, with pile-driving for solar arrays being intermittent and highly mobile in nature. The Outline Code of Construction Practice (OCoCP) [APP-232] [APP-233] contains suitable industry-standard mitigation measures to control and limit the noise of construction activities.

3.11.22. The applicant predicts a negligible adverse effect arising from vibration impacts.

Operational Phase Effects

3.11.23. For operational noise the difference between the sound level at nearby receptors due to the operation of the proposed development and the representative background sound level was used to determine the impacts, which were then assessed in accordance with Section 11 of British Standard 4142:2014+A1:2019.

3.11.24. The worst-case scenario assumed one National Grid (NGET) substation, one project main substation, 6 secondary substations and 156 power converter stations (PCS) within the Order limits. These would, respectively, generate noise levels of 95 decibels (dB), 93dB, 73-86dB and 92dB [APP-043, Table 6.3].

3.11.25. The Outline Operational Management Plan (OOMP) [APP-234] sets out that Best Practicable Means (BPM) will be implemented during the design, construction, operation, and maintenance of all aspects of the project. This is to ensure that noise levels in all reasonably foreseeable circumstances that result in adverse and significant adverse effects would be minimised.

3.11.26. Following the application of these best practice measures as embedded mitigation, the applicant concludes that the magnitude of the operational noise impacts is deemed to be low, including for those properties in the southern development area of the project closest to the main substation compound. The ES concluded that there would not be any greater than minor adverse effects on the nearest noise receptors arising during the operation phase, and no effect arising from vibration impacts. Table 13.32 [APP-050] summarises the applicant's position and reports that monitoring during the operational phase would not be applicable or required.

Mitigation measures

3.11.27. The applicant intends to reduce impacts through adopting a number of mitigation measures which include:

- Designing the layout of substations to minimise noise at nearby receptors.
- Selecting where possible quieter equipment and using acoustic barriers and enclosures.
- Working to core hours during the construction phase (the question of appropriate core hours is considered below).
- Use of a Construction Traffic Management Plan (CTMP) for controlling numbers and the routing of HGV and employment staff traffic.
- Preparation of a method statement for HDD, including vibration monitoring for HDD works close to flood defences.
- Preparation of a Construction Noise and Vibration Management Plan as part of the OCoCP.

- Preparation of an Operational Noise Management Plan.

Residual Effects

3.11.28. The applicant concluded that overall, there will be no significant effects arising from the proposed development during the construction, operation and maintenance or decommissioning phases.

ISSUES CONSIDERED DURING THE EXAMINATION

3.11.29. Over 100 relevant representations (RR) raised noise as being an issue, both during construction and operation (for example [RR-0025] [RR-0158] [RR-0231]).

3.11.30. The LIR submitted by the Oxfordshire Host Authorities (OHA) largely considered that ES chapter 13 had been dutifully prepared and contained sufficient information for an assessment to be made [REP1-072, paragraph 7.9.13]. The OHA also consider that many noise and vibration effects could be mitigated through various embedded mitigation measures as proposed in the OCoCP and the OOMP. In response to ExQ1.15.1 [REP2-050] the respective local authorities largely reported acceptance of the applicant's noise assessment and methodology. However, there were a few specific concerns, which are explored below.

Construction hours

3.11.31. The following represents the positions of the applicant and the OHA at the start of the examination:

Table 5: Construction Hours Differential

	Applicant (based on the OCoCP [APP-232])	OHA (based on the LIR [REP1-072])
Monday to Friday	07:00 to 19:00	07:30 to 18:00
Saturday	07:00am to 19:00	07:30am to 12.30
Sundays and Bank Holidays	No working	No working

3.11.32. Following ExA questioning [PD-012, Q2.1.10], the applicant agreed to a separate subset of hours within which the noisiest activities would take place (07:30 to 18:00), but other non-intrusive works such as start-up, shut down, deliveries and similar would take place within the 07.00 to 19:00 period [REP4-037]. The OCoCP was amended accordingly [REP7-023].

3.11.33. The ExA asked about the impacts of curtailing activities on Saturdays to 12:30 as proposed by the OHA [EV7-010, minute 01:20:31 to 01:24:41]. The applicant responded that if the working hours were to change from 07:00-19:00 to 07:00-13:00 on Saturdays, then this reduction would result in 6 hours of work lost each Saturday. Over a two-year period (104 weeks), this would add 9.45 weeks to the construction programme [REP6-047].

3.11.34. The OHA requested construction hours be limited even further to between 07:30 to 18:00pm Monday to Friday, and between 07:30am to 12:30pm on Saturdays [REP1-072] [REP6-117]. The OHA suggested that most residents will be at leisure at weekends and are more likely to benefit from a peaceful environment and an extended quiet period through Saturday afternoon to Monday morning than the rest of the week [REP4-074, Q2.1.12]. Based upon the applicant's estimated construction period of 2 years, the loss of hours on a Saturday afternoon would only lengthen the construction period by circa 52 days and it is not considered that this overall reduction would outweigh the greater benefit of longer periods of peace at weekends [REP6-117]. The OHA also stated that these recommended hours of construction would be in line with other developments and therefore ensure consistency for monitoring and enforcement purposes.

3.11.35. The applicant rebutted this by saying that shortening the construction working hours any further than that encapsulated in the OCoCP would add 27 weeks to the construction programme, potentially causing effects beyond those assessed in the ES [REP7-046].

3.11.36. For both OCC and Cherwell District Council, in their respective signed statements of common ground with the applicant [REP8-002] and [REP8-003], the matter of operating hours during construction remains as not agreed. Other than the OHA, no other interested parties including local residents raised the issue of construction hours.

ExA considerations

3.11.37. The ExA recognises the importance of delivering infrastructure swiftly in order to tackle climate change. Similarly, the ExA appreciates the importance for local residents of having some reprieve from noise, vibration and disturbance for the sake of their mental and physical wellbeing, particularly at weekends.

3.11.38. The ExA considers that the OCoCP achieves and secures reasonable working hours for the project. Extending the construction programme significantly would have different environmental effects that have not been assessed and could prolong the harm from construction activity. On this basis the OCoCP, secured under R11 of the dDCO, is considered appropriate as drafted.

Noise sources and monitoring

3.11.39. Concerns about elevated noise levels during the construction period of the proposed development were raised in a number of relevant representations, particularly in relation to heavy goods vehicle (HGV) movements on quiet country roads (for example [RR-0466] and [RR-0814]).

3.11.40. The ExA queried the applicant [PD-008, Q1.15.9], since table 12.21 of ES chapter 12 [APP-050] assessed that, for some road links, the number of HGV movements would increase by over 100%. In its response [REP2-025], the applicant acknowledged that whilst for some links the number of vehicular movements would significantly increase in comparison to the existing base traffic flows, in reality it would only be a small increase in vehicle movements and thus only a small increase in noise.

3.11.41. The OHA did not raise any concerns about the level of noise from HGV movements on the highway network [REP3-072] [REP7-191].

3.11.42. Piling was raised as a concern by the ExA in its Rule 6 letter [PD-006]. This was because the worst-case scenario underpinning a number of chapters of the ES reported different quantities of piles for different topics. The applicant responded with a suite of revised ES chapters and a clarification note ([PDB-001] to [PDB-015]) explaining that the correct number of piles to be used for assessment purposes is set out in table 6.3 of chapter 6, [APP-043] which states that the 'Indicative total number of piles' is between 780,000 and 1,600,000.

3.11.43. Having ascertained that was the case, the ExA noted that ES chapter 13 [APP-050, paragraph 13.9.11] stated piling noise would not cause a harmful effect because it would only be near a receptor for a short time only. In response to ExQ1 [PD-008, Q1.15.8] the applicant stated [REP2-025]:

> *"the solar pile driving machine is likely to be able to install a large number of stanchions per day. As a result, it is likely that residents would only experience a slightly elevated sound level for no more than a day or so".*

3.11.44. The OHA did not report any particular concerns about the pile-driving assessments in relation to noise [REP3-072] [REP7-191].

3.11.45. At ISH1 [EV5-008], the applicant was asked what noise and vibration monitoring methods would be in place during the construction phase of the proposed development. The applicant explained, with the exception of vibration monitoring undertaken while horizontal directional drilling (HDD) works are carried out, no other real time monitoring is intended to be carried out [REP1-019]. The applicant went further and set out that, for the operational phase of the project, regular noise monitoring could become costly and onerous and that it would not be appropriate or proportionate to undertake it [REP1-019, Action Point 27].

3.11.46. The applicant then referred to a construction noise and vibration management plan (CNMP), which would form part of the final CoCP [APP-232], that requires approval of noise and vibration mitigation and monitoring measures by the relevant planning authority prior to the start of construction. The applicant reiterated the position established in the ES [APP-050] that the project would be subject to the regulatory pollution control regimes set out in the Control of Pollution Act 1974 and the Environmental Protection Act 1990.

3.11.47. However, the applicant did state that it would be willing to undertake noise measurements from a sample of PCS units and other electrical infrastructure during the commissioning stage [REP1-019]. The monitoring conducted would be recorded and reported in a technical note, which would made available to the OHA. This commitment to conduct noise monitoring during the commissioning stage, is confirmed in the outline CoCP [REP7-023] and thereby secured through Requirement 11 of the dDCO. Although there is no explicit commitment in the OCoCP to act or seek remedial measures if noise levels are found to be unacceptable, the applicant states that control measures for managing construction noise and vibration associated with the project will be implemented in accordance with the CNMP.

3.11.48. The OHA reported at the end of the examination that the amendments to the OCoCP were welcomed, though expressed some regret that noise monitoring would only be during the commissioning stage [REP7-191, paragraph 2.8.5].

ExA considerations

3.11.49. A number of potential noise sources and activities exist for both the construction and operational phases of the proposed development.

3.11.50. For the construction phase, the ExA is satisfied that potential sources of noise and vibration would be managed through the applicant's CNMP, secured as part of the OCoCP in R11 of the dDCO [REP7-006].

3.11.51. During the operational phase, the ExA is concerned that noise monitoring would only be done during the commissioning stage due to perceived financial concerns. After commissioning the community liaison group established under Requirement (R) 4 of the dDCO would also terminate, thus giving no direct means to report or complain if noise levels are higher than anticipated. If experiencing operational noise in exceedance of what the ES expects or predicts, persons affected would have to bring a statutory nuisance claim against the applicant and demonstrate that, with reference to Article 7(1)(c) of the dDCO, such noise could be reasonably avoided.

3.11.52. Whilst this does represent a method for noise complaints to be heard, a reactive approach to ensuring compliance with predicted noise limits would be disadvantageous to IPs, compared to pro-active approaches such as the use of continuous real time monitors, albeit that they would be costly according to the applicant. Periodic monitoring of noise sources, whilst not continuous and therefore not as effective in detecting noise limit breaches, would offer a potential compromise to real time monitoring, however this option was not explored during the examination.

Impact on receptors

3.11.53. The applicant's noise and vibration assessment found the impact for all residential receptors to be not significant during all phases of the proposed development [APP-050].

3.11.54. Concerns were raised by IPs (for example, [REP2-081 paragraph 4.7.6]), that the project lacked a comprehensive construction noise impact assessment for residential receptors. In its response [REP3-064], the applicant explained that the worst affected receptors were considered as part of the impact assessment conducted and were representative of those in the surrounding vicinity. The construction noise impact at other receptors would therefore be equal to, or less than, the impact at the receptors which have been specifically assessed.

3.11.55. The ExA queried how the applicant determined whether or not residential receptors would experience noise nuisance [PD-008, Q1.15.3]. In its response [REP2-025], the applicant referred to BS4142, a standard used for assessing and rating industrial and commercial sound, focusing on its impact on nearby noise-sensitive receptors. Taking noise emission levels for each item of plant, noise modelling software was used to predict the sound level at each receptor. The applicant quoted a limit of 5db above background noise as the level below which noise impacts are avoided.

3.11.56. The limit of 5db above background noise, was also referred to by the applicant when queried about how the magnitude of impact calculated at Jumpers Farm was considered to be low [REP2-025, Q1.15.3].

3.11.57. In table 13.1 of ES chapter 13, the applicant states “Operational noise will be limited to a rating level which is up to 4dB greater than the background sound level at the nearest receptor”.

3.11.58. At the close of the examination, the OHA state the proposed development should be designed to achieve a level of 5dB (LAeq) below the typical background (LA90) level at the nearest noise sensitive location [REP7-191]. Where this cannot be achieved, the OHA suggest various noise control measures considered as part of the assessment should then be fully explained and the achievable noise level should be identified.

3.11.59. This difference of opinion regarding what noise levels the proposed development should be designed to achieve, remained as a matter not agreed between the applicant and the Councils [REP8-003] [REP8-004]. Nonetheless, the OHA’s final position [REP7-191, paragraphs 2.8.7] states that the overall impact of noise would be neutral.

ExA considerations

3.11.60. The OHA suggested that the maximum noise levels from the proposed development should be lower than what the applicant is proposing. However, the applicant has demonstrated the methodology underpinning the noise levels accords with that of British Standard of BS4142 for noise levels, and the ExA has not been presented with any other standard by which to assess or conclude that the noise levels proposed by the applicant would be unreasonable. The proposed development therefore meets the requirements of paragraph 5.12.9 of NPS EN-1, in which case more stringent noise limits do not need to be imposed.

3.11.61. Although the OHA’s noise design criteria for the proposed development would be likely to reduce the operational noise generated from potential sources, no evidence has been provided on how much of a difference this would make to receptors in terms of impact. With the applicant confirming compliance with relevant standards and therefore meeting the requirements of NPS-EN1, the ExA accepts the applicant’s design approach on this issue.

3.11.62. The ExA notes that construction noise impacts on residential properties are not predicted to be significantly adverse following the implementation of industry-standard guidance, with the exception of HDD activities. The ExA has no reason to disagree with this conclusion.

Noise Effects on Public Rights of Way

3.11.63. The joint LIR notes that the noise assessment was focused on primarily residential receptors, overlooking the users of the public rights of way (PRoW) network and the associated tranquillity of the countryside [REP1-072, paragraph 7.9.9]. This was considered particularly relevant for the operational phase where 156 PCS units are proposed, each with a rating of 92dB. The OHA noted that background noise levels are reported as being well below this even where traffic was prevalent [REP1-072, paragraph 7.9.10].

3.11.64. The applicant in its oral hearing summary [REP1-019] stated the following:

- PCS units would be positioned to avoid PRoWs and reduce noise near sensitive receptors, though the primary driver for their locations was an engineering consideration to minimise energy losses.

- Users of the PRoW network would be transient receptors only remaining in one place for a short period of time.
- It is possible that noise from the PCS units will be slightly audible along some lengths of some PRoW which cross the site, although it is not uncommon for industrial sound to be audible on PRoWs.
- The noise impact upon PRoWs has not been assessed for the reasons above.

3.11.65. The ExA queried what was meant by 'slightly audible' and noted that users of the PRoW network could be subject to multiple effects on a cumulative basis whilst walking through the countryside [PD-012, Q2.14.1]. The applicant stated the sound pressure level falls to 47dB(A) at between 75m and 100m from the PCS unit and would, at that point, be considered as slightly audible. However, there were at least 29 PCS units closer than 100m to the PRoW but, given the linear nature of PRoWs and their transient use, significant adverse noise effects on the users of the PRoW would be unlikely [REP4-037]. The applicant also confirmed a walker along a path could experience noise from one or more PCS units, however the number of locations where this could occur is limited to one for both the northern and southern areas, and 3 for the central area.

3.11.66. The applicant concludes by stating that there would not be any significant residual effects, cumulative or otherwise, on PRoW users [REP8-001, paragraph 3.9.8]. The OHA [REP7-191] have not objected on this issue at the end of the examination and the SoCG records no issue regarding this matter [REP8-002].

ExA considerations

3.11.67. Tranquillity plays a huge part in making the use of a PRoW an enjoyable experience. Page 7 of the applicant's responses to DL1 submissions [REP2-028] states that it is not uncommon for construction or industrial noise to be audible on PRoWs, with the applicant referring to the PRoW alongside the Siemens factory in Whitney, as an example.

3.11.68. The ExA considers the disruption to tranquillity along a PRoW, should be an exception and not something which should be generally accepted. However, with the applicant's findings on the possibility of experiencing noise from one or more PCS units being limited to 5 locations across the whole of the proposed development, the ExA considers this potential disruption to tranquillity for PRoW users in or near the proposed development, to be such an exception. This leads the ExA to accept the applicant's conclusion that significant adverse noise effects on the users of the PRoW network would be unlikely.

3.11.69. Nonetheless noise-generating infrastructure on the proposed development, such as substations and PCS units, being in close proximity to PRoW, would be deleterious to the enjoyment of the countryside. The ExA therefore considers the noise impacts of the proposed development during the operational phase to have a negative impact of some degree on the environmental quality and amenity of the countryside, particularly in proximity to PRoWs.

CONCLUSIONS

3.11.70. The ExA is satisfied that the applicant has adequately assessed the noise and vibration effects at all stages of the proposed development and has provided sufficient evidence to support the conclusions on those effects.

3.11.71. The ExA concludes that noise avoidance and reduction measures have been embedded within the proposed design, and we are satisfied that statutory regimes and pollution control regulations would work to control the proposed development. A number of management plans (OCoCP, OOMP) would be secured through requirements in the dDCO ensuring best practicable means of reducing noise.

3.11.72. The proposed development would comply with NPS EN-1, NPS EN-3 and NPS EN-5 as well as the NPPF and relevant development plan policies insofar as they relate to noise and vibration effects.

3.11.73. Whilst the ExA acknowledges that there would be an increase in noise from the proposed development at all stages, we are satisfied that the applicant's control and management measures would mitigate any negative impacts to an acceptable level. As such, the proposal would comply with paragraphs 5.12.13 and 5.12.14 of NPS EN-1.

3.11.74. However, there would be residual effects on parts of the PRoW network, which the ExA considers to be slightly adverse and would detract from a user's experience of the countryside, particularly on a cumulative basis to the extent that the proposal would not meet the aims of paragraph 5.12.17 of NPS EN-1. For this reason, the ExA attributes a little negative weight against the order arising from noise and vibration matters.

3.12. HYDROLOGY AND FLOOD RISK

INTRODUCTION

3.12.1. This section of the report addresses the hydrological and flood risk effects of the proposed development, including water quality and drainage.

POLICY BACKGROUND

3.12.2. The Overarching National Policy Statement for Energy 2024 (NPS EN-1) section 5.8 sets out the approach to considering flood risk and the steps required to assess the risk at the site of the proposed development, with paragraph 5.8.36 to 5.8.42 setting out the checks and tests to be met for the Secretary of State (SoS) to be satisfied. This includes the need to undertake both a sequential test and, if development cannot be undertaken outside of a flood risk zones 2 or 3, an exception test.

3.12.3. Paragraph 5.8.12 advises that proposed development should be designed to ensure there is no increase in flood risk elsewhere, accounting for the predicted impacts of climate change throughout the lifetime of the development.

3.12.4. In addition, paragraph 5.11.16 states that the proposed development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.

3.12.5. Paragraph 5.8.13 confirms that a site-specific flood risk assessment (FRA) should be provided for sites on more than 1 hectare (ha). Paragraphs 5.8.15 to 5.8.20 further set out the requirements for FRAs. Mitigation should manage surface water and the impact of the natural water cycle on people and property, including the use of sustainable urban drainage systems (SUDS). The DCO will need to make provision for the appropriate operation and maintenance of any SUDS throughout the project's lifetime (paragraphs 5.8.24 to 5.8.26 and 5.8.38).

3.12.6. NPS EN-1 also recognises that infrastructure development can have adverse effects on the water environment and could lead to adverse impacts on health or on protected species and habitats or result in failure to meet environmental objectives under the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (WFD) (paragraphs 5.16.1 and 5.16.2).

3.12.7. Applicants should undertake an assessment of the existing status of, and impacts of the proposed project on, water quality, water resources and the physical characteristics of the water environment. The impact of climate change and cumulative effects should be considered.

3.12.8. Surface water should be managed and the risk of pollution to groundwater controlled, during construction, taking account of measures and objectives in River Basin Management Plans and Groundwater Protection Zones (paragraphs 5.16.3 to 5.16,7). Consideration should be given to whether any mitigation measures beyond those forming part of the application are needed in order to minimise impact on the water environment (paragraphs 5.16.8 to 5.16.10).

3.12.9. More weight must be given to impacts where a project would have an adverse effect on the achievement of WFD environmental objectives. Duties under other legislation, including the Environment Act 2021, in relation to environmental targets must be considered, and regard had to the policies in the Government's Environmental Improvement Plan 2023 (paragraphs 5.16.12 and 5.16.13).

3.12.10. The NPS for renewable energy (NPS EN-3) advises on the need for a FRA, but that as solar PV panels drain to the existing ground, the impact will generally not be significant (paragraph 2.10.84). Where the site is currently subject to intensive agricultural practice, solar sites can deliver significant ecosystem services value in the form of drainage, flood attenuation, natural wetland habitat, and water quality management (paragraph 2.10.154).

3.12.11. SUDS should be used to control run-off. Given the temporary nature of solar PV farms, sites should be configured to avoid impacts on existing drainage systems and watercourses. Culverting existing watercourses and drainage ditches should also be avoided. Where culverting for access is unavoidable, applicants should demonstrate that no reasonable alternatives exist and, where necessary, will only be in place for the construction period (paragraphs 2.10.85 to 2.10.88)

3.12.12. Paragraph 170 advises that development should be directed away from areas at highest flood risk, whether existing or future. Paragraphs 174 and 175 state that where development is necessary in such areas, it should be made safe for its lifetime without increasing risk elsewhere using the Sequential Test in areas known to be at risk now or in the future. It is further confirmed at paragraph 177 that having applied the Sequential Test, if it is not possible for development to be located in areas with a lower risk of flooding, then the Exception Test may have to be applied.

3.12.13. To pass the Exception Test, paragraph 178 confirms that the proposed development would need to provide wider sustainability benefits to the community that outweigh the flood risk and that the development would be safe for its lifetime, without increasing flood risk elsewhere, and, where possible, would reduce flood risk overall.

3.12.14. Paragraph 181 sets out the requirements for development in areas at risk of flooding. These include ensuring that the most vulnerable development is located in areas of lowest flood risk, and the use of flood resistance and resilience measures

and safe access routes. Applications which could affect drainage on or around the site should incorporate SUDS proportionate to the nature and scale of the proposal to control flow rates and reduce volumes of run-off (paragraph 182).

3.12.15. The Local Impact Reports (LIR) submitted by Cherwell District Council (CDC) [REP1-052], Oxfordshire County Council [REP1-070] and the Joint LIR submitted by CDC, Vale of White Horse District Council (VWHDC), West Oxfordshire District Council (WODC) and Oxfordshire County Council (OCC) (together referred to as the Oxfordshire Host Authorities (OHA) [REP1-072], refer to various development plan policies. Local development plan policies relevant to the proposed development in respect of hydrology and flood risk considerations are also set out at appendix A of this report.

THE APPLICATION

3.12.16. The applicant's assessment of hydrology and flood risk is contained within chapter 10 of the ES Hydrology and Flood Risk [APP-047], and the assessment of cumulative and inter-relationship hydrology and flood risk effects is in ES chapter 20 [APP-057].

3.12.17. ES chapter 10 [APP-047] is accompanied by a number of appendices. These are listed in appendix A to this report. However, the key documents included:

- WFD Catchments (surface water) [APP-091]
- EA Flood Map for Planning [APP-098]
- Flood Risk Assessment [APP-166]
- Conceptual Drainage Strategy [APP-167]
- Surface Water Modelling Report [APP-172]
- Water Framework Directive Assessment [APP-174]

Baseline and methodology

3.12.18. The hydrology and flood risk methodology is detailed in section 10.4 of [APP-047], with the full Environmental Impact Assessment (EIA) methodology being contained in ES chapter 4 [APP-041].

3.12.19. [APP-047] assessed the effects of construction, operation and decommissioning in respect of hydrology and flood risk. The key mitigation and enhancement measures are detailed in section 10.8 of [APP-047] and are also contained within ES appendix 6.1 Project Mitigation Measures and Commitments Schedule [APP-129].

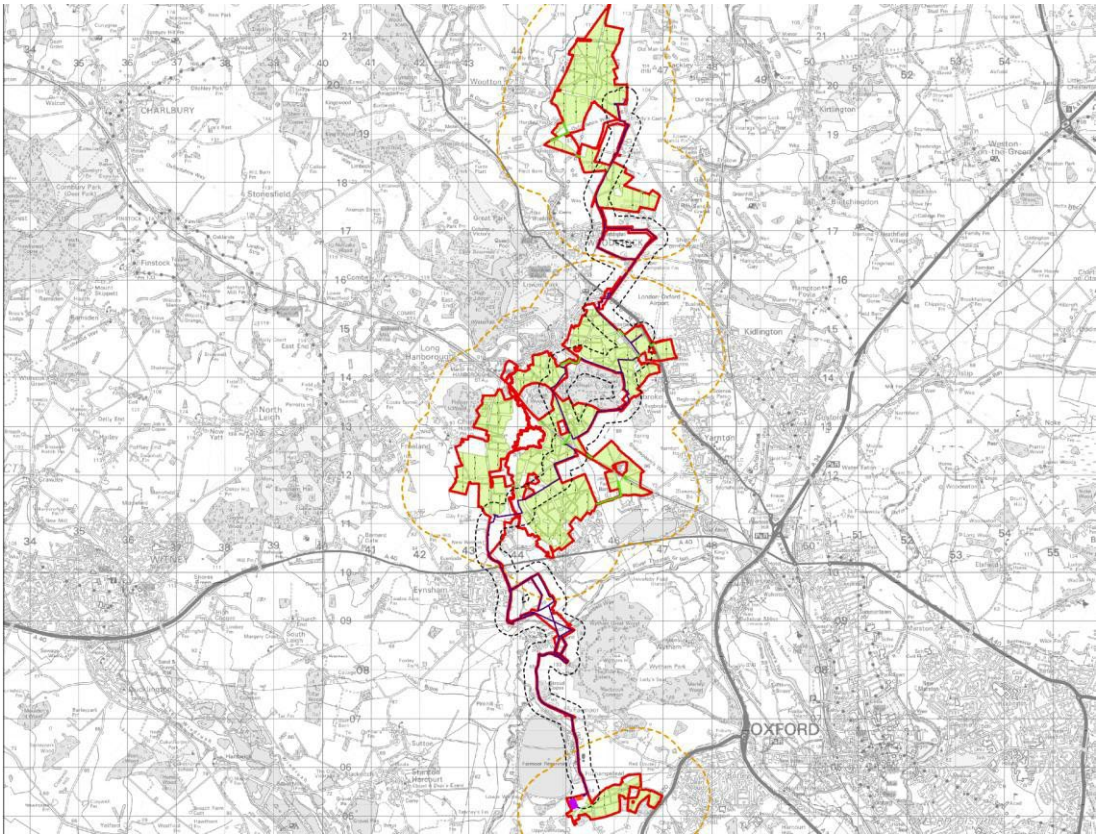
3.12.20. The applicant confirmed in [APP-047] that the scope of the hydrology and flood risk assessment had been developed taking into consideration the statutory and non-statutory consultee responses to the Scoping Opinion.

3.12.21. The study area is defined as:

- The area of land to be temporarily or permanently occupied during the construction, operation and maintenance and decommissioning of the proposed development.

- A 250m buffer has been applied to the 275kV corridor route, temporary construction compounds, and temporary and permanent access roads/haul roads.
- A 1km buffer applied to the three areas of solar installation, NGET substation, main project substation and HV and MV transformers.

Figure 4: Study Area shown in [APP-089]



3.12.22. In respect of watercourses, the watercourses on site and within the study area include drainage ditches, ordinary watercourses and main rivers all draining into the River Thames. The applicant considered that the River Thames would be the final receiving water feature that could conceivably be significantly affected due to its size and associated dilution. A full list of the watercourses and water bodies affected by the project are set out in the appendices to ES chapter 10 ([APP-089] to [APP-100]).

3.12.23. The application, as applied for, contained four areas where the cable corridor could be routed through different area. In respect of these cable corridor options, at the close of the examination, all options remained. The possible cable route options included:

- Land in the Northern Site between the Oxfordshire Way and the B4027, southeast of Wootton.
- The area between the Northern and Central Sites on land to the east of Woodstock and in the vicinity of the Bladon roundabout on the A44.
- Central Site on land east of Burleigh Wood and around Bladon Heath.

- Land between the Central and Southern Sites east and south of Eynsham around the Swinford Bridge.

3.12.24. The applicant states that, based on professional judgement, the information available is considered sufficient to establish the baseline within the study area, therefore, there are no data limitations that would affect the conclusions of its assessment.

3.12.25. The WFD Bodies within the Order limits are currently judged to have good ecological and water quality status.

Construction Phase Effects

3.12.26. In respect of the potential impact of increased flood risk arising from additional surface water run-off during the construction phase, the applicant identified a risk due to the creation of impermeable areas, such as compounds, haul roads, substations, solar PV modules and construction accesses. The applicant also confirmed at paragraph 10.9.10 of [APP-047] that the proposed 275kV corridor route had potential to act as a drainage channel for surface water.

3.12.27. However, any haul roads would be positioned to minimise receptor impacts and wherever possible, haul roads would utilise existing tracks and field access points. The applicant also assumed that during construction any haul roads would be unsurfaced. However, it was accepted that there may be a need to lay temporary terrafirma matting or similar particularly in areas of high vehicle usage on saturated ground and/or to avoid or minimise damage to soil structure. In respect of soil stockpiling arising from such works, it was proposed that these would be placed in areas of low flood risk.

3.12.28. Mitigation measures, including surface water drainage during construction, would be controlled by the Outline Code of Construction Practice (OCoCP), which would be secured by Requirement (R) 11 of the draft Development Consent Oder (dDCO) [APP-015]. Such mitigation measures would ensure that surface water run-off would be intercepted and attenuated on-site and that any discharges would be controlled in quality and volume and therefore cause no increase in flood risk.

3.12.29. Permeable gravel aggregate and terrafirma would also be used within the temporary compounds, where possible, to reduce the generation of surface water run-off arising from a change in surface permeability. Additionally, for all watercourses, trenchless techniques such as Horizontal Directional Drilling (HDD) would be used for watercourse crossings.

3.12.30. As such, the applicant concluded at ES paragraph 10.9.18 of [APP-047] that the proposed development would be unlikely to result in any observable degradation in flood risk. The assessment concluded that this would result in a minor adverse, which was not considered significant in EIA terms.

3.12.31. Turning to the potential for deterioration of water quality within surface and ground waterbody receptors, ES paragraph 10.9.42 of [APP-047] identified that one of the key risks could be due to the accidental discharge of untreated run-off during construction, which could include pollutants such as silts, cement, oils, chemicals, and waste. Such pollutants could be present on site as a result of normal construction activities, such as excavation, dewatering, incorrect storage of oils and chemicals and/or accidental spillage

3.12.32. In respect any untreated run-off, the assessment identified that this would eventually outfall to surface waterbodies within the Study Area and all waterbodies which formed part of the Thames catchment. Any untreated run-off also had the potential to infiltrate in-situ into groundwater bodies confined within solid geology underlying the Study Area.

3.12.33. It was also identified that activities associated with machinery during construction could lead to an increase in turbid run-off and spillages/leaks of fuel, oil and so on. Also, whilst in most cases HDD or similar trenchless techniques would be utilised in order to pass beneath watercourses and associated flood defences, it was acknowledged that this could lead to an increase in turbid run-off, high pH water run-off, bentonite breakouts during drilling and spillages/leaks of fuel, oil and the like affecting local surface water and groundwater bodies. Both activities could affect nearby surface water and groundwater bodies, potentially impacting on water quality and causing a reduction in waterbody WFD classification.

3.12.34. The use of trenched techniques for both the cable route and haul roads, when crossing smaller waterbodies and drainage channels, could also lead to damage to the banks along the watercourses, an increase in turbid run-off, spillages/leaks of fuel, oil and an alteration in surface water flow pathways that could alter the quantity of flows entering downstream watercourses. Additionally, during excavation, the cable corridor could also unintentionally act as a drainage channel, leading to run-off from construction areas affecting nearby watercourses and groundwater bodies.

3.12.35. However, the mitigation measures contained within the OCoCP, secured by R11 of the dDCO [APP-015], had been designed to intercept run-off and ensure that discharges were controlled in quality and volume, therefore causing no degradation in WFD classification. The assessment concluded that this would result in a minor adverse effect, which was not considered significant in EIA terms.

3.12.36. Construction activities also had the potential to increase flood risk due to construction causing damage to existing flood defences. The applicant proposed that any main rivers and associated flood defences would be crossed using HDD techniques or similar trenchless techniques. The use of such measures was proposed to reduce the potential impact of increased flood risk arising from damage to flood defences. Additionally, mitigation measures included within the OCoCP, secured by R11 of the dDCO [APP-015], were proposed to ensure no degradation to crossed flood defences. The assessment concluded that this would result in a minor adverse effect, which was not considered significant in EIA terms.

3.12.37. In respect of field drainage, the assessment acknowledged that during the construction phase, a potential risk of damage to existing field drainage existed. Existing field drainage in the Study Area was said to be predominantly located on agricultural land to assist with land drainage.

3.12.38. The removal of field drains had the potential to cause a backup on surrounding field drains, in turn increasing the flood risk to receptors. However, mitigation measures to manage surface water flows were stated as including the restoration of field drainage following the installation of the proposed development and also techniques to avoid disruption of surface water run-off along the corridor. The assessment concluded that this would result in a negligible adverse effect, which was not considered significant in EIA terms.

3.12.39. During the construction phase, it was also identified that a potential risk to damage to the existing water supply and wastewater drainage infrastructure existed. Such

damage could cause temporary disruptions in water supply and flooding from the back-up of infrastructure. Such flooding could damage adjacent land receptors and could enter surface water bodies and ground water bodies, negatively impacting their WFD status.

3.12.40. In respect of Thames Water assets, these had been identified via Thames Water asset plans. Additional detailed survey would be undertaken prior to any construction works to identify any infrastructure. For private water supplies, utility surveys would be undertaken to establish the location of water supply and wastewater drainage infrastructure prior to the commencement of construction.

3.12.41. Such mitigation measures are included within the OCoCP, secured by R11 of the dDCO [APP-015], and also detail best practice construction techniques to prevent damage to water supply and wastewater drainage infrastructure. The assessment concluded that this would result in a minor adverse effect, which was not considered significant in EIA terms.

Operational Phase Effects

3.12.42. During the operational phase of the proposed development, the potential impact of increased flood risk arising from additional surface water run-off remained and at paragraph 10.9.24 of [APP-047], it was confirmed that the avoidance of flood risk was central in the design of the proposed development.

3.12.43. As such, the proposed development was subject to a Flood Risk Assessment (FRA) [APP-166] and a Conceptual Drainage Strategy (CDS) [APP-167], thereby meeting the requirements of NPS EN-1 and NPS EN-3, the NPPF and local planning policy and best practice.

3.12.44. At paragraph 10.9.26 of [APP-047], the applicant stated that "*The solar panels have been sequentially steered towards the lowest areas of flood risk (Flood Zone 1) for the Northern and Southern Site Areas. Hydraulic modelling has been undertaken for the Central Site Area to inform the location of panels. Panels have been sequentially steered to areas outside of the 100 year plus climate change fluvial extent"*.

3.12.45. Furthermore, the applicant confirmed that the solar PV modules would be waterproof and would be raised 800mm above ground levels at the lower edge. Following construction, the fields in which the panels would be located would be vegetated all year round, with no periods of bare soil.

3.12.46. The CDS [APP-167] would also follow the SUDS best practice and would ensure source control where possible. Also, the final Code of Construction Practice secured by R11 of the rDCO, the Operational Management Plan secured by R12 of the rDCO and the Decommissioning Plan secured by R14 of the rDCO would all include a Flood Management Plan.

3.12.47. The assessment concluded that with the above measures in place, it would be unlikely that any observable degradation in flood risk to receptors would occur. It was therefore concluded that a negligible adverse effect would occur, which was not considered significant in EIA terms.

3.12.48. Turning to the possible deterioration of water quality within surface and ground waterbody receptors during the operational phase, some pollutants may be present as a result of normal operations, traffic and emergency or accidental spillage. At

paragraph 10.9.63 of [APP-047], the applicant confirmed that such activities could lead to an increase in turbid run-off and spillages/leaks of fuel and oil could run off to surface waterbodies and infiltrate to superficial deposits and solid geology underlying the proposed development. Also, there was the potential for contaminated water to run off the site in the unlikely event of a fire at the transformers located at the substations.

3.12.49. However, the CDS [APP-167] included the provision of SUDS to mitigate pollutants, and a SUDS maintenance plan for the proposed SUDS features was also included within the CDS. Also, attenuation basins within the proposed NGET substation and applicant substations would enable sedimentation and filtration of pollutants through the root zone of vegetation and soil matrix.

3.12.50. The applicant acknowledged at paragraph 10.9.67 of [APP-047] that it would be possible that the proposed that solar PV modules may contain hazardous materials including heaving metals. However, it was expected that the modules would be fully sealed. There would however be a residual risk of contamination from the modules if they became damaged during the operational phase.

3.12.51. To mitigate such issues, operational procedures to prevent any increase in pollutants to the surrounding environment were included within the Outline Operational Management Plan (OOMP) [APP-234]. As such, with the provision of operational measures and on-site drainage networks, it was concluded that a negligible adverse effect would occur, which was not considered significant in EIA terms.

3.12.52. During the operational phase of the proposed development, the applicant did not anticipate that it would be necessary to make alterations to the cable route. If maintenance is required, the final OMP would contain a maintenance plan confirming how cables would be inspected. Additionally, where possible, a buffer zone of 16m from any flood defences would also be applied. Such mitigation measures were proposed to ensure that no degradation to crossed flood defences during operation and maintenance occurs.

3.12.53. As such, in regard to the potential impact of increased flood risk arising from damage to existing flood defences during the operational phase, the assessment concluded that a negligible adverse effect would occur, which was not considered significant in EIA terms.

3.12.54. During the operational phase of the proposed development, as a result of the measures contained within the FRA [APP-166] and the CDS [APP-167], the applicant did not consider there would be any alterations to surface water flows and no consequent impact on existing field drainage. The assessment therefore concluded that a negligible adverse effect would occur, which was not considered significant in EIA terms.

3.12.55. In terms of any potential impact from damage to the existing water supply and wastewater drainage infrastructure during operation, prior to any construction activities, utility surveys would be undertaken to establish the location of the water supply and wastewater drainage infrastructure prior to intrusive work being undertaken. This would also include identifying any public and private water abstraction points/ licences.

3.12.56. Accordingly, the applicant confirmed at paragraph 10.9.144 of [APP-047] that there would be no alterations made to the infrastructure near to such water supplies. As

such, the assessment concluded that a negligible adverse effect would occur, which was not considered significant in EIA terms.

Decommissioning Phase

3.12.57. The decommissioning phase is anticipated to be 2 years. For all hydrology and flood risk effects described above, the applicant concluded that the decommissioning effects would be less than or equal those in the construction phase.

Mitigation

3.12.58. ES paragraph 10.8.3 of [APP-047] confirmed that the embedded mitigation measures for the construction phase were detailed in ES chapter 6 – Project Description [APP-043] and ES appendix 6.1 Project Mitigation Measures and Commitments Schedule [APP-129] and various management plans. The applicant submits that, through adoption of industry-standard methods and standards listed in the Outline Code of Construction Practice (OCoCP), together with appropriate buffers to watercourses, there would only minor adverse effects on water resources at worst [APP-047, Table 10.34]. No further mitigation is considered necessary.

3.12.59. Table 10.34 of ES chapter 10 [APP-047] confirmed that no significant residual effects on hydrology and flood risk were predicted during the construction, operation and decommissioning phases of the proposed development. Additionally, no significant inter-relationship or cumulative residual effects were predicted in any phase of the proposed development.

3.12.60. Whilst no significant adverse effects were identified, in table 10.26 of [APP-047], the following additional mitigation measures were proposed by the applicant:

- The modelling of surface water for the area upstream of Cassington to understand the pre-existing flood risk and to inform mitigation measures. Shallow ponds, bunds and ditch widening were proposed at an area upstream of Cassington in accordance with baseline surface water modelling. The sizing and discharge location would be subject to detailed design and proposed options modelling.

Other Considerations

3.12.61. The WFD Assessment at ES appendix 10.7 [APP-174] concludes that:

- Implementing best construction and design practices will minimise the deterioration of the water environment and continue progress towards meeting the objectives of the WFD.
- The project would not cause failure to meet surface water ‘Good Ecological Status’ or ‘Good Ecological Potential’ or result in a deterioration of surface water Ecological Status or Potential.
- There are no changes which will permanently prevent or compromise the Environmental Objectives being met.
- The scheme is therefore compliant with the WFD regulations.

ISSUES CONSIDERED DURING THE EXAMINATION

3.12.62. Just under 200 relevant representations (RR) provided comment in respect of hydrology and flood risk effects of the proposed development (for example [RR-0102] [RR-0106] [RR-0135] [RR-0205] [RR-0376] [RR-0784]). Having taken these

into account, alongside the submitted application documents, the Examining Authority (ExA) considered that hydrology and flood risk should be one of the principal issues for the examination. The initial assessment of principal issues (IAPI) is set out in annex C of the Rule 6 letter [PD-006]

3.12.63. The ExA further considered that the following issues should be examined in greater detail:

- Sequential and Exception Tests.
- Drainage Strategy.
- Water Framework Directive Assessment.

3.12.64. During the course of the examination, the applicant updated the hydrology and flood risk chapter of the ES to consider various comments and requests made by IPs, with the final version being [REP6-010]. The FRA and CDS were also updated during the course of the examination, with the final versions being [REP6-024] and [REP4-018].

Sequential and Exception Tests

3.12.65. The sequential test is applied to ensure that any new development is located in areas with the lowest risk of flooding. As such, the test requires developers to consider available sites in Flood Zone 1 (FZ1) before sites in Flood Zone 2 (FZ2).

3.12.66. At paragraph 6.1.4 of the FRA [APP-166] the applicant confirmed that, as detailed in appendix 3: Flood risk vulnerability classification of the NPPF, the permanent aspects of the proposed development were classed as 'essential infrastructure' and therefore acceptable in FZ1 and FZ2. The Exception Test would be necessary if any development is proposed within Flood Zone 3 (FZ3).

3.12.67. Despite the conclusions reached by the applicant in relation to the Sequential Test, several representation including, but not limited to [RR-0882], [RR-1007] and [RR-1111] raised concern that insufficient evidence had been provided to confirm that the sequential approach to flood risk had been followed and [RR-1007] also stated that the proposed development was in conflict with NPS EN-1.

3.12.68. Nonetheless, OCC as the Local Lead Flood Authority (LLFA) report that the applicant has sought to avoid areas at risk of fluvial flooding by restricting panel development and other elements of energy generating infrastructure to FZ1. The location of generating infrastructure outside of areas of fluvial flooding is to be supported and consistent with the sequential test as required by Local Development Plans [REP1-072, paragraph 7.5.9]. The EA also note that development has been sequentially steered towards areas of the lowest flood risk [REP1-025].

3.12.69. However, the EA at [RR-0308] considered that the assessment of flood risk was inadequate due to evidence gaps within the submissions. Further modelling was needed in areas of unmapped flood zones relating to those watercourses which typically have a catchment less than three square kilometres.

3.12.70. In response at [REP1-020] the applicant confirmed that it had sought, where possible, to direct all infrastructure to FZ1. However, it was accepted that there were occasions where material constraints meant that development was directed to areas with a higher risk of flooding. Cable route corridor options had been explored, and the applicant confirmed that an assessment was undertaken to assess multiple

routes in line with environmental constraints [REP1-020]. However, appropriate mitigation measures were implemented in these situations. In each instance, the locating of infrastructure within floodplain 3b was necessary to facilitate the crossings. Since it was necessary and essential to deliver the infrastructure, the applicant reaffirmed that the exception test was passed.

3.12.71. At [REP2-026] the applicant confirmed that a review of the 2025 EA mapping for fluvial and surface water flooding had been undertaken. Based on the updated information, the Sequential Test for the site location was reviewed and the applicant confirmed that the proposed development footprint avoided areas of highest flood risk in accordance with government policy. Limited areas remained which would be at risk of surface water flooding.

3.12.72. It was confirmed by the applicant that the details of the review and outcomes, along with any updates following review of the EAs comments regarding evidence gaps, would be included in an updated ES chapter on hydrology and flood risk [APP-047] and FRA [APP-166] which would be submitted into the examination at DL3.

3.12.73. The EA did however raise two bespoke points. The first was that the consent should be time-limited and for decommissioning to be secured in 2069. This was because the applicant has only considered climate change projections up to 2069 using the 2050s epoch [REP2-053, ExQ2.10.65]. As reported by the ExA in section 3.13 of this report, there is much confusion about decommissioning and the solar project itself may not now be operational until 2030. Assuming a 37.5-year operation period, there is a real chance that decommissioning would go beyond 2069.

3.12.74. The second concern related to the siting of some vulnerable construction infrastructure within the functional flood plain. Specifically, the EA noted that the horizontal directional drilling entry and exit pits at Filchampsted would be within FZ3b of the River Thames [REP2-053].

3.12.75. The applicant amended the Flood Risk Assessment (FRA) [REP6-024] and the OCoCP [REP6-028] to include a commitment for a flood management plan to reduce vulnerability of site users during the development lifetime. A separate technical note giving the justification for the HDD crossing was also submitted [REP6-054].

3.12.76. The EA did not provide a closing statement at DL7, however, within the signed Statement of Common Ground (SoCG) with the EA, the applicant reports [REP7-036]: *"At the time of writing there has been no further objection. As such we assume this has been agreed."*

3.12.77. At the close of the examination, no outstanding areas of disagreement were recorded by the applicant in the SoCG with either the EA [REP7-036] or OCC, as LLFA [REP8-002].

ExA's consideration

3.12.78. As detailed in section 3.2 of this report, the ExA is satisfied in terms of site selection and alternatives, that the methodology used, and reasons given for the site selection are sufficient to achieve technical compliance with the requirements of NPS EN-1 and NPS EN-3 and the EIA Regulations.

3.12.79. The ExA observes that the applicant reports all matters are agreed with the EA [REP8-001]. However, when interrogating the SoCG [REP7-036], the ExA notes that for several items, the applicant has relied on assumptions that the matters have

been agreed. This is an odd position to be reached when the SoCG is signed, as either matters are agreed or not. The SoCG sets out the EA's current position and, in the absence of confirmation to the contrary, it would appear that the EA has a number of matters outstanding.

3.12.80. The ExA considers that, whilst the applicant has sought to justify the need, and apply mitigation, for the HDD works within FZ3b, the validity of this information has not been signed off by the EA. The ExA is not content to rely on assumptions when flood risk, particularly in light of climate change, is a serious matter that can threaten life and property as set out in the second limb of the exception test. In light of this, the matter of the sequential and exception test application is unresolved at the close of examination and the ExA considers this undermines the robustness of the assessment of flood risk. As such, the application does not meet the requirements of NPS EN-1 paragraph 5.8.15.

3.12.81. If the SoS requires further confirmation in respect of this issue, it may be necessary to seek such confirmation from the EA.

3.12.82. In section 3.13 of the report, the ExA recommends a requirement to secure decommissioning and also, in chapter 7, recommends a requirement securing the commencement of the development in line with the provision of the NGET substation. In light of the EA's comments regarding the likelihood of decommissioning activities occurring after climate change projections expire, the ExA considers that there needs to be far greater clarity and certainty regarding decommissioning given the projected delay in the commencement of operational development on site. The additional requirement proposed, as covered in chapter 7 of this report, is therefore justified on flood risk grounds.

Water Framework Directive

3.12.83. The applicant submitted a WFD assessment [APP-174] in support of the proposed development. The assessment is required to provide information on the current overall WFD status for waterbodies potentially affected by the proposed development and to provide, where required, detailed mitigation measures to prevent the deterioration of WFD waterbodies. This is required under the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 and by NPS EN-1 paragraph 5.16.7.

3.12.84. The assessment concluded that by implementing best construction and design practices, any deterioration of the water environment would be minimised, and it would be possible to continue to progress towards meeting the objectives of the WFD. The assessment further concluded that the proposed development would not cause failure to meet surface water 'Good Ecological Status' or 'Good Ecological Potential'. Additionally, there would be no changes which would permanently prevent or compromise the environmental objectives being met. As such, it was confirmed that the works proposed would meet the WFD objectives and would therefore be compliant with the WFD regulations.

3.12.85. In response, at [REP1-020], the applicant confirmed that the WFD assessment would be updated to reflect these issues at DL3. At DL3 a revised WFD assessment was submitted into the examination [REP3-026] which addressed the issues raised by the EA in [RR-0308]. In the final SoCG with the EA [REP7-036], the ExA notes that all matters in respect of the WFD assessment were reported as being agreed.

3.12.86. No other interested parties (IPs) raised concerns regarding the WFD assessment nor its conclusions during the course of the Examination and no further questions on this matter were deemed necessary by the ExA.

ExA's consideration

3.12.87. The ExA notes that the submitted WFD Assessment was undertaken in accordance with the WFD and Planning Inspectorate Advice Note 18: Water Framework Directive and comprised Screening, Scoping and Impact assessments.

3.12.88. There is nothing to suggest that the proposed development would have significant adverse effects on surface or ground water quality or morphology or that it would put at risk WFD targets for water bodies in and around the site. The ExA is satisfied that there are limited risks to water quality and that there would not be any worsening of the water quality within WFD waterbodies.

3.12.89. As such, the ExA finds that the proposed development accords with the requirements of the Water Framework Directive Regulations 2017.

Drainage Strategy

3.12.90. The CDS [APP-167] considered existing and proposed surface water run-off rates, the hierarchy of drainage systems and how SUDS could be incorporated within the proposed development. The strategy included details of how water quality and other benefits could be supplied as part of the implementation of the SUDS.

3.12.91. Also, surface water modelling was undertaken for the catchment area upstream and including at Cassington. The results of which were included in the Surface Water Modelling Report [APP-172]. Mitigation measures were also proposed to provide a betterment to surface water run-off and this was also discussed within the CDS [APP-167].

3.12.92. The applicant concluded that the proposed drainage scheme would provide a minor benefit in regard to surface water flood risk as a result of the restriction of surface water flows from the site to the greenfield run-off rate.

3.12.93. Any surface water run-off would be stored within proposed gravel subbases and attenuation basins for the ancillary features for the lifetime of the development. These features would be sized to take into account climate change projections. Additionally, the applicant confirmed that the proposed strategy would prioritise natural drainage methods through the implementation of appropriate seeding to be placed across the solar panel areas to reduce run-off.

Northern site

3.12.94. The ExA notes that no substantive concerns were raised in respect of flood related issues.

Central Site

3.12.95. Cassington Parish Council (CaPC) reported that there is a history of localised flood events, with the area suffering from extensive surface water flooding in 2007 and 2024. This flooding affected residences in Elms Road as well properties on Yarnton Road including Worton Hall and Jericho Farm [RR-0135].

3.12.96. CaPC therefore contended that:

- Surface water modelling and indeed the overall design of the Drainage Strategy is predicated on the contention that the solar arrays of this scheme will not add to the rate of water run-off from the land on which they are positioned.
- Any peer reviewed literature concluding that solar panels do lead to increased run-off was not relevant as it related to arid or semi-arid environments.
- Existing extensive field drains would be damaged but did not appear to have been mapped or understood.
- There is no mention of soil compaction in the Conceptual Drainage Strategy with respect to pile driving and construction.
- How can the applicant be confident that flood mitigation and drainage plans are effective without infiltration testing.

3.12.97. CaPC was supported by a significant level of local concern from, but not limited to, [RR-0105], [RR-0135], [RR-0375], [RR-0784], [RR-1111], [REP1-049], [REP1-050] [REP1-081], [REP1-128], [REP1-131], [REP1-137], [REP1-141] and [REP1-155]. These representations raised common themes being:

- The applicant appeared to have failed to adequately consider the increase in pluvial flood risk to village communities surrounding Cassington, due to storm rainfall run-off from the solar panels.
- The applicant had failed to consider the significant water management infrastructure required to be compliant with the statutory regulatory regimes.
- The surface water modelling work model had not been calibrated and did not include measurements of culverts or include urban pipework. Whilst it was accepted that the proposed model would enable the applicant to suggest possible mitigation measures, the model hadn't been used to test the effectiveness of the mitigation.

3.12.98. In the Joint LIR [REP1-072] concern was raised by the local authorities in respect of the reported flood incidents in areas including Begbroke, Cassington and Bladon. With particular regard to the village of Cassington, it was stated that:

- The village was at particular risk of impacts from surface water flooding, having experienced property flooding on a number of occasions.
- The introduction of buffer strips, bunds, ponds and ditch widening to the north of Cassington, designed and positioned to mitigate the surface water impacts of the proposed development were noted and it was accepted that they would provide betterment compared to the existing baseline position. However further work on the modelling and proposals was required to confirm the effectiveness of the mitigation measures.
- It was concluded that the proposed surface water modelling undertaken for Cassington had a number of areas of concern in respect of the both the approach and mitigation proposed.

3.12.99. The applicant did not accept these concerns, stating that the Conceptual Drainage Strategy was a high-level document that would be developed post-consent. Only when in the detailed design phase would site-specific infiltration testing be undertaken. In other respects, the solar arrays would be placed with a 1.5m to 3m gap to provide adequate spacing to prevent the concentration of surface water dripping from the solar arrays and therefore the formation of drip lines. Vegetation

will be placed beneath the panels to allow for infiltration at the lowest leading edge of the panels [REP1-020, page 123] [REP2-025] [REP2-027, page 5]. Field drain maps would be obtained to inform the drainage design post-consent [REP6-047].

3.12.100. In a further response to the Joint LIR, the applicant [REP2-026] reiterated that a separate surface water model had been prepared for Cassington to assess the baseline risk and to propose potential mitigation options. Particular attention had been given to the village, which the applicant acknowledged had experienced recurrent surface water flooding incidents, notably at Bell Close and Elms Road.

3.12.101. The applicant further stated that, whilst it was aware of the existing flood risk issues off-site at Cassington, it was not required by policy to improve off-site flood risk and instead it was required to carry out an assessment against the baseline conditions to ensure there was no increase in flood risk [REP2-027]. The applicant intended to test the proposed mitigation measures at detailed design stage, which was a standard approach.

3.12.102. When challenged by the ExA and requested to provide some infiltration data to demonstrate that the modelling and concept drainage strategy were robust, the applicant responded that the detail would be provided post-consent [REP4-037, Q2.10.3] and that the modelling that had been undertaken is purely a tool to identify flow patterns and areas where mitigation could be most effective, rather than being a requirement of any NPS [REP4-037, Q2.10.2]. The applicant noted the importance of infiltration testing to inform pond sizing, locations, and overall drainage design and therefore this would be undertaken as part of detailed design. Results from these tests would directly inform the detailed drainage designs, which would be prepared and submitted for approval post-consent as part of the certified detailed drainage strategy under R9 of the dDCO [REP2-027].

3.12.103. The ExA also queried the applicant's intention to construct further swales and water features within the drainage catchment area of Cassington, resulting from a changed and expanded approach to mitigation for bats and great crested newts [REP6-034, paragraph 8.5.7]. The applicant again iterated that the full details of size and water retention requirements of these features would be developed post-consent [REP6-047, pages 14 and 15]. The applicant considered that such a staged approach would allow flexibility to optimize the design based on robust site data whilst ensuring that the conceptual drainage design would comply with policy requirements so as not to not increase peak flow or total run-off volumes compared to the pre-development situation [REP2-027].

3.12.104. The applicant maintained that panels would intercept rainwater, slowing its flow, and that the rainwater would be channelled to specific areas whereby planted vegetation and grass would assist infiltration [REP2-027] [REP4-037]. Cassington Parish Council, and other IPs suggest channelling would result in soil erosion, proposals for sheep grazing underneath the panels would wear away any vegetation cover and the land would continue to flood [REP1-050] [REP5-068] [REP6-079]. It is noted however that the applicant intends to strictly control and cut vegetation beneath solar panels to reduce the risk of fire [REP1-020].

3.12.105. At DL1, both CaPC [REP1-050] and Worton Farms Ltd [REP1-129] submitted their own flood risk appraisal documents into the examination. The applicant maintained that the proposed development did not include or require drainage or flood risk mitigation measures off-site [REP2-025], because both NPS EN-1 and the NPPF only require surface run-off to be managed within the site area without exacerbating existing flood conditions beyond the proposed site boundary. However, the

applicant also confirmed that it had committed to monitoring drainage performance on site and would also cooperate with the relevant local authorities if any unforeseen drainage issues arose during the construction or operation phases.

3.12.106. At [REP2-027] the applicant responded to the CaPC submission and explained that the surface water modelling for Cassington was an evolving tool designed to understand flood flow paths, depths, and velocities. The applicant accepted that the model was uncalibrated and excluded some features such as the eastern flow route, culverts, and urban pipework, it had identified key flood flow patterns and areas of potential mitigation. The applicant further stated that it was committed to ongoing refinement and calibration of the model in consultation with the EA and local stakeholders during the detailed design stage. The applicant also reaffirmed that the modelling undertaken to date had informed initial mitigation concepts such as ponds, bunds, and ditch widening and that they would be subject to further testing and optimization to ensure effectiveness and avoid adverse downstream impacts.

3.12.107. The issue of leaving the final design of the mitigation measures for the prevention of increased flood risk to the detailed design stage, post consent, was considered inappropriate by several IPs, which included but was not limited to [REP2-089], [REP5-120] and [REP7-184]. Representations in respect of this issue were also received from Calum Miller MP at [REP2-093], [REP2-094] and [REP7-067].

3.12.108. CaPC summarised the concerns at [REP4-054] as being that *"People's homes are at increased risk of flooding should this development increase the rate of water run-off from the site. Post consent, Cassington Parish Council and the residents of Cassington will have no power to influence the design or implementation of flood prevention measures, especially if the project is sold on from PVDP which is consistent with previous projects they have been involved in".*

3.12.109. CaPC sustained objections on the grounds of insufficient data, inadequate justification, a flawed methodology and a failure to take the existing flood conditions seriously (for example [REP1-049] [REP1-050] [REP4-054] [REP6-079]. The issue of the lack of infiltration testing and the level of concern received from the local community in and around the Cassington area also formed part of the discussion at issue-specific hearing (ISH) 2 [EV7-001].

3.12.110. CaPC's final position statement confirmed that [REP7-068]:

- There is an existing great surface water flood risk to Cassington, Jericho Barns and Worton Hall. Even a minor increase in run-off would cause greater risk of flooding.
- The applicant's reason for not doing any meaningful modelling is because NPS EN-1 does not require it.
- The applicant has not even examined the local land drain plans available, so potential damage to extensive land drains is highly probable.
- There is no qualitative understanding of the geology or its drainage capacity in the absence of infiltration testing, so the mitigation measures are unproven.

3.12.111. The applicant confirmed [REP6-047] that a worst-case approach had been adopted in respect of attenuation requirements and/ or enhancement measures upstream of Cassington. This assumed no infiltration and therefore would provide a conservative design. Infiltration testing would be undertaken at the detailed design stage, and if infiltration rates were suitable, the required attenuation area may be reduced. The

applicant further stated that it had committed, as set out in the oOMP [REP6-032], to undertake further detailed modelling and mitigation design at the detailed design stage, in consultation with the relevant local authority, the EA and local residents.

3.12.112. At the close of the examination, CaPC requested that the areas of proposed development located on the hills overlooking Cassington and Worton villages were removed from the Order limits because of the unresolved flood risk concerns [REP7-068].

3.12.113. The OHA closing statement echoed some of CaPC's concerns and stated that the lack of infiltration testing remained a concern, and it was not clear as to whether the drainage strategy would be adequate [REP7-191]. This matter also remained an area of remaining disagreement in the final OCC SoCG [REP8-002]. The ExA notes that this matter was not raised by the EA as being an issue of concern in its final SoCG [REP7-036].

3.12.114. The EA record a position of 'no objection' at DL7 [REP7-036], although recommended that the applicant should formally commit to flood risk enhancements at Cassington [REP2-053, ExQ2.3.25].

Southern site

3.12.115. In both its RR and written representation Cumnor Parish Council (CuPC) ([RR-0205] and [REP1-056]) noted that the proposed southern site historically experienced substantial flooding and therefore considered that the applicant had not met the requirements of Policy RNE2 of the Cumnor Neighbourhood Plan (CuNP) which formed part of the evidence base for the made Neighbourhood Plan. Policy RNE2 states that development proposals should be located and designed to take account of flood risk and should take account of impacts in terms of run-off generation and surface water drainage and should provide the required mitigation measures to ensure that there is no unacceptable increase in surface water discharge off-site.

3.12.116. At [REP1-060], CuPC also submitted its own assessment of groundwater and surface water flood risk in the Cumnor parish. The assessment concluded that any future planning applications located within assessment zones should undertake a rigorous groundwater assessment to confirm groundwater conditions beneath the development. The ExA also noted that Layla Moran MP supported the views of Cumnor Parish Council ([RR-0611], [REP2-117] and [REP7-154).

3.12.117. At [REP1-020] the applicant acknowledged the absence of policy RNE2 of the CuNP in the FRA and confirmed that it would be updated to include reference to it. Furthermore, in response to ExQ1.10.13 [REP2-025], the applicant confirmed that it had reviewed the flood assessment submitted by CuPC and concluded that, as detailed within the ES chapter on hydrology and flood risk [APP-047], there would be a negligible increase in run-off rates and no further necessary adjustments to the proposed development as a result of the submitted assessment would be necessary.

3.12.118. During ISH2, CuPC reiterated its concerns regarding flood risk and local drainage infrastructure ([EV7-003], [EV7-005], [EV7-007], [EV7-009]), specifically that vegetation alone would not mitigate increased run-off from solar panels and that additional mitigation would be necessary in order for the run-off to be adequately managed. However, the applicant contended that industry standards indicate. the gaps between solar panels do not act as impermeable areas, so attenuation is not normally required.

3.12.119. CuPC also raised concerns regarding surface water flood risk on farmland east of Farmoor Reservoir. This concern became more acute when, following change 6 within the applicant's second change request [CR2-001] to [CR2-073], an additional 2.41ha of land within the Order limits was reassigned from biodiversity land to solar installation on the basis that the land was to be classified as being in FZ1 as opposed to FZ2 or FZ3.

3.12.120. This re-classification of the flood zone however drew attention from the ExA and IPs as the mapping underpinning the decision appeared faulty and incomplete [CR2-071, appendix 2, figure 1.1]. This matter was discussed at length in issue-specific hearing 2 (ISH2) [EV7-006], with the applicant stating there must have been a gap in the data or the modelling but, in any event, the EA had no objection to solar panels being in FZ2 or FZ3. The ExA pointed out that the applicant's own design-ethos stated in ES chapter 10 [APP-047] was to steer development into FZ1 and thus the proposed approach would be contrary to that approach.

3.12.121. After ISH2, the applicant explained the flood risk to the land was a surface water overland flow only and so, to enable the land to be used for solar installation, mitigation strategies had been formed by raising the lowest leading edge of the development to 900mm the ground level, giving a freeboard of some 300mm freeboard above the predicted flood level (540mm above ground level) [REP6-047, pages 19 and 20]. CuPC were not, however, content with the explanation stating that had the applicant engaged with the flood risk and mitigation as envisaged by the relevant legislation, rather, on the basis of unevidenced assertions, it would not now be attempting to place additional panels and other infrastructure in a flood risk area [REP6-084].

3.12.122. CuPC continued that the lack of understanding and knowledge about field drainage would potentially impact properties nearby panel installation areas as well as the southern construction compound [REP6-084, paragraph 8]. Given that the fields within the parish already experience surface water flooding, there is no confidence that the solar farm would not exacerbate the flood issue [REP6-084, paragraph 8].

3.12.123. The final position of CuPC is recorded as being [REP7-076]:

- The made Cumnor Neighbourhood Plan and its flood-based policies has not been considered or addressed. There is contravention of CNP policy RNE2 in respect of flood risk.
- The applicant's investigations at a late stage in the process are worrying in terms of detail; and
- There would be an unacceptable flood risk to residents and land in the parish.

3.12.124. The applicant's final position was that all matters had been agreed with the EA and matters were either agreed or under discussion with the LLFA [REP8-001, paragraph 3.9.11].

ExA's consideration

3.12.125. The ExA observes that the EA has no concerns in regard to the specific localised surface water flooding in Cassington and Cumnor, and that the EA has not contributed to the discussion on such matters in the examination. However, the lack of any objection does not necessarily mean the proposals from the applicant are acceptable.

3.12.126. The ExA notes the drainage strategy and mitigation measures proposed by the applicant. In respect of the Northern site, the ExA is satisfied that the proposed development would not increase the risk of flooding and notes that there are no outstanding concerns from statutory consultees.

3.12.127. The proposed development seeks to ensure it will not exacerbate off-site flood risk by limiting run-off rates from the site to greenfield rates. That the existing baseline drainage conditions of the order land and wider surroundings, with existing greenfield rates, already cause flooding to be experienced seems to have been overlooked in the project design. Having been made aware of the existing significant flood water issues in the locality, the ExA is both surprised and disappointed that the applicant did not undertake to resolve concerns or come up with robust drainage proposals during the course of the examination to narrow the points of dispute. This is considered to be a missed opportunity. Equally, the applicant's confused position on the additional 2.41ha of land to be used for solar panels does not bring confidence that proper time and consideration has been given.

3.12.128. Detailed design secured under R5 of the dDCO and the submission of a surface water drainage scheme under R9 of the dDCO would be subject to local planning authority approval. There would, therefore, be some degree of scrutiny and assessment conducted by the LLFA regarding any future drainage strategy. Any attenuation features, if designed correctly, would serve to be some improvement on the existing situation, if only to mitigate the impact of the proposed project. However, the ExA has significant concern that given the lack of infiltration testing during the examination phase, the effectiveness of the proposed mitigation has not been adequately tested. Whether such attenuation features would work with the underlying geology remains unknown, and the applicant's reliance on resolving this issue wholly in the post-consent stage seems misplaced under the circumstances. The ExA also acknowledges the apparent tension between growing vegetation under the solar panels to slow and absorb rainwater whilst at the same time allowing sheep underneath the panels to maintain the vegetation.

3.12.129. The ExA accepts that mitigation measures are frequently refined at the detailed design stage. However, given the potential risk to life in respect of flooding, a more precautionary approach which included the testing and modelling of the proposed mitigation was requested by the ExA. To this extent, should the dDCO be granted, the ExA strongly advocates that the two most impacted parishes, CaPC and CuPC, are made consultees to any surface water drainage strategy discharge application under Requirement 9. This is considered further in chapter 7 of this report.

3.12.130. With the bulk of the mitigation details not before the examination, the ExA can only conclude that the proposed project would be likely to cause adverse effects on local land drainage across significant parts of the Central and Southern areas and give risk to a potential increased risk of surface water flooding.

CONCLUSIONS

3.12.131. Through the application of mitigation measures, the ExA is satisfied that there are also limited risks to water quality and that there would not be any worsening of the water quality within WFD waterbodies. As such, the ExA finds that the proposed development accords with the requirements of the Water Framework Directive Regulations 2017.

3.12.132. However, the ExA concludes that the applicant has not fully satisfied the sequential and exception tests within NPS EN-1, regarding fluvial flooding. Without the formal

written confirmation from the EA that the matter is acceptable, particularly as the project would use land in FZ3b, this is an unresolved issue that weighs against the order being made. Should the SoS receive such confirmation, the ExA would be satisfied that the applicant has adequately assessed flood risk and that the FRA demonstrates that both the sequential and exception tests are passed.

3.12.133. With regard to surface water flood risk, the applicant relies on a conceptual drainage design that appears to be unsubstantiated by robust testing, existing land drainage data or proof that the concept would work. Requirements in the dDCO would ensure that any surface water drainage measures are ratified and signed off by the LLFA and Cassington and Cumnor Parish Councils, as per our recommended amendment to Requirement 9. This does provide the ExA with a measure of comfort but, in the absence of detail to the contrary, the ExA cannot rule out the potential for residual adverse effects on local surface water conditions arising from the project as it stands and a potential impact to people and property. Consequently, the assessment does not accord with NPS EN1 paragraph 5.8.36

3.12.134. Given the above, we ascribe moderate negative weight against the order being made.

3.13. OTHER PLANNING MATTERS

INTRODUCTION

3.13.1. Other planning matters are discussed in this section, including cumulative and in-combination effects, decommissioning, national security impacts, minerals and waste, ground conditions and human health. These were matters that attracted some examination time and remain important and relevant considerations for the Secretary of State's (SoS) decision.

CUMULATIVE EFFECTS

The Application

3.13.2. ES chapter 20 sets out the applicant's staged approach and assessment of cumulative effects and inter-relationships [APP-057]. It is underpinned by a longlist and shortlist of projects [APP-224], together with maps showing the locations of nearby developments and their proximity to the project site [APP-116], [APP-117], [APP-118]. The short list of developments was updated up until September 2024, which was the cut-off date prior to publication of the ES.

3.13.3. The applicant concludes that due to the incorporation of both embedded and additional mitigation measures within the proposed development and associated with the other identified developments, it is not anticipated that any significant cumulative inter-relationship effects would occur, during either the construction, operational or decommissioning phases [APP-057, table 20.7].

3.13.4. Consequently, the cumulative effects assessment (CEA) concludes that significant effects are not likely in relation to any of the topic areas except in relation to permanent loss of BMV agricultural land during construction of the project and other identified projects; this is considered major adverse [APP-057, table 20.8].

3.13.5. No further significant effects are considered likely. No additional mitigation is deemed necessary [APP-057].

Examination and Conclusions

3.13.6. ES chapter 20 [APP-057] and its appendices was updated during the examination [REP5-022] [REP5-034] to respond to changes in respect of potential cumulative developments and to accommodate further projects identified since the ES was written.

3.13.7. Interested parties (IPs) raised concern regarding the level of assessment and detail, potentially not assessing the full impact of all developments coming forward [REP1-072, paragraph 7.17.10]. There were some specific projects in the CEA that IPs felt required further attention and detail, which led the ExA to request a full assessment [PD-011, Q2.9.3]. These included:

- a proposal for a 65 hectare (ha) solar farm on adjoining land at Red House Farm [REP2-048];
- a floating 2MWe solar farm on Farmoor Reservoir, north of the proposed project substation land at the southern site [REP2-048];
- a housing proposal for 500 dwellings at Perdiswell Farm in the central area of the scheme, reference 25/01510/OUT [REP2-049]; and
- local Plan allocation for 2,200 dwellings and 40ha of employment land north of Eynsham, known as Salt Cross [REP1-136], [REP1-137].

3.13.8. In response to an allegation by the Oxfordshire Host Authorities (OHA) that the methodology of the CEA needed improving to account for a full build-out scenario (worst-case) for all the projects on the shortlist, the applicant stated: *"the approach taken to the cumulative assessment that has been carried out was suitable and appropriate at the time"* [REP2-026]. With regard to other concerns, as part of the second change request, the applicant provided an updated CEA to the examination, with the conclusions remaining that no significant effects above those reported in the ES would occur [REP5-026].

3.13.9. However, no further in-depth consideration was given to the four projects identified above, despite all appearing important and relevant to the decision-making process with regard to CEA [PD-011, Q2.9.3]. The ExA again made the request for further assessment [PD-017] and the applicant responded [REP6-052] that consideration of the projects fell to individual environmental topic chapters in the ES. The Red House Solar Farm scheme was refused prior to the close of the examination for reasons including green belt and landscape [REP7-092].

3.13.10. Related to concerns regarding CEA was the handling of the future delivery of the National Grid (NGET) substation and, more specifically, the potential for Battery Energy Storage Systems (BESS) coming forward. Detailed consideration of this is in section 3.2 of this report, but for the purposes of this section it is pertinent that the applicant highlighted BESS schemes in the broad vicinity were currently only at the concept stage and there were no applications before any authority to factor into the cumulative assessment equation [REP6-047] [REP6-052].

3.13.11. The applicant has, in the ExA's opinion, identified and adequately assessed other schemes which could potentially generate cumulative effects.

3.13.12. As set out in the landscape and heritage sections of this report, the ExA cannot rule out significant cumulative effects arising from the project together with other planned and applied developments. The recommended Development Consent Order (rDCO)

should provide and secure mitigation measures to minimise these cumulative effects. The limited lifespan of the proposed development, except for the NGET substation, would reduce those cumulative effects upon decommissioning.

3.13.13. While undoubtedly the proposed development could cause likely additional effects particularly in relation to ecological, noise, traffic and transport, the ExA is nevertheless satisfied that there are not likely to be any significant cumulative or combined effects from construction, operation and decommissioning activities that are worse than the effects of the proposed development alone from these topic sources.

3.13.14. The ExA considers that the assessment of cumulative and combined effects accords with the EIA Regulations and relevant NPS. The effect in the planning balance is neutral and does not weigh for or against the making of the Order.

3.13.15. The ExA considers that the assessment of cumulative and combined effects accords with the EIA Regulations and the relevant provisions of National Policy Statements (NPSs), for example NPS EN-1 paragraph 4.1.5 which requires cumulative impacts to be weighed in the balance. The effect on the planning balance is neutral and does not weigh for or against the making of the Order.

DECOMMISSIONING

Application

3.13.16. The applicant's approach to decommissioning is set out in ES chapter 6 [APP-043] and the outline Decommissioning Plan (ODP) [APP-236].

3.13.17. The applicant states that the proposed development would be operational for 37.5 years. Assuming the proposal is first commissioned in October 2028, the development would be generating electricity until 2066. Decommissioning would then take an anticipated 24 months to complete [APP-043, table 6.1].

3.13.18. The ODP sets out that, other than all 33kV and 275 kV cables (where they have been laid in the public highway and where cables have been laid using horizontal directional drilling), some foundations and any NGET substation, all other project infrastructure would be removed from the site and managed in accordance with the waste hierarchy. Landscaping enhancements and mitigation would remain in situ post-decommissioning.

3.13.19. The details of the decommissioning programme would be set out in the detailed Decommissioning Plan, required to be approved under Requirement (R)14 in the dDCO by the OHA.

Examination and Conclusions

3.13.20. A significant number of IPs raised concern about the projected lifespan of the project and what would happen at decommissioning stage (for example [RR-0205] [RR-0161] [RR-1007] [RR-1086]). The range of concerns was broad, but summarised as principally being:

- Bonds to secure decommissioning funding should be included in the dDCO.
- No guarantee the land would be returned to its natural state.
- Possibility for continuation of the solar farm under the National Planning Policy Framework (NPPF) or re-classification of land as grey belt/ brownfield land.

- No adequate detailed plan for decommissioning.
- The Local Impact Report [REP1-072] also raised a lack of clarity in the submitted documentation as to what would actually remain following decommissioning.

3.13.21. In general terms, the applicant states that any consent would not be a permanent permission by reason of paragraph 2.10.66 in NPS EN-3, and the development would not convey a status upon the land as 'previously developed' that would allow it to default to other forms of built development post-decommissioning [REP1-020]. In terms of visible above ground development, only the NGET substation would remain following decommissioning.

3.13.22. The applicant stated, during issue-specific hearing 1 (ISH1), that assurances could not be given at this stage that there would be funding available in the future for decommissioning [EV5-006, EV5-007, minute 1:05:30 to 1:06:41]. The applicant stated at deadline (DL) 3 [REP3-064, page 12] that a number of developers had sold solar farms prior to construction. In direct response to ExQ2.5.9, the applicant stated that the current project owners would retain an "adequate equity ratio" in commensuration with the value of Botley West project by the time it would be ready to build [REP4-037]. When prompted at compulsory acquisition hearing (CAH) 1 to explain what this meant [EV6-006, minute 10:01 to 16:46], the applicant responded with, amongst other things:

> *"So far as the instructions I've had to date, the interest of this particular client is to stay involved in the project. They have a desire to see it through. I can honestly say I have no instructions that, for example, we have a desire to sell as soon as the DCO is granted."*

3.13.23. In an effort to provide comfort that the future decommissioning of the project was secure, the applicant highlighted that R 14 in the dDCO would place a legal obligation on the undertaker to carry out decommissioning, and any that non-compliance with R14 would constitute a criminal offence, which is a strong form of assurance that it would indeed by complied with [REP1-020]. The applicant did, however, amend R14 at the request of the local authorities, providing for notification of the date of any decommissioning at least 12 months prior to any decommissioning taking place [REP2-005].

3.13.24. Whilst the exact detail of what would be decommissioned and when would be set out in the detailed version of the Decommissioning Plan [REP2-025, Q1.8.18], the applicant confirmed to the examination that all infrastructure, apart from a proportion of electrical cabling, would be removed as part of the decommissioning process [APP-236, section 2.1]. Piles would be removed as well or, where they could not be, they would be cut to 1m below ground level [REP4-037, Q2.17.8] as confirmed in the ODP [REP4-030]. This was latterly clarified that piles would only remain in the ground if they got stuck [REP6-049, page 15].

3.13.25. The applicant asserted that: "*the infrastructure has asset value, which provides a financial incentive to decommission* [REP2-025]." The ExA asked for evidence of this, and the applicant responded that after decommissioning the panels would still have 6 years of productive life left and so could be sold on to others [REP4-037, Q2.1.17]. This was however challenged by IPs, due to doubts on who would buy a solar panel with only 6 years of life left, and that technology would advance so much in 40 years that the current day panels would be obsolete [REP5-123]. The applicant then appeared to return to a principle of scrapping the panels [REP6-049,

page 54]. IPs claimed that the value of the assets at decommissioning would not be sufficient to cover the full costs of decommissioning [REP7-059].

3.13.26. IPs pressed for a decommissioning bond to secure future funding given the alleged vagueness in the applicant's case [REP2-061] and the apparent intention of the applicant to walk away from any grant of development consent. This, IPs said, was in direct response to the applicant's history of abandoning of other solar projects undertaken in Japan (for example, [REP2-060] [REP3-114] [REP4-047] [REP4-050].

3.13.27. The applicant dismissed allegations made regarding other business affairs pursued in other countries [REP5-005, pages 34-36] and stated that it had successfully developed solar farms totalling 980 MWp capacity. Nonetheless, the applicant provided draft wording for an additional requirement making provision for a bond or other form of financial guarantee for decommissioning purposes. This was offered on a without prejudice basis, to be included in the dDCO even though it was considered unnecessary, citing that the SoS has previously not seen the need for such a requirement when making the Oaklands Solar Farm Order 2025 [REP2-025, Q1.1.16]. The applicant also provided an extract of the Heads of Terms being agreed with landowners, confirming that land would be reinstated before being returned to such landowners from whom the land was acquired [REP4-037, Q2.5.6].

3.13.28. The ExA notes there is no policy requirement for a decommissioning fund to be imposed as per paragraphs 2.10.146 to 2.10.151 of NPS EN-3. However, the ExA is not encouraged by the applicant's apparent willingness to dispose of the application as soon as consent is granted. Whilst the burden of compliance with R14 would be passed on to any other undertaker if the benefit of the Order was transferred under Article 35, the applicant has done little to inspire confidence during the examination that decommissioning could be funded or undertaken fully and properly. The end life of the project, whether to scrap or sell the panels, is confused and lacks assurance that affirmative action would be taken. The ExA is not convinced that panels still in place when decommissioning occurs would hold any real monetary value given advancements in technology that are almost inevitable to occur. Any value of the remaining infrastructure would only cover part of the overall cost of decommissioning.

3.13.29. For these reasons, the ExA is compelled to recommend to the SoS that an additional requirement is written into the DCO to ensure that adequate funding is secured to allow decommissioning at a future date. More details of such a requirement and its associated wording can be found in chapter 7 of this report.

3.13.30. In accordance with policy NPS EN-1 paragraphs 4.3.5 and 4.10.13, the applicant has provided information regarding the decommissioning of the project and the lifespan of the infrastructure. The ExA consider there is sufficient information in the ODP to inform and guide the preparation of a detailed decommissioning plan, but further assurances should be incorporated into the dDCO. Subject to the imposition of a new requirement in the rDCO to provide greater security on the future of the proposed development post-operation, the ExA consider this matter does not weigh for or against the case for development consent.

NATIONAL SECURITY

Application

3.13.31. The topic of national security was not one covered by any chapter of the ES. It arose as an issue in the examination due to concerns from the Ministry of Defence

(MoD), via the Defence Infrastructure Organisation (DIO) with regard to military aviation safety and operations.

Examination and Conclusions

3.13.32. The DIO registered as an IP at the onset of the examination [RR-0724]. The DIO raised concern regarding the statutory safeguarding zones surrounding RAF Weston on the Green, specifically the aerodrome height and bird-strike safeguarding zones, and the aerodrome height safeguarding zone surrounding RAF Brize Norton. The DIO highlighted that the aspects of the project that required further scrutiny including glint and glare, changes in wildlife patterns, and interactions with Primary Surveillance Radar equipment [AS-042] [REP1-082].

3.13.33. The applicant stated it was industry standard and best practice to assess glint and glare towards aviation receptors in line with the Federal Aviation Authority (FAA) 2013 guidance. This guidance requires consideration of 2-mile approach paths and the Air Traffic Control tower. Due to the distance between the proposed solar panel areas and the two RAF bases referenced by the DIO, the applicant considered that it is not possible for glare to be greater than 'low potential for temporary after-image', which would constitute a low impact, which would not require mitigation [REP2-027].

3.13.34. The applicant also provided an assessment of thermal impacts on radar and surveillance equipment [REP6-067] and a document outlining the limited potential for bird-strike [REP6-047, appendix 3], concluding neither would cause any effects on the identified sites. To reassure IPs, the Outline Landscape and Ecology Management Plan (OLEMP) was updated to incorporate the principles of landscape design set within the Civil Aviation Authority Guidelines on the Management of Wildlife Risk [REP4-037, Q2.1.6].

3.13.35. The DIO responded at DL7, comprehensively stating that there were no objections to the proposed development and all concerns had been reasonably resolved [REP7-087].

3.13.36. National security was raised by a number of IPs with regard to the applicant's ownership, ethnicity and funding origins (for example, [RR-0208], [RR-0478] [REP1-170]). Any political dimension to national security is beyond the remit of the ExA to explore in an Examination, but the ExA directs the SoS to those representations where this was seriously raised (for example [REP7-067] [REP7-092] [REP7-096] [REP7-154] [REP7-186]).

3.13.37. The ExA consider that, in light of the definitive response from the DIO [REP7-087], the project would not have an adverse effect on defence infrastructure. The ExA has no reason to consider the project would be harmful to, or otherwise threaten, national security, though IPs have raised their geopolitical concerns. With reference to paragraphs 4.16.4 and 4.16.7 of NPS EN-1, the proposed development is considered to be acceptable.

3.13.38. The ExA consider this matter does not weigh for or against the case for development consent.

MINERALS AND WASTE

Application

3.13.39. Waste and resource management, including effects on mineral reserves, are principally assessed in ES chapter 18 [APP-055] but also in ES chapter 11 [APP-048] and the planning support statement [APP-225].

3.13.40. The applicant submits that it would seek to manage waste in accordance with the waste hierarchy during construction, operation and decommissioning phases. Plans would be produced post-consent regulating waste management for each of these phases, with each plan subject to approval from the relevant local planning authority. Non-hazardous waste would largely be recovered and recycled, whilst hazardous waste requiring landfilling would be less than 1% of hazardous waste landfill capacity in the southeast region. No further mitigation is proposed.

3.13.41. In terms of minerals, the applicant prepared a Mineral Resources Assessment (MRA) [APP-195], which has estimated that 270 hectares (ha) of the project area falls within Mineral Safeguarding Areas (MSA). The applicant estimates a volume of 4,581,500 m^3 of sand and gravel resource would be sterilised for the duration of the development (35 to 42 years). The conclusions of the MRA are that the temporary nature of the project would not permanently sterilise safeguarded sharp sand and gravel reserves, and there is a possibility that the minerals could be extracted in the future following decommissioning [APP-048, paragraph 11.6.29].

3.13.42. The ES concludes that there would be no likely significant effects arising from the project during the construction, operation and maintenance or decommissioning phases.

Examination and Conclusions

Waste

3.13.43. Section 7.14 of the Joint LIR [REP1-072] sets out a number of fundamental issues with the applicant's assessment and conclusions. A more detailed projection of waste arisings in the ES was requested alongside a clear plan for the removal and management of the waste during both operational and decommissioning phases. Concerns were also raised regarding the content and adequacy of the Outline Operational Management Plan (OOMP) [APP-234] and the Outline Decommissioning Plan (ODP).

3.13.44. In addition to the OHA issues, a number of IPs (for example, [RR-0018] [RR-0938] [RR-0998] [RR-1079]) raised general concerns regarding:

- Lithium-ion batteries.
- Replacement of panels during the operational phase.
- Insufficient information on recycling.

3.13.45. The applicant responded [REP1-020] [REP2-026]:

- The Project design would predominantly use prefabrication. This design approach reduces the generation of construction wastes.
- Damaged and replacement photovoltaic panels during the operation phase and during decommissioning would be removed from site and recycled by an

authorised processor as required by the WEEE Regulations 2013 (as amended).

- BESS is not included as part of the proposed development [REP1-020], so no lithium batteries would be present at the project site.
- The Outline Site Resources and Waste Management Plan [APP-233] sets out the proposals for the management of waste during the construction phase of the project and therefore, does not provide details on waste from the decommissioning phase.
- Waste generated during the decommissioning would be managed in accordance with the waste hierarchy and the Best Available Treatment, Recovery and Recycling Techniques as set out in the ODP.
- For the purpose of the assessment, it is assumed that 100% waste generated by the project would be sent to landfill as this presents the maximum design scenario. However, the applicant has committed to managing waste in accordance with the waste hierarchy principle, which includes diverting waste from landfill.

3.13.46. In response to requests for a bill of quantities to help inform the OHA and the examination, the applicant declined [REP2-025, Q1.18.4] [REP4-037, Q2.17.2].

3.13.47. In rebuttal of OHA requests for further information on the availability of waste facilities to handle waste panels arising during operation and decommissioning, the applicant noted that work is underway to expand the number and capacity of recycling facilities to support the government's plans to expand solar energy. This includes an action within the government's Solar Roadmap (June 2025) to support new innovative recycling processes [REP4-037, Q2.17.3]. The applicant will provide a list of the authorised processors for recycling the end-of life panels in the detailed Decommissioning Plan [REP4-037, Q2.17.3].

3.13.48. Although more relevant to the traffic and transport sector, the ExA notes that the Outline Operational Management Plan (OOMP) was updated to state that panel replacement will not exceed 30% in a single year within any one site area (North, Central, or South) [REP6-032].

3.13.49. As reported above, IPs expressed concern regarding the certainty of the applicant's proposals for decommissioning the panels. This was particularly the case for those who noted that no waste re-processors had been identified at any stage of the examination [REP7-164].

3.13.50. The ODP was revised twice during the examination [REP4-030] [REP6-036], which narrowed the issues to a certain extent. Nonetheless, the OHA's final position regarding waste is stated as being [REP7-190] [REP7-191]:

- The applicant has only considered the disposal of waste and has not assessed the potential for other waste management methods and associated facilities further up the waste hierarchy.
- This is the largest proposal for solar farm development currently under consideration potentially using over 4 million solar panels. Each panel will require replacement at least once over the 40-year operational period, alongside its associated infrastructure. This would result in largest volume of solar panel waste in Oxfordshire, and potentially the UK.

- To be able to fully assess the impact of this development on existing waste management facilities within Oxfordshire, not just landfill, and to plan for future waste management needs, the OHA continues to require more detailed projections of waste types.

3.13.51. This matter remained unresolved at the end of the examination, though did not feature as a topic in the SoCG [REP8-002].

3.13.52. NPS EN-1 paragraphs 5.15.5 and 5.15.9 state that the applicant should include an assessment of the impact of the waste arising from development on the capacity of waste management facilities to deal with other waste arising in the area for at least five years of operation and that the SoS should be satisfied that the waste from the proposed facility can be dealt with appropriately by the waste infrastructure which is, or is likely to be, available.

3.13.53. In knowledge of NPS EN-1, the ExA observe that definitive detail is somewhat lacking at this stage and, as such, there is a distinct emphasis on the need to resolve matters post-consent.

3.13.54. Whilst it is reasonable suggest that waste facilities for solar panels may be introduced in the future as per the solar roadmap, the applicant provides no details about how waste would be managed in the next five years or the impacts on existing waste management facilities. The ExA does note that the relevant planning authority would have a right of approval in discharging the final site resources and waste management plan pursuant to requirement 11(2)(d) as well as the Outline Code of Construction Practice (OCoCP) [REP7-023, REP7-025] in general and the ODP, but the lack of identification of immediate facilities to deal with immediate waste demands is worrying at this time.

3.13.55. It is considered that deferring waste matters to the post-consent stage does not avoid non-compliance with the NPS EN-1 policies. The ExA can only conclude that there could be an impact on waste management facilities that has not yet been planned for. This could have adverse effects on the waste management network and there are no planned mitigations in place [APP-055, table 18.32].

3.13.56. The ExA consider this matter carries a little negative weight against the case for development consent.

Minerals

3.13.57. NPS EN-1 paragraph 5.11.19 states that applicants should safeguard any mineral resources on the proposed site as far as possible, taking into account the long-term potential of the land use after any future decommissioning has taken place.

3.13.58. The OHA stated the development presented a clear breach of the NPS because the proposal would occupy an MSA, sterilising circa 6.8 million tonnes of primary aggregate, equivalent to 6.97 years of supply for Oxfordshire which would be almost equivalent to the 7-year landbank requirement set out in the NPPF [REP1-072].

3.13.59. The ExA queried what measures or efforts had been done at the preliminary design and optioneering phase to avoid the 119ha of MSA appearing in the Order limits [PD-011, Q2.17.6]. The applicant simply replied that the MRA undertaken concluded that, given the proposed development is temporary in nature, there would not be any permanent sterilisation of mineral resources, and therefore the potential development of a solar farm on mineral safeguarding areas was not ruled out when considering 'alternatives' [REP4-037]. In the opinion of the applicant, the national

importance of the project outweighs the importance of the safeguarding resources beneath the site.

3.13.60. Section 7.7 of the Joint LIR [REP1-072] considers the impacts on mineral resources to be adverse and to conflict with paragraph 223(c) of the National Planning Policy Framework (NPPF). This is on the basis that the mineral sterilisation would be unacceptable and at a time when central government is prioritising house building and growth which will need the adequate supply of sand and gravel to meet demand.

3.13.61. Furthermore, the OHA are concerned that removal of the solar farm could become unlikely in future years under paragraph 168(c) of the NPPF, which requires significant weight to be given to extending the life of existing renewable sites. As such, the mineral resource would be unable to be worked beyond the end of the project's current forecast life [REP1-072, paragraphs 7.1.7 and 7.7.18].

3.13.62. The applicant responded to the request to remove land within the MSA from the Order limits by saying [REP2-026]:

- The latest Local Aggregate Assessment (LAA) for Oxfordshire was issued in 2024 and finds that, at the end of 2023, total permitted reserves of sharp sand and gravel in Oxfordshire were 7.693million tonnes (mt). Using the latest Aggregates Provision Rate figures of 0.986mt per annum, this gives a landbank of 7.8 years and therefore is above the minimum threshold set by the NPPF for sand and gravel.
- The LAA also identifies that there were four outstanding planning applications for sharp sand and gravel quarries that, if consented, would contribute to the permitted reserves and increase the available landbank.
- The 3.8 million m3 of material currently stated in the response does not take into account the impact of buffers which are set out in the report. This is an overestimate of what would actually be present beneath the areas that would be temporarily sterilised by the development.
- There is an estimated approx. 2.8 million m^3 of overburden material, comprising alluvium, that would need to be removed / transported prior to extracting the safeguarded sand and gravel.
- The size of the MSAs is extensive and there are several locations across the county that could be identified for extraction to maintain supply prior to decommissioning of this solar farm.
- The benefit of the proposed development far outweighs any limited temporary impact it would have upon the safeguarded mineral resources.
- In terms of mitigation the principles of incidental extraction would be adopted during development-related construction works.
- Piles and foundations would be removed where feasible and practical. The only below ground infrastructure that would remain within the mineral safeguarding area would be horizontally directional drilled (HDD) cabling [REP4-037, Q2.17.8].

3.13.63. The OHA maintain that for the proposed development to be compliant with paragraph 5.11.19 of NPS EN-1, all panels and other structures should be removed from MSAs within the Order limits, amounting to circa 270ha. The proposed

development affects approximately 6.87 million tonnes of primary aggregate, a significant resource that could contribute to meeting the County's mineral supply needs over the next 40 years, well beyond the current Local Plan period ending in 2031 [REP3-072].

3.13.64. The ExA asked about what other mitigation measures had been put in place to avoid impacting the mineral resource, given that piling foundations and cables would be laid within the MSA [PD-008, Q1.18.8]. The applicant responded to say [REP2-025] that the principles of incidental extraction would be adopted, reusing the material for the project itself or selling it on the open market. The OHA rebutted that approach stating this would be opportunism rather than an appropriate form of mitigation for protecting the mineral resource [REP4-074, Q2.17.7]. The OHA are sceptical that piles driven using hydraulics could be so easily removed and also have remaining concerns about cables laid using horizontal directional drilling would be left in situ following decommissioning [REP7-190] [REP7-191].

3.13.65. This matter remained unresolved at the end of the examination though did not feature as a topic in the SoCG [REP8-002].

3.13.66. NPS EN-1 paragraph 5.11.19 states that applicants should safeguard any mineral resources on the proposed site as far as possible, taking into account the long-term potential of the land use after any future decommissioning has taken place.

3.13.67. Taking into account the applicant's answers [REP2-025, Q1.3.11] [REP4-037, Q2.17.6] and the fact that mineral resources are not even considered in ES chapter 5 on alternatives [APP-042], the ExA consider there is a failure to meet this policy on safeguarding. In short, the applicant made no attempt to safeguard the resource purely on the basis that the project would be temporary (42 years). The ExA is disappointed that the applicant made no effort to avoid or minimise the effects of the development upon mineral resources during the initial design stage of this application.

3.13.68. NPS EN-1 paragraph 5.11.28 states that where a proposed development has an impact upon an MSA, the SoS should ensure that appropriate mitigation measures have been put in place to safeguard mineral resources.

3.13.69. The applicant's two main defences are that the development would be temporary, and any material dug up could be reused on site. The ExA considers that relying on the development being temporary does not provide a robust justification for failing to avoid or limit interaction with the MSA. No other credible mitigation has been put in place and leaving cables, and potentially foundations in place, within the MSA is evidence of this. Therefore, the ExA considers that the proposal does not accord with the relevant NPS policy.

3.13.70. The ExA notes that NPS EN-1 paragraph 5.11.19 allows for consideration of the long-term potential of the land post-decommissioning. Section 2 of the ODP [REP4-030] states that 33kV and 275kV cables laid using horizontal directional drilling would remain in the ground, including in the MSA, and any piles and pile foundations "*not practicable to remove without major disturbances*" would be cut to 1m below ground level to enable ploughing. The ExA considers these allowances in the ODP, without firm commitments to remove all of the proposed development within the MSA, would add to the complexity and difficulty of viably accessing the mineral resource.

3.13.71. The ExA notes the OHA have concerns that the life of the development could be prolonged under the terms of the NPPF. However, this would need either a new or amended development consent order and/ or applications under the Town and Country Planning Act 1990 (as amended). It is also unknown what the circumstances or planning policy position would be in 40 years' time.

3.13.72. Overall, the ExA considers that, whilst the mineral reserve would not be significantly physically destroyed by the proposed development, the sterilisation would be for a significant amount of resource and over a significant amount of time. Through sterilisation, there would be an immediate adverse impact on the availability of mineral resources in the county, potentially affecting aggregate supply for the government's ambitious proposals for construction projects. Whilst this could be substituted by other deposits in the interim and partially restored in the long-term, the ExA considers that much more could have been done to apply the mitigation hierarchy to mineral resources.

3.13.73. The ExA concludes the impacts on mineral resources carry moderate negative weight against the case for development consent.

GROUND CONDITIONS

Application

3.13.74. Ground Conditions are principally assessed in ES chapter 11 [REP5-018]. ES chapter 11 was also supported by the following documents:

- Land Parcels 1-16, Desk Top Study and Preliminary Risk Assessment [APP-175] to [APP-194].
- Mineral Resource Assessment [APP-195].

3.13.75. The applicant confirmed in [REP5-018] that the study area comprised the proposed development area and a data search buffer of up to 250m around the project footprint, and this had been selected based upon professional judgement. In order to provide a sufficient level of detail for assessment, the proposed development area was divided into 14 land parcel survey areas, illustrated in figure 11.1 [APP-101], with an additional two survey areas identified for the proposed cable routes linking the Northern Site Area to the Central Site Area and the Central Site Area to the Southern Site Area.

3.13.76. The impacts assessed within [REP5-018] included:

- ground contamination of groundwater;
- ground contamination of surface water;
- ground contamination of future site users; and
- ground contamination of off-site human health receptors.

3.13.77. No significant residual effects in respect of ground conditions were predicted during construction, operation and decommissioning of the proposed development.

Examination and Conclusions

3.13.78. Section 7.6 of the Joint LIR [REP1-072] confirmed that, as the majority of the proposed development comprised agricultural land, the OHA did not consider it would represent a potentially significant source of contaminants of concern.

However, the identified on-site potential infilled areas of ground and former landfill could represent sources of contaminants. It was also noted that there was the potential for new contaminants during the construction phase via spillages or leakages from plant or fuel storage in compounds.

3.13.79. Despite this, at paragraph 7.6.5 of [REP1-072] the OHA accepted that any such contaminants could be readily mitigated by best practice measures and construction drainage design.

3.13.80. The applicant confirmed on page 17 of its response to LIRs [REP2-026] that, regarding the potential for the introduction of new contaminants during construction via spillages or leakages from plant or fuel storage in compounds, this would be managed via a Pollution Prevention Plan, as set out in the OCoCP [REP7-023] and [REP7-023]. In respect of concerns regarding decommissioning, which was also raised in the Joint LIR [REP1-072], the applicant confirmed on page 18 of [REP2-026] that all decommissioning of the proposed development would be undertaken in line with the ODP [REP6-037].

3.13.81. The Environment Agency (EA) raised concern regarding the Hensington Cutting Landfill, through which cables might be laid [REP4-039]. The potential for leachate generation from this site had not been fully taken into account [REP6-042]. In response, the applicant stated [REP7-036]:

> *"the potential mobilisation of leachate associated with this potential source is assessed within paragraph 11.9.9 of Chapter 11. Should a potential source pathway-receptor linkage be identified on completion of the proposed ground investigation, HDD will be progressed below the landfill mass with its construction method supported by the findings of the ground investigation (and subsequent risk assessment) (Commitment 11.2 of the Commitments Schedule [APP-129])."*

3.13.82. The matter is not shown as being resolved in the SoCG with the EA [REP7-036, page 14], although the SoCG is signed and the applicant's explanation is visible. The ExA assume from this that the EA is satisfied with the applicant's position.

3.13.83. In other respects, at the close of the examination, the EA had no outstanding concerns about leachate or contamination effects on groundwater or upon other sensitive receptors [REP7-036].

3.13.84. The ExA is satisfied that the principles of NPS EN-1 in respect of the consideration of existing ground conditions and any potential risk posed by land contamination have been met by the proposed development. As a consequence, we do not consider that the proposed development would result in additional levels of ground contamination. Furthermore, we are also satisfied that the proposed best-practice measures contained within the relevant management plans are both adequate in scale and content and appropriately secured.

3.13.85. Accordingly, the ExA ascribes a neutral weight with regard to the consideration ground conditions in the making the development consent order.

HUMAN HEALTH

3.13.86. This section considers the impacts on human health from glint and glare effects, from a wellbeing perspective in terms of using public rights of way and other social

effects arising from the proposed development. Noise, vibration and air quality impacts are assessed elsewhere in this report.

Application

3.13.87. Human Health is principally assessed in ES chapter 16 [CR2-023]. ES chapter 16 was also supported by the following documents:

- ES – figure 16.1 - Human Health Study Area [APP-106]
- ES – figure 16.2 Illustrative 3D Views of Education Facility [APP-107]
- ES – appendix 16.1 Human Health Consultation and Engagement [APP-219]
- ES – appendix 16.2 Oxfordshire HIA Toolkit Alignment Review [APP-220]
- ES – appendix 16.3 Community Health Profile [APP-221]
- ES – appendix 16.4 Human Health PRoW Analysis [APP-222]

3.13.88. The applicant confirmed in [CR2-023] that the scope of the human health assessment was developed in consultation with relevant statutory and non-statutory consultees. The Study Area was defined on the basis of the human population that would have the potential to be affected directly or indirectly by the proposed development.

3.13.89. [CR2-023] stated that information on human health and wellbeing within the study area had been collected through a detailed review of existing studies and datasets. A summary of the desk top sources used was contained within table 16.7 of [CR2-023]. ES appendix 16.3 [APP-221] also provided details of additional baseline health information at the community level that was considered in the assessment.

3.13.90. No significant adverse effects were predicted during the construction, operation and decommissioning phases of the proposed development. However, the following additional mitigation measures were proposed by the applicant, to be secured under R12 of the draft Development Consent Order (dDCO) [REP7-006]. The applicant, at paragraph 16.8.8 of [CR2-023], acknowledged that these measures were not required to mitigate any significant effects. However, they would have additional beneficial outcomes, should they be implemented:

- Periodic monitoring of Public Rights of Way (PRoW) use, to determine if measures to avoid widespread behavioural change in use of PRoW are effective. Any additional actions necessary to reduce access barriers would be agreed via the detailed Landscape and Ecology Management Plan (LEMP).
- Provision of an open and covered space in the solar farm for use by school field trips. The educational area would provide local schools with basic facilities such as benches and a covered area to undertake their own learning activities. The potential to walk to the educational site and potential for guided access to array areas could support both physical activity and learning outcomes for population health.
- Continued community consultation and sharing of ‘non-technical’ information relating to the project, such as explaining compliance with public exposure guidelines and actual risks associated with the project. This could allow people to express concerns and gain awareness of actual health effects.

Examination and Conclusions

Glint and Glare

3.13.91. The issue of glint and glare, in respect of potential impact on school sites, was raised by Oxfordshire County Council (OCC) in their relevant representation (RR) [RR-0793], specifically in respect of Yarnton Preschool, William Fletcher Primary School, and Cumnor Church of England Primary School. Section 7.12 of the Joint Local Impact Report (LIR) [REP1-072] also sets out concerns in respect of glint and glare effects, particularly in respect of schools within 1km of the proposed development, as such effects had not been assessed.

3.13.92. In response, the applicant commented at [REP1-020] that commercial and educational properties were not typically considered within the standard methodology. This was because there is lesser potential for impacts on amenity compared to a dwelling as properties such as schools are not inhabited permanently. In respect of the schools listed by OCC, it was confirmed no impacts were predicted in respects of the establishments.

3.13.93. At ExQ1.13.2 [PD-008] we requested confirmation as to whether educational establishments had been assessed in respect of glint and glare.

3.13.94. At [REP2-025] the applicant confirmed that a glint and glare study had been included in appendix 4.4 of the ES [APP-128], which was subsequently amended and submitted into the examination at [REP4-012]. In respect of residential dwellings, the assessment considered 699 dwelling receptors. For 4 dwelling receptors, a moderate impact was predicted and mitigation in the form of either vegetation or fencing was recommended. For the remaining dwellings, screening in the form of existing and proposed vegetation was predicted to obstruct views of the solar panels. As such, no significant impacts were predicted, and no mitigation was considered necessary. The report also confirmed that the three schools identified by OCC had been considered in reaching conclusions as to the likely significant population health effects. It was also confirmed that given the location of the schools in proximity to the boundary of the proposed development, they were not considered to have the potential for significant public health effects. In respect of schools within 1km of the proposed development, all school locations had been taken into consideration in the Human Health assessment.

Public Rights of Way and visual changes

3.13.95. The Illustrative Masterplan Overview [REP7-019] provides the landscape and ecological strategy for implementation, long-term maintenance and management of the proposed development. The proposed measures include:

- The reinforcement of existing field boundary hedgerows and planting new hedgerows along lengths of PRoW.
- Where existing hedgerows require more extensive infilling, planting of individual trees where appropriate.

3.13.96. These measures would be implemented via the OLEMP [REP6-034] and secured by as R11 of the dDCO [REP7-006].

3.13.97. Paragraph 16.9.40 of [CR2-023] acknowledges that there would be a change in the experience of those using the public footpaths and bridleways that currently passed through or were adjacent to the site. Also, that a minor change in the quality of the physical activity opportunity would be expected for a small minority of the

population. This change would occur due to the temporary disruption during any rerouting and the proximity to construction works. However, the applicant also confirmed that any adverse effect on health behaviours and outcomes would be short-term and, as routes would remain open, were likely to reverse on completion of the construction work.

3.13.98. Despite this, a number of IPs (including, but not limited to, [RR-0164], [RR-0870], [REP1-081], [REP1-097], [REP2-115], [REP3-072] and [REP4-074]) raised significant concern that PRoWs risked becoming narrow corridors between fencing and hedging. A further concern was that the reduction in width could reduce both safety and enjoyment for walkers and riders. Additionally, IPs also reported a fear of a loss of mental health benefits from an open landscape experience ([EV5-007], [EV8-005] and [REP1-019]).

3.13.99. In its Community Impact Report [REP2-081], Stop Botley West confirmed it had undertaken its own survey of PRoW routes and found that 49% of respondents would be likely to drive to an alternative PRoW outside of the area due to the erection of the proposed fencing and hedgerows. The Oxfordshire Ramblers Association [RR-0870] [REP7-201] [REP7-240] also raised concern that the proposed development could completely obstruct valued countryside views, which in turn would diminish the mental and physical health benefits of walking.

3.13.100. The issue of potential 'tunnelling' effects was also discussed during issue-specific hearing (ISH) 1([EV5-002], [EV5-004], [EV5-006], [EV5-008]). The applicant stated that the concept of 'tunnelling' was subjective and that the design work undertaken to date had considered spacing between paths, hedgerows, fences and panels. Furthermore, that the work had been undertaken following contact with OCC to avoid adverse effects on amenity and wellbeing.

3.13.101. The ExA further queried at ExQ2.15.9 [PD-012] as to what consideration had been given to the potential for users of the PRoWs to experience such 'tunnelling' effects and whether it would be feasible for the proposed hedgerows to be lowered at key vantage points.

3.13.102. In response at [REP4-037], the applicant signposted to the response given at [REP1-020]. This stated that an Outline Public Rights of Way Management Plan, contained within the OCoCP [REP7-023] [REP7-025] and secured by R11 of the dDCO [REP7-006], would set out measures to promote the use of the PRoW network. Also, that the PRoW network would be maintained during the lifetime of the proposed development and that suitable pedestrian access for diversions of any temporary route closures and appropriate wayfinding information for temporary diversions would be provided.

3.13.103. Furthermore, the applicant contended in [REP4-037] that PRoWs '*flanked by hedgerows and / or trees is characteristic elements of the existing landscape. With some, such as 416/11/20 (Claude Duvall Way) passing through a narrow and, in places, green corridor. The Project mitigation, detailed above, would allow for a more generous corridor, 5m minimum, within which the public rights of way would pass, in the majority of cases. Creating a wider green corridor not uncharacteristic of the current situation and existing landscape'*.

3.13.104. However, OCC in its SoCG [REP8-002] commented that it disagreed with the above statement. Whilst OCC accepted that there are instances of hedge flanked PRoWs, these are the exception and not the rule. OCC considered that applying a widespread 'greenway' approach as the applicant suggested would result in a

fundamental change in the way in which users of the PRoW network would appreciate the surrounding landscape.

Fire and Rescue Access

3.13.105. The OHA, at both [RR-0793] and [REP1-072], commented that limited information in respect of fire and rescue vehicle access routes had been provided by the applicant. It was further stated that the design of the proposed development could be improved to ensure the efficient response of fire and rescue crews in the event of an emergency.

3.13.106. As such, OHA commented that consideration should be in place for ensuring suitable fire service access and egress routes were provided, along with suitable hardstanding. Consultation should have also taken place with the Oxfordshire Fire and Rescue Service to ensure the operational layout of the scheme would not hinder the efforts of the fire and rescue services in the event of an emergency.

3.13.107. The applicant, at both [REP1-020] and [REP2-026] noted that Oxfordshire Fire and Rescue Service did not respond to its statutory consultation, nor was a RR submitted. Furthermore, the applicant signposted to the OCoCP [REP7-023] and [REP7-025], and the Construction Traffic Management Plan, contained within the OCoCP, where the safe and reliable access for emergency services was addressed.

3.13.108. The issue of public safety due to both the design of the array causing a 'tunnelling' effect which may stop people from escaping from the arrays if there were a fire and the potential for heat island effects was also raised at [REP7-089].

3.13.109. In response, the applicant confirmed that should consent be granted, that it would undertake further consultation with the Oxfordshire Fire and Rescue Service and would be required to undertake a Fire Risk Assessment and comply with the Regulatory Reform (Fire Safety) Order 2005 [REP1-020].

Educational Facility

3.13.110. An educational facility, to the south of Bladon, was proposed by the applicant as an additional mitigation measure within the 'Project Mitigation Measures and Commitments Schedule' [REP4-014]. The applicant considered that the facility would provide a key public health enhancement [REP1-020], the facility would be secured via R12 – Outline Operational Management Plan of the dDCO [REP7-006].

3.13.111. However, a number of IPs (including, but not limited to [REP3-072], [REP3-073], [REP3-095], [REP3-099], [REP3-123], [REP5-097], [REP5-132]) raised concerns regarding the proposed facility which are summarised as being:

- Lack of consultation regarding location of facility.
- Lack of suitable vehicular access to proposed location.
- Health and safety concerns due to width of proposed access road.
- Impairment of access to existing recreation ground.
- Lack of overall support from Oxfordshire County Council.

3.13.112. The ExA also noted that The Hill End Centre had raised concern regarding the purpose, location and management of the proposed education facility [RR-1053]

and [REP5-144]. The Hill End Centre also suggested that the applicant could make use of their existing education facility, with the possibility of the development of a new green futures programme.

3.13.113. The ExA sought clarity in respect of the consultation undertaken regarding the proposed education facility and access arrangements at ExQ2.15.4 and 2.15.5 [PD-012]. In response, the applicant confirmed that the proposed education facility formed part of the Change Request 2 and further details would be submitted at DL5 [REP4-037].

3.13.114. Subsequently, it was confirmed by the applicant at [CR2-073] that as the OHA no longer supported the proposed facility, due concerns about impact on the green belt, the facility was being removed from the application. The applicant further confirmed that the affected land would instead be used for Biodiversity Net Gain (BNG) and other ecology mitigation measures.

3.13.115. During ISH2 [EV7-004] the ExA requested that the applicant clarify the meaning of 'other education contributions' referenced in ES chapter 16 Human Health [CR2-023]. The applicant was unable to provide an answer during ISH2. However, at [REP6-047] it was confirmed that "*The Applicant will continue to offer children's fun trails and education boards (for example on wildlife, heritage and solar energy), which could provide local schools with basic opportunities to undertake their own learning activities. This is committed within the Project design secured through the Outline Landscape and Ecology Management Plan at paragraph 6.1.2. Additional contributions are also offered to increase educational opportunities through these resources. There would be potential to walk through these amenities and potential for guided access to array areas which would support both physical activity and learning outcomes for population health. Location and scale will be finalised during detailed design phase*."

ExA's conclusion

3.13.116. Having considered the applicant's submissions and all representations in relation to this topic, the ExA considers the assessment of the human health related effects of the proposed development to be satisfactory.

3.13.117. As discussed above, concerns were raised in respect of the potential effect of 'tunnelling' for users of PRoW and the effect this may have on both their physical and mental wellbeing and those who have protected characteristics.

3.13.118. The ExA is aware that the OHA requested that, amongst other things, all PRoW across the proposed development should be provided as landscaped 'greenway' and that they have a minimum corridor width of 15m, with 3-4m clear grass verges at each side. The ExA also requested that the applicant consider whether the proposed height of the hedgerows could be reduced to enable views of the surrounding landscape.

3.13.119. Whilst the ExA notes that there are no specific mitigation measures contained within the OLEMP regarding PRoW, the ExA accepts that the proposed outline measures for the management of PRoW during the construction phase, would be contained within the Outline Public Rights of Way Management Plan (OPRWMP) [REP7-023] [REP7-025]. Additionally, the ExA notes that the OPRWMP also confirmed that a full and detailed PRoW Management Strategy would be developed and submitted post consent. The preparation and submission of the final PRoW Management Strategy would require approval from the relevant planning authority.

3.13.120. However, at the close of the examination, the ExA noted concern remained from the OHA as whilst several representative plans and sections of the proposed 'greenways' were included within the OLEMP, not all contained a full 3-4m clearance from hedges and trees. However, the OHA accepted that the drawings were only indicative and that they hoped to be able to resolve the issue of greenway design at detailed design stage.

3.13.121. Although the applicant was not required to undertake an Equality Impact Assessment, the ExA contends that the proposed design of the PRoW across the proposed development has the potential to have a negative effect on those individuals with protected characteristics. However, subject to the final PRoW Management Strategy being agreed with the OHA and input into the final LEMP, the ExA is satisfied measures would be put in place to ensure that those with protected characteristics would not be disadvantaged or experience disproportionate harm.

3.13.122. In respect of The Hill End Centre, the ExA considers it disappointing that the potential benefits of working with this organisation were not explored further by the applicant. As such, the ExA considers that the proposed development would offer little in the way of education opportunities.

3.13.123. The ExA accepts that, subject to the landscape screening in the OLEMP, there would not be significant glint and glare effects on human health. In addition, subject to the measures set out in the Construction Traffic Management Plan [REP7-023] [REP7-025] and the Outline Operational Management Plan [REP6-032], the ExA is content that adequate provision has been made for fire and rescue services.

3.13.124. Despite this, the ExA is content that overall, in respect of human health matters, the principles of NPS EN-1 would be met by the proposed development. The proposed development is also considered to be consistent with the NPPF and the local development plans, all of which are important and relevant.

3.13.125. Accordingly, the ExA ascribes a neutral weight with regards to the consideration human health in the making the development consent order

Public Sector Equality Duty (PSED)

3.13.126. In respect of public sector equality duties (PSED), such duties require a public authority in the exercise of its functions to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3.13.127. The ExA noted that the applicant has not undertaken an Equality Impact Assessment. However, the ExA accepts that the applicant is not a public body as listed in section 149 of the Equality Act 2010 and therefore is not required to undertake such an assessment. Despite this, at table 16.1 of ES chapter 16 confirmed that relevant vulnerable population groups had been fully considered within the assessment, including those with protected characteristics under the Equality Act 2010.

4. HRA SUMMARY

4.1. INTRODUCTION

4.1.1. This chapter sets out the Examining Authority's (ExA's) summary conclusions relevant to Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security and Net Zero (SoS), as the competent authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations'). Records of examination procedure, evidence and reasoning to support the conclusions reported upon here are set out in appendix C.

4.1.2. HRA is a legislated process of assessment of the effects of the proposed development (if any) on defined sites which are subject to protection pursuant to relevant international obligations to which the UK has subscribed. These sites are referred to here as 'European Sites', referring to:

- Special Areas of Conservation (SACs) and proposed SACs;
- Special Protection Areas (SPAs) and potential SPAs;
- Ramsar sites and proposed Ramsar sites; and
- any sites identified as compensatory measures for adverse effects on any of the above.

4.1.3. The ExA has been mindful throughout the examination of the need to ensure that the SoS has the information reasonably required to carry out their duties as the competent authority. It has sought evidence from the applicant and relevant interested parties (IPs), including from Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), through written questions and issue-specific hearings (ISHs).

4.1.4. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for this proposed development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s) and no reasonable scientific doubt remains[1].

4.1.5. Where it relates to a European Site, a likely significant effect is referred to as an LSE, and an adverse effect on integrity is referred to as an AEoI in this chapter and in the supporting appendix C.

4.2. INFORMATION AND EVIDENCE

4.2.1. The proposed development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected European sites must be assessed by the SoS.

4.2.2. The applicant's assessment of effects is presented in the following application document:

[1] CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: *Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels* v *Staatssecretaris van Landbouw, Natuurbeheer en Visserij*.

- Habitats Regulations Assessment Report [APP-163], updated at deadline (DL) 6 [REP6-022].

4.2.3. All references in this report to the HRA are to [REP6-022] unless indicated otherwise.

4.2.4. The ExA has had careful regard to all relevant representations (RRs) and written representations (WR) which identify matters relevant to the assessment of effects on European Sites. It has used written questions and ISH to interrogate this material. It prepared and published a Report on the Implications for European Sites (RIES) [PD-016] on the18 September 2025 and sought and has considered responses from the applicant and IPs to it, to inform its consideration of and findings on effects on European Sites.

4.2.5. All deliberations on this information and evidence are set out in appendix C.

4.3. SUMMARY OF MATTERS CONSIDERED

4.3.1. Two European Sites and their qualifying features were taken forward for consideration in the applicant's assessment of LSE:

- Cothill Fen SAC; and
- Oxford Meadows SAC.

4.3.2. It was generally agreed by all relevant IPs, including the ANCB, that the correct sites had been identified and included in the applicant's HRA Report and supporting evidence.

4.3.3. The main HRA matters raised by the ExA, NE and other IPs and discussed during the Examination include:

- the applicant's conclusions in respect of impact pathways; and
- the potential for ammonia deposition from construction traffic causing degradation of the Oxford Meadows SAC.

4.3.4. These matters are discussed in the RIES [PD-016] and in appendix C of this report, as appropriate.

4.4. SUMMARY OF FINDINGS IN RELATION TO LSE

4.4.1. Table 2.1 of the RIES [PD-016] sets out the LSE pathways considered by the applicant and taken through to assessment. These were agreed with the Oxfordshire Host Authorities (OHA) and with NE [RR-0761].

4.4.2. The ExA requested information regarding why construction noise did not represent a potential pathway of LSE [PD-008, Q1.12.1]. Both the applicant [REP2-025] and NE [REP2-057] confirmed that the receiving environment in the Oxford Meadows SAC was not sensitive to noise impacts, and there was no potential for effects on the Cothill Fen SAC.

4.4.3. The applicant concluded that the proposed development would not be likely to give rise to significant effects, either alone or in combination with other projects or plans, on all qualifying features of the Cothill Fen SAC. NE confirmed it agreed with the applicant's conclusion [RR-0761].

4.4.4. The applicant concluded that the proposed development would be likely to give rise to significant effects, either alone or in combination with other projects or plans, on one or more of the qualifying features of the Oxford Meadows SAC. NE agreed with this conclusion [RR-0761].

4.4.5. In light of the conclusions provided by the applicant [APP-163], and taking into account the reasoning set out above, the ExA considers that the proposed development would be likely to have a significant effect from some of the impacts identified in table 2.1 [PD-016] on the qualifying features of the Oxford Meadows SAC identified when considered alone, or in combination with other plans or projects.

4.5. SUMMARY OF FINDINGS IN RELATION TO AEoI

4.5.1. With respect to the Oxford Meadows SAC, the screening of LSE concluded that, in the absence of avoidance or mitigation measures, changes in water quality and the spread of Invasive Non-Native Species during both construction and operational phases could not be screened out and were subject to appropriate assessment. All other effects were screened out as not likely to occur.

4.5.2. Following the application of avoidance measures, AEoI were ruled out in respect of both potential effects [APP-163, paragraphs 5.3.8 and 6.1.3]. NE concurred with these findings [RR-0761] [REP1-087] [REP7-040].

4.5.3. In light of conclusions provided by the applicant and endorsed by NE, and taking into account the reasoning set out in appendix C of this report, the ExA considers that the proposed development would not be likely to have an AEoI from the impacts on the qualifying features of the European sites identified when considered alone, or in combination with other plans or projects.

4.6. HRA CONCLUSIONS

4.6.1. On the basis of the information set out in appendix C and taking into account the position of NE, the ExA has found that an LSE pathway will not result in AEoI to Cothill Fen SAC nor to the Oxford Meadows SAC from the proposed development alone or in-combination with other plans and projects.

4.6.2. The ExA's findings are that, subject to the mitigation measures to be secured in the dDCO, AEoI on the aforementioned European sites from the proposed development, when considered alone or in-combination with other plans or projects, can be ruled out.

4.6.3. The ExA considers that there is sufficient information before the SoS to enable them to undertake an appropriate assessment in order to fulfil their duty under the requirements of the Habitats Regulations.

5. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

5.1. INTRODUCTION

5.1.1. The Overarching National Policy Statement for Energy 2024 (NPS EN-1) states that the government has concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure. The proposed development is CNP infrastructure as defined in NPS EN-1. The National Policy Statement for Renewable Energy Infrastructure (NPS EN-3), and the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) are also applicable, and they provide the primary basis for determining whether development consent should be granted.

5.1.2. Within this context, this section considers the overall case for development consent, taking into consideration the conclusions reached in relation to the main planning issues.

5.2. SUMMARY OF THE MAIN PLANNING ISSUES

THE ENVIRONMENTAL STATEMENT

5.2.1. Overall, the ExA considers that the Environmental Statement (ES), as supplemented with additional information during the examination, is technically compliant with the Infrastructure Planning (Environmental Impact Regulations) (EIA Regulations). There were however some areas, as set out in chapter 3 of this report, where information was lacking and remained so at the close of examination.

5.2.2. The ExA has taken full account of all environmental information in its consideration of this application, including the ES as supplemented with additional information during the examination. The ExA considers there is sufficient material to enable the Secretary of State for Energy Security and Net Zero (SoS) to take a decision in compliance with the EIA Regulations.

HABITATS REGULATION ASSESSMENT (HRA) CONSIDERATIONS

5.2.3. The proposed development is development for which an HRA report has been provided. In reaching the overall conclusion and recommendations in this report, the ExA has considered all documentation relevant to HRA.

5.2.4. The SoS is the competent authority under the Habitats and Species Regulations 2017 (as amended) (Habitats Regulations) and will make the definitive assessment. The ExA considers that there is sufficient information before the SoS to enable them to undertake an appropriate assessment in order to fulfil their duty under the requirements of the Habitats Regulations.

THE PRINCIPLE OF DEVELOPMENT

5.2.5. Current policy provisions establish the urgent need for renewable energy generation of all types. Large scale solar generation, such as the proposed development, will be part of the mix of infrastructure and technology that it is anticipated will deliver this, in line with wider energy and climate objectives. Therefore, the proposed development would make a meaningful contribution to meeting this need. In this regard the ExA's position is that the proposed development would be in general accordance with the provisions of NPS EN-1 and NPS EN-3 relating to need.

5.2.6. Solar generation is part of the mix of technologies that can support the delivery of a low-carbon, secure and affordable UK energy supply into the future. In this regard an important and relevant consideration is the commitment set out in NPS EN-1 to the provision of low carbon infrastructure as a CNP. However, the speed of delivery in this instance is a little in doubt given the outstanding matters regarding the planning future of the National Grid Electricity Transmission Plc (NGET) proposed new substation. Therefore, while the proposed development would make a meaningful contribution to meeting the need for renewable energy generation, and to the government's ambition of a five-fold increase solar deployment by 2035, there is some uncertainty over whether it could do so with relative speed.

5.2.7. The ExA recognise the substantial contribution the project would make in terms of reducing greenhouse gas emissions (reduction of 6,545,595 tCO_2e) and combatting the effects of climate change.

5.2.8. The ExA also concludes that the proposed development would gain support in principle from local policies seeking to support renewable energy provision and the transition to a low carbon future. As host authorities have challenged policy compliance in relation to the acceptability of impacts, the points raised will be considered further under the relevant planning issues below.

5.2.9. In terms of site selection and alternatives, the methodology used, and reasons given for the site selection are sufficient to achieve technical compliance with the requirements of NPS EN-1 and NPS EN-3 and the EIA Regulations in this regard.

5.2.10. The absence of Battery Energy Storage Systems (BESS) only slightly detracts from the applicant's need case but is not necessary for the project to function. Other design choices should be subject to further approval under the requirements of the recommended Development Consent Order (rDCO).

5.2.11. Accordingly, the ExA considers that the principle of the proposed development accords with local and national policy. The combination of the urgent need for the proposed development and beneficial impacts on climate change bring very great weight for the making of the order.

5.2.12. Considerations in respect of the green belt are set out below at the end of the planning balance.

PRINCIPAL ISSUES

Cultural Heritage

5.2.13. The heritage balance is undertaken at section 5.3 below. We reached the following conclusions on the historic environment effects of the proposed development.

5.2.14. The ExA has given careful consideration to the views of interested parties (IPs), to the evidence presented and the responses received, including the views of the State Body, Historic England (HE), and other important and relevant IPs specific to heritage matters, such as ICOMOS-UK and ICOMOS International.

5.2.15. In respect of the Blenheim Palace World Heritage Site (WHS) and its associated heritage assets (HA) of various designations and grades, the ExA finds that, in the absence of full information and a detailed assessment of the all the heritage values of the WHS, added to a lack of understanding and assessment of the intangible elements of Outstanding Universal Value (OUV) that are wrapped up in its

authenticity and integrity, the proper mitigation has not been undertaken to reduce the potential harm to the OUV.

5.2.16. The harm would be in the less than substantial range, but as paragraph 5.9.27 of NPS EN-1 advises, great weight should be given to an asset's conservation, and the more important the asset, the greater the weight should be. There is no more important heritage designation than a WHS which, in this case is supplemented by a number of national designations. As such, the harm is ascribed great negative weight.

5.2.17. In respect of Scheduled Monuments (SM), the ExA considers that the applicant failed to provide the required information to the statutory bodies and local authorities in a timely manner to enable them to properly assess the potential impact on the Sansom's Platt SM. The extent of the archaeological resource is known to be of greater size and significance than reported in the scheduling document. This lack of information impeded proper examination of the issues and as such the ExA is recommending the augmented requirement (R) 10 on archaeology in the rDCO as being wholly necessary.

5.2.18. Providing the proposed amendments to R10 in the rDCO are imposed by the SoS, the ExA considers that extended archaeological buffer zones, if required, can be agreed through the discharge of this requirement in any post-consent phase. As such, the ExA consider that in the matter of SM, the level of harm would be neutral. If the SoS does not include augmented R10 then the level of harm could be great negative weight.

5.2.19. In respect of designated heritage assets (DHA), the ExA considers that the applicant has undervalued the contribution that setting makes to a variety of DHA's and as such, the proper mitigation hierarchy has not necessarily been followed. The ExA concludes that the harm to DHA would be less than substantial. However, the ExA notes paragraph 5.9.27 of NPS EN-1 that advises great weight should be given to an asset's conservation, and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

5.2.20. The DHAs affected are Grade I, Grade II* and Grade II. Therefore, great weight must be ascribed any harm, particularly to the higher Graded Assets.

5.2.21. In respect of Non-Designated Heritage Assets (NDHA), the ExA agrees with the assessment and conclusions regarding the standing NDHA and is satisfied with the level of protection offered at post-consent phase by the Outline Written Scheme of Investigation for as yet undiscovered or unknown NDHA. As such, the ExA considers that in the matter of NDHA, the level of harm would be neutral.

5.2.22. In conclusion, the ExA consider the issue of cultural heritage weighs heavily against the case of the development consent order. This conclusion is to be weighed against the public benefits of the proposed development, and this balancing takes place below in this chapter of the report.

Landscape and Visual Amenity

5.2.23. NPS EN-1 paragraph 5.10.6 states projects need to be carefully designed, and the aim should be to minimise harm to the landscape. NPS EN-1 paragraph 5.10.19 states the applicant should consider landscape and visual matters in the early stages of siting and design, which will allow demonstration of how negative effects

have been minimised. It is the ExA's firm view that the applicant has not done this. The effects have been 'minimised' by adopting a methodology that diminishes or 'plays down' the effects. The applicant has then relied on selected paragraphs from the NPSs as a defence to the approach, stating that NPS EN-1 recognises that virtually all nationally significant energy infrastructure will have adverse effects on the landscape (paragraph 5.10.5). This does not, in the ExA's view, represent good design, as required by NPS EN-1 paragraphs 4.7.2 to 4.7.4 or the appropriate use of the mitigation hierarchy as required by NPS EN-1 paragraph 4.2.11.

5.2.24. NPS EN-3 paragraph 2.10.95 outlines that whilst solar developments may cover a significant surface area, effective screening and appropriate land topography can limit the zone of visual influence. In light of this, the ExA concludes:

- The undulating topography would not effectively hide nor screen the project. The use of prominent slopes to construct solar arrays would make the arrays more visible from wider vantage points.
- The undulating topography would mean a proportion of the proposed 3m high hedgerows relied upon as mitigation screening would only be partially effective because the fall of the land is such that views over the top of the mitigation could be discerned.
- Once established, the proposed screening, consisting principally of 3m high hedgerows around footpaths and field boundaries, would block views and detract from the panoramic nature of vistas from many public vantage points, creating an uncharacteristic intrusion into the countryside.
- The zone of visual influence is not limited given the expansive nature of the project.

5.2.25. To this extent, the need for the project to be designed carefully to minimise harm to the landscape in NPS EN-1 paragraph 5.10.37 has not been met. Landscape effects may be reduced once the landscape mitigation matures at around the 15-year mark. However, this still represents a significant proportion of the proposed development's estimated lifetime. The wide and open characteristics of large parts of the project site, combined with the undulating topography, significantly limit the effect of mitigation planting, even beyond 15 years of operation in some instances such as in and around the village of Cumnor.

5.2.26. We consider that the applicant has underestimated the visual impact of the proposed development. We therefore disagree with the applicant that there would not be any significant residual adverse landscape and visual effects during the operational phase of the development. It is acknowledged that the operational phase would be time-limited to 37.5 years, and the SoS should take this into account as per NPS EN-1 paragraph 5.10.36. The ExA considers that 37.5 years is an unreasonable timeframe to wait for the project's harmful effects to be reversed given the circumstances.

5.2.27. Concessions have been made in CR2 [CR2-001] to [CR2-073]) and further concessions are presented in the applicant's without prejudice offer [REP6-052]. The alterations as part of the official change request are welcomed and would represent an improvement over the originally submitted scheme, and the ExA strongly considers the further volunteered reductions should be adopted. The ExA considers that this mitigation measure would have a very significant benefit and would only result in a marginal loss of function and is therefore supported under NPS EN-1 paragraph 5.10.26.

5.2.28. The ExA considers that adverse visual effects on the outlook from residential properties would be likely to occur, with the evidence provided by IPs appearing far more convincing than that submitted by the applicant. Until further work is done, the ExA cannot decisively say whether or not significant primary or residual adverse effects would be experienced by residents nor that the 25m buffer proposed by the applicant would be sufficient in all cases. In light of NPS EN-1 paragraph 5.10.14, we urge caution on this matter and the ExA recommends an additional requirement is imposed securing further work to justify buffers on a property-by-property basis.

5.2.29. The ExA recognises that NPS EN-1 paragraph 5.10.12 states that locally valued landscapes should not be used in themselves to refuse consent, as this may unduly restrict acceptable development. However, the landscape and visual harm would be significant adverse and weigh greatly against the order being made. In this vein, the adoption of the without prejudice offer is considered essential to bring the project in line with the NPS.

5.2.30. Furthermore, it is the view of the ExA that, unless further mitigation is applied by way of securing further reductions of solar panel areas and securing a proper evaluation of the 25m buffer to residential properties, the project would fail to meet the expectations of paragraph 5.10.21 of NPS EN-1. The adoption of the ExA's proposed requirement is therefore also essential to bring the project somewhat closer in line with the NPS.

5.2.31. Even then, with both of these measures in place, we would still attribute moderate negative weight to the landscape and visual harm, which would be caused by the proposed development in isolation and when considered cumulatively with other development.

Geology and Land Use

5.2.32. NPS EN-1 paragraph 5.11.12 states applicants should seek to minimise impacts on the best and most versatile (BMV) agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5). The ExA considers that the applicant did not attempt to do this during the site selection and optioneering phases and, even when seeking to locate the permanent NGET substation away from BMV land, failed to provide adequate mitigation.

5.2.33. NPS EN-1 paragraph 5.11.34 states the SoS should ensure that applicants do not site their scheme on the best and most versatile agricultural land without justification. The ExA considers, along the same lines as the Campaign for the Protection of Rural England (CPRE), that the applicant has not sought to justify the reliance on BMV land to deliver the proposed development. Other than saying the proposed development is CNP infrastructure and temporary, there is no substantiated case that it is essential to have 42% of the project area constituting BMV land. 42% of the 749ha project area constitutes a total of 314ha. The ExA also note that, when taken cumulatively with other plans and projects, there would be a major adverse permanent effect on agricultural land quality and on BMV land availability.

5.2.34. NPS EN-1 paragraph 5.11.34 continues that where schemes are to be sited on BMV land the SoS should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The

ExA recognises this is a policy preference rather than a policy mandate. Nonetheless, the land has been shown to be in good quality and in good soil health.

5.2.35. The ExA recognises that the effects on BMV land would be considered temporary by reason of NPS EN-3 paragraph 2.10.66 and that the applicant would prepare a soil management plan as part of the Outline Code of Construction Practice secured under R11 of the dDCO. However, given that 314ha of BMV land within the Order limits would be sterilised for over 40 years, taking it out of food production, for which conservation grazing would not mitigate, the ExA considers this to be a significant adverse impact.

5.2.36. The ExA therefore considers the matter of geology and land use carries very great weight against the order being made.

Ecology and Biodiversity

5.2.37. The ExA has given careful consideration to the views of IPs, to the evidence presented and the responses received, including the view of the relevant Statutory Nature Conservation Body, Natural England (NE).

5.2.38. In respect of Statutory and Non-Statutory Designated sites, the ExA is satisfied with the environmental information provided and that adverse effects have been minimised appropriately. The ExA finds, like NE, that there would not be any significant adverse effects on such sites or features of those sites.

5.2.39. With regard to protected and priority species, the ExA has reservations about the quality of assessment and mitigation documented in the ES. Regarding paragraph 5.4.42 of NPS EN-1, the ExA remains concerned as to the extent that the mitigation hierarchy was originally applied, particularly when surveys were either not undertaken (otters, voles etc) or when the project mitigation had to be developed towards the end of the examination (bats).

5.2.40. A number of matters remain unsatisfactorily outstanding, such as mitigation for farmland birds, water-based wildlife and protective measures for existing trees. For the former, the ExA is recommending an additional requirement in the rDCO. For the other aspects, the ExA notes a reliance on post-consent processes. In absence of resolution in the examination, the ExA considers the matters are best dealt with via discharge of requirements in any post-consent phase.

5.2.41. If the proposed new requirements in the rDCO are agreed and imposed by the SoS the ExA considers that, in the long term during the operational phase, adequate mitigation measures would be in place to ensure that there would be no significant residual effects on ecology and biodiversity. The creation/ enhancement measures secured in the Outline Landscape and Ecology Management Plan (OLEMP) would result in a beneficial effect for some species. The ExA also considers that the Biodiversity Net Gain (BNG) proposed would represent a modest benefit which weighs positively in favour of the proposed development.

5.2.42. Given the evidence presented, the ExA considers that biodiversity and ecology matters have largely been appropriately assessed and that the policy requirements of NPS EN-1 and NPS EN-3 are met. The rDCO would adequately secure the mitigation necessary to address any effects, albeit some residual impacts are likely. Overall, the ExA considers that the residual adverse impacts, tempered by mitigation, weighed alongside the proposed substantive BNG arising from the proposed development would be of equal consequence. As such the ExA considers

ecology and biodiversity matters weigh neither for nor against in the planning balance.

Transport

5.2.43. The ExA concludes that, with the Construction Traffic Management Plan (CTMP) and the Outline Operational Management Plan (OOMP) developed further under R11 and R12 of the dDCO [REP7-006], there would be no residual adverse effects on highway safety during any phase of the proposed development. Equally, the proposed development would not lead to any significant residual cumulative transport effects during any phase of the proposed development.

5.2.44. In terms of access, accessibility and connectivity through the countryside, the ExA concludes the proposed development would not cause significant adverse effects on the Public Rights of Way (PRoW) network. The ability for existing rights of way to be retained and restored post-construction is welcomed.

5.2.45. Overall, there would not be an unacceptable impact on highway safety; residual cumulative impacts on the road network would not be severe. The proposed development therefore complies with the policies and guidance contained within NPS EN-1, EN-3 and EN-5 as well as the NPPF and relevant development plan policies.

5.2.46. However, there are significant and unresolved objections with regard to the safety of civil aviation at London Oxford Airport. In summary:

- NPS EN-1 paragraph 5.5.37 – the proposed development could affect the performance of civil aviation communications infrastructure, but no assessment was made in the ES.
- NPS EN-1 paragraph 5.5.5 – says it is essential that that new energy infrastructure is developed collaboratively alongside aerodromes, but Oxford Airport has demonstrated that concerns raised in the pre-application stage were overlooked or ignored in the initial design of the application.
- NPS EN-1 paragraph 5.5.41 – requires assessment of bird strike risk and thermal plume turbulence. Whilst some detail was provided on bird strike, the thermal plume modelling report was only delivered at DL6, leaving no time for Oxford Airport to appraise the findings or ascertain the risks. Consequently, there are unresolved objections here.

5.2.47. The ExA does not accept the applicant's claims [REP6-047] that the issues regarding Oxford Airport only became clear during discussions in the examination. Whilst the ExA acknowledges that the applicant has made some efforts during the examination to catch-up with aviation issues, we consider that, for the reasons set out above, that there is a clear breach of NPS EN-1 paragraph 5.5.50 because the proposal has not been designed to minimise adverse impacts on the operation or safety of the aerodrome. The applicant has belatedly made changes to the project's layout rather than actively realising the public safety concern, as demonstrated by its own admission [REP6-047] that: *"These changes were commercially difficult."*

5.2.48. The ExA concludes that the design of the project, and the full effects arising therefrom, have not been wholly informed by detailed assessments and therefore the mitigation is undeveloped. Should the heat-induced turbulence reports be reviewed by Oxford Aviation Services Limited (OASL) and it is determined that

mitigation is required, the applicant has not proposed or prepared any such mitigation; therefore paragraph 5.5.58 of NPS EN-1 may not be relied upon.

5.2.49. The ExA also considers that, whilst concessions have been made by the applicant in its second change request to remove panels close to the airport, only the minimum has been done to protect trainee pilots against fatality from engine failure after taking off incidents. This not only impacts on public safety, but also on the security and viability of the solar farm's energy production. The ExA considers that there is a realistic prospect that the proposed development would cause harm to the aerodrome's training needs, operational functions, safety and contribution to the regional economy.

5.2.50. This would be contrary to NPS EN-1 paragraph 5.5.59, and also present a real threat to public safety, contrary to NPS EN-1 paragraph 5.5.60. This also has implications for consideration of the presumption in favour of development, as set out in NPS EN-1 paragraph 4.1.7.

5.2.51. On this basis, the topic of traffic and transport carries very great negative weight against the order being made.

Socioeconomics

5.2.52. In terms of the socioeconomic assessment, the ExA accepts that a standardised methodology which specifies the detail required to prepare socioeconomic assessments, or that provides defined standards or thresholds for assessing the significance of socioeconomic effects, does not exist. Despite this, the ExA considers that the applicant has used an appropriate methodology in considering socioeconomic effects, including the approach taken to selecting a study area. As such, the ExA is content that the applicant has adequately assessed the effects of the proposed development in line with both paragraphs 5.13.4 and 5.13.5 of NPS EN-1 and has provided sufficient evidence to support its conclusions on those effects.

5.2.53. The ExA welcomes the social and economic benefits that would arise as a result of the proposed development, albeit at a modest level. However, weighing against the economic gains of the proposal would be the potentially economic losses to Oxford Airport and the consequent impacts on associated businesses.

5.2.54. On balance, accordingly, we therefore ascribe a neutral weight to socioeconomic matters with regard to the consideration of making the development consent order.

Air Quality

5.2.55. At the close of the examination, the Oxfordshire Host Authorities (OHA) closing statement [REP7-191] and the Statements of Common Ground ([REP8-002] [REP8-005]) recorded no outstanding concerns or comments in regard to air quality.

5.2.56. Whilst the ExA acknowledges that there would be an increase in emissions from the proposed development at all stages of the project, namely due to traffic, we are satisfied that the applicant's control and management measures would be sufficient to mitigate any negative impacts to an acceptable level.

5.2.57. The ExA considers that the requirements of NPS EN-1 would be met. Air quality effects are therefore neutral and do not weigh for or against the making of the order.

Climate Resilience

5.2.58. The applicant has provided satisfactory evidence in response to the questions asked by the close of the examination. Although it does not contain a climate change risk assessment as requested by the OHA, we consider there is sufficient information to enable climate resilience to be properly examined. Reasonable measures to reduce climate impacts at each stage of the proposed development have been provided and the mitigation relevant to this topic is secured in R11 and R12 of the dDCO.

5.2.59. As such, we find that the proposal would comply with the climate change requirements of NPS EN-1, NPS EN-3, NPS EN-5 and the NPPF as well as relevant development plan policies. The ExA concludes that climate change resilience measures have been embedded within the proposed design and along with the Outline Operational Management Plan (OOMP) (secured through requirements in the dDCO), would deem the proposed development as being resilient against climate change. For this reason, the ExA attributes neutral weight in the planning balance to climate change resilience matters.

Noise and Vibration

5.2.60. The ExA is satisfied that the applicant has adequately assessed the noise and vibration effects of the proposed development and has provided sufficient evidence to support the conclusions on those effects.

5.2.61. The ExA concludes that noise avoidance and reduction measures have been embedded within the proposed design, and we are satisfied that statutory regimes and pollution control regulations would work to control the proposed development. A number of management plans (Outline Code of Construction Practice (OCoCP), OOMP would be secured through requirements in the dDCO ensuring best practicable means of reducing noise.

5.2.62. The proposed development would comply with NPS EN-1, NPS EN-3 and NPS EN-5 as well as the NPPF and relevant development plan policies insofar as they relate to noise and vibration effects.

5.2.63. Whilst the ExA acknowledges that there would be an increase in noise from the proposed development at all stages, we are satisfied that the applicant's control and management measures would mitigate any negative impacts to an acceptable level.

5.2.64. However, there would be residual effects on PRoW, which the ExA considers to be adverse and detract from a user's experience of the largely undisturbed areas of the local countryside, particularly on a cumulative basis when travelling through the landscape for either access or recreational purposes. For this reason, the ExA attributes a little negative weight against the order arising from noise and vibration matters.

Flood Risk, Hydrology and Water Resources

5.2.65. The applicant's assessment of waterbodies under the Water Framework Directive (WFD) is considered adequate. Through the application of mitigation measures, the ExA is satisfied that there are limited risks to water quality and that there would not be any worsening of the water quality within WFD waterbodies. As such, the ExA finds that the proposed development accords with the requirements of the Water Framework Directive Regulations 2017.

5.2.66. However, the ExA concludes that the applicant has not fully satisfied the sequential and exception tests within NPS EN-1, regarding fluvial flooding. Without the formal written confirmation from the EA that the matter is acceptable, particularly as the project would use land in Flood Zone 3b, this is an unresolved issue that weighs against the order being made. Should the SoS receive such confirmation, the ExA would be satisfied that the applicant has adequately assessed flood risk and that the FRA demonstrates that both the sequential and exception tests are passed.

5.2.67. With regard to surface water flood risk, the applicant relies on a conceptual drainage design that appears to be unsubstantiated by robust testing, existing land drainage data or proof that the concept would work. Requirements in the dDCO would ensure that any surface water drainage measures are ratified and signed off by the Lead Local Flood Authority and Cassington and Cumnor Parish Councils, as per our recommended amendment to requirement 9. This does provide the ExA with a measure of comfort but, in the absence of detail to the contrary, the ExA cannot rule out the potential for residual adverse effects on local surface water conditions arising from the project as it stands and a potential impact to people and property. Consequently, the assessment does not accord with NPS EN1 paragraph 5.8.36

5.2.68. Given the above, we ascribe moderate negative weight against the order being made.

OTHER PLANNING ISSUES

5.2.69. A number of other issues were examined during the course of the examination. In relation to these, the following conclusions have been drawn by the ExA.

Cumulative Effects

5.2.70. The applicant has, in the ExA's opinion, identified and adequately assessed other schemes which could potentially generate cumulative effects.

5.2.71. As set out in the landscape and heritage sections of this report, the ExA cannot rule out significant cumulative effects arising from the project together with other planned and applied developments. The recommended Development Consent Order (rDCO) should provide and secure mitigation measures to minimise these cumulative effects. The limited lifespan of the proposed development, except for the NGET substation, would reduce those cumulative effects upon decommissioning.

5.2.72. While undoubtedly the proposed development could cause likely additional effects particularly in relation to ecological, noise, traffic and transport, the ExA is nevertheless satisfied that there are not likely to be any significant cumulative or combined effects from construction, operation and decommissioning activities that are worse than the effects of the proposed development alone from these topic sources.

5.2.73. The ExA considers that the assessment of cumulative and combined effects accords with the EIA Regulations and relevant NPS. The effect in the planning balance is neutral and does not weigh for or against the making of the Order.

Decommissioning

5.2.74. The ExA notes there is no policy requirement for a decommissioning fund to be imposed as per paragraphs 2.10.146 to 2.10.151 of NPS EN-3. However, the ExA is not encouraged by the applicant's apparent willingness to dispose of the application as soon as consent is granted. Whilst the burden of compliance with R14 would be

passed on to any other undertaker if the benefit of the order was transferred under Article 35, the applicant has done little to inspire confidence during the examination that decommissioning could be funded or undertaken fully and properly. The end life of the project, whether to scrap or sell the panels, is confused and lacks affirmative action. The ExA is not convinced that panels still in place when decommissioning occurs would hold any real monetary value given advancements in technology that are almost inevitable to occur. It occurs to the ExA that any value of the remaining infrastructure would only cover part of the overall cost of decommissioning.

5.2.75. For these reasons, the ExA is compelled to recommend to the SoS that an additional requirement is written into the DCO to ensure that adequate funding is secured to allow decommissioning at a future date. More details on the discussion on such a requirement and its associated wording can be found in chapter 7 of this report.

5.2.76. In accordance with policy NPS EN-1 paragraphs 4.3.5 and 4.10.13, the applicant has provided information regarding the process of decommissioning of the project and the lifespan of the infrastructure. The ExA consider there is sufficient information in the Outline Decommissioning Plan (ODP) to inform and guide the preparation of a detailed decommissioning plan, but further assurances should be incorporated into the dDCO. Subject to the imposition of a new requirement in the rDCO to provide greater security on the future of the proposed development post-operation, the ExA consider this matter does not weigh for or against the case for development consent.

National Security

5.2.77. The ExA considers that, in light of the definitive response from the Defence Infrastructure Organisation (DIO) [REP7-087], the project would not have an adverse effect on defence infrastructure. Although IPs have raised geopolitical concerns, these are not properly substantiated. As such, the ExA has no reason to consider the project harmful or otherwise a threat to national security. With reference to paragraphs 4.16.4 and 4.16.7 of NPS EN-1, the proposed development is considered to be acceptable.

5.2.78. The ExA consider this matter does not weigh for or against the case for making the development consent order.

Minerals and Waste

Waste

5.2.79. In regard to NPS EN-1 paragraphs 5.15.9.and 5.15.9 on the assessment and consideration of waste matters, the ExA observes that definitive detail is somewhat lacking at this stage. As such, there is a distinct emphasis on the need to resolve matters post-consent. The OHA have consistently raised this as a concern [REP1-072] [REP7-191] and consider insufficient information exists.

5.2.80. Whilst it is reasonable to suggest that waste facilities may be introduced in the future as per the Solar Roadmap, the applicant provides no details about how waste would be managed in the next five years or the impacts on existing waste management facilities. The ExA does note that the relevant planning authority would have a right of approval in discharging the final Site Resources and Waste Management Plan pursuant to requirement 11(2)(d) as well as the OCoCP in general and the ODP, but the lack of identification of immediate facilities to deal with immediate waste demands is worrying at this time.

5.2.81. It is considered that deferring waste matters to the post-consent stage cannot distract from the non-compliance with the NPS EN-1 policies. The ExA can only conclude that there could be an impact on waste management facilities that has not yet been planned for. This could have adverse effects on the waste management network and there are no planned mitigations in place [APP-055, table 18.32], meaning the effect would not be residual.

5.2.82. The ExA consider this matter carries a little negative weight against the case for development consent.

Minerals

5.2.83. NPS EN-1 paragraph 5.11.19 states that applicants should safeguard any mineral resources on the proposed site as far as possible, taking into account the long-term potential of the land use after any future decommissioning has taken place.

5.2.84. Taking into account the applicant's responses to ExA questions and the fact that mineral resources are not even considered in ES chapter 5 on alternatives [APP-042], the ExA considers there is a failure to meet this policy on safeguarding. In short, the applicant made no attempt to safeguard the resource purely on the basis that the project would be temporary (37.5 years). The ExA is disappointed that the applicant made no effort to avoid or minimise the effects of the development upon mineral resources during the initial design stage of this application.

5.2.85. In terms of NPS EN-1 paragraph 5.11.28 on Mineral Safeguarding Areas (MSA), the applicant's two main defences are that the development would be temporary and any material dug-up could be reused on site. The ExA considers relying on the development being temporary is no excuse for failing to avoid or limit interaction with the MSA and that no other credible mitigation has been put in place; leaving cables in the MSA is evidence of this. The ExA consider there to be failure to comply with the NPS.

5.2.86. The ExA notes that NPS EN-1 paragraph 5.11.19 allows for consideration of the potential of the land to be realised post-decommissioning. The applicant has committed to removing all equipment, piles and foundations from the MSA, as per section 2 of the ODP [REP4-030], secured under R14 of the dDCO, thus enabling the mineral to be worked after decommissioning. However, there is the potential for the remains of piles to be left within the MSA, and the applicant has already stated HDD cabling would likely remain after decommissioning, adding to the complexities of extracting minerals.

5.2.87. The ExA notes the OHA have concerns that the life of the development could be prolonged under the terms of the NPPF. However, this would need either a new or amended development consent order and/ or applications under the Town and Country Planning Act 1990 (as amended). It is also unknown what the circumstances or planning policy position would be in 40 years' time.

5.2.88. Overall, the ExA considers that whilst the mineral reserve would not be significantly physically destroyed by the proposed development, the sterilisation would be for a significant amount of resource and over a significant amount of time. Through sterilisation, there would be an immediate adverse impact on the availability of mineral resources to the County, potentially affecting aggregate for the government's ambitious construction projects. Whilst this could be substituted by other deposits in the interim and partially restored in the long-term, the ExA

considers more could have been done to apply the mitigation hierarchy to mineral resources.

5.2.89. The ExA consider the impacts on mineral resources would carry moderate negative weight against the case for making the development consent order.

Ground conditions

5.2.90. The ExA is satisfied that the principles of NPS EN-1 in respect of the consideration of existing ground conditions and any potential risk posed by land contamination have been met by the proposed development. As a consequence, we do not consider that the proposed development would result in additional levels of ground contamination. Furthermore, we are also satisfied that the proposed best-practice measures contained within the relevant management plans are both adequate in scale and content and appropriately secured in the dDCO.

5.2.91. Accordingly, the ExA ascribes a neutral weight with regard to the consideration ground conditions in the making the development consent order.

Health

5.2.92. Although the applicant was not required to undertake an Equality Impact Assessment, the ExA contended that the proposed design of the PRoW across the proposed development had the potential to have a negative effect on those individuals with protected characteristics. However, subject to the final PRoW Management Strategy being agreed with the OHA and input into the final LEMP, the ExA is satisfied that those with protected characteristics would not be disadvantaged or experience disproportionate harm.

5.2.93. In respect of The Hill End Centre, the ExA considers it disappointing that the potential benefits of working with this organisation were not explored further by the applicant. As such, the ExA considers that the proposed development would offer little in the way of education opportunities.

5.2.94. Despite this, the ExA is content that overall, in respect of human health matters, the principles of NPS EN-1 would be met by the proposed development. The proposed development is also considered to be consistent with the NPPF and the local development plans, all of which are important and relevant.

5.2.95. Accordingly, the ExA ascribes a neutral weight with regard to the consideration human health in the making the development consent order.

5.3. HERITAGE BALANCE

5.3.1. NPS EN-1 paragraph 5.9.32 states that where the proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of a proposal, including, where appropriate securing its optimum viable use.

LESS THAN SUBSTANTIAL HARM

5.3.2. For the reasons given in section 3.3 of this report we consider less than substantial harm occurring to the following assets:

- Attributes 1, 4, 5 and 7 of Outstanding Universal Value (OUV) for the Blenheim Palace World Heritage Site (WHS).

- The setting for the Grade I Registered Park and Garden of Blenheim Palace.
- Church of St Peter (Grade I Listed Building).
- Church of St Michael (Grade I Listed Building).
- Sansom's Platt (Scheduled Monument).

5.3.3. The findings above are in accordance with findings of Historic England and ICOMOS-UK. The applicant disagrees with the findings of these bodies with regard to all of the assets set out above.

BALANCE

5.3.4. In accordance with NPS EN-1 paragraph 5.9.27 the ExA affords great weight to the conservation of all the assets listed above. In particular, we recognise that the WHS has the highest cultural and historical value and has significance and value for this and future generations. The ExA has found that the less than substantial harm caused by the proposed development would be to multiple assets of the highest national and international value.

5.3.5. Chapter 3.3 of this report concludes that in respect of the less than substantial harm to the WHS the ExA consider, in the absence of a full and detailed assessment covering all aspects of value, the less than substantial harm caused may not be residual.

5.3.6. The proposed development would make a significant contribution to secure reliable energy provision, whilst also resulting in significant climate change benefits. We afford very great weight to these benefits. There would be other more minor benefits, including socio-economic benefits associated with the temporary construction and decommissioning periods. These are all public, as opposed to private, benefits. We also note that any harm would be temporary for the lifetime of the development as per NPS EN-3, albeit that the NGET substation in the southern area would be a permanent feature.

5.3.7. However, having applied the aforementioned policies of NPS EN-1, the ExA concludes that the totality of the adverse impacts on the historic environment from the proposed development would strongly outweigh its overall benefits.

5.3.8. In reaching this conclusion, the ExA has also considered whether any further restrictions, or mitigation than those provided for by the rDCO could overcome its concerns. However, the fundamental concerns outlined in section 3.3 of this report could not be satisfactorily overcome in this way.

5.4. THE PLANNING BALANCE

Summary of planning balance

5.4.1. In accordance with NPS EN-1 paragraph 4.1.5 we have considered the benefits and adverse effects of the proposed development. In doing so we have taken into account the mitigation hierarchy. We have also established the weight to be afforded to the effects which would arise, as set out in table 6 below.

Table 6: ExA application of weight to issues

Issue	Finding	Weighting	Section of this Report
The principle of development and need	Positive	Very great	3.2
Biodiversity and Ecology	Neutral	-	3.6
Socio-economic	Neutral	-	3.8
Decommissioning	Neutral	-	3.13
National Security	Neutral	-	3.13
Cumulative and in-combination effects	Neutral	-	3.13
Human health	Neutral	-	3.13
Climate Resilience	Neutral	-	3.10
Ground conditions	Neutral	-	3.13
Air Quality	Neutral	-	3.9
Landscape and Visual	Negative	Very great*	3.4
Cultural Heritage	Negative	Very great	3.3
Traffic and Transport	Negative	Very great	3.7
Geology and Land Use	Negative	Very great	3.5
Minerals and waste	Negative	Moderate	3.13

Issue	Finding	Weighting	Section of this Report
Flood Risk	Negative	Moderate	3.12
Noise and Vibration	Negative	Little	3.11

**Reducing to moderate weight against if the without prejudice offer is imposed via an additional requirement*

Green Belt, other harms and very special circumstances (VSC)

5.4.2. As established in section 3.2 of this report, the proposed development would amount to inappropriate development in the Green Belt. Inappropriate development by definition is harmful and must attract substantial weight against the proposal in the planning balance as per paragraph 5.11.37 of NPS EN-1. The ExA concluded in chapter 3.2 that the proposed development would conflict with all five purposes of the Green Belt, harming landscape character in the process. The ExA concludes that the proposed development would cause substantial harm to openness.

5.4.3. As table 6 above shows, there are other harms arising from the proposed development. It is necessary to weigh these harms, alongside the substantial harm to the Green Belt, and the considerations in favour of the proposal to determine whether very special circumstances (VSC) exist.

5.4.4. Turning to the case for VSC, the applicant's principal stated position is set out in [REP2-027, page 34]: *"The overriding policy as far as VSC in Green Belts is concerned is in NPS EN-1, para 4.2.16 to 4.2.17, i.e. the Secretary of State will take as a starting point that CNP infrastructure has met the VSC test. Arguably, because of this policy, the Applicant need not have made a VSC case. However, in the event that the ExA did not take that view, the Applicant has submitted a VSC case in the hope and expectation that the ExA and SofS will confirm that the test has been met in line with policy."*

5.4.5. The applicant's VSC case is predicated on the need for the proposed development being established by national policy, described as being a critical national priority. The applicant states: *"The need for this form of renewable energy is unquestionable. National Planning policy is very clear on the need point. Considerable weight is afforded to the Applicants proposal as a result of the contribution it will make to meeting that need."*

5.4.6. In terms of the other elements the applicant considers contributing towards VSC [REP1-012, appendix 8], the applicant submits the following:

- VSC 2 - Overall compliance with relevant NPS and relevant parts of approved and emerging plans.
- VSC 3 – Renewable energy to power the equivalent of 330,000 homes.
- VSC 4 - Biodiversity Net Gain.
- VSC 5 – Economic, Educational and Sustainability Benefits.

- VSC 6 - Landscape and Access legacy.

5.4.7. The OHA consider that VSC have not been adequately demonstrated to set aside the harm to the Oxford Green Belt by its inappropriateness [REP7-191, paragraph 2.1.2]. Cumnor Parish Council points out that the VSC case has been changing throughout the examination and relies too much on the temporary nature of the project [REP7-076, paragraph 12]. Cassington Parish Council highlights that circa 70% of the project is on Green Belt land, causing substantial harm by industrialisation, and the VSC do not outweigh this harm [REP7-068].

5.4.8. Cassington Parish Council also raised, like other IPs, that the weight to be given to the VSC is diminished because there is a 'queue' of energy projects waiting to connect to the grid that, if built, would far exceed the 2035 and 2050 targets for energy production [REP3-104] [REP3-108] [REP7-068]. However, the applicant responded to suggest that not all projects in the queue would make it to fruition and the urgent need persisted regardless [REP4-038].

5.4.9. Whereas a lot of IPs in their closing statements referred to impacts on the Green Belt as a whole, the representations of Stop Botley West [REP7-221] and the Begbroke and Yarnton Green Belt Campaign [REP7-058] draw conclusions on the VSC case, summarised as follows:

- *No stable, compelling VSC case has ever been made which makes it difficult to report to the Secretary of State in this case. Rather, the Applicant has removed reliance on certain items (e.g., community benefits) while doubling down on generic national need.*
- *The Applicant has not overcome the presumption against inappropriate development in the Green Belt. The VSC case remains unproven.*
- *In our view the applicant's case for VSC in respect of using the Oxfordshire Green Belt was unconvincing. The Applicant appeared grateful for the ExA's coaching on this matter during ISH1.*

5.4.10. The ExA has carefully considered each of the applicant's justifications set out in the Planning Supporting Statement [REP1-012, appendix 8] and subsequent submissions on this matter. The following is the ExA commentary:

- VSC2 Compliance with planning policy – being in accordance with the National Policy Statements is expected from nationally significant infrastructure projects (NSIPs). This is not, therefore, a VSC because failure to comply with policy would result in refusal. Furthermore, the ExA has found, in chapter 3 of this report, non-compliance with certain NPS policies.
- VSC3 Renewable energy for 330,000 homes – considerable weight is to be afforded to the contribution the project makes towards renewable energy production in this country, attributable to the size and scale of the project.
- VSC4 Biodiversity Net Gain – the applicant has committed to delivering 70% net gain in habitats units, 50% gain in hedgerow units and 20% gain in watercourse units. This is significantly above the expected threshold as and when biodiversity net gain becomes mandatory for NSIPs. Weight can therefore be afforded to the contributions towards biodiversity.
- VSC5 Economic, education and sustainability benefits – there would be a boost to local employment during construction, though such contributions would be temporary because there would be limited employment during the operational

period. Some modest economic benefits may arise, and these can be given some weight in favour of the project. Following the second change request [CR2-001], there is no longer any education centre proposed in the development. The erection of information boards would not justify development in the Green Belt on its own merits. The ExA considers there would not be any education benefit. In terms of sustainability benefits, the applicant's case relies upon the establishment of food growing companies to grow local produce. However, the ExA notes this is partially at a sacrifice of productive agricultural land that serves the national food growing process. There would not, therefore, in the ExA's opinion be an uplift worthy of note, nor would there be an exceptional enterprise.

- VSC6 Landscape legacy – as reported in section 3.4 of this report, the landscape legacy in terms of mitigation measures is considered to detract from local landscape character and which the ExA and many IPs consider to be unwelcome. The mitigation hedgerows would be a uniform blanket measure that would not respond to local circumstances. The woodland planting, as reported by the Forestry Commission [REP2-054], would be in small and narrow strips, failing to meet the criteria for creating sustainable woodland. The ExA notes that the growing of new hedges and trees already features within VSC4 above and so the ExA considers this could be double counting. In any event, the ExA considers there is no positive landscape legacy to rely upon as a VSC.

ExA Conclusions

5.4.11. The ExA acknowledges that paragraph 4.2.17 of NPS EN-1 states that the SoS will take as a starting point that CNP infrastructure will meet the test that, for the Green Belt, very special circumstances would justify the development. In light of this, we accept that the need for the proposed development is established by national policy and that alone affords very substantial weight in the planning balance as per NPS EN-1 paragraph 4.2.6.

5.4.12. However, the ExA concludes there would be substantial harm to the Green Belt and its openness through significant loss and urbanisation, conflicting with all the purposes of the Green Belt. This, in the ExA's view, necessitates the need to consider whether other considerations do exist that would amount to very special circumstances to outweigh the harm to the Green Belt.

5.4.13. The ExA has taken these other considerations into account and carefully undertaken a balancing exercise. The ExA considers that the applicant's claimed VSC encompass all the potential benefits of the proposal. However, we find that only VSC3 and VSC4 listed above carry weight in favour of the proposed development. The other VSC listed are not considered substantive in their own right for the reasons given.

5.4.14. Collectively, these other considerations are not considered substantive enough to amount to very special circumstances to outweigh the substantial harm to the Green Belt, substantial harm to Green Belt openness and all the other harms identified in table 6 above.

5.4.15. The proposed development would therefore conflict with the requirements of NPS EN-1 (paragraphs 5.11.36 and 5.11.37), NPS EN-3 and NPS EN-5. The ExA also finds, as identified in chapter 3, that there are specific policies in the National Planning Policy Framework (NPPF), with which the proposed development would conflict. This conflict adds weight to the case against the grant of development consent.

5.5. FINDINGS AND CONCLUSIONS

5.5.1. NPS EN-1, paragraph 4.2.7 states that the CNP policy applies following the normal consideration of the need case, the impacts of the project, and the application of the mitigation hierarchy. As such, it is relevant during SoS decision making and specifically in reference to any residual impacts that have been identified.

5.5.2. The ExA finds that the applicant has promoted the project as CNP infrastructure but has determined, in doing so, that impacts are inevitable and acceptable, and so has not appropriately applied the mitigation hierarchy. The examination evidence suggests that this approach has been systemic from the outset, including the choice of the site in the sifting process for alternative locations.

5.5.3. The ExA concludes this approach has resulted in a number of significant residual adverse effects remaining at the end of the examination.

5.5.4. NPS EN-1 paragraph 4.1.7 states that, for CNP Infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases, but that this presumption does not apply to residual impacts which present an unacceptable risk to, or interference with, human health and public safety, defence, irreplaceable habitats, or unacceptable risk to the achievement of net zero.

5.5.5. The ExA concludes that the residual adverse impacts for transport, most notably for aviation, pose a real, credible and significant risk to public safety, thus negating the presumption as set in NPS EN-1 paragraph 4.1.7.

5.5.6. Following this, the ExA concludes that significant residual adverse effects do remain for many topics, that weigh heavily against the case for development consent. The public benefits do not outweigh the significant heritage harm and there are no very special circumstances to outweigh the harm to the Green Belt.

5.5.7. The ExA has considered whether amendments to the dDCO could be made to overcome or mitigate the harms. However, with the exception of the Sansom's Platt SM, no areas have been identified that could alleviate any of the significant residual adverse effects. The ExA has suggested a number of modifications within its rDCO, but these would only narrow some of the issues and are generally more regulatory rather than measures to address substantive planning concerns.

5.5.8. With reference to NPS EN-1 paragraph 4.1.7, the ExA consider this is an exceptional case where refusal is wholly justified. With reference to NPS EN-1 paragraph 4.2.27, the ExA find that the requirements in the NPS have not been met in the cases set out above. S104(7) PA2008 applies and the NPS EN-1 presumption in favour of the grant of development consent cannot therefore be sustained.

5.5.9. It is for these collective reasons that the ExA concludes that development consent should be withheld by the SoS. The DCO should not be made.

6. COMPULSORY ACQUISITION AND RELATED MATTERS

6.1. INTRODUCTION

6.1.1. The application included proposals for the compulsory acquisition (CA) and temporary possession (TP) of land and rights over land, including statutory undertakers' (SU) land. This chapter records the key information on those proposals and related issues and our conclusions and recommendations.

6.1.2. This chapter discusses whether the evidence before the examination justifies the granting of those powers, having regard to all relevant legislation and guidance, before providing our recommendations. The case for CA and TP is examined in accordance with the tests in the Planning Act 2008 as amended (PA2008).

6.2. STATUTORY AND OTHER REQUIREMENTS FOR COMPULSORY ACQUISITION

PLANNING ACT 2008

6.2.1. CA powers can only be granted if the conditions set out in section (s)122 and s123 of the PA2008 are met, together with relevant guidance. Section 122(2) of the PA2008 states that the land must be required for the proposed development to which the development consent relates or is required to facilitate or is incidental to the development or under s122(2)(c) is for replacement land for the order land under s131 or s132 (a common, open space or fuel or field garden allotment). In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate, as set out in the Procedures for the Compulsory Acquisition of Land, DCLG (former Department for Communities and Local Government), September 2013 (the CA Guidance).

6.2.2. Section 122(3) requires that there must be a compelling case in the public interest which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right. That does not mean that the CA proposal can be considered in isolation from the wider consideration of the merits of the proposed development. There must be a need for the proposed development to be carried out and there must be consistency and coherency in the decision-making process.

6.2.3. Section 123 of the PA2008 requires that one of three conditions is met, namely that:

- The application for the order includes a request for CA of the land to be authorised.
- That all persons with an interest in the land consent to the inclusion of the provision.
- That the prescribed procedure has been followed in relation to the land.

6.2.4. TP powers are capable of being within the scope of a Development Consent Order (DCO) under Part 1 of Schedule 5 of the PA2008. The PA2008 and the CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition, such powers do not seek to deprive or amend a person's interest in land permanently. However, TP is an

interference with human rights of affected persons (AP) and so there must be adequate justification of the scope of the powers and the degree of interference for them to be justified.

NEIGHBOURHOOD PLANNING ACT 2017

6.2.5. The Neighbourhood Planning Act 2017 includes a number of provisions relating to the TP of land including notice requirements, the service of counter notices and compensation. These provisions have not been brought into force and are described as technical changes in the explanatory notes that accompany the Act. Article 6(g) of the draft Development Consent Order (dDCO) disapplies the provisions of the Act insofar as they relate to TP of land under Articles 28 (temporary use of land for constructing the authorised development) and 29 (temporary use of land for maintaining the authorised development).

CA GUIDANCE

6.2.6. The relevant guidance is the CA Guidance. The DCLG's CA Guidance sets out general considerations which need to be addressed including whether:

- All reasonable alternatives to CA have been explored.
- The applicant has a clear idea of how it intends to use the land subject to CA powers.
- The applicant can demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers.
- The Secretary of State (SoS) is satisfied that the purposes stated for the exercise of CA and TP powers are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

6.2.7. The Examining Authority (ExA) has taken all relevant legislation and guidance into account in its reasoning below and in the conclusions at the end of this chapter.

6.3. THE REQUEST FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS

POWERS SOUGHT

6.3.1. The application dDCO [APP-015] and all subsequent versions include provision for the CA of freehold interests and private rights, the extinguishment of existing rights and the creation of new rights over land. They also contain provisions for the TP of land to facilitate the works.

6.3.2. The request for CA and TP powers is made through the inclusion of Part 5 'Powers of Acquisition' in the applicant's final draft DCO [REP7-006]. The following provisions are included:

- Article 18: Compulsory acquisition of land
- Article 19: Time limit for exercise of authority to acquire land compulsorily
- Article 20: Compulsory acquisition of land – incorporation of the mineral code
- Article 21: Compulsory acquisition of rights
- Article 22: Private rights

- Article 23: Application of the 1981 Act
- Article 24: Acquisition of subsoil or airspace only
- Article 25: Power to override easements and other rights
- Article 26: Modification of Part 1 of the Compulsory Purchase Act 1965
- Article 27: Rights under or over streets
- Article 28: Temporary use of land for constructing the authorised development
- Article 29: Temporary use of land for maintaining the authorised development
- Article 30: Statutory undertakers
- Article 31: Apparatus and rights of statutory undertakers in closed streets
- Article 32: Recovery of costs of new connections

6.3.3. If made, the DCO would also confer on the applicant other rights and powers that may interfere with property rights and private interests. These additional powers include the following:

- Article 11: Temporary closure of streets or public rights of way
- Article 12: Use of private roads
- Article 17: Authority to survey and investigate the land
- Article 37: Felling or lopping of trees and removal of hedgerows

6.3.4. The Order limits and areas proposed for CA and TP are shown on the Land Plan [APP-007] and establish the extent of the land that would be affected by the CA and TP powers sought.

6.3.5. The land proposed for CA or TP included in the CA request does not include any National Trust land, open space, common land, Special Category land or replacement land. The dDCO does not request access and rights over crown land, though there are matters of discussion in relation to crown land set out further below. The application was accompanied by:

- A Statement of Reasons (SoR) [APP-021]
- A Funding Statement (FS) [APP-022]
- A Book of Reference (BoR) [APP-023]

6.3.6. These documents set out the land and rights sought by the applicant at the time of submission together with the reasons for its requirement and the basis under which compensation would be funded.

6.3.7. During the course of the examination the applicant submitted a change request and proposed alterations to the initial proposals as a result of feedback received from all parties. Documents and plans were amended and updated accordingly.

6.3.8. At the close of the examination the most up to date versions of these documents were as follows:

- A Statement of Reasons [CR2-015]

- A Funding Statement [APP-022]
- A Book of Reference [REP7-013]
- Land Plans [REP7-005]

6.3.9. The powers sought are for the acquisition of:

- All interests in land, including freehold (Article 18 in the dDCO) - shown edged red and shaded pink on the Land Plan.
- Permanent acquisition of new rights (Article 21) - shown edged red and shaded blue on the Land Plan.
- Extinguishment of private rights (Article 22) and overriding of easements and other rights (Article 25).
- Subsoil or airspace only rights over land (Article 24).
- Temporary use of land to permit construction or maintenance (Article 29) - shown edged red and shaded green on the Land Plan.
- New rights and the imposition of restrictive covenants over statutory undertakers' (SUs) land and extinguishment of the rights to remove, relocate the rights of, or reposition the apparatus belonging to, SUs within the order land (Article 30).

6.3.10. We were kept updated by the applicant throughout the examination on the progress of negotiations with APs by means of a Land and Rights Negotiation Tracker, the final version being [REP7-011]. In respect of SUs, the applicant provided a summary document at deadline (DL) 7 [REP7-048]. These documents form the basis for the analysis for this section. Reference to the documents and plans in this section from this point should be read as reference to the latest versions above.

CHANGES DURING THE EXAMINATION

6.3.11. As detailed in Section 1.5 of chapter 1 of this report, changes to the application documents, including to the wording of the dDCO were made during the examination. The change requests were submitted into the examination and consisted of the following:

- First change request 3 February 2025
    - a reduction in the Order limits by 0.015ha to remove a vehicular access point following landowner negotiations and to provide an additional 0.47ha of archaeological protection in lieu of solar array installation.

6.3.12. The ExA agreed with the applicant that the proposed changes were non-material. The ExA issued a Procedural Decision in its Rule 6 letter [PD-006] to accept the changes.

- Second change request 11 July 2025
    - This change request included eleven changes which resulted in a change in the size of the proposed order limit from 1418 ha to approximately 1328.13 ha. Other changes also included the removal of the proposed community educational facility, updated parameters for the National Grid Electricity Transmission Plc (NGET) substation and the removal of plot 11-29 from the BoR.

- No additional land outside the existing proposed Order limits was required and as such the applicant concluded that the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations) would not be engaged and none of the proposed changes would be expected to result in any new or different likely significant environmental effects compared to those effects reported in the submitted Environmental Statement (ES).

6.3.13. In respect of the removal of the community educational facility, the applicant confirmed that the residual 1.15ha of land would be used for Biodiversity Net Gain (BNG) and other ecological mitigation measures. In response to the ExA's Rule 17 letter [PD-017], the applicant confirmed that it was necessary to retain the 1.15ha to enable flexibility regarding the location of habitat creation associated with the delivery of BNG. Also, that the additional land would act as extra mitigation for farmland/ wintering birds and other bird species [REP6-052].

6.3.14. The ExA accepted the change request on 23 September 2025 [PD-016a] and agreed that the proposed changes were non-material.

6.3.15. Further detail in respect of the submitted documents comprising the change requests is detailed in section 1.5 of this report.

STATUTORY UNDERTAKERS' LAND

6.3.16. If a SU makes a representation about the CA of land or a right over land which would be acquired for the purpose of its undertaking, and this is not withdrawn, s127 of the PA2008 applies. Subsections 127(2) and (3) state that an order granting development consent may include provisions authorising the CA of SUs land only to the extent that the SoS is satisfied that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking or, if purchased, it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the undertaking.

6.3.17. Subsections 127(5) and (6) provide that an order granting development consent may only include provision authorising the CA of rights belonging to SUs to the extent that the SoS is satisfied that the right can be taken without serious detriment to the carrying out of the undertaking, or that any detriment can be made good. A number of SUs have land interests within the Order limits as detailed in the BoR [REP7-013].

6.3.18. Section 135 provides that an order granting development consent may include provision authorising the CA of an interest in crown land only if it is an interest which is for the time being held otherwise than by or on behalf of the crown, and the appropriate crown authority consents to the acquisition. Moreover, an order granting development consent may include any other provision applying to crown land, or rights benefiting the crown, only if the appropriate crown authority consents to the inclusion of the provision. The applicant states there is no official crown land within the Order limits and therefore crown consent does not need to be obtained. This is discussed further below.

6.3.19. Section 138 relates to the extinguishment of rights on SUs land. It states that an order may include a provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus only if the SoS is satisfied that the extinguishment or removal is necessary for the purposes of carrying out the development to which it relates. This provision is relevant to SUs with land and equipment interests within the Order limits

6.3.20. The applicant's final position in terms of negotiations with the SUs is set out in Status of Negotiations [REP7-048]. At the close of the examination two outstanding objections remained from SUs.

6.4. THE PURPOSES FOR WHICH LAND IS REQUIRED AND EXTENT OF POWERS SOUGHT

6.4.1. The application is for development consent for the construction, operation, and maintenance of a ground mounted solar farm with a capacity of over 840MW together with associated works to construct and operate the development. The purposes for which the CA and TP powers are required are set out in the final submitted BoR [REP7-013] and SoR [CR2-015].

6.4.2. In essence, the applicant justifies the need for the powers in order that the proposal can make a meaningful and timely contribution to the decarbonisation and security of supply of low carbon electricity, while helping to lower bills for consumers. Without the scheme, a significant opportunity would be lost, materially increasing the risk that the government's carbon budgets and Net Zero 2050 target would not be achieved. The applicant contends that, without the CA and TP powers, it may not be possible to assemble all of the land within the Order limits (excluding crown land), uncertainty would prevail, and its objectives and those of government policy would not be achieved.

6.4.3. The SoR highlights that the scheme would:

- help meet the urgent need for new energy infrastructure, providing enhanced energy security and supporting government priorities on economic development and the security of energy supply
- deliver additional renewable energy capacity, supporting the achievement of the government's climate change commitments and carbon budgets
- minimise or mitigate adverse impacts to an acceptable degree
- comply with the Overarching National Policy Statement for Energy (NPS EN-1), National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) and the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5)

6.4.4. The applicant considers that, notwithstanding the voluntary agreements, which have either been signed or negotiations are progressing, 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.

6.5. EXAMINATION OF THE CA AND TP CASE

THE EXAMINATION PROCESS

6.5.1. The examination of the proposed development included consideration of all submitted written material relevant to CA and TP. All relevant guidance and legislation is taken into account in the reasoning below and relevant conclusions are drawn at the end of this section in relation to both CA and TP.

6.5.2. In examining the application, we considered all written material in respect of CA and TP and asked written questions of the applicant in ExQ1 [PD-008], ExQ2 [PD-012], and our Rule 17 letter dated 23 October 2025 [PD-018].

6.5.3. AP were notified that the ExA was holding a compulsory acquisition hearing (CAH) [PD-014] [EV6-001] to hear their views and any issues they wished to raise. This included any AP that wished to make representation regarding any of the applicant's change requests.

THE APPLICANT'S CASE

6.5.4. The applicant's general case for CA and TP is set out in the SoR [CR2-015].

6.5.5. The applicant considers that the CA and TP powers sought are required to facilitate, or are incidental to, the proposed development and are proportionate and no more than is reasonably necessary. It refers to the need case set out in the Statement of Need [PDB-014]. This highlights the urgent need to decarbonise, the role of solar power in meeting legally binding targets for decarbonisation and the significant generation capacity contribution which the scheme would make.

6.5.6. The applicant considers that it is necessary, proportionate and justifiable to seek powers to acquire land compulsorily, create and compulsorily acquire new rights over land and impose restrictions, and extinguish or override existing rights over land, as well as powers to take TP of land to construct and maintain the proposed development. The extent of the Order limits is no more than is reasonably necessary and therefore any interference with private rights is proportionate and necessary. Compensation would be payable to all affected landowners and occupiers.

6.5.7. The applicant considers that it will require powers of CA to ensure that the proposed development can be built, maintained and operated, and so that the government's policies in relation to the timely delivery of new generating capacity and achieving net zero targets are met.

6.5.8. The applicant considers that in the absence of these powers, the order land may not be assembled, uncertainty will continue to prevail, and its objectives and government policy objectives would not be achieved.

6.5.9. As such, the applicant considers that there is a compelling case in the public interest for the power to CA land and rights over land to be included in the order. The extent of the Order limits is no more than is reasonably necessary and therefore any interference with private rights is proportionate and necessary.

6.5.10. The applicant stated that it is not aware of anything that is likely to prevent the grant of consent. The need for other consents is set out in the Consents and Licenses Required Under Other Legislation [APP-035], which the SoR [CR2-015] states would not present any impediment to the implementation of the proposed development. The SoR also sets out the Applicant's position regarding Human Rights.

Alternatives to Compulsory Acquisition and Temporary Possession

6.5.11. The CA Guidance indicates that the applicant should be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA (including modifications to the proposed development) have been explored.

6.5.12. The applicant advises that it has considered all reasonable alternatives to CA. The 'no development' scenario and a smaller scheme were not considered to be reasonable alternatives as they would not deliver the urgently needed additional generation capacity. Support for this approach is provided by NPS EN-1, which

advises that consideration should be given to whether there is a realistic prospect of an alternative scheme delivering the infrastructure capacity on the same scale as the proposed development. Further details of the alternatives considered are set out in Environmental Statement (ES) Chapter 5 Alternatives [APP-042] and are reviewed in section 3.2 of this report.

6.5.13. The applicant has agreed terms to acquire most of the land required for the scheme [REP7-011]. Notwithstanding this, the applicant considers that CA powers are required in the event that contracts are not adhered to or are otherwise set aside. It would be in the public interest for the scheme to proceed in these circumstances and the interests in question would be, in effect, converted into a claim for compensation. The applicant states that it also needs powers to extinguish and/or suspend rights and override easements and other rights in the order land to the extent that they would conflict with the scheme.

Availability and Adequacy of Funds

6.5.14. Applicants are required to demonstrate that adequate funding is available, as detailed at paragraph 18 of the CA Guidance. The applicant set out its justification for availability and adequacy of funding in its FS [APP-022], which accompanied the application, which it stated should be read alongside the SoR [CR2-015].

6.5.15. The applicant's FS [APP-022] sets out the ownership structure for the company Solar Five Limited, advising that it is a special purpose vehicle (SPV) owned 50% by Lockend Services Limited and 50% by Yulia Lezhen, Limassol.

6.5.16. Photovolt Development Partners (PVDP), acting on behalf of Solar Five Limited, and Photovolt UK Limited are companies jointly owned by Peter Gerstmann of Lockend Services Limited and by Yulia Lezhen via Cransetta Investment Limited.

6.5.17. The project cost is anticipated to be £820 million, which covers all aspects of the project and includes construction costs, preparation costs, supervision costs and land acquisition costs (including compensation payable in respect of any compulsory acquisition), equipment purchase, installation, commissioning and power export. The estimate also includes an allowance for inflation and project contingencies.

6.5.18. Section 6 of the FS [APP-022] advises that a final investment decision would be made by the applicant once development consent is granted. The applicant states it has the ability to procure the financial resources necessary to fund the works to be authorised by the DCO, which includes construction costs, preparation costs, supervision costs and land acquisition costs. This would be funded from a combination of equity and debt finance with the exact combination dependent upon market conditions at the date construction commences. The applicant would work with a variety of financial institutions and advisors in order to secure funding.

Acquisition by agreement

6.5.19. Through the Land and Rights Negotiation Tracker, the applicant has outlined discussions that have taken place with landowners and occupiers to acquire the land necessary for the proposed development by agreement. The Land Rights Tracker was regularly updated throughout the examination, with the final version being [REP7-011]. The applicant also submitted a Status of Negotiations document at [REP7-048] which provided an overarching summary of the position in respect of CA and TP at the close of the examination. The applicant is satisfied that CA and TP powers are required to ensure that the proposed development can be delivered

in a reasonable timescale and in the event that it does not prove possible to acquire all of the land by agreement.

STRATEGIC ISSUES RAISED DURING THE EXAMINATION

Funding

6.5.20. Pursuant to Regulation 5(2)(h) of the Infrastructure Planning (Applications, Prescribed Forms and Procedures) Regulations 2009 (APFP Regs) and paragraph 18 of the CA Guidance, the applicant submitted a FS [APP-022] into the examination. Such a statement is required as the DCO sought for the proposed development would authorise the CA of land or interests in land.

6.5.21. The ExA asked several questions in respect of funding during its ExQ1 [PD-008]. In response to ExQ1.5.21 to ExQ1.5.29 [REP2-025] the applicant confirmed the following:

- The project will be funded by third party private investors.
- Construction financing will be procured on a non-recourse financing basis from banks and specialised infrastructure funds.
- Adequate funding is likely to be available to the applicant from shareholders, related parties and/or other UK based funders.
- The project should be able to achieve a sufficiently high internal rate of return to attract third party debt and equity investors, within the next two years.
- The applicant has taken professional advice from leading land and consents advisory firms supporting major projects in the UK to estimate of the amounts necessary to cover the payment of compensation associated with the exercise of CA powers.
- The applicant has developed over 980MW of solar power generation across 6 projects in Japan, raised funding for the developments and has enabled the acquisition by entities continuing and completing the construction and commissioning of the projects.
- 90% of the applicants' liabilities are inter-company loans which would ultimately be financed by the shareholders

6.5.22. The ExA asked a further question at ExQ2.5.2 [PD-012] in respect of whether the availability of funding would be an impediment to the implementation of the proposed development, should development consent be granted. As noted above, in respect of land acquisition costs and compensation payments, the applicant states that it will work with a variety of financial institutions and advisors in order to secure funding. The applicant further confirmed that a distinction needs to be made between the proposed development cost, which has been mostly borne by PVDP already and construction costs. The applicant states that construction costs are to be funded from a combination of equity and debt finance with the exact combination dependent upon market conditions at the date construction commences [REP4-037].

6.5.23. In a similar vein, the ExA also requested confirmation from the applicant as to whether it was its intention to sell the project should consent be granted. In response to ExQ2.5.9 [REP4-037] the applicant confirmed that should the proposed development receive consent, it is the intention to have third party investors to participate post-consent. The applicant further stated that it is the intention of the

current project owners to retain an adequate equity ratio in commensuration with the value of the Botley West Solar Farm project by the time it will be ready to build.

6.5.24. In respect of the funding of decommissioning and funding at ExQ1.1.16 [PD-008] we asked whether consideration had been given to the drafting of a requirement to secure a decommissioning bond. In response the applicant [REP2-025] stated that it did not consider bonds to be required for solar DCOs on the basis that the infrastructure has asset value, which provides a financial incentive to decommission. It is also a criminal offence under the PA2008 to fail to comply with the decommissioning requirements of the DCO.

6.5.25. Following on from the response provided to ExQ1.1.16, we further asked the applicant at ExQ2.1.17 [PD-012] to provide evidence that at the end of the project life, the asset value would be greater than, if not at least equal to the cost of decommissioning. At [REP4-037] the applicant confirmed that the value of the asset would enable the recovery of decommissioning costs via used panel sales.

6.5.26. The ExA is also aware that the issue of funding was of concern to a number of IPs throughout the course of the examination. A significant number of representations were made in respect of funding consideration, including from [REP1-095], [REP1-147], [REP1-160], REP2-060], [REP2-090], [REP2-107], [REP3-075], [REP3-085], [REP3-098], [REP4-044], [REP4-047], [REP4-050], [REP5-058], [REP5-068], [REP5-107], [REP6-133] and [REP7-164]. Representations in respect of this matter were also received from Layal Moran MP at [REP2-117] and [REP7-154] and also Calum Miller MP at [REP2-093] and [REP7-067].

6.5.27. The issues raised included:

- Failure to provide credible financial information, including details regarding the company structure.
- Lack of transparency in respect of where the funding would come from.
- No substantive evidence of how funding would be secured.
- Insufficient funds to finance the CA required.
- No track record of building out and/or financing such projects.
- Intention to sell the project following consent is a form of speculation.
- Lack of funding available for decommissioning.

6.5.28. The applicant provided detailed responses to the issues raised at [REP2-026], [REP3-064], [REP4-038], [REP5-005] and [REP6-049]. In summary the applicant reiterated that it has the ability to procure the financial resources to fund the work if the DCO is granted. Development costs incurred prior to the commencement of construction are to be funded from the cash reserves of the founders and participating project partners.

6.5.29. It will be necessary for the applicant to work with a variety of financial institutions and advisors in order to secure funding, however the applicant contends that it has adequately demonstrated that it already has extensive experience of financing major capital projects.

6.5.30. In respect of the required funding for land acquisition and blight, at section 7 of the FS [APP-022], the applicant confirmed that whilst a number of voluntary agreements

have been secured, CA powers are necessary to ensure the proposed development can proceed without any impediment.

6.5.31. The current cost estimate for the proposed development is stated as being £820 million, with £69.15 million being required to cover the cost of the payment of compensation for the compulsory acquisition.

6.5.32. The FS also highlighted that Article 45 [REP7-006] of the dDCO would ensure that powers of compulsory acquisition cannot be exercised unless and until the SoS is satisfied that funding for the potential liability for compensation has been secured. Financial statements dated 31 December 2023 for both Solar Five Ltd and Photovolt Development Partners GMBH were also submitted as appendices to the FS.

6.5.33. Whilst a final investment decision will be taken by the applicant if consent is granted, the applicant stated that it is confident that the proposed development is commercially viable and also that it has access to sufficient funding to execute the project (paragraph 6.6 and 6.7 of [APP-022].

6.5.34. During the CAH ([EV6-003] and [EV6-005]) the ExA requested further detail and reassurance regarding the availability of funding for the proposed development. With regard to the concerns in respect of the funding structure, the applicant reiterated that it was standard practice for such projects to be promoted by a SPV, which is supported by a parent company with greater financial standing. Reference was also made by the applicant to the CA guidance which only requires applicants to provide an indication of how funding will be secured, rather than full details during the examination, and it was confirmed that ongoing negotiations with funding partners are commercially sensitive but are progressing.

6.5.35. The applicant also reiterated that its current intention is to remain involved in the project and see it through to delivery, with no instructions to sell the project upon the grant of development consent.

ExA's Conclusion on the Availability and Adequacy of Funding

6.5.36. Despite the level of concern raised during the examination regarding funding, the ExA is satisfied with the applicant's FS and appendices and responses to questions posed during the examination. As such, we conclude that there is no evidence before us which indicates that the applicant would not have a reasonable prospect of the requisite funds for acquisition becoming available within the necessary timescale to meet all financial liabilities arising from the exercise of the CA and TP powers sought.

6.5.37. Moreover, Article 45 of the dDCO requires a guarantee or alternative form of security for compensation that may be payable before the CA powers can be exercised. This provides a clear mechanism whereby the necessary funding for CA can be guaranteed.

Crown Land and the Blenheim Estate

6.5.38. Prior to the examination, the applicant made a change request ([CR1-001] to [CR1-007]), supported by environmental information ([AS-001] to [AS-026]), which was accepted by the ExA in its Rule 6 letter [PD-006]. One of the changes detailed was the removal of references to crown rights from the dDCO, including a deletion of the related requirement.

6.5.39. In [AS-001], the applicant explained that the order does not include any crown land within its limits. The applicant has identified, as shown in plots 13-01 and 13-03 in the BoR [APP-023], a restriction on title number BK120529 for the benefit of the Secretary of State for the Environment, Food and Rural Affairs (Defra). The applicant had recognised this land as 'crown land' on a precautionary basis for the purposes of the DCO submission as Defra is a government department. The applicant continued to liaise with Defra post-submission to seek a consent under s35 PA2008 on that precautionary basis. However, Defra has confirmed since submission that consent under s135 is not required in respect of the restriction. The applicant's understanding, following its discussions with Defra, Thames Water, as the freeholder of that title, and the Environment Agency, is that the restriction is a regulatory constraint under section 156 of the Water Industry Act 1991. Therefore, the applicant's view is that the land does not constitute 'crown land' under section 227 of the PA 2008. The applicant has therefore removed reference to crown land from its application by submitting updated versions of the dDCO.

6.5.40. There were no dissenting voices throughout the examination regarding this particular asserted position. The ExA has no reasons to disagree with the applicant's findings in respect of plots 13-01 or 13-03.

6.5.41. One IP, Mr Tim Sumner, made a number of submissions to the examination regarding the relationship between the Blenheim Estate and the crown [RR-1070], [REP1-182], [REP2-138] and [REP6-132]. The objections are broadly summarised as follows:

- The developer claims it would be granted leases over land owned by the Blenheim Estate, but the Book of Reference details the land being subject to permanent acquisition.
- The Queen Anne Act of 1705 details the villages, manors and area of land included in the creation of the (then) newly formed Blenheim Estate as being "leased out of crown land."
- On the south face of the Column of Victory in the grounds of Blenheim Palace it states that "The acts of parliament inscribed on this Pillar, shall stand as long as the British Name and Language last."
- The Blenheim Estate was founded on crown land which, to this day, is leased from The Crown Estate.
- There is a 1,000-year mortgage that Parliament holds over the Blenheim Estate through The Blenheim Estate Act of 1856.

6.5.42. The applicant originally responded [REP1-020] that the extent of the ownership has changed over the centuries since the establishment of Blenheim Palace, as land was purchased and sold (and on some occasions repurchased), so ownership should not be seen as the sole criterion for inclusion.

6.5.43. In the CAH, the applicant was asked specific questions about this matter [EV6-006, minute 37:33 to 54:02] which included oral submissions from a representative of the Blenheim Estate. The applicant responded [REP6-046] that:

- A desktop referencing search, which included a review of title documents, did not reveal any 1,000-year mortgage nor any crown ownership.
- There was no need to disapply or revoke any legislation referred to by Mr Sumner in the dDCO, nor make any amendments in any way to the dDCO.

- No research has been undertaken into whether the Queen Anne Act of 1705 was repealed.
- On this basis, the applicant submits that there is no crown land within the Order limits.

6.5.44. It was however established that compulsory acquisition powers are being sought over Blenheim land as a backup/ fallback, but the intention is to rely on the existing voluntary lease agreement. The powers are included to ensure deliverability in the event that the voluntary agreement cannot be completed or if unforeseen issues arise [REP6-046]. The status of the voluntary agreement is reported in [REP7-011] as being that an option agreement had been reached, but the applicant was seeking a variation of the option agreement, and this was 'ongoing' at close of the examination.

6.5.45. The ExA asked Historic England (HE) to comment on the potential harm to the World Heritage Site (WHS) should the fallback position be implemented [PD-018]. HE responded to say that the Outline Decommissioning Plan [REP6-036], confirmed that any land taken under compulsory acquisition would be returned to its original landowners and returned to its original use upon decommissioning. HE had no concerns regarding the fallback scenario as a result, particularly as a voluntary agreement appeared to have been secured.

ExA's Conclusions on Crown Land and the Blenheim Estate

6.5.46. Section 104(3) of the PA2008 states that the SoS must decide the application in accordance with the relevant national policy statement unless certain stipulations apply. One such stipulation is s104(6) whereby determining the application in such a way would be unlawful by virtue of any enactment.

6.5.47. The examination was open for 6 months and the ExA was not presented with any substantive documentation or any other evidence that a 1,000-year mortgage exists or that the crown retains an interest in the Blenheim Estate. It is recognised that there is an inscription on the Column of Victory, but that does not enshrine in law that the crown retains a land ownership interest.

6.5.48. For these reasons, the ExA is content to accept the applicant's position that crown land is not within the Order limits and thereby s135 of PA2008 is not invoked by way of the proposed development.

6.5.49. The ExA acknowledges that there has been good progress with the Blenheim Estate on land negotiations and securing voluntary leaseholds. This would be expected, since the Blenheim Estate reportedly offered land for the project in the first instance [APP-042].

6.5.50. We note that a variation to the option agreements was 'ongoing' at the close of the examination. Given the level of co-operation between the applicant and the Blenheim Estate, we have no real concerns that the agreements will fall through or not be amicably settled. The ExA considers it highly unlikely, albeit conceivable, that the applicant would need to utilise compulsory acquisition powers as a fallback position. The cultural heritage implications of this are fully considered in section 3.3 of this report.

6.5.51. However, should negotiations fail and the voluntary leasing of land from the Blenheim Estate not be agreed, the ExA considers this puts the land in jeopardy of being taken away from the single ownership of the Blenheim Estate. The loss of

single ownership of the Blenheim Estate would cause substantial harm to attribute 1 of the Outstanding Universal Value (OUV) of the World Heritage Site (WHS). However, the ExA takes some comfort that the land would be returned at decommissioning stage as per the Outline Decommissioning Plan and recommends that CA powers can be granted in this instance taking into account all the circumstances, but the SoS should be aware of this when considering whether or not to grant CA powers.

INDIVIDUAL REPRESENTATIONS AND OBJECTIONS

6.5.52. This part of chapter 6 sets out the ExA's consideration of the objections received from Affected Parties. It also considers those individuals/ organisations whose land was subject to CA or TP powers but had not finalised any agreements with the applicant at the close of the examination. This consideration draws upon the Status of Negotiations document provided by the applicant at DL7 [REP7-048].

The Eynsham Consolidated Charity

6.5.53. The Eynsham Consolidated Charity has an interest in the plots 11-27, 11-28 and 11-29, over which the applicant is seeking the compulsory acquisition of new rights to construct Work No.4 in the dDCO [REP7-006].

6.5.54. No representations were made by The Eynsham Consolidated Charity into the examination in respect of CA or TP.

6.5.55. At the close of examination, the applicant reported that Heads of Terms (HoTs) had been agreed, legal agreements were underway, and there was only one outstanding issue with regard the option for easement [REP7-011].

ExA's Conclusion

6.5.56. The ExA has not received an objection, or any other submission, from the landowner, but we consider the relevant request for land rights powers on a precautionary basis as the applicant advises that the option for easement is not yet signed.

6.5.57. Based on the above, we consider that the requested CA powers are for a legitimate purpose, that they are necessary and proportionate, that there are suitable provisions for compensation, and that there is a compelling case in the public interest for the powers to be granted.

Malcom Stuart Hoskins Price and Margaret Price

6.5.58. Malcom Stuart Hoskins Price and Margaret Price have an interest in plots 3-35, 4-01, 4-02 and 4-15, over which the applicant is seeking the compulsory acquisition of new rights in connection with Work No. 4.

6.5.59. No representations were made by Malcom Stuart Hoskins Price and Margaret Price into the examination in respect of CA or TP.

6.5.60. At the close of examination survey access, agent fees and the cable easement HoTs had been agreed. However, the option for easement remained an outstanding issue at the close of examination [REP7-011].

ExA's Conclusion

6.5.61. The ExA has not received an objection, or any other submission, from the landowners, but we consider the relevant request for land rights powers on a precautionary basis as the applicant advises that the option for easement is not yet signed.

6.5.62. Based on the above, we consider that the requested CA powers are for a legitimate purpose, that they are necessary and proportionate, that there are suitable provisions for compensation, and that there is a compelling case in the public interest for the powers to be granted.

Malcolm Stuart Hoskins Price (as Partner of DVH Price & Son), James Price (as Partner of DVH Price & Son) and James Robert Price

6.5.63. Malcolm Stuart Hoskins Price (as Partner of DVH Price & Son), James Price (as Partner of DVH Price & Son) and James Robert Price have an interest in plots 3-23, 3-25, 3-26, 3-27, 3-32, 3-35, 4-01, 4-02, 4-03, 4-05, 4-14, 4-16, 4-19 and 4-24. The applicant is seeking the compulsory acquisition of new rights and land in connection with Works No. 1, 4, 5, 6, 8 and 9.

6.5.64. Two representations were made by James Price into the examination at [REP3-100] and [REP6-094] in respect of farming practices and land productivity but not specifically in regard to CA or TP considerations.

6.5.65. At the close of examination survey access and agent fees had been agreed. However, whilst cable easement HoTs had been issued for signing, this remained an outstanding issue at the close of examination [REP7-011].

ExA's Conclusion

6.5.66. The ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.67. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

The Chancellor Masters and Scholars of the University of Oxford

6.5.68. The Chancellor Masters and Scholars of the University of Oxford have an interest in plots 11-39, 11-40, 11-42, 11-44, 11-45, 11-46, 11-47, 11-48, 12-01, 12-02, 12-03 and 12-04. The applicant is seeking the compulsory acquisition of new rights in connection with Work No. 4.

6.5.69. Three representations were made into the examination at [RR-1046], [REP1-127] and [REP2-085] where issues relating to clarification of route options, compensation terms, timelines for planning, option, easement, and construction phases and reinstatement were raised. A representative of The Chancellor Masters and Scholars of the University of Oxford also attended issue-specific hearing (ISH) 1 ([EV5-002], [EV5-004], [EV5-006] and [EV5-008]).

6.5.70. At the close of examination, the survey access licence was agreed but the cable easement HoTs and option for easement had yet to be agreed. However, the applicant states that an agreement is expected to be reached after the close of examination [REP7-011].

ExA's Conclusion

6.5.71. In terms of adequacy of consultation and information, the Land and Rights Negotiation Tracker [REP7-011] provides evidence of consultation and engagement with The Chancellor Masters and Scholars of the University of Oxford.

6.5.72. The ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.73. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Punch Partnership Limited

6.5.74. Punch Partnership Limited have an interest in plot 2-20, over which the applicant is seeking the compulsory acquisition of new rights in connection with Work No. 4.

6.5.75. No representations were made by Punch Partnership Limited into the examination in respect of CA or TP.

6.5.76. The applicant highlighted that the AP had previously rejected the proposed option for easement agreement, however discussions had restarted in respect of this matter [REP7-011]. At the close of examination, the HoTs for easement had been agreed. However, the cable easement HoTS and option for easement had yet to be agreed. Despite this the applicant is confident that agreement will be reached.

ExA's Conclusion

6.5.77. The ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.78. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Siemens Healthcare Limited

6.5.79. The AP has interests in plots 11-23, 11-25, 11-26 and 11-29, over which acquisition was sought for access rights. A number of objections were made to the examination. The ExA have specific considerations regarding this AP, which are set

out below under the heading of Protective Provisions. As such, no detailed assessment is made here.

Smith & Sons (Bletchington) Limited

6.5.80. Smith & Sons (Bletchington) Limited have an interest in plots 10-20, 11-03, 11-05, 11-06, 11-31, 11-32, 11-33, 11-34, 11-35, 11-36 and 11-37. The AP also has category 2 rights in respect of plots 11-27 and 11-29. The applicant is seeking the compulsory acquisition of new rights in connection with Work No. 4.

6.5.81. No representations were made by this AP to the examination in respect of CA or TP. At the close of examination, survey access had been agreed. However, the cable easement HoTS and option for easement had yet to be agreed. The applicant reported that agreements are progressing but would not be reached until after the examination [REP7-011].

ExA's Conclusion

6.5.82. The ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.83. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Oxford Diocesan Board of Finance

6.5.84. Oxford Diocesan Board of Finance have an interest in the plots 4-05, 4-08 and 4-15, over which the applicant is seeking the compulsory acquisition of new rights in connection with Work No. 4.

6.5.85. No representations were made by Oxford Diocesan Board of Finance into the examination in respect of CA or TP.

6.5.86. The applicant confirmed in [REP7-011] that at the close of examination, both parties remained apart in respect of the proposed easement fee, and that the cable easement HoTS and option for easement had yet to be agreed. Despite this the applicant is confident that agreement will be reached [REP7-011].

ExA's Conclusion

6.5.87. The ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.88. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Farmoor Service Station Limited

6.5.89. Farmoor Service Station Limited has an interest in the plots 12-01, 12-08 and 12-09, over which the applicant is seeking the CA of new rights in connection with Work Nos. 4 and 9.

6.5.90. No representations were made by Farmoor Service Station Limited into the examination in respect of CA or TP.

6.5.91. The applicant confirmed in [REP7-011] that the AP provided evidence as to the ownership of an unregistered plot of land (plot 12-07) which is adjacent to the AP's ownership and suggested that they own the plot. However, the applicant stated that it needs to determine if this is the case before proceeding with an agreement.

6.5.92. Whilst the applicant confirmed it was its intention to enter voluntary agreements, in the absence of clear evidence it will continue to treat plot 12-07 as unregistered/Unknown as per the Land Registry. The applicant also confirmed it had liaised with the relevant local authority and it had confirmed the plot was not within its ownership.

6.5.93. At the close of examination, the applicant stated that no legal evidence had been provided that allows any legal certainty that Farmoor Service Station Limited owns the title to Plot 12-07 and it therefore remains unregistered. As such, it has been agreed that the HoTs agreement will be progressed as a fall back for when title absolute is provided by the AP.

6.5.94. In respect of the other plots listed, no representations were recorded to the examination or to the applicant [REP7-011]. At the close of examination, the access easement HoTS and option for easement had yet to be agreed. Despite this the applicant is confident that agreement will be reached [REP7-011].

ExA's Conclusion

6.5.95. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with Farmoor Service Station Limited.

6.5.96. The ExA notes the position in respect of plot 12-07 and accepts that until appropriate legal evidence is provided to the applicant confirming ownership, the plot will remain unregistered.

6.5.97. Nevertheless, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.98. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land and plot 12-07 would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

The Warden and Scholars of the House or College of Scholars of Merton in the University of Oxford

6.5.99. The Warden and Scholars of the House or College of Scholars of Merton in the University of Oxford have an interest in the plots 7-05 and 7-17, over which the applicant is seeking the compulsory acquisition of new rights in connection with Work Nos. 4 and 6.

6.5.100. No representations were made by this AP to the examination in respect of CA or TP. However, the applicant reports a series of attempts to engage the AP in dialogue that have been unfruitful for a long time [REP7-011]. The latest position recorded is that the AP has removed their freehold property from the proposed development, however, has agreed to negotiate a cable easement over their land.

6.5.101. At the close of examination, the survey licence had been agreed but the cable easement HoTS and option for easement had yet to be agreed. Despite this the applicant is confident that agreement will be reached [REP7-011].

ExA's Conclusion

6.5.102. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with The Warden and Scholars of the House or College of Scholars of Merton in the University of Oxford.

6.5.103. The ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.104. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Hanson Quarry Products Europe Limited

6.5.105. Hanson Quarry Products Europe Limited have an interest in the plots 11-04, 11-31, 11-34 and 11-35, over which the applicant is seeking the compulsory acquisition of new rights in connection with Work No. 4.

6.5.106. Hanson Quarry Products Europe Limited did not submit any representations into the examination in respect of CA or TP.

6.5.107. At the close of examination, negotiations had not resulted in the completion of any required HoTs or options. Despite this the applicant is confident that agreement will be reached after the close of examination if it is required [REP7-011].

ExA's Conclusion

6.5.108. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with Hanson Quarry Products Europe Limited.

6.5.109. The ExA notes that the applicant is in discussions with the AP's land agent, and as required will look to put an agreement in place with the rights holder should their interest be affected by the proposed works.

6.5.110. Nevertheless, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.111. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Unregistered land – Plot 11-27

6.5.112. Plot 11-27 would be subject to permanent acquisition of new rights over 518 square metres of private road, trees, shrubbery, public bridleways (206/23/20 and 206/23/30) and public footpath (206/5/20), north of Oxford Road, B4044 and south-east of Hazeldene Close, Eynsham and is in connection with Work No. 4.

6.5.113. The applicant submits that diligent inquiry has been made to identify the owner of the plot but remains unsuccessful to date in doing so. Despite enquiries, at the close of examination the applicant had been unable to identify the ownership [REP7-011].

ExA's Conclusion

6.5.114. The ExA is satisfied that the applicant has undertaken diligent enquiries and that a detailed land referencing exercise had been undertaken to try to identify ownership. As such the applicant has complied with s44 and s57 of the PA2008 in respect of the identification of persons.

6.5.115. The ExA is satisfied that the CA of the relevant interests in this land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.116. If agreement is not reached through the identification and ownership and subsequent negotiation, the ExA is satisfied that the CA of the relevant interests in this land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Alec Wilkinson (Tenant of Smith & Sons Bletchington Limited)

6.5.117. Alec Wilkinson (Tenant of Tenant of Smith & Sons Bletchington Limited) has an interest in the plots 11-04, 11-05, 11-06, 11-34, 11-35 and 11-36, over which the applicant is seeking the compulsory acquisition of new rights in connection with Work No. 4.

6.5.118. This AP did not submit any representations into the examination in respect of CA or TP. At the close of examination, negotiations had not resulted in the completion of

the outstanding matter of crop loss. Despite this the applicant is confident that agreement will be reached following the close of examination [REP7-011].

ExA's Conclusion

6.5.119. The ExA notes that the applicant has confirmed that engagement is ongoing with the freeholder of the land regarding the option for easement HoTs [REP7-011].

6.5.120. The ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.121. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Graham George Podbery (Tenant of The Eynsham Consolidated Charity)

6.5.122. Graham George Podbery (Tenant of The Eynsham Consolidated Charity) has an interest in the plots 11-27, 11-28, 11-29 and 13-02, over which the applicant is seeking the compulsory acquisition of new rights in connection with Work No. 4.

6.5.123. This AP did not submit any representations into the examination in respect of CA or TP.

6.5.124. As detailed above, at the close of examination survey access, agent fees and the cable easement HoTs had been agreed with the Eynsham Consolidated Charity. However, the option for easement remained an outstanding issue at the close of examination.

ExA's Conclusion

6.5.125. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with this AP. However, the applicant confirmed in [REP7-011] that no agreement was required with Graham Gorge Podberry as a tenant.

6.5.126. The ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

Oxfordshire County Council - Estates

6.5.127. Initial dialogue with Oxfordshire County Council (OCC) Estates focused on the compulsory acquisition of new rights over plots 3-16, 4-09, 4-11, 4-13, 11-13, 11-14 and 11-22.

6.5.128. Following the submission and acceptance of the second change request ([CR2-001] to [CR2-073]), a reduction in the redline boundary/ Order limits removed the following plots of land from the Order limits:

- Plot 4-09
- Plot 4-11
- Plot 4-13

6.5.129. In [REP7-011] the applicant declared that the remaining four plots were actually designated as highway land, and therefore under the remit of OCC as the local highway authority rather than falling within the remit of OCC in an Estates capacity. As a result, no agreements with OCC Estates were considered necessary by the applicant.

ExA Conclusion

6.5.130. The ExA is satisfied there is no requirement for the use of CA powers in this instance. OCC did not dispute the position reached at the close of the examination in this particular regard. However, matters in relation to the remaining plots, and the acquisition of highway land in general, are discussed below in the OCC Highways section.

Oxfordshire County Council – as Local Highway Authority

6.5.131. OCC, as the local highway authority (LHA) controls the land within the highway network, which includes all highways land within the Order limits. As such it has an interest in a significant number of plots, listed in the BoR and the negotiation schedule [REP7-011], where the applicant is seeking the compulsory acquisition of new rights in connection with Works No.1, 2, 3a, 3b, 4, 5, 6, 7, 8 and 9.

6.5.132. OCC as LHA made several representations into the examination raising concern in respect of the applicant's proposed approach in respect of the acquisition of new rights over highways land.

6.5.133. Representations were made by OCC at the CAH ([EV6-003] and [EV6-005]) in respect of its concerns and provided a written summary of its oral submission at [REP6-116]. In summary the concerns were:

- Article 21 of the dDCO allows for the acquisition of rights over land. However, Articles 8-15 also provide the applicant with the necessary powers to enter the highway and undertake authorised works, including maintenance.
- OCC as LHA therefore does not believe it is necessary for the applicant to be provided powers to acquire rights over highways land, when the dDCO already provides sufficient powers to undertake the authorised works without the need to acquire these rights.
- Additionally, the management of the highways network and planned future highway schemes would be impacted, and this should not be allowed for a temporary development.
- The extinguishment of easements should not be allowed as highway easements are often required to maintain drainage to the highway.
- As such, OCC as the LHA, stated that it needs to retain full control of the highway network in order to ensure its smooth running and so would request

that compulsory acquisition powers are not granted in relation to any highway land or in relation to the land to be safeguarded for footway/cycleway improvements.

6.5.134. OCC therefore did not see how the CA of rights over highways land was necessary in order to facilitate the proposed development in line with s122 of the PA2008.

6.5.135. In response to these concerns, during the CAH ([EV6-003] and [EV6-005]) the applicant confirmed that whilst the proposed works will primarily be carried out using street works powers and in compliance with the Oxfordshire Permit Scheme, the CA of rights over highways land are sought as a "belt and braces" approach. This is to address legal uncertainties regarding the extent of the highway, subsoil rights, and situations where works may go beyond the ordinary use of the highway. The applicant considers these rights necessary to ensure delivery of the works in accordance with the DCO. The applicant also confirmed at the CAH that it would provide case law justifying the inclusion of highways land within the CA scope in a DCO.

6.5.136. As the applicant failed to provide this information at DL6 in its post-hearing submission, the ExA request this information was provided [PD-018]. This was provided by the applicant at [REP7-047] and the applicant also concluded that *"… the acquisition of the proposed rights may only be exercised 'as is required for the authorised development or to facilitate, or as is incidental, to it'. Therefore, the exercise of any powers is inherently limited and suitably controlled. The DCO would not enable the Applicant to exercise compulsory acquisition powers over any highway land in respect of the new rights if the street works powers in the DCO can effectively deliver the Project."*

6.5.137. At [REP8-006] OCC as LHA confirmed that whilst it noted the applicant's concern due to the uncertainty around the ownership of land beneath the highway, it considered the applicant had sufficient powers within the dDCO without the need to rely on CA. Furthermore, in response to any concerns the applicant had about any of the highway land within the Order limits being stopped up, Schedule 3 of the Electricity Act could be used to CA the land in question.

6.5.138. To conclude, OCC as the LHA stated that its position had not changed since the CAH and that [REP8-006]:

> "*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.*"

6.5.139. At the close of the examination, agreement between the parties had not been reached in respect of the CA of new rights in connection with Works No.1, 2, 3a, 3b, 4, 5, 6, 7, 8 and 9.

ExA's Conclusion

6.5.140. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with OCC as the LHA.

6.5.141. The ExA notes the concerns raised by the OCC as the LHA. We also satisfied that most of the proposed works within the highway can be carried out by the applicant primarily through the powers conferred by Articles 8 to 15 of the dDCO.

6.5.142. However, in order to provide the certainty and security to progress with the proposed development, we consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted in order to provide both certainty and security to the applicant. The ExA has noted, from the other made DCOs (table A6 of appendix A to this report) the applicant has relied upon in the preparation of its dDCO, that the granting of such powers is extensively precedented. The ExA also considers that the risk of inconvenience to road users in terms of potential disruption is low and temporary and outweighed by the applicant's need for certainty and security. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.143. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Unregistered land

6.5.144. Plot 11-30 relates to the permanent acquisition of new rights over 69 square metres of drain, trees and shrubbery, north of River Thames and south-east of Hazeldene Close, Eynsham in connection with Work No. 4.

6.5.145. Despite enquiries, at the close of examination the applicant had been unable to identify the ownership.

ExA's Conclusion

6.5.146. The ExA is satisfied that the applicant has undertaken diligent enquiries and that a detailed land referencing exercise had been undertaken to try to identify ownership. As such the applicant has complied with s44 and s57 of the PA2008 in respect of the identification of persons.

6.5.147. If agreement is not reached through the identification and ownership and subsequent negotiation, the ExA is satisfied that the CA of the relevant interests in this land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

The Sunderland Foundation

6.5.148. The Sunderland Foundation act as a Trustee of the Duke of Marlborough's 1981 settlement and owns land under which the proposed cable route would be located. As such, The Sunderland Foundation has an interest in a large number of plots as listed in the BoR and the negotiation schedule [REP7-011], where the applicant is seeking the compulsory acquisition of new rights and land in connection with Works No. 4, 6 and 9.

6.5.149. The Sunderland Foundation made no independent representations into the examination in respect of CA and TP.

ExA's Conclusion

6.5.150. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with The Sunderland Foundation. Infrastructure Limited.

6.5.151. [REP7-011] confirmed that at the close of examination survey access had been agreed but easement rights have yet to be granted by the AP for the Blenheim entities. The ExA notes that the Blenheim Estate is liaising with The Sunderland Foundation to manage the internal grant of rights. The applicant further stated that it is in dialogue with the AP in respect of the drafting of the easement rights.

6.5.152. The ExA is however satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.153. In the unlikely event that agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Blenheim Trustee Company No. 1 Limited and Blenheim Trustee Company No. 2 Limited

6.5.154. Blenheim Trustee Company No 1 Limited and Blenheim Trustee Company No 2 Limited are the trustee companies for a number of Blenheim trusts including, for this application, the Blenheim Palace 1984 Maintenance Fund Settlement. Both the Blenheim Trustee Company No.1 and No. 2 Limited own part of the land proposed to be optioned to the applicant in respect of the proposed development. As such, both companies have an interest in an interest in a large number of plots, listed in the BoR and the negotiation schedule [REP7-011], where the applicant is seeking the compulsory acquisition of new rights and land in connection with Works No. 1, 3b, 4, 5, 6, 7, 8 and 9.

6.5.155. Neither Blenheim Trustee Company No. 1 Limited or Blenheim Trustee Company No. 2 Limited made independent representations into the examination in respect of CA or TP.

ExA's Conclusion

6.5.156. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with Blenheim Trustee Company No. 1 Limited or Blenheim Trustee Company No. 2 Limited.

6.5.157. [REP7-011] confirmed that at the close of examination the option agreement for the solar PV panels and associated ancillary infrastructure had been agreed. However, the applicant stated that there was an ongoing matter in respect of the option agreement in respect of the inclusion of land of the AP and rights over The Sunderland Foundation option agreement. However, the applicant confirmed that they anticipated that this matter would be agreed in due course.

6.5.158. The ExA is however satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.159. In the unlikely event that agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Vanbrugh Trustees Limited (as Trustee of the Vanbrugh Unit Trust) and Vanbrugh Trustees No 2 Limited (as Trustee of the Vanbrugh Unit Trust)

6.5.160. This entity owns or leases the vast majority of the Blenheim land outside of the park walls and are the trustee companies for the Vanburgh Unit Trust only. As such, both of the Trustees have an interest in a large number of plots, listed in the BoR and the negotiation schedule [REP7-011], where the applicant is seeking the compulsory acquisition of new rights and land in connection with Works No. 1, 3b, 4, 5, 6, 7, 8, 9, and 9d.

6.5.161. Neither the Vanbrugh Trustees Limited (as Trustee of the Vanbrugh Unit Trust) and Vanbrugh Trustees No 2 Limited (as Trustee of the Vanbrugh Unit Trust) made independent representations into the examination in respect of CA or TP.

ExA's Conclusion

6.5.162. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with Vanbrugh Trustees Limited (as Trustee of the Vanbrugh Unit Trust) and Vanbrugh Trustees No 2 Limited (as Trustee of the Vanbrugh Unit Trust).

6.5.163. [REP7-011] confirmed that at the close of examination the option agreement for the solar PV panels and associated ancillary infrastructure had been agreed. However, the applicant stated that there was an ongoing matter in respect of the option agreement in respect of the inclusion of land of the AP and rights over The Sunderland Foundation option agreement. However, the applicant confirmed that they anticipated that this matter would be agreed in due course.

6.5.164. The ExA is however satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.165. In the unlikely event that agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Hill Grove Family Farm Limited

6.5.166. Hill Grove Family Farm Limited has an interest in a large number of plots, listed in the BoR and the negotiation schedule [REP7-011], where the applicant is seeking the compulsory acquisition of new rights and land in connection with Works No.1, 4, 6, 8 and 9.

6.5.167. Mr Brown of The Hill Grove Family Farm Limited made a representation at OFH2 ([EV4-002] and [EV4-004]) and [REP6-091] stating general support for the proposed development; however, his comments did not address any specific CA or TP matters.

ExA's Conclusion

6.5.168. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with The Hill Grove Family Farm Limited

6.5.169. [REP7-011] confirmed that at the close of examination the option agreement for the solar PV panels and associated ancillary infrastructure had been agreed. No further agreements or options are required in respect of this AP.

6.5.170. However, for clarity, the ExA confirms that it is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.171. If it becomes necessary to implement CA powers, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

John P. Gee & Sons Limited

6.5.172. John P. Gee & Sons Limited has an interest in the plots 13-02, 13-04, 13-05, 13-06, 13-07, 13-09 and 13-10, over which the applicant is seeking the compulsory acquisition of new rights and land in connection with Works No.1, 2, 3a, 3b, 4, 5, 6, 7, 8 and 9.

6.5.173. Mr John Gee of John P. Gee & Sons Limited made a representation at OFH1 ([EV3-002 and [EV2-004]) and [REP1-151] stating general support for the proposed development, however, his comments did not address any specific CA or TP matters.

ExA's Conclusion

6.5.174. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with John P. Gee & Sons Limited.

6.5.175. In [REP7-011] the 'Likelihood of resolution during the examination' column states that that the variation within the option agreement to include plots 13-05 and 13-07 had not been completed. However, the 'Status of negotiations with land interest' column states that negotiations were complete in respect of the option agreement for solar PV and associated ancillary infrastructure.

6.5.176. The ExA notes that some ambiguity therefore remained at the close of examination in respect of whether the option agreement was in fact complete. Nevertheless, we confirm that we are satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.177. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Jeanne Pamela Humphrey and John Michael Gee

6.5.178. Ms Jeanne Pamela Humphrey and John Michael Gee have an interest in the plots 13-02, 13-06, 13-07, 13-09 and 13-10 where the applicant is seeking the compulsory acquisition of new rights and land in connection with Works No.1, 4, 6, 7, 8, and 9.

6.5.179. As reported above, whilst Mr John Gee made a representation in respect of John P. Gee & Sons Limited, no such representation was made by either Ms Jeanne Pamela Humprhey or Mr John Gee either individually or jointly in respect of CA or TP.

ExA's Conclusion

6.5.180. In terms of adequacy of consultation and information, [REP7-011] provides evidence of consultation and engagement with Jeanne Pamela Humphrey and John Michael Gee.

6.5.181. In [REP7-011] the 'Likelihood of resolution during the Examination' column states that that the variation within the option agreement to include plots 13-05 and 13-07 had not been completed. However, the 'Status of negotiations with land interest' column that negotiations were complete in respect of the option agreement for solar PV and associated ancillary infrastructure.

6.5.182. The ExA notes that some ambiguity therefore remained at the close of examination in respect of whether the option agreement was in fact complete. Nevertheless, we confirm that we are satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.183. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

Mr and Mrs Cooke (as represented by Mr Harry St John)

6.5.184. In the BoR Mr Roderick Cooke and Mrs Christine Cooke are listed as Category 2 and Category 3 APs in respect of plots 6-09 and 8-12, which relate to Works No. 1, 5, 6 and 8.

6.5.185. Mr Harry St John, on behalf of Mr and Mrs Cooke, made representations throughout the examination. At [REP3-098] it was confirmed that a restrictive covenant existed on the Cooke's land in favour of the Cookes over the Blenheim Estate's freehold, which stated that *"the Vendor/Transferor would not erect any buildings on the Reserved land - and for the avoidance of doubt this included huts, greenhouses, sheds and barns".*

6.5.186. Mr Harry St John further confirmed that whilst covenants did not specifically reference solar panels, it is clear that the definition of a building can be either permanent or temporary and unless the context otherwise requires, it includes other structures or erection of whatsoever kind or nature, whether temporary or permanent.

6.5.187. It was confirmed at the CAH ([EV6-003] and [EV6-005]) that the applicant had removed the land with the restrictive covenant as part of the second change request and confirmed that discussions were ongoing with Mr Harry St John regarding costs for Mr and Mrs Cooke as successful objectors.

6.5.188. Whilst Mr and Mrs Cooke were successful objectors in respect of the removal of land from the proposed development, Mr Harry St John confirmed that their overall objection to the proposed development remained.

ExA's Conclusion

6.5.189. The ExA note that the Cookes are successful objectors and are entitled to have their costs met. Upon the SoS decision on this application for development consent, the Cookes may wish to submit the claim for costs accordingly.

Mr Dustin Dryden

6.5.190. Ms Karen Squibb-Williams, on behalf of Mr Dustin Dryden, made representations throughout the examination as it was stated that Mr Dryden's property was in a unique position as it would be surrounded by plots 8-27, 8-30, 8-32, 8-38, 10-06, 10-07, 10-08, and 10-09, which relate to Works No. 1, 6, and 8.

6.5.191. A summary of Mr Dryden's concerns was provided by Ms Karen Squibb-Williams during the CAH ([EV6-003] and [EV6-005]) which in summary related to the rights sought over secondary access to his property and the absence of clarity on mitigation for safety and operational needs.

6.5.192. In response, the applicant confirmed that confirmed that plots 10-06, 10-07, and 10-08 had been identified for the permanent acquisition of new rights and that Mr Dryden is the occupier of the relevant plots and that a property agreement is already in place with the freeholder.

6.5.193. In [REP6-046] the applicant confirmed that following the CAH, it entered into further dialogue with Ms Karen Squibb-Williams and identified that the main issues related to plots 10-07 and 10-12 which relate to Mr Dryden's rights of access only and Category 2 interest.

6.5.194. Following a review of the 33kV cable route and the potential impact on Mr Dryden's secondary access, the applicant confirmed it would relocate the cable location just south of the existing track in the field. Whilst it would still be necessary to cross the track at either end, the cable would be installed under the road, thereby minimising disruption and ensuring access to the property and usability of the track.

ExA's Conclusion

6.5.195. Mr Dryden submitted a closing submission into the examination [REP7-172] and confirmed that his objections in relation to landscape, siring, ecology, flood, energy need, national security and due diligence issues remained. No reference was made to the amendments to the cable route proposed by the applicant.

6.5.196. However, the ExA does not see any reason as to why the relocation of the proposed cable route would not be considered satisfactory as it would reduce the level of interference experienced by Mr Dryden and his family.

6.5.197. Whilst the ExA is content that such an amendment to the proposed development has been made, it is disappointed to see a lack of communication by the applicant in respect of this issue, which was raised in the early stages of the examination.

6.5.198. Despite this, the ExA confirms that it is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development. We consider the applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the order be granted. The ExA also considers that the rDCO includes adequate compensation provisions. The ExA therefore considers that the approach sought by the applicant is a reasonable balance between public benefit and competing factors and interests.

6.5.199. If it becomes necessary to implement CA powers, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the proposed development and that it would be reasonable and proportionate to do so.

STATUTORY UNDERTAKERS AND PROTECTIVE PROVISIONS

Introduction

6.5.200. This section of the chapter considers representations made by SUs under s127 and s138 of the PA2008, including all representations made at the CAH and OFHs. The ExA has only identified the points considered to be important and relevant when reporting on the representations and the applicant's responses.

6.5.201. The applicant contacted SUs with apparatus or land within the vicinity of the Order limits. Where those SUs engaged, generally bespoke protective provisions (PP) have been agreed with the parties and are included within the dDCO to protect their apparatus and their rights to construct, operate and maintain it. Some SUs did not reply to the applicant's enquiries. In these instances, general PP have been included within the dDCO to ensure that the interests of those parties are protected.

6.5.202. Section 127(3) of the PA2008 provides that a DCO may only authorise the CA of SU land where a representation has been made by the SU objecting to the acquisition if the SoS is satisfied that:

- The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or

- If purchased, the land can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.

6.5.203. Section 127(5) of PA2008 provides that a DCO may only authorise the CA of rights over SU land where a representation has been made by the SU objecting to the acquisition and the SoS is satisfied that:

- The rights can be acquired without serious detriment to the carrying on of the undertaking; or
- Any consequential detriment to the carrying on of the undertaking can be made good by the undertaker by the use of other land belonging to or available for acquisition by the undertaker.

6.5.204. Section 138 of the PA2008 provides that a DCO may include provision for the extinguishment of a relevant right, or the removal of the relevant apparatus only if the SoS is satisfied that the extinguishment or removal is necessary for the purposes of carrying out the development to which the order relates. A relevant right is defined in s138(2) as meaning a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which, (a) is vested in or belongs to SUs for the purpose of the carrying on of their undertaking, or (b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.

Protective Provisions

6.5.205. The progress with PP was charted within the regular submissions of the Land and Rights Negotiations Tracker. The final Land and Rights Negotiations Tracker Land Rights Tracker was submitted at DL7 [REP7-011], alongside of a Status of Negotiations [REP7-048], which in respect of PP, sets out the nature of the undertaking, the land rights affected, and the status of the discussions with any impediments envisaged.

6.5.206. The applicant reports that agreement has been reached with, or no objection was received from, the following SUs:

- Gigaclear Limited
- GTC Infrastructure Limited
- GTC Pipeline Limited
- Openreach Limited
- Vodafone Limited - s138 would be engaged, no objection was submitted, PP for the Protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 9, Part 2. A side letter has been agreed with Vodafone Limited to amend the standard PP to protect Vodafone Limited's interests as an electronic communications code operator in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act.
- Virgin Media Limited
- BT Group plc

- Southern Electric Power Distribution plc, Scottish and Southern Energy Power Distribution Limited and SSE Utility Solutions Limited (collectively SSE)

6.5.207. For those SUs where the wording of PPs has either been fully agreed, or where no communication/ objection was received at any stage of the examination, the ExA is content with the wording and has made no changes to the applicant's final dDCO.

Bespoke Protective Provisions

6.5.208. At the close of the examination agreement was reached on bespoke PP and/ or a protective side agreement with the following SUs:

- Southern Gas Networks plc – initial concerns were received from the SU on the basis that the preferred standard PP that the SU expects were not incorporated in the order [RR-0981]. Following engagement during the examination, Southern Gas Networks confirmed the withdrawal of the outstanding objection on 17 July 2025 [REP3-117]. A side agreement has been entered into and bespoke PPs for the Protection of Southern Gas Networks plc are included in the dDCO Schedule 15, Part 6.
- Environment Agency – engagement during the examination resulted in bespoke PPs for the Protection of the Environment Agency being included in the dDCO Schedule 15, Part 7.
- National Grid Electricity Transmission plc – bespoke PPs for the Protection of National Grid Electricity Transmission plc are included in the dDCO Schedule 15, Part 9.

6.5.209. For those SUs where the wording of PP has been fully agreed, the ExA is content with the wording and has made no changes to the applicant's final dDCO [REP7-006].

Siemens Healthcare Limited (Siemens)

6.5.210. Siemens made a large number of representations to the examination [RR-0967] [REP1-110] [REP4-080] [REP5-134] [REP6-128]. This is a business manufacturing equipment for healthcare facilities on an international platform, most notably MRI scanners, and is accessed by motor vehicles solely along Wharf Road to the southeast of Eynsham.

6.5.211. The applicant proposes using Wharf Road to access and construct a horizontal directional drilling (HDD) compound to allow cables to cross underneath the River Thames [REP7-004]. The dDCO [REP7-006] would grant numerous powers to the applicant for alterations and closure of highways within the Order limits; this is a situation that greatly vexed Siemens, which stated daily 24-hour access was essential to the success of the business and the integrity of its products.

6.5.212. Siemens requested that Wharf Road be taken out of the Order limits altogether, not least because the applicant was considering an alternative option to access the HDD compound from Cassington Road, a little further north [REP4-039]. This is Siemens primary position [REP7-214]. However, as a secondary fallback position, Siemens was willing to have bespoke PPs written into the dDCO.

6.5.213. Siemens Healthcare Limited remains concerned about access to business premises, and requests that access should be wholly available 24 hours a day, every day. A number of detailed submissions were made on behalf of this business,

stating its importance to national economy by providing MRI scanners (and other apparatus) to medical facilities.

6.5.214. Although not a statutory undertaker, Siemens Healthcare Limited has been afforded a bespoke set of PPs by the applicant, appearing as Part 8 of Schedule 15 to the final dDCO [REP7-006]. This was made in tandem with alterations to requirement 11, making Siemens a consultee to the Construction Traffic Management Plan.

6.5.215. Should the applicant choose to use Cassington Road instead, that is a commercial decision and would not impact upon Siemens, thus those PPs would never be invoked. However, given the global significance of the Siemens facility and the time-critical nature of its operations, the ExA welcomes the bespoke PPs being written into the dDCO to ensure any use of Wharf Road is appropriate and controlled. The ExA recommends the PPs are carried forward, without modification, into the rDCO at appendix D to this report.

Bespoke Protective Provisions Still Under Negotiation

6.5.216. For those SUs where bespoke PP were required, but which were not agreed by the close of the examination, the ExA requested, at the CAH, a set of the applicant's PP marked up with areas of disagreement and an alternative set of PP to include the SUs preferred wording ([EV6-003] and [EV6-005]).

6.5.217. This information was not provided by the applicant at the close of examination.

Thames Water Utilities Limited

6.5.218. Thames Water Utilities Limited (TWUL) has an interest in a large number of plots, listed in the BoR and the Land and Rights Negotiation Tracker [REP7-011] and the Schedule of Negotiations document [REP7-048], over which the applicant is seeking the compulsory acquisition of new rights in connection with Works No. 1, 2, 3b, 4, 5, 6, 7, 8, 9.

6.5.219. At DL1, TWUL's Written Representation (WR) [REP1-126] raised concern in respect of the degree of asset protection provided for it in the dDCO and was seeking to agree PP with the applicant to protect its interests and mitigate against any impacts. This is required in order for TWUL to continue to effectively discharge its statutory and licence obligations.

6.5.220. In response to ExQ1.5.34 [REP2-084], TWUL further commented that the PP, as drafted in Schedule 15 Part 5 of the dDCO, did not provide sufficient protection as the appropriate wording to protect TWUL from the exercise of powers over its property interests listed in the BoR had not been agreed. TWUL further stated that it was keen to ensure that the final form of PP would fully protect it from the CA of operational land which has been identified as being subject to order powers, as such land is crucial to TWUL's delivery of its statutory undertaking.

6.5.221. Additionally, at [REP2-084] TWUL confirmed that it did not think either test in respect of s127 or s138 of PA2008 had been satisfied and, as such, it was not in a position to able to remove its objection to the application until such time as its operational land is protected from the exercise of compulsory acquisition powers and PP had been drafted to satisfy TWUL.

6.5.222. TWUL did not make any further representations to the examination. Following the CAH, ([EV6-003] and [EV6-005]) the ExA requested that the applicant provide an

updated position on negotiations and all necessary text of the PP, highlighting disputes and the reason for this.

6.5.223. The applicant failed to do this, instead it provided commentary in appendix 1 of its Closing Statement [REP8-001] as to why the current proposed PP [REP7-006] were robust and served as adequate protection for TWUL, but no comparative wording has been provided. At the close of examination, survey access had been agreed but negotiations had not resulted in the completion of the access HoTs or option for easement. Despite this the applicant is confident that agreement will be reached following the signing of protective provisions (PP) [REP7-011].

6.5.224. The ExA therefore has no choice but to inform the SoS that the case under s127 and s138 of PA2008 has not been made out fully by the applicant. The ExA cannot knowingly suggest the PP as drafted provide sufficient protection for TWUL due to:

- the absence of TWUL acceptance of the PPs, or withdrawal of its objection; and
- the absence of any wording for the missing provisions regarding CA, as per [REP2-084]. If the applicant had provided wording, the ExA and the SoS could have made a judgement on this point.

6.5.225. As it stands, without said wording, the ExA cannot commend Part 5 of Schedule 15 to the SoS. The powers to interfere, acquire or otherwise enter onto TWUL land should not be authorised because doing so would potentially detrimentally impair TWUL's ability to exercise its statutory functions.

Network Rail

6.5.226. Network Rail Infrastructure Limited has an interest in a large number of plots, listed in the BoR and the Schedule of Negotiations document [REP7-048], where the applicant is seeking the compulsory acquisition of new rights in connection with Works No. 1, 6, 8 and 9.

6.5.227. At DL1, Network Rail's WR [REP1-088] stated heads of terms for a property agreement were being negotiated with the applicant. Network Rail requests robust PP to protect its assets and its statutory functions. Network Rail stated [REP1-088], that it required its standard provisions to be adopted, otherwise the powers allowed under s127 and s138 of PA2008 should not be authorised.

6.5.228. Network Rail did not make another representation to the examination. The ExA at the CAH ([EV6-003] and [EV6-005]) requested the applicant provided an updated position on negotiations and all necessary text of the PP, highlighting disputes and the reason for this.

6.5.229. The applicant failed to do this, instead it provided commentary in appendix 1 of [REP8-001] as to why the current proposed PP [REP7-006] were robust and served as adequate protection for Network Rail, but no comparative wording has been provided.

6.5.230. The ExA therefore has no choice but to inform the SoS that the case under s127 and s138 of PA2008 has not been made out fully by the applicant. The ExA cannot knowingly suggest the PP as drafted provide sufficient protection for Network Rail due to

- the absence of Network Rail's acceptance, or withdrawal of its objection; and

- the absence of any wording for the missing provisions regarding CA, as per [REP1-088]. If the applicant had provided wording, the ExA and the SoS could have made a judgement on this point.

6.5.231. As it stands, without said wording, the ExA cannot commend Part 4 of Schedule 15 to the SoS. The powers to interfere, acquire or otherwise enter onto Network Rail's land should not be authorised because doing so would potentially detrimentally impair Network Rail's ability to exercise its statutory functions.

ExA's overall conclusion on Statutory Undertakers

6.5.232. In respect of all SUs, section 138 of PA2008 is engaged by Article 30 of the dDCO [REP7-006]. This Article would permit the undertaker to extinguish or relocate the rights or apparatus of statutory undertakers and electronic communications apparatus. Such power may only be included in the DCO if the Secretary of State is satisfied the extinguishment or removal is necessary for the authorised development.

6.5.233. The exercise of such powers would be carried out in accordance with the Protective Provisions contained in Schedule 15 of the rDCO which set out constraints on their exercise with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests.

6.5.234. The majority of SUs have:

- Agreed to the PPs in the dDCO;
- Not commented, communicated or objected to the PPs in the dDCO; or
- Agreed bespoke PPs within the dDCO.

6.5.235. However, it has been identified by the ExA that the PPs for TWUL and Network Rail have not been agreed at the close of the examination. The omitted clauses, as reported in [REP8-001], relate to compulsory acquisition matters, which remained an unresolved matter at the close of the examination. The ExA has no text to recommend to the SoS for insertion into the rDCO to overcome this concern since neither the SUs, nor the applicant though requested, provided any.

6.5.236. The ExA is not therefore satisfied that the PPs fully safeguard the interests of those two aforementioned SUs. Granting the rDCO in lieu of text relating to compulsory acquisition clauses could, potentially, result in serious detriment to the carrying on of the undertaking those two SUs require the land for. The tests set out in s127 and s138 of PA2008 are not therefore passed.

6.5.237. Notwithstanding the above, the ExA is disappointed that the applicant and certain SUs could not reach agreement within the statutory timescale for examination.

THE EXA'S CONSIDERATION OF THE GENERAL CASE FOR COMPULSORY ACQUISTION AND TEMPORARY POSSESSION

6.5.238. The ExA's approach to the question of whether and what CA powers it should recommend to the SoS to grant has been to apply the relevant sections of the PA2008, notably s122 and s123, the Human Rights Act 1998 and the Equality Act 2010 and to also have regard to the CA Guidance. In the light of the representations received and the evidence submitted, it is also necessary to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.

6.5.239. A number of general considerations have also been addressed in the light of the CA Guidance, namely:

- whether all reasonable alternatives to CA have been explored
- whether the applicant has a clear idea how it intends to use the land and has demonstrated funds would be available
- whether the proposed interference with the rights of those with an interest in land would be for a legitimate purpose and that it is necessary and proportionate
- whether there would be any impediment to obtaining any operational or other consents

Whether all Reasonable Alternatives to Compulsory Acquisition Have Been Explored

6.5.240. Paragraph 8 of the CA Guidance requires the applicant to able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA, including modifications to the scheme, have been explored.

6.5.241. The applicant's SoR sets out the stages of the proposed development process, which demonstrates the options, identification, and selection process undertaken by the applicant [CR2-015]. Table 5.1 of ES chapter 5, Alternatives Considered provides a summary of the alternatives considered by the applicant during the optioneering and design process [APP-042].

6.5.242. The ExA has reported on its findings regarding the alternatives considered in section 3.2 of this report. We do not repeat that here, only to report that we are satisfied that the applicant has adequately considered alternatives to the proposed development.

6.5.243. In respect of the question of alternatives which arose in the specific context of land rights, section 7.6 of the SoR [CR2-015] details the alternative options considered by the applicant in respect of the proposed development and section 7.5 of the SoR details alternatives to CA.

6.5.244. Details of negotiations were provided initially in the Land and Rights Negotiations Tracker [APP-020] and updated throughout the examination in several iterations [AS-013], [REP1-008], [REP2-010], [REP3-008], [REP4-008], [REP5-014], [CR2-013], [REP6-008] and [REP7-011]. The final update was provided in the Status of Negotiations document at DL7 [REP7-048].

6.5.245. The applicant stated that its preference was to acquire all land by voluntary agreement and would pursue this as far as possible. However, the applicant stated it would need to seek to acquire land and rights compulsorily through the dDCO in circumstances where the voluntary acquisition of land or rights is ultimately unsuccessful [CR2-015].

6.5.246. At DL7 the applicant provided a final update on the land negotiations as of November 2025 [REP7-048] and this is shown below:

Table 7: Status of Negotiations

Agreements Category	Total Number
Section 1: Acquisition concluded, or Option Agreement signed and exchanged	6
Section 2: Legal agreement being finalised or agreed. Exchange expected shortly	0
Section 3: Legal agreement progressing, no issues to note	1
Section 4: Legal agreement started but little progress	4
Section 5: Heads of terms in negotiation	9
Section 6: Temporary Licence Agreements	0
Section 7: Crown Land Consent	0
Section 8: Agreement not required	4

6.5.247. The above table does not include details of negotiations with SUs as these have been reported in earlier paragraphs.

6.5.248. The ExA acknowledges that there are few alternatives available to the applicant and, for reasons of certainty and security, it would not be reasonable to expect the applicant to rely on the completion of voluntary agreements without the fallback of CA powers. As such we are satisfied that the applicant has explored all reasonable alternatives to CA. The ExA is therefore of the conclusion that there are no alternatives to the CA powers sought which ought to be preferred.

Diligent Inquiry and Clarity on the Use of the Land

6.5.249. Diligent inquiry must be undertaken to identify the categories of persons set out in s44 and s57 of the PA2008 as Categories 1, 2 and 3. The applicant explained that prior to the first formal consultation exercise a diligent land referencing process was completed to identify relevant persons with an interest in land.

6.5.250. All registered interests within the order land were identified, including owners, lessees, tenants, and occupiers, as well as persons who have an interest in land or have power to sell and convey, or to release land. Several amendments were made to the BoR during the examination, with reasoning provided in the Book of Reference – Schedule of Changes document [REP7-032].

6.5.251. At the close of the examination, three unregistered plots remained 11-27, 11-30 and 12-07. The applicant provided updates throughout the examination and the Land and Rights Negotiation Tracker [REP7-011] was regularly updated. The tracker confirmed what actions the applicant had undertaken in an attempt to identify the ownership. At the close of the examination the applicant confirmed that site notices continued to be placed and maintained in an attempt to identify ownership of plots 11-27 and 11-30. In respect of plot 12-07, the applicant was still awaiting legal documentation to confirm the ownership of the plot.

6.5.252. The ExA is therefore satisfied that the applicant has undertaken, and continues to undertake, land enquiries in a diligent fashion and that the requirements under s44

and s57 of the PA2008 regarding categories of APs have been satisfactorily applied.

Purpose of the Compulsory Acquisition and Temporary Possession of Land and Rights

Land for Compulsory Acquisition

6.5.253. The applicant set out that land and rights would be necessary to deliver the proposed development. The rationale for the extent of the required land and rights was set out, whereby the extent of the land and rights to be acquired were drawn with regard to avoiding any unnecessary interference with third-party land. The applicant considered that all the land included in the order land was necessary to enable the delivery of the proposed development and once detailed design had been undertaken, it would ensure that only the land that is required for the development would be acquired [CR2-015].

6.5.254. The applicant's Status of Negotiations document [REP7-048] set out its final position in respect of the justification for the grant of the acquisition of land and acquisition of rights and imposition of restrictive covenants with the specific use with the class of rights sought for Category 1 landowners, and SU. The BoR also identifies the extent of acquisition or use being sought over each plot of land which corresponds to specific articles in the dDCO for Category 1, 2 and 3 persons [REP7-013].

Land for Temporary Possession

6.5.255. In relation to the TP powers sought pursuant to Articles 28 and 29 of the dDCO, the applicant set out its justification for the grant of these powers in Section 5.8 of the SoR [CR2-015]. The applicant acknowledged that there would be situations where it would not be necessary to permanently acquire rights and interests, but instead it would be sufficient to be authorised to temporarily possess and use land. The powers sought are required to carry out and thereafter maintain the proposed development. The powers would be needed for a limited time during the construction phase and for occasional maintenance in the operational phase. The ExA also notes that the applicant has confirmed that it is applying for TP powers over the full extent of the order land (section 5.8 of [CR2-015]).

ExA's Conclusion on the Extent of Land and Rights for Compulsory Acquisition and Temporary Possession

6.5.256. In considering the objections raised by APs who would be affected by CA, we have taken all relevant objections or concerns into account. In reaching our conclusions on the application for TP and rights we have taken a similar approach but set against the appropriate tests.

6.5.257. The ExA is satisfied that both the CA and TP powers sought are needed both to facilitate implementation of the proposed development and to maintain it, and that adequate compensation provisions are in place in the rDCO. We consider the human rights implications of both the temporary and permanent interests and rights sought later in this chapter.

6.5.258. The ExA is satisfied that the applicant has demonstrated how it intends to use the land rights which it proposes to acquire and the land for which it seeks CA and TP. We find the SoR comprehensive, when read with the BoR, the Status of Negotiations and articles and Authorised Development descriptions in the dDCO.

We are content that the SoS can be satisfied that there is no doubt as to the purposes for which any land which would be compulsorily acquired. Likewise, there is clarity over use of land for TP. In this regard, the proposals accord with paragraph 11 of the CA Guidance.

Other Consents and Licences

6.5.259. The applicant's summary of the need to obtain other consents and licences is set out within [APP-035].

6.5.260. During the course of the examination, the applicant provided a letter of no impediment from Natural England [REP6-050] regarding badgers. No further updates were provided by the applicant with regard to obtaining, discharging or timetables for obtaining any other consent or licence.

6.5.261. Nonetheless, the ExA's is satisfied that the applicant has demonstrated that there is no impediment to obtaining any operational or other consents which may be necessary to construct and operate the proposed development. There have been no dissenting voices to this extent during the examination. The ExA considers that the requirements of paragraph 19 in the CA Guidance are met.

Whether the Land and Rights are required for the Development to which the DCO Relates

6.5.262. The SoR [CR2-015] sets out the considerations that need to be taken into account in deciding whether the condition in s122(2) of the PA2008 has been met. Paragraph 7 of the CA Guidance expands on s122, stating that applicants must be prepared to justify their proposals for CA of any land to the satisfaction of the SoS and paragraphs 8 to 22 of the CA Guidance provide several general considerations that applicants should demonstrate to the satisfaction of the decision maker.

6.5.263. For s122(2)(a) to be met, the applicant should be able to demonstrate that the land in question is needed for the development for which consent is sought or is land required to facilitate or is incidental to that development. The SoS will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.

6.5.264. The ExA is satisfied that the rights sought for the CA of land, CA of rights and TP of land included in the BoR and shown on the Land Plans would be required for, or to facilitate or incidental to, the proposed development to which the development consent relates.

6.5.265. We are content that both the principal development, and the associated development, identified by the application would be needed for that purpose. The ExA therefore confirms that in its opinion, the requirements of s122(2)(a), (b) and (c) PA2008 are met.

Whether there is a Compelling Case in the Public Interest

6.5.266. In section 6 of the SoR [CR2-015] the applicant provided a summary of both the need and benefit of the proposed development, with a full explanation of the need detailed in the Planning Supporting Statement [REP1-012] and the Supplementary Statement of Need [PDB-014].

6.5.267. Additionally, in response to ExQ1.5.11, ExQ1.5.12 and ExQ1.5.13 the applicant [REP2-025], stated consideration had been given to the private loss incurred by

individual APs as a result of land being taken out of their ownership. It was also noted that the applicant is not seeking to acquire any residential properties, although plot 6-23 does include part of a garden of Burleigh Lodge.

6.5.268. The applicant has however confirmed that it is its intention to use TP powers under Article 28 in respect of plot 6-23 as the plot forms part of the proposed cable corridor. It may be necessary to take TP of the plot ahead of acquiring permanent rights over the plot in order to deliver the cable corridor to connect the proposed development to the National Grid substation. The need and justification for TP powers over plot 6-23 is that the TP powers will allow the applicant to enter on to the land for a particular purpose, for example, site investigation works to identify the minimum land required for the final cable placement in advance of any vesting of the relevant rights. This will enable the applicant to only compulsorily acquire the minimum amount of rights required over plot 6-23 to construct, operate and maintain the proposed development, which may avoid the need to acquire any permanent rights over the garden.

6.5.269. For those areas where the applicant is required to rely on third party land, the applicant has assessed the private loss through engagement with APs and consideration of the current uses of the land. In carrying out such an assessment of private loss, the applicant has considered that those affected by the exercise of CA or TP powers would be entitled to compensation under the National Compensation Code. Further the applicant has given weight to the confidence that it holds sufficient resources to provide such compensation

6.5.270. We have considered the points made in relation to whether the required land take is proportionate. However, we are satisfied that the applicant has explored all reasonable alternatives to CA and any possible modifications to the proposed development in respect of required land take. In line with paragraphs 5 to 7 of the CA Guidance, the objections raised do not dissuade us from the conclusion that there are no alternatives to the CA powers sought which ought to be preferred.

6.5.271. The applicant has demonstrated a clear idea of how it intends to use the land rights which it proposes to acquire. It has shown that there is a reasonable prospect of the requisite funds, both for acquiring the land and implementing the proposed development, becoming available. We are therefore satisfied, subject to the ExA's conclusion on CA and TP affecting SUs, that a compelling case in the public interest for CA exists.

HUMAN RIGHTS CONSIDERATIONS

6.5.272. The Human Rights Act 1998 incorporates the European Convention on Human Rights ("the Convention") into UK law. The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual. Schedule 1 of the Act sets out the Articles.

6.5.273. We consider that the following Articles of the Convention are relevant to the SoS's decision.

Article 1 of the First Protocol (Protection of property)

6.5.274. This provides the right of everyone to the peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest and subject to the relevant national and international laws and principles.

6.5.275. With regard to Article 1, the applicant acknowledges in the SoR [CR2-015] that the order has the potential to infringe the rights of affected parties and acknowledges the need to strike a balance between the rights of the individual and the interests of the public. Furthermore, we note it has sought to minimise the amount of land affected and included suitable provisions for the payment of compensation in the dDCO.

Article 6 (Right to a fair trial)

6.5.276. This entitles those affected by the powers sought in the dDCO to a fair and public hearing of any relevant objections they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the decision-making process.

6.5.277. In relation to Article 6, we note that appropriate consultation took place before and during the process and that there has been opportunity to make representations during the preparation of the application and owners of land had been consulted. There has also been the opportunity to make representations during the course of the examination. A CAH was held ([EV6-003] and [EV6-005]) and all APs were invited and offered an opportunity to be heard fully, fairly and in public. We also note that, should an order be made, there would be further opportunities for APs to challenge the order in the High Court pursuant to Section 118 of the PA2008. We consider this is sufficient to meet the obligations set out in Article 6.

Article 8 (Right to respect for private and family life)

6.5.278. This protects private and family life, home and correspondence. No public authority can interfere with these rights except in accordance with the law, and so far as is necessary in the interest of national security, public safety or the economic well-being of the country.

6.5.279. The Order limits do not include, and the proposed development does not require, the acquisition of residential dwellings. Therefore, we are of the opinion that Article 8 of Human Rights Act 1998 is not infringed.

ExA's Conclusion on Human Rights

6.5.280. In assessing whether there is a compelling case in the public interest for the land to be acquired compulsorily, it is necessary to consider the interference with human rights which would occur if CA and TP powers were granted. The ExA agrees with the applicant that the rDCO would engage Article 1 of the First Protocol.

6.5.281. These rights are qualified and can be interfered with in certain circumstances, such as if it is necessary to protect the legitimate interests of the wider community. In this case, the ExA has attributed significant positive weight to the clear need for the proposed development described earlier in this report. This is a legitimate interest of wider public concern of national and international importance in the fight against climate change. In this context, it is also relevant that those affected would be entitled to fair compensation, and the applicant has demonstrated that the resources to pay such compensation are available. Moreover, the applicant has taken steps to ensure its approach to land acquisition is proportionate and would not give rise to interference with private rights beyond what is necessary.

6.5.282. The applicant confirmed that the land affected has been kept to a minimum, and, under the rDCO, the power for CA within the Order limits can only be exercised where required for the proposed development. The applicant has also sought to

reach voluntary agreements with persons with an interest in the land affected. The ExA therefore considers that there would be no violation of Article 1.

6.5.283. The ExA also agrees with the applicant that the rDCO engages Article 6 of the Convention which relates to the need for a fair hearing. The application and its examination procedurally accord with the PA2008 and related guidance. Whilst the ExA is not satisfied that the PPs fully safeguard the interests of TWUL and Network Rail, the ExA is satisfied that APs have had a reasonable chance to put their cases, all of which have been taken into consideration in reaching our recommendation. In so doing, the ExA is satisfied that no AP has been put at a substantial disadvantage in relation to other parties. The ExA therefore considers that there has been no violation of Article 6 nor any infringement of Article 8.

6.5.284. Finally, in terms of the overarching aims of the Human Rights Act 1998, CA Guidance and the required balancing exercise, we are satisfied that the public benefit from the proposed development would clearly outweigh any interference with the human rights of those with an interest in the land affected.

6.5.285. We therefore consider that any interference with human rights would be for legitimate purposes, proportionate and justified in the public interest.

EQUALITY ACT 2010 CONSIDERATIONS

6.5.286. Section 149 of the Equality Act 2010 (EqA2010) requires a public authority, in the exercise of its functions to:

- have due regard to the need to eliminate discrimination harassment and victimisation and any other conduct prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who do share it

6.5.287. The applicant is not a public body as listed in s149 of the EqA2010 and the need for an Equality Impact Assessment under the 2010 Act does not apply to the applicant. Furthermore, whilst the applicant is not a public authority and therefore not subject to the Public Sector Equality Duty (PSED) it recognises that the SoS will be when determining whether to grant the DCO for the proposed development.

6.5.288. The purpose of PSED is to ensure that public authorities and organisations carrying out public functions think about how they can improve society and promote equality in every aspect of their day-to-day business, which includes how they are promoting equality in decision-making. It also sets out that having due regard means that an organisation has made itself aware of, and understood, what PSED means and has put this knowledge into practice.

6.5.289. The EqA2010 establishes a duty to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. We have had regard to this duty throughout the examination and in our consideration of the issues raised in this report.

6.5.290. In response to ExQ1.5.15, the applicant [REP2-025], confirmed that a thorough land referencing process had been undertaken through the pre-application period of the proposed scheme to ensure that all affected parties were identified, consulted and listed where necessary in the BoR [REP7-013]. The categories of affected parties identified, and the land referencing methodology used to identify the affected parties

with an interest in land are described in the Consultation Report [APP-024] and Statement of Reasons [CR2-015].

ExA's Conclusion on the Equality Act 2010

6.5.291. The ExA is satisfied that the applicant has had due regard to the duties under s149 of the EqA2010. In exercising our functions as the ExA, we have also had due regard to the PSED contained in s149 of the EqA2010. We conclude that there is no evidence that implementation of the proposed development would disproportionately affect persons who have a protected characteristic, nor would there be any adverse effect on the relationship between such persons and persons who do not share a protected characteristic.

6.5.292. We have found above that there is a compelling case in the public interest for all of the land identified to be acquired compulsorily. Furthermore, we consider that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest. We therefore consider the CA and TP powers sought are compatible with the EqA2010.

6.6. EXA'S CONCLUSION OF COMPULSORY ACQUISITION AND RELATED MATTERS.

6.6.1. The ExA is satisfied that the CA sought in all the plots of land included in the BoR [REP7-013] and shown on the Land Plans [REP7-005] would be required for, or to facilitate or be incidental to, the proposed development to which the development consent relates. The requirements of s122(2)(a) and (b) of the PA2008 are, therefore, met.

6.6.2. Turning to s122(3), we have had regard to all objections raised. We are content that the applicant has endeavoured to minimise the impact that CA would have on those APs affected by the proposed development and hence the extent of their private loss. The private loss to those affected would be mitigated by limiting the use of CA powers to land necessary to deliver the proposed development and by the use of TP powers wherever possible to minimise both land take and the extent of rights and interests to be acquired.

6.6.3. The ExA is satisfied that the applicant has explored all reasonable alternatives to CA, including acquisition by negotiation and agreement. The ExA concludes that there are no alternatives to the CA powers sought which ought to be preferred. The ExA is also satisfied that the applicant has demonstrated a clear idea of how it intends to use the land rights which it proposes to acquire. It has shown that there would be a reasonable prospect of the requisite funds both for acquiring the land and implementing the proposed development becoming available within the statutory timescale. We have also concluded earlier in this report that there is a pressing need for the development in order to meet government objectives for tackling climate change.

6.6.4. The ExA therefore concludes that the public benefits associated with the proposed development would strongly outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation, and maintenance of the proposed development. Taking these various factors together, there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the Land Plans. The ExA concludes that the proposed development would thus comply with s122(3) PA2008 and paragraph 12 of the CA Guidance.

6.6.5. The ExA finds that the TP powers sought would be necessary both to facilitate implementation of the proposed development and to maintain it and that adequate compensation provisions are in place in the rDCO.

6.6.6. Objections under s127 and s138 of the PA2008 were made by TWUL and Network Rail and had not been withdrawn by the close of the examination. These objections have not been resolved through the PP drafted, and the ExA has not received any text for those parts of the PP that are disputed and currently omitted. The ExA does not believe it prudent to grant the powers to interfere with SUs land in the circumstances. The case made by the applicant under s127 and s138 of PA2008 therefore fails. Should the applicant and the respective SUs agree to any such wording prior to the SoS making a decision on the development consent order application, then the ExA would be comfortable acknowledging that the statutory tests would have been met, and the proposed development could take place without serious detriment to the SUs undertakings.

6.6.7. The rDCO seeks, in several instances, to apply s120(5)(a) of the PA2008 and apply, modify or exclude a statutory provision. Since the dDCO is in the form of a statutory instrument, it would comply with s117(4). Furthermore, no provision would contravene the provisions of s126 of the PA2008 which relates to the modification or exclusion of a compensation provision.

6.6.8. The ExA is satisfied that, in relation to the inclusion of CA and TP powers in the rDCO, any interference with human rights would be for legitimate purposes, would be proportionate and would be justified in the public interest. We are also satisfied that there is no evidence that the proposed development would not accord with s149 of the EqA2010. In this regard we are content that the SoS can be satisfied that they would comply with the principles of the PSED in decision-making.

6.6.9. In the event that the SoS is minded granting development consent for the proposed development, and that the outstanding unresolved matters between the applicant and TWUL as well as Network Rail are drawn to a satisfactory conclusion, the ExA recommends that:

- The CA powers included in the rDCO be granted.
- The TP powers included in the rDCO be granted.
- The powers authorising the CA of SUs land and rights over land included in the
- rDCO be granted.
- The powers authorising the extinguishment of rights, and removal of apparatus, of SUs included in the rDCO be granted.
- The PP for TWUL and Network Rail should be included in Schedule 15 in the form set out in the rDCO, unless the SoS is aware of evidence of agreement having been reached that would lead to agreed different wording.
- The powers included in the rDCO to apply, modify, or exclude a statutory provision be granted.

7. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

7.1. INTRODUCTION

7.1.1. This chapter describes the draft Development Consent Order (dDCO) [APP-015] as applied for and the changes made to it during the examination. It also describes matters that were not resolved at the close of the examination, the Examining Authority's (ExA) recommendations on those matters and the corresponding changes that would result, as proposed in the ExA's Recommended Development Consent Order (rDCO) at appendix D to this report.

7.1.2. This chapter is without prejudice to the ExA's findings and conclusions on the case for development consent in chapter 5 of this report. This chapter informs the Secretary of State for Energy Security and Net Zero (SoS) of key DCO-related matters should a decision be taken to grant development consent.

7.2. THE ORDER AS APPLIED FOR

7.2.1. This section records the structure of the dDCO, which takes the form of a statutory instrument. It is based on the Applicant's final dDCO and is as follows:

7.2.2. Part 1: Article 1 sets out what the Order may be cited as and when it comes into force. Article 2 sets out the meaning of various terms used in the Order.

7.2.3. Part 2: Articles 3 to 7 provide development consent for the proposed development, the operations and maintenance of the proposed development and the disapplication of statutory provisions. Within this, Article 7 provides a defence to statutory nuisance proceedings.

7.2.4. Part 3: Articles 8 to 16 provide for the undertaker to be able to carry out works to and within streets, to alter the layout of streets, to create or improve accesses; to temporarily close public rights of way; and to coordinate traffic regulation measures.

7.2.5. Part 4: Articles 17 and 18 set out supplemental powers relating to discharge of water, authority to survey and investigate land.

7.2.6. Part 5: Articles 19 to 33 provide for the undertaker to be able to compulsorily acquire land and rights over the Order land. These articles also allow temporarily use of parts of the Order land for the construction or maintenance of the proposed development. The provisions also provide for the undertaker to suspend or extinguish certain private rights. The provisions provide for compensation to be payable to affected persons (AP) in respect of these powers, where that is not already secured elsewhere. These articles also provide for powers in relation to the equipment of statutory undertakers.

7.2.7. Part 6: Articles 34 to 46 include various provisions in relation to the Order including:

- Articles 34 and 35 state the beneficiaries of the Order and the power to transfer the benefit.
- Articles 38 and 39 provide for tree and hedgerow works.
- Articles 40 to 47 provide for, among other things, the enactment of protective provisions (PP), certification of documents, service of notices, guarantees in

respect of the payment of compensation and both the appeals and arbitration processes pertinent to requirement discharge.

7.2.8. There are 16 Schedules to the Order:

- Schedule 1 fleshes out the description of the authorised and ancillary development.
- Schedule 2 sets out the requirements (R) which apply to it.
- Schedule 3 contains the list of legislative provisions to be disapplied.
- Schedules 4 to 8 relate to matters in relation to streets, accesses, traffic regulation measures and rights of way.
- Schedules 9 to 11 set out matters relating to land rights, temporary possession and compensation.
- Schedule 12 details the hedgerows to be removed.
- Schedule 13 lists the documents and plans to be certified.
- Schedule 14 sets out the arbitration rules.
- Schedule 15 provides PPs for statutory undertakers and their apparatus.
- Schedule 16 sets out the procedure for the discharge of requirements.

7.2.9. The structure of the dDCO is set out in the contents and is listed on its face. The ExA is content that the structure is fit for purpose and does not recommend any changes to it.

7.3. EXAMINATION OF THE DEVELOPMENT CONSENT ORDER

7.3.1. The applicant updated the dDCO and Explanatory Memorandum (EM) at all deadlines (DL) with the final versions at DL7, responding to issues raised in questions, to written representations (WR) and as a consequence of the hearing process. The applicant submitted both clean and tracked change versions of the dDCO.

7.3.2. The changes made to the dDCO and the reasons for these changes can be found in the Schedule of Changes to Development Consent Order, the final summary version of which was submitted at DL7 [REP7-031]. Table 8 sets out the key dDCO documentation submitted into the examination. All EL references are to the clean versions of the documents.

Table 8: DCO documentation history

dDCO Version	Deadline	Examination Library Reference
Revision 0	Submission Version	dDCO [APP-015] Explanatory Memorandum (EM) [APP-017]
Revision 1	Pre-Examination	dDCO [AS-009]

dDCO Version	Deadline	Examination Library Reference
		EM [AS-011] Schedule of Changes [AS-025]
Revision 2	DL1	dDCO [REP1-004] EM [REP1-006] Schedule of Changes [REP1-016]
Revision 3	DL2	dDCO [REP2-004] EM [REP2-006] Schedule of Changes [REP2-023]
Revision 4	DL3	dDCO [REP3-004] EM [REP3-006] Schedule of Changes [REP3-038]
Revision 5	DL4	dDCO [REP4-004] EM [REP4-006] Schedule of Changes [REP4-034]
Revision 6	DL5	dDCO [REP5-010] EM [REP5-012] Schedule of Changes [REP5-047]
Revision 7	DL5	dDCO [CR2-009] EM [CR2-011] Schedule of Changes [CR2-056]
Revision 8	DL6	dDCO [REP6-004] EM [REP6-006] Schedule of Changes [REP6-040]
Revision 9 (Applicant's final and preferred version of the dDCO)	DL7	dDCO [REP7-006] EM [REP7-009] Schedule of Changes [REP7-031]

7.3.3. As referred to above, all changes made to the iterations of the dDCO were accompanied by a schedule of changes detailing all amendments. A summary of the most notable changes made throughout the examination is shown in table 9 below.

Table 9: Notable changes made to the dDCO during examination

Version of dDCO	Notable Changes Made
Revision 1	References to crown land and crown land plans removed, as relevant land within the Order limits considered not to constitute crown land under PA2008.
Revision 2	Article 2 amended to reduce the scope of permitted preliminary works, ensuring works to set out construction compounds are a trigger for the commencement of the proposed development.
Revision 2	New sub paragraph (6) into Schedule 16 to enable the applicant to progress the discharging requirements quicker and in advance of an Order being made.
Revision 3	Changes to Article 12 to define correctly the extent of 'stopping up' as opposed to 'permanent closure' of Public Rights of Way.
Revision 3	Schedule 2 requirement 14 updated with a new paragraph, requiring the applicant to give 12 months' notice prior to the date the undertaker intends to decommission any part of the authorised development.
Revision 3	Schedule 12 amended to clarify that for the four specific and limited areas of hedgerow identified (where the hedges extend beyond the Order limits), the drafting does not inadvertently prevent the removal of those hedgerows in full.
Revision 4	New Article 47 inserted following ongoing engagement with National Grid and to provide clarity that if the New National Grid Substation is to be consented and delivered under a separate planning permission outside of the DCO process, then the Requirements under Schedule 2 of the dDCO will not apply because the conditions of that separate planning permission would otherwise suitably control the development.
Revision 5	Schedule 16 amended to include new section 7, building in a register of requirements to assist in the monitoring of requirement discharge post-consent.
Revision 5	Schedule 2 amended to clarify the consultees being engaged in the discharge of certain requirements.
Revision 5	Article 2 amended to add a definition of National Grid connection works with subsequent amendments to Article 34 to reflect relevant works.

Version of dDCO	Notable Changes Made
Revision 6	Schedule 6 amended to delete part 6, as there are no longer any public rights of way to be permanently stopped up and/ or diverted.
Revision 6	Amendment to Article 35 to ensure notification of any transfer of the benefit of the Order is made to the local authority at the same time as the SoS.
Revision 7	Schedule 9 updated to delete plots of land that were removed in the second change request.
Revision 8	Definition of permitted preliminary works amended to delete reference to construction compounds and accesses.
Revision 8	Article 6 amended to account for planning permissions granted under the Town and Country Planning Act 1990.
Revision 8	Articles 15, 17 and 37 amended to allow the highway authority to impose conditions to any consents.
Revision 8	Requirements 5, 8 and 12 amended to include Historic England as a consultee to discharging management plans.
Revision 8	Requirement 7 amended to incorporate actual % targets for Biodiversity Net Gain delivery.
Revision 8	Schedule 15 Part 8 added to provide protective provisions for Siemens Healthcare Limited.
Revision 8	Schedule 16 amended to secure higher fees to be paid to the relevant local authority for the handling of requirement discharge applications.
Revision 9	Schedule 15 Part 9 added to provide protective provisions for National Grid Electricity Transmission Plc.
Revision 9	Schedule 15 Parts 4 and 5 amended to remove 'placeholders' in the protective provisions for Network Rail and Thames Water Utilities Limited, in respect of compulsory acquisition.

7.3.4. The main issues arising in or outstanding at the end the examination were:

- A Grampian-style requirement to secure the commencement of development in connection with the delivery of the National Grid (NGET) substation.
- A requirement securing decommissioning funding.
- The need, or otherwise, for legal agreements pursuant to section (s) 106 of the Town and Country Planning Act 1990 (TCPA1990), s278 of the Highways Act 1980 and s111 of the Local Government Act.
- A requirement securing a farmland bird strategy.

- Whether the outstanding issues regarding Residential Visual Amenity Assessment (RVAA) and landscape related concessions were of such significance as to justify a new requirement be added to the dDCO.
- Other modifications suggested by interested parties.
- Issues with the Protective Provisions, which are reported on in Chapter 6 of this Report and specifically reflected on in section 7.4 of this Chapter below.

Issue 1: Proposed Development and NGET

7.3.5. Paragraph 4.1.16 of NPS EN-1 states requirements should only be imposed where they are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects.

7.3.6. The need for a Grampian-style requirement is discussed at length in section 3.2 of this report. For brevity, matters are not repeated here, but additional considerations are set out below.

7.3.7. The ExA proposed wording for the requirement preventing the project from commencing unless and until there is certainty about the delivery of the permanent NGET substation [PD-015, PC001]. The applicant rejected the need for the requirement, stating that [REP6-051]:

- The delivery of the substation connection is a matter for NGET (either through the separate planning permission or via some alternative approach as NGET sees fit).
- If there is any uncertainty as to whether or not the NGET substation is to be delivered in accordance with the agreed connection date, then the developer of the solar farm would never deliver the project for commercial reasons.
- The dDCO includes consenting powers for the NGET substation. This gives absolute certainty that there would be timely consent available for the new substation, to allow NGET to facilitate the connection.
- The unacceptable practical implication of the proposed requirement is that it would impose an unreasonable impediment to delivery as implementation would be unnecessarily delayed.
- Paragraph 3.2.6 of NPS EN-1 makes it clear that there is a need for the sorts of infrastructure covered by that NPS, including the project, which is urgent.
- Paragraph 3.3.63 of NPS EN-1 continues to clarify that critical national priority (CNP) infrastructure should be progressed as quickly as possible.

7.3.8. NGET did not directly respond to the drafting or principle of including such a requirement in the order, simply noting that there would be direct interaction between the project and the proposed NGET Farmoor Substation [REP7-179]. The Statement of Common Ground with NGET (SoCG) has text confirming a connection date of 2029 [REP7-039], with the first full year of operation being 2030.

7.3.9. The ExA disagrees the requirement would be unreasonable. In the applicant's own submissions, if there was uncertainty about the grid connection then the project would not proceed. Unfortunately, the submissions to date [RR-0760] [REP1-106] [REP2-025] [REP2-076] [REP4-037] [REP6-110] provide just that uncertainty regarding the timing and location of the NGET substation. The ExA considers it would be unreasonable to allow the applicant to commence aspects of the

development, including acquiring the necessary land, without first ensuring the project's benefits could actually come to fruition via a grid connection. Without the NGET substation, the project would be unsuccessful, and its benefits could not be realised. Interference with people's rights and land holdings for a non-beneficial project would be wholly inappropriate. As one interested party (IP) commented [REP6-107]:

> "*Because a revised connection licence date has not been forthcoming, the consequential uncertainty would surely be a major obstacle to potential investors/lenders who are risk averse - if the solar farm cannot connect to the grid, it can generate no income*."

7.3.10. The ExA also notes that the Environment Agency (EA) raised an issue in an early version of the SoCG [REP1-025] insofar as:

> *"We note the inclusion of a requirement for decommissioning to be commenced no later than 37.5 years following the date of final commissioning. However, if there are delays in construction and commissioning and the proposal is extended beyond 2069 (inclusive of the decommissioning phase), the reassessment of flood risk and mitigation will be needed as it would extend into the next climate change projection epoch."*

7.3.11. The ExA observes that the construction programme for the NGET substation has already been delayed from October 2027 to October 2029 [APP-019] [REP7-039] thus putting back the date of first operation for the proposed development. If commencement does not occur promptly, and thus decommissioning is delayed, there is a real risk that unmodelled and unassessed flood risk impacts could occur. The proposed requirement would therefore provide a fixed date and some degree of knowledge about future operational and decommissioning timetables, and the need or not for more flood work to be done in the Outline Decommissioning Plan (ODP) [REP6-036].

7.3.12. Regarding the applicant's defence utilising NPS EN-1 paragraph 3.3.63, the ExA is fully aware of the commitments to deliver energy infrastructure urgently and as soon as possible. However, the ExA would not wish to put the cart before the horse. On this basis, the ExA maintains that a Grampian-style requirement is essential to be included in the rDCO. This position is supported by multiple IPs (for example [REP1-071] [REP4-074] [REP7-078]. Hence it is captured in table 10 below as a proposed change.

Issue 2: Decommissioning funding

7.3.13. The need to secure decommissioning funding is discussed in section 3.13 of this report. For brevity, matters are not repeated here, but additional considerations are set out as follows.

7.3.14. The ExA proposed a requirement securing a bond or other financial guarantee to ensure decommissioning could be funded [PD-015, PC002]. The applicant responded that [REP6-051]:

- A decommissioning fund is not necessary or reasonable in all aspects, and therefore this requirement does not meet the tests required by the DCO Guidance.
- Requirement 14 of Schedule 2 of the draft DCO secures decommissioning and restoration.

- Paragraph 2.1.1 of the ODP [REP4-030] confirms that the "*land within the Project Site Boundary will be returned to the respective landowners and to its original use after decommissioning"*. This gives certainty to the ExA and the SoS that sufficient information is provided to demonstrate how the application site land would be returned to the beneficial use of the landowners
- In the Oakland Solar Park Order 2025 (Oaklands) decision letter, at paragraph 4.44, the SoS notes that there is no policy requirement for a decommissioning fund to be imposed.

7.3.15. The applicant considers that requirement 14 as drafted in the dDCO is legally enforceable and the controls between the landowner and the applicant, including to return the land to the beneficial use of the landowner, are going to be strongly enforced. The applicant has provided evidence that the heads of terms with landowners include clauses for the return of land to them during decommissioning [REP4-037, Q2.5.6] and the ODP contains similar assurances [REP6-036].

7.3.16. The ExA has had regard to the SoS' decision on the Oaklands Solar Farm and considers it important and relevant to this issue. It is notable however that the current project is of a far greater size and complexity, with many more hectares of panels proposed. The applicant has, of course, already stated that post-consent, its interest would change to one of an 'adequate equity ratio' holder only [REP4-037]. Whilst the practice of 'selling' or transferring the benefit of a DCO to another party may not of itself be unusual, the fact that this matter is before the ExA at this time gives the ExA concern about the future and further justification for pursuing this requirement.

7.3.17. The ExA is making a recommendation to the SoS on the basis of this project's merits, and not those of others. The applicant's position on the future (as covered in section 3.2 and chapter 6 of this report) has been less than certain, despite the assurances given, as reported above. The ExA also notes strong support for such a requirement throughout the examination from various IPs (for example, [REP6-085] [REP6-114]).

7.3.18. We consider that there is some uncertainty about the commercial and financial considerations that the undertaker, which may not be the applicant, might have at the time of the decommissioning stage. We are concerned that this could have a bearing on whether the decommissioning works would be completed appropriately at a time when the undertaker is expected to have no further income from providing electricity to the grid. We also note that the applicant does not give any reasons why a decommissioning fund or other form of financial guarantee provisions would cause it significant difficulty.

7.3.19. On balance, it is considered appropriate to impose such a requirement and, as such, it features in table 10 as an inclusion in the rDCO.

Issue 3: Legal agreements

7.3.20. The applicant's starting point in the examination was that no further planning obligations or agreements were required to be recognised in the dDCO. Any such agreements under section s106 of TCPA1990, s278 of the Highways Act 1980 or under s111 of the Local Government Act 1972 would be undertaken outside of the DCO process together with any other side agreements.

7.3.21. The ExA noted that the Oxfordshire Host Authorities (OHA) strongly advocated that side agreements were entered into "in earnest" to alleviate concerns [REP4-074],

particularly with regard to s278 works to the A40 roundabout (see section 3.7 of this report). The OHA also wanted to secure funds via a s106 agreement for enhancements to the footpath network [REP1-072]. The ExA notes that the community benefits package proposed by the applicant had undergone continual change during the examination (see section 3.8 of this report).

7.3.22. The ExA proposed a requirement [PD-015, PC003] and explained at ISH2 that the requirement was felt necessary to provide confidence that all the applicant was promising would be formally secured [EV7-004, minute 51:07 to 01:06:53].

7.3.23. The OHA stated the imposition of such a requirement would be sensible and reasonable in the circumstances. The applicant responded [REP6-047] that:

- Community benefit funds fall outside the planning regime and thereby should not be included in the dDCO, as they are voluntary only.
- No s106 agreement is being pursued and none is needed to fund on-site or off-site mitigations for the project.
- Amendments to the Outline Code of Construction Practice (OCoCP) and the pursuit of highways side agreements outside the examination meant that there would not be any need to sign a separate s278 agreement within the ambit of the dDCO.

7.3.24. At the conclusion of the examination, it appeared that some degree of consensus had been reached regarding the pursuit and execution of side agreements with the OHA [REP7-190] [REP8-002]. Nothing formal is currently recorded as being completed or signed however, though the ExA notes that the fallback provisions in the OCoCP are sufficient to remove any need for a s278 agreement. The ExA is also aware that the OHA had sought to engage with the applicant on a Planning Performance Agreement, but none had been entered into [REP7-190].

7.3.25. The ExA recognises that community benefits are voluntary and that there are no measures of mitigation within the Order limits that require funding to any member of the OHA. The off-site enhancements proposed by the OHA to the footpath network (see section 3.8) would not be captured by s106 provisions in any event, given that these are not mitigations for the project impacts.

7.3.26. On this basis, the ExA agrees with the applicant that a specific requirement relating to planning obligations is not necessary.

Issue 4: Farmland bird strategy

7.3.27. The need for a farmland bird strategy requirement is discussed in section 3.6 of this report. For brevity, matters are not repeated here, but additional considerations are set out as follows.

7.3.28. The ExA proposed a requirement for a bird strategy to be prepared and submitted [PD-015, PC004]. At ISH2, there was a verbal amendment sought [EV7-006, minute 56:56 to 01:00:34] limiting the strategy only to skylark in accordance with the OHA position. Cassington Parish Council [REP6-079] maintained that, because farmland birds are nationally in decline, it would be prudent to keep the strategy more holistic rather than focused on just skylark. At DL7 [REP7-191], the OHA reverted to its original stance of a wider farmland bird strategy.

7.3.29. The applicant [REP6-047] stated that there were not enough birds found on site on an individual basis to warrant individual consideration, and that the retained land would not be particularly beneficial for other species. However, the project incorporates large areas of new habitat and hedgerows, which would be beneficial for species such as corn bunting and grey partridge that use field margins. In [REP6-051], the applicant rejected a new requirement believing it to be unnecessary and unreasonable, given that the benefit of solar sites to farmland bird species has been demonstrated by research published by the University of Cambridge and RSPB (Copping et al. 2025) demonstrating the benefit of solar sites managed for wildlife with respect to both the diversity and abundance of farmland birds compared to arable baselines.

7.3.30. The key words for the ExA from the quote above are the "managed for wildlife." In the applicant's own submission [REP6-047], the land being retained for biodiversity net gain and for the benefit of skylark "would not be particularly beneficial for other species" and instead the applicant relies on retained hedgerows to support any residual farmland birds.

7.3.31. The ExA also note in section 3.6 of this report that the OHA are concerned that the skylark mitigation proposals are not sufficiently detailed or accurate to provide effective mitigation.

7.3.32. The ExA acknowledges that farmland bird species are in decline nationally, as said by Cassington Parish Council. Nature has in general been in decline across the country, giving rise to the concept of biodiversity net gain (BNG) in the first place. To push forward with a project of this size and scale, with the significant land parcels being ascribed to BNG, and to not plan for mitigations and enhancements for farmland bird species appears to waste a worthwhile and achievable opportunity.

7.3.33. For this reason, a farmland bird strategy is deemed by the ExA to be necessary, precise and reasonable. A requirement is therefore written into table 10 below for the SoS to adopt.

Issue 5: Residential Visual Amenity Assessment (RVAA) and landscape related concessions

7.3.34. In section 3.4 of this report, the ExA explored the deficiencies in the applicant's RVAA [REP7-042] and commented on the number of outstanding issues from IPs. That section of the report also commented on the landscape harm arising from the project.

7.3.35. The conclusions of that section left three possible options for the ExA and the SoS:

a. Do nothing and accept the applicant's project as proposed.
b. Accept the applicant's "without prejudice" offer whereby panels would be removed from some sensitive terrain and a few select properties would receive 75m buffers as opposed to 25m buffers.
c. Impose the requirement the ExA suggested in the Rule 17 letter [PD-018] that stipulates a 250m buffer starting point around all residential properties, unless evidence could be provided to the relevant local planning authority that a lesser buffer would suffice.

7.3.36. The ExA strongly recommends that option (a) is not pursued. Whilst this is the applicant's preferred option, it causes significant harm to the landscape and, in the absence of conclusive evidence or a proper study, threatens to overwhelm and overbear upon a large number of residences.

7.3.37. Option (b) would reduce some of the landscape/ heritage harm in specific sensitive areas of the project and would bring some benefit to a small number of identified residential properties, even if the 75m distance appears an arbitrary figure unsubstantiated with evidential support. This option is welcomed particularly for sensitive and prominent sloping locations such as the Evenlode valley, where solar panels would harmfully disrupt and dominate the panoramic views. The ExA advocate that this option is adopted.

7.3.38. The ExA requested details of how option (b) could be secured in the dDCO [PD-018]. Rather unhelpfully, the applicant said that "without prejudice" works plans could be produced if requested by either the ExA or the SoS after the examination. It would have been more useful to the examination and decision-making processes if all the information had been provided when requested in this regard so, if nothing else, comparisons could be made with the original works plans.

7.3.39. In the absence of any formal plans to authorise option (b) and sanction its certification in the dDCO, the ExA has considered how best to pursue this option should the SoS wish to invoke it. The relevant plans are contained within appendix 2 of [REP6-052]. A possible solution would be to amend Requirement 5 in the dDCO with a subparagraph (5) to read:

> *The details submitted under sub paragraph 5(1)(a) shall be in accordance with the plans annotated 'without prejudice offer plan' and thereafter maintained in accordance with the approved details.*

and to make appendix 2 of [REP6-052] a certified document.

7.3.40. This does however appear somewhat cumbersome, and it is not an ideal solution bearing in mind [REP6-052] is not limited to only considering this issue.

7.3.41. The ExA can therefore only conclude that, should the SoS wish to investigate and subsequently secure the 'without prejudice' offer in the dDCO, the applicant would need to be approached (a) for the Works Plans and (b) for appropriate modifications to the rDCO. The ExA regret that this situation has occurred, though note it is a problem of the applicant's own making.

7.3.42. The ExA emphasizes that, in order to reduce the significant landscape harm arising from the project, option (b) would be wholly necessary. Nonetheless, proceeding with option (b) would still leave moderate adverse harm in respect of landscape impacts in the ExA's view, and still the possibility of harmfully impacting on residential visual amenity.

7.3.43. Meanwhile, option (c) relies on a requirement being added with the following wording:

> *"There shall be a distance of no less than 250 metres between the edge of any part of the proposed operational solar array and any residential dwellinghouse (as measured from the curtilage of any private residential property or address), unless otherwise demonstrated to be acceptable in writing to the satisfaction of the relevant local authority, such satisfaction to be given formally in writing subject to Schedule 16 of this Order."*

7.3.44. The applicant suggests this requirement would compromise the project's viability if imposed and would inappropriately apply the balancing exercise in paragraph 5.10.26 of NPS EN-1 [REP7-047]. The ExA disagrees. The proposed requirement is

not a blanket ban on any development within 250m. Whilst it could be perceived as an ultra-cautious measure, the ExA consider that:

- There are deficiencies in the data coverage, property coverage and quality in the RVAA document [REP7-042] that demonstrate a haphazard study rather than a measured or well-informed approach.
- Imposing a standard 25m buffer for all residential properties shows little consideration for individual circumstances and viewpoints, which can be nuanced and particular.
- The proposed requirement is fairly worded, not imposing a mandatory buffer or exclusion zone of 250m per se, but giving the opportunity for the applicant to pursue its course for a 25m buffer with proper evidence and assessment.
- Should the applicant be able to demonstrate, on a case-by-case basis, that a buffer of less than 250m is appropriate, then the recommended requirement need to not have a significant effect on the output of the solar farm.
- The connection date for the development has fallen from 2027 to late 2029 (see section 3.2 of this report). Undertaking the further work would not cause a delay in the construction of the development any more so than what has already naturally occurred and could be undertaken well within those time limits.

7.3.45. Therefore, in the circumstances and in light of the evidence before the examination, the ExA advocates its own requirement from [PD-018] to ensure that proper and thorough consideration is given to visual effects on residential amenity in a structured and evidenced fashion.

7.3.46. In the interests of balancing the competing interests between landscape harm, residential visual amenity, energy generation and viability, the ExA has prepared the rDCO with its own proposed requirement for a 250m buffer. This would secure appropriate mitigation measures, protect amenities of residents and preserve the applicant's ability to generate electricity on a large scale.

7.3.47. Consequently, table 10 below contains the ExA's proposed requirement as a necessity for inclusion into the rDCO.

7.3.48. For clarity, the ExA's preferred scenario would be the adoption of measures (b) and (c) listed above but, so far, only (c) can be properly accounted for in the rDCO due to the applicant's deferral of information on option (b) post-examination.

Issue 8: Other modifications suggested by IPs

7.3.49. During the course of the examination, IPs suggested various other requirements be added to the dDCO or modified from then current drafting. The principal matters of dispute relate to:

- Ensuring the panels are manufactured to withstand higher windspeed [REP6-079a].
- Commencement of the development within 2 years rather than 5 years as applied for [REP6-073, paragraph 1.2].
- Arrangements for discharge application fees [REP4-074].
- Protection of milestone (historic sign) along the roadside [REP4-074].

7.3.50. Taking each item in order, the consideration of climate resilience is presented in section 3.10 of this report. The ExA is unaware of any manufacturing standard or specification that could be used to underpin any such requirement, or indeed if any exists. The ExA is of the opinion that imposing the requirement would be imprecise and ambiguous, given that there is no policy or legislation presented to the examination that would secure a higher level of construction.

7.3.51. The ExA notes that development consent orders are typically granted with a 5 year time limit imposed for commencement of construction and this is heavily precedented. The ExA do acknowledge that the urgent need for infrastructure to come forward presents a compelling case for the developer to bring forward the construction of the project, but that there may be financial or technical reasons why such could not be expedited. The ExA is of the view it would be unreasonable to single out this particular project for an accelerated commencement date in light of prevailing trend in all recently made DCOs (not just for solar energy projects).

7.3.52. The ExA recognises the OHAs concern that the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 would not provide sufficient fees to recover the costs spent in handling discharge of requirement applications. The applicant has amended Schedule 16 of the dDCO [REP6-040] to specify a more bespoke fee arrangement for discharge of requirements.

7.3.53. The ExA notes that the OHA oppose that provision and request a planning performance agreement (PPA) be entered into [REP7-191]. Whether or not a PPA is entered into falls outside the examination and outside the ExA's remit in this case. The fee arrangements secured on the face of dDCO are considered appropriate and proportionate to the ExA, so no further amendment or revision is proposed.

7.3.54. Section 3.3 of this report considers the OHA's request for modification to requirement 8 of the dDCO to make special provision and protection for a historic milestone on Oxford Road [REP1-072, section 6.3] [REP4-074]. The amendments to R8 would read:

> –*"(7) No part of the authorised development may commence until a detailed scheme of protection for the Grade II listed Milestone located on Oxford Road (NHLE number 1181978) ("the Milestone") has been submitted to and approved by the relevant planning authority.*
>
> *(8) The scheme mentioned in sub-paragraph (7) must -(a) explain how the Milestone will be protected by fencing during the construction and decommissioning of the authorised development; and (b) be implemented as approved"*

7.3.55. The applicant rejects this because: "*It was concluded that there would be only minor residual adverse effects, with no further mitigation or monitoring required*" [REP4-074].

7.3.56. The ExA has seen the milestone in context and in situ during a series of USIs, noting its location in respect of the works plans. The ExA does not consider there would be significant risk to the integrity or setting of the asset during or post-construction from works activities in the area given its distance from the edge of the highway. For this reason, a modification to requirement 8 is not considered justified.

7.3.57. The ExA asked the question about whether the dDCO/ rDCO required 'futureproofing' in the event of local government reform [PD-012, Q2.7.3]. The OHA and the applicant were satisfied that the dDCO dealt with such an eventuality appropriately in the way it was drafted [REP4-037] [REP4-074].

Incidental changes at recommendation stage

7.3.58. Since the conclusion of the examination, the ExA has carefully reviewed the case for development consent and whether, if the SoS were minded to grant development consent contrary to the ExA's recommendation, the dDCO needed any further revisions. The following is a summary of those areas where it is felt the rDCO represents an improvement over the applicant's final dDCO [REP7-006], based upon the ExA's findings on the planning matters.

Archaeology

7.3.59. The ExA reported on the need for amendments to requirement 10 (archaeology) in section 3.3 of this report, to provide extra protection for archaeological assets across the project site in light of the late, unfinished and unreviewed archaeology reports from the applicant. For brevity, the ExA will not repeat those matters here.

7.3.60. At DL7, the OHA requested that the existing requirement 10 be augmented to read as follows [REP7-191]:

10.—(1) No part of the authorised development may commence and no part of the permitted preliminary works for that part comprising the intrusive archaeological surveys may start until;

> *a) the evaluation reports and buffer zones have been amended and approved by the local planning authority and;*
>
> *b) following the agreement of the buffer zones and evaluation reports an archaeological written scheme of investigation for that part has been submitted to and approved in writing by the relevant planning authority.*

(2) For the purposes of sub-paragraph 8(1), "commence" includes part (a) of the permitted preliminary works insofar as the works relate to intrusive archaeological surveys.

(3) The archaeological written scheme of investigation must be substantially in accordance with an outline written scheme of investigation, approved in advance by the relevant planning authority, and must be implemented as approved.

(4) within two years of the completion of the archaeological mitigation fieldwork an updated project design and post excavation assessment detailing all processing, research and analysis necessary to produce and secure the delivery of an accessible and useable archive and a full report for publication must be submitted to and approved in writing by the relevant planning authority.

7.3.61. No comment was received in the applicant's closing statements regarding the proposed wording of this requirement [REP8-001].

7.3.62. The ExA, for the reasons in section 3.3, considers these changes are necessary, reasonable and precise. On this basis, the ExA has incorporated these changes into the rDCO, as set out in table 10 below.

Drainage

7.3.63. The OHA objected to the disapplication of s23 of the Land Drainage Act 1991 [REP1-072] [REP4-074] [REP7-191]. The applicant stated that the disapplication was necessary and hoped to obtain agreement from the OHA to a modified procedure for dealing with land drainage consents [REP5-005]. However, the applicant accepted that if agreement was not reached, then the provision would have to be deleted. The ExA note the examination has closed and agreement on an alternate approach has not been forthcoming [REP8-002]. Consequently Article 6 of the dDCO needs amending to delete the provision relating to the disapplication of s23. This is set out in table 10 below and reflected in the rDCO.

7.3.64. Also, in relation to drainage and flooding, a surface water drainage strategy is stipulated under requirement 9 of the dDCO. As reported in section 3.12 of this report, Cassington Parish Council and Cumnor Parish Council have been on the receiving end of localised flood issues even before the application was proposed. Given both of these parishes have maintained strong and evidenced objections to the proposed development, the ExA consider it only fair and appropriate that they are directly consulted on surface water flood management. Requirement 9 is therefore subject to amendment in the rDCO, as set out in table 10 below. This proposed change has not been subject to examination or consultation, but it is not anticipated to give rise to significant issues.

7.4. PROTECTIVE PROVISIONS

7.4.1. Schedule 15 of the dDCO provides Protective Provisions (PPs) for statutory undertakers (SUs) and their apparatus. The status of any PPs with SUs can be found in the final Land Rights and Negotiations Tracker [REP7-011] and Acquisition Tracker [REP7-033]. In summary, PPs as set out below have been agreed for the most part:

- Part 1 Protection for electricity, gas, water and sewerage undertakers
- Part 2 Protection for operators of electronic communications code networks
- Part 3 For the protection of drainage authorities
- Part 4 For the protection of Railway Interests
- Part 5 For the protection of the Thames Water Utilities Limited
- Part 6 For the protection of Southern Gas Networks
- Part 7 For the protection of the Environment Agency
- Part 8 For the protection of Siemens Healthcare Limited
- Part 9 For the protection of National Grid Electricity Transmission Plc.

7.4.2. At the conclusion of the examination, there were two outstanding matters from SUs (Thames Water and Network Rail) where agreement had not been reached, with requests for further detailed changes to be made.

7.4.3. Chapter 6 of this report considers PPs in greater detail where objections were raised and draws conclusions therein. Table 10 below captures the necessary textual revisions that the ExA has included in the rDCO to accommodate the requests of Thames Water Utilities Limited that were deemed necessary and

appropriate to prevent serious detriment occurring to that SU operations or apparatus.

7.4.4. The ExA, as reported in chapter 6, do not have draft wording or text relating to the PPs for Network Rail, despite its request. The ExA therefore advises the SoS that table 10 below does not capture any revisions for the benefit of that SU. This does not mean that the ExA, nor the SoS, should be satisfied with the PPs for Network Rail as drafted. It means that should the SoS decide to grant development consent, consultation must be had with Network Rail in the first instance.

7.4.5. In summary, subject to the imposition of the PPs identified in the preceding paragraphs and those in table 10 below, the ExA is satisfied with the wording of Schedule 15 and that adequate protection is provided to SUs with the consequence that there would be no serious detriment to the carrying out of their respective roles and functions and recommends no amendments in the rDCO.

7.5. EXAMINING AUTHORITY'S PROPOSED CHANGES

7.5.1. In light of the ExA's conclusions above, it is considered that only small number of changes, primarily to achieve correctness and consistency with other DCOs, are required. There are however some issues recorded where substantive changes are needed to address the concerns. Table 10 sets out the provisions in respect of which the ExA has recommended changes to the applicant's preferred dDCO (Revision 9 [REP7-006]) in the rDCO (appendix D) and sets out its reasoning.

Table 10: DCO Provisions Recommended to be Changed

Provision	Recommendation	ExA Reasoning
New requirement 15	**Pre-commencement works** No part of the authorised development may commence until details of the following have been submitted to and approved by the Secretary of State: (1) a) the planning permission and/or development consent for the National Grid Electricity Transmission proposed Substation at Farmoor Reservoir (if delivered outside the Order limits); b) a construction programme that aligns the completion of the proposed substation at Farmoor Reservoir and the connection offer of the Applicant (regardless of whether the substation is to be delivered within or outside the Order limits). (2) With respect to paragraph (1) above, in the event of the National Grid substation being delivered within the Order limits, this shall be in accordance with the layout shown on sheet 13a of the Works	There are evident discrepancies between the National Grid delivery programme and that of the applicant for the proposed development with a range of dates from October 2027 to late 2029. The proposed development should only take place once there is certainty that the important and relevant national grid infrastructure is in place. Without that infrastructure first being secured, it would be a waste of resources and/ or disadvantageous to landowners for the applicant to commence

Provision	Recommendation	ExA Reasoning
	Plans. In the event that National Grid substation is to be delivered outside of the Order limits (outside the scope of this Order), Work No.2 shall not occur and, instead, the layout shown on sheet 13b of the Works Plans shall be implemented.	construction or acquire land compulsorily.
New requirement 16	**Decommissioning Fund** (1) No phase of the authorised development may commence until a decommissioning fund or other form of financial guarantee that secures the cost of performance of all decommissioning obligations under Requirement 14 of this Order has been submitted to and approved by the local planning authority. (2) The value of the decommissioning fund or other form of financial guarantee shall be agreed between the undertaker and the local planning authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning obligations referred to in Requirement 14 of this Order. (3) The decommissioning fund or other form of financial guarantee shall be maintained in favour of the local planning authority until the date of completion of the works to be undertaken in accordance with Requirement 14 of this Order. (4) The value of the decommissioning fund or other form of financial guarantee shall be reviewed by agreement between the Undertaker and the local planning authority by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning obligations and best practice	The applicant has made some pledges towards decommissioning, though has previously stated that nothing can be guaranteed regarding funds being available for decommissioning [REP1-019, page 33]. The applicant has also stated that if development consent is granted, the interest would fall back to having just an "adequate equity ratio." The provision is deemed necessary to ensure that decommissioning would be adequately financed and the restoration of the land to its original condition is secured.

Provision	Recommendation	ExA Reasoning
	prevailing at the time of each review	
New requirement 17	**Farmland Bird Strategy** (1) No part of Work No. 1 may commence until a Farmland Bird Strategy (FBS) has been submitted to and approved by the Secretary of State in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided. (2) The FBS must include— (a) the location where the compensation measures will be delivered and the suitability of that location (including why the location is appropriate ecologically and likely to support successful compensation), and confirmation that the necessary landowner agreement(s) are in place; (b) details of the capacity and ability of the compensation areas to compensate for the impact of the authorised development on skylarks and corn bunting; (c) an implementation timetable for delivery including any arrangements made with a third party for implementation of the measures; (d) details for the ongoing management and maintenance of the compensation measures; (e) details for the ongoing monitoring and reporting of the effectiveness of the compensation measures including— (i) survey methods; (ii) survey programmes; (iii) success criteria; and (iv) timescales for the monitoring reports to be delivered; (f) details of any adaptive management measures, with details of the factors used to trigger any alternative and/or adaptive management measures; and (g) details of how survey and monitoring data will be shared in the appropriate formats with the relevant Local Environmental	To ensure birds that are on the Red List Birds of Conservation Concern and Species of Principal Importance, as well as The Environmental Targets (Biodiversity) (England) Regulations 2023, are managed appropriately within the Order limits. The wording of this Requirement, including the involvement of the SoS in its discharge, is precedented in the made Five Estuaries Offshore Wind Farm DCO 2025.

Provision	Recommendation	ExA Reasoning
	Records Centre(s) and relevant national/regional environmental recording schemes, and any potential research collaborations. (3) The undertaker must implement the measures set out in the FBS approved by the Secretary of State, unless otherwise agreed by the Secretary of State following consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided. (4) Results from the monitoring and reporting scheme referred to in paragraph 2(e) must be submitted at least annually to the Secretary of State, the relevant statutory nature conservation body, and the local planning authority for the area in which the compensation measure is to be provided. This must include details of the effectiveness of the compensation measures delivered. If the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the compensation measures delivered have been ineffective the undertaker must provide proposals for any alternative and/or adaptive management measures to address this. Any proposals to address the ineffectiveness of the compensation measures must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided. (5) The FBS approved under paragraph (1) includes any amendments that may subsequently be approved in writing by the Secretary of State.	

Provision	Recommendation	ExA Reasoning
New requirement 18	**Buffers to residences** There shall be a distance of no less than 250 metres between the edge of any part of the proposed operational solar array and any residential dwellinghouse (as measured from the curtilage of any private residential property or address), unless otherwise demonstrated to be acceptable in writing to the satisfaction of the relevant local authority, such satisfaction to be given formally in writing subject to Schedule 16 of this Order.	The applicant's evidence that a 25m buffer zone to all residences and that an RVAA is not required falls short of being robust. A precautionary approach is advocated to ensure any buffers applied are justified and reasoned.
Modification of requirement 9	**Add text to subparagraph (3) to read:** Before approving the written details under sub-paragraph (1) the relevant planning authority must consult with Thames Water Utilities Limited or its successor in function as the relevant water undertaker ***and the relevant Parish Council for that part.***	The ExA considers it reasonable, relevant and necessary to include the parish councils as consultees to any surface water management plans, given their sustained and evidenced objections to the examination.
Modification of requirement 10	**Add text to read:** 10.—(1) No part of the authorised development may commence and no part of the permitted preliminary works for that part comprising the intrusive archaeological surveys may start until; a) the evaluation reports and buffer zones have been amended and approved by the local planning authority and; b) following the agreement of the buffer zones and evaluation reports an archaeological written scheme of investigation for that part has been submitted to and approved in writing by the relevant planning authority. (2) For the purposes of sub-paragraph 8(1), "commence" includes part (a) of the permitted preliminary works insofar as the	The ExA considers that the applicant has failed to ensure that the significance of archaeological remains can be adequately considered based on the submitted application. The amended requirement provides additional safeguards for archaeology within the project area and provides greater scrutiny by the relevant planning authority.

Provision	Recommendation	ExA Reasoning
	works relate to intrusive archaeological surveys. (3) The archaeological written scheme of investigation must be substantially in accordance with an outline written scheme of investigation, approved in advance by the relevant planning authority, and must be implemented as approved. (4) Within two years of the completion of the archaeological mitigation fieldwork an updated project design and post excavation assessment detailing all processing, research and analysis necessary to produce and secure the delivery of an accessible and useable archive and a full report for publication must be submitted to and approved in writing by the relevant planning authority.	
Modification of Article 6(1)(a)	Delete sub-clause (a) to remove references to S23 of the Land Drainage Act 1991. Subsequent renumbering of disapplied provisions.	Agreement has not been given from the OHA for the disapplication of the provision. It is accepted by all involved that, in the absence of an agreement, the provision should be deleted.
Schedule 15 Part 4	Insert the provisions as set out in the Statement of Common Ground with Thames Water [REP7-041] as a new paragraph 5. Consequential renumbering so that “Removal of apparatus” becomes provision number 6.	On the basis that the provisions are necessary for the protection of Thames Water Utilities Limited and it is expected, before the SoS reaches a decision, that the relevant agreements are in place to give pertinence to the provisions.
Schedule 15 Part 4	Consult Network Rail prior to finalising this provision.	Neither Network Rail nor the applicant have provided wording for the ‘missing’ protective

Provision	Recommendation	ExA Reasoning
		provisions relating to compulsory acquisition.
Schedule 15 Part 5	Insert new clause 5 to read: **Compulsory Acquisition** (1) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not appropriate, acquire, extinguish, interfere with or override any interest in land, easement or other interest or right of the utility undertaker nor acquire any of its apparatus otherwise than by agreement. (2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between the utility undertaker and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of the utility undertaker or affects the provisions of any enactment or agreement regulating the relations between the utility undertaker and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as the utility undertaker reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between the utility undertaker and the undertaker acting reasonably and which must be no less favourable on the whole to the utility undertaker unless otherwise agreed by the utility undertaker, and it will be the responsibility of the undertaker to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest	On the basis that the provisions are necessary for the protection of Thames Water Utilities Limited and it is expected, before the SoS reaches a decision, that the relevant agreements are in place to give pertinence to the provisions.

Provision	Recommendation	ExA Reasoning
	in the land at that time who are affected by such part of the authorised development. (3) The undertaker and the utility undertaker agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by the utility undertaker or other enactments relied upon by the utility undertaker as of right or other use in relation to the apparatus, then the provisions in this part of this Schedule prevail. (4) Any agreement or consent granted by the utility undertaker under paragraph 8 (retained apparatus) or any other paragraph of this part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1). (5) As a condition of an agreement between the parties in sub-paragraph (1) that involves decommissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of the utility undertaker in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release the utility undertaker from all liabilities in respect of such decommissioned apparatus from the date of such surrender. (6) Where an undertaker acquires land which is subject to any of the utility undertaker's rights or interests (including, without limitation, easements and agreements relating to rights or	

Provision	Recommendation	ExA Reasoning
	other interests) and the provisions of paragraph 6 (removal of apparatus) do not apply, the undertaker must: (a) retain any notice of the utility undertaker's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and (b) (where no such notice of the utility undertaker's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of the utility undertaker's easement, right or other interest in relation to such acquired land; and (c) provide up to date official entry copies to the utility undertaker within 20 working days of receipt of such up to date official entry copies. Consequent renumbering so that "Removal of apparatus" becomes provision number 6.	

7.6. CONCLUSIONS

7.6.1. The ExA has considered all iterations of the dDCO as set out in table 10 above and the degree to which the applicant's final version has addressed matters arising during the examination.

7.6.2. The main outstanding matters related to the DCO at the end of the examination were requirements and PPs.

7.6.3. The relevant tests for the imposition of requirements are set out in NPS EN-1, specifying that they should be necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable in all other respects. The position at the close of the examination was that the applicant did not accept any changes the ExA was recommending to its final dDCO [REP6-051] [REP6-052].

7.6.4. However, we have concluded that, based on the applicant's final dDCO, we cannot recommend to the SoS that the Order is made. This is because, the applicant's proposed mitigations would not, in our view, adequately overcome the harm we have identified.

7.6.5. We also conclude that, for the reasons given in chapter 5 of this report, even with the recommended alterations and additions in the rDCO set out in table 10 above and contained in appendix D of this report, development consent should be withheld. This is because the additions in the rDCO, whilst providing mitigation and control over discrete matters in some instances, would not materially change our assessments in terms of the harmful impacts arising from the proposed development nor the planning balance.

7.6.6. Nonetheless, should the SoS disagree with the ExA's recommendation, it is strongly advised that the rDCO in appendix D to this report is made. That rDCO largely reflects the final dDCO submitted by the applicant, but with the addition of the changes listed in table 10 above. The SoS would need to consult with Network Rail prior to making the order.

7.6.7. The ExA has sought to make informed recommendations with regard to changes to the protective provisions within the rDCO. Should the SoS disagree with any of the conclusions reached, the SoS may wish to undertake consultation with all necessary parties.

8. SUMMARY OF FINDINGS AND CONCLUSIONS

8.1. INTRODUCTION

8.1.1. This section summarises our conclusions arising from the report and sets out our primary and secondary recommendations to the Secretary of State for Energy Security and Net Zero (SoS).

8.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

8.2.1. We have considered the proposed development against s104 of the Planning Act 2008 (PA2008) as it is within the scope of the Overarching National Policy Statement for Energy (NPS EN-1), the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3) and the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5). We find that these are relevant National Policy Statements and have effect.

8.2.2. We find that the proposed development is Critical National Priority (CNP) infrastructure in accordance with the relevant National Policy Statements. Our conclusions are the same both with and without CNP infrastructure considerations and taking into account the inclusions into the recommended Development Consent Order (rDCO).

8.2.3. We have had regard to matters arising from the Local Impact Reports (LIR), and to all matters that we consider to be both important and relevant in reaching our conclusions.

8.2.4. Chapter 4 and appendix C of this report consider the predicted effects of the proposed development on European sites alone and in combination with other plans or projects. The ExA is satisfied that the proposed development would not lead to an adverse effect on the integrity of any European site, either alone or in combination with other plans and projects. Furthermore, the information contained in the Habitats Regulation Assessment (HRA) reports and integrity matrices, alongside submissions in the examination are sufficient for the SoS to undertake an appropriate assessment of the effects of the proposed development on the relevant European sites.

8.2.5. For the reasons explained in chapter 5, the ExA is satisfied that determining the application in accordance with the relevant NPS would not lead to the UK breaching its international obligations, nor would it result in an unlawful action by the SoS, or a breach of any duty imposed.

8.2.6. However, in relation to s104(7) of the PA2008, we have found that there would be substantial harm to the green belt, less than substantial harm to a large number of designated heritage assets including those of the highest significance, substantial harm to the landscape and a real risk of a public safety hazard from aviation impacts on London Oxford Airport. The presumption in favour of development consent for CNP infrastructure in paragraph 3.3.63 of NPS EN-1 does not, therefore, apply in this case. The ExA finds that the case for the grant of development consent for the proposed development is not made out and recommends refusal accordingly.

8.2.7. Should the SoS disagree with the ExA's recommendation for the application, the ExA has considered the request for compulsory acquisition (CA) powers in chapter 6 and concludes that, in that eventuality, there would be a compelling case in the

public interest for the grant of the CA powers sought by the applicant. However, there remains unresolved objections to the taking of statutory undertaker land that, at this time, mean the tests under s127 and s138 of PA2008 have not been met. The ExA's recommendations in this respect are set out in chapter 6.

8.2.8. The ExA has had regard to the Public Sector Equality Duty (PSED) throughout the examination and in producing this report. The proposed development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there would be no breach of the PSED.

8.2.9. The ExA is satisfied with the applicant's explanation and evidence that there is no crown land within the Order limits. No powers under s135 of PA2008 are required.

8.3. RECOMMENDATION

Primary Recommendation

8.3.1. For all the above reasons and in the light of the ExA's findings and conclusions on important and relevant matters set out in this Report, the ExA recommends that the SoS should not make an order granting development consent for the application.

8.3.2. Should the SoS disagree with the ExA's recommendation of refusal, we strongly advocate that, as a minimum, the order for the grant of development consent should be in the form of the recommended DCO (rDCO) set out in appendix D to this report. However, further reassurances and enhancements should be considered as set out below to improve upon the rDCO.

8.3.3. If, contrary to the ExA's main recommendation, the SoS is minded to grant an order for development consent, then in relation to the application for CA within the Order, the ExA recommends the grant of CA powers as set out in chapter 6, save for amendments to the protective provisions for Thames Water Utilities Limited (TWUL) and Network Rail (NR). In this case consultation with TWUL and NR would be required before the DCO is finalised.

Secondary recommendation

8.3.4. The ExA is aware that there may be post-recommendation and pre-decision exchanges between the SoS, the applicant and interested parties. Should all of the following matters be resolved, the ExA considers that there may be a case for development consent to be granted on the basis of the rDCO as drafted in appendix D to this report and amended as a result of further submissions:

- Oxford Aviation Services Limited (OASL) confirm that the thermal plume modelling is satisfactory and there would not be an impact on communications infrastructure at Oxford Airport, together with OASL confirming that there are no objections to the proposed development on any matter.
- The applicant and OASL provide proof of a signed agreement securing the bird-scaring unit for operational lifetime of the proposed development, thus mitigating the effect of bird-strike on Oxford Airport.
- The applicant's "without prejudice offer" in respect of landscape mitigation is fully adopted and incorporated into the rDCO as a requirement with referable Works Plans.

- The Environment Agency can confirm in writing that the sequential and exception tests are met, rather than the confused/ assumed position in the statement of common ground [REP7-036].
- There is proof that surface water flooding can be demonstrably managed through an effective drainage strategy, underpinned by firm evidence, without causing an increase in flood risk to settlements in the central and southern areas.
- The applicant can commit to fully removing all above and below ground infrastructure within the mineral safeguarding area and amends the Outline Decommissioning Plan accordingly.
- The protective provisions for TWUL and NR are resolved, thus confirming the tests under s127 and s138 of PA2008 are met.

8.3.5. This does not overlook the adverse impacts on landscape, cultural heritage, green belt and mineral reserves as well as the other impacts identified in chapter 5 of this report. However, the ExA recognises the weight to be given to CNP, and the SoS may consider that this outweighs residual adverse effects.

APPENDICES

APPENDIX A: REFERENCE TABLES II
APPENDIX B: ABBREVIATIONS III
APPENDIX C: HABITATS REGULATIONS ASSESSMENT IV
APPENDIX D: THE RECOMMENDED DCO V

APPENDIX A: REFERENCE TABLES

Table A1 – The Environmental Statement (ES)

ES Chapter/Figures/Appendix	Examination Library (EL) Reference
ES Non-Technical Summary	APP-037
Chapter 1 Introduction	APP-038
Main and Supporting Documents	
Chapter 2 Existing Baseline	APP-039
Main and Supporting Documents	
Chapter 3 Consenting and Consultation Process	APP-040
Main and Supporting Documents	
Chapter 4 Approach to Environmental Assessment	APP-041
Main and Supporting Documents	APP-125 APP-126 APP-127 APP-128
Chapter 5 Alternatives Considered	APP-042
Main and Supporting Documents	
Chapter 6 Project Description	APP-043
Main and Supporting Documents	APP-129 APP-130
Chapter 7 Historic Environment	APP-044 CR1-003 CR2-019
Main and Supporting Documents	APP-064 APP-131 APP-132 APP-133 APP-134 APP-135 APP-136 APP-137 APP-138 APP-139 APP-140 APP-141 APP-142 REP2-014
Chapter 8 Landscape and Visual	APP-045 PDB-006 REP5-026 CR2-021 REP6-012
Main and Supporting Documents	APP-065 APP-066 APP-067 APP-068 APP-069 APP-070 APP-071 APP-072 APP-073 APP-074 APP-075 APP-076 APP-077 APP-078 APP-079 APP-080 APP-081 APP-082 APP-083 APP-084 APP-085 APP-143 APP-144 APP-145 APP-146 APP-147 APP-148 APP-149
Chapter 9 Ecology and Nature Conservation	APP-046 PDB-008 REP4-010
Main and Supporting Documents	APP-150 APP-151 APP-152 APP-153 APP-154 APP-155 APP-156 APP-157 APP-158 APP-159 APP-160 APP-161 APP-162 APP-163 APP-164
Chapter 10 Hydrology and Flood Risk	APP-047 REP6-010
Main and Supporting Documents	APP-166 APP-167 APP-168 APP-170 APP-171 APP-172 APP-173 APP-174
Chapter 11 Ground Conditions	APP-048 REP7-015
Main and Supporting Documents	APP-175 APP-176 APP-177 APP-178 APP-179 APP-180 APP-181 APP-183 APP-184 APP-185 APP-186 APP-187 APP-188 APP-189 APP-190 APP-191 APP-192 APP-193 APP-194 APP-195
Chapter 12 Traffic and Transport	APP-049 REP5-016
Main and Supporting Documents	APP-115 APP-196 APP-197 APP-198 APP-199 APP-200 APP-201 APP-202 APP-203

	APP-204 APP-205 APP-206 APP-207 APP-208 APP-209 APP-210 APP-226
Chapter 13 Noise and Vibration	APP-050 PDB-010
Main and Supporting Documents	APP- 103 APP-104 APP-105 APP-211 APP-212 APP-213
Chapter 14 Climate Change	REP3-016
Main and Supporting Documents	APP-214 APP-215 APP-216
Chapter 15 Socioeconomics	APP-052 REP7-017
Main and Supporting Documents	APP-217 APP-218
Chapter 16 Human Health	APP-053 CR2-023
Main and Supporting Documents	APP-219 APP-220 APP-221 APP-222
Chapter 17 Agricultural Land Use and Public Rights of Way	APP-054
Main and Supporting Documents	APP-223
Chapter 18 Waste and Resources	APP-055
Main and Supporting Documents	
Chapter 19 Air Quality	APP-056 REP5-020
Main and Supporting Documents	APP-114
Chapter 20 Cumulative Effects and Inter-relationships	APP-057 REP5-022
Main and Supporting Documents	APP-224
Chapter 21 Summary of Significant Effects	APP-058

Table A2 – Change Request Documents

Document	EL Reference
Applicant's Change Request dated 19 March 2025	
Cover letter	CR1-001
Environmental Technical Note	CR1-007
Applicant's Change Request dated 12 September 2025	
Cover letter	CR2-001
Environmental Technical Notes	CR2-071 CR2-073

Table A3 – Other Relevant National Policies for the Proposed Development

The National Planning Policy Framework
Net Zero: The UK's Contribution to Stopping Global Warming Emissions
Ten Point Plan for a Green Industrial Revolution
Energy White Paper: Powering our Net Zero Future
Industrial Decarbonisation Strategy (HM Government, 2021)
Net Zero Strategy: Build Back Greener
British Energy Security Strategy (2022)
Powering up Britain (DESNZ, 2023)
Carbon capture, usage and storage net zero investment roadmap, 2023
Solar Roadmap: United Kingdom Powered by Solar (DESNZ, June 2025)

Table A4 – Summary of Relevant Legislation for the Proposed Development

Relevant Legislation
• Acquisition of Land Act 1981 • Air Quality (England) Regulations 2000 • Air Quality Standards Regulations 2010 (as amended) • The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019 • Ancient Monuments and Archaeological Areas Act 1979 • Building Act 1984 and the Building Regulations 2010 • Carbon Budget Order 2021 • Climate Change Act 2008 (Credit Limit) Order 2021 • Climate change Act 2008 • Commons Registration Act 1965 • Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations 2017') • Contaminated Land (England) (Amendment) Regulations 2012 ('Contaminated Land Regulations') • Control of Pollution Act 1974 • Compulsory Purchase Act 1965 • Compulsory Purchase (Vesting Declarations) Act 1981 • Countryside and Rights of Way Act 2000 • Equality Act 2010 • Electricity Act 1989 • The Environment Act 1995 • Environment Act 2021 • Environment (Amendment etc.) (EU Exit) Regulations 2019 • Environmental Damage (Prevention and Remediation) (England) Regulations 2015 • Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020 • Environmental Permitting (England and Wales) Regulations 2016 • Environmental Protection Act 1990 • Environmental Noise (England) Regulations 2006 (as amended) • Environmental Permitting (England and Wales) Regulations 2016 • Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019 • European Commission Circular Economy Package Environmental Protection Act 1990 • European Landscape Convention (ELC) (Council of Europe, 2016) Hedgerow Regulations 1997 • Flood Risk Regulations 2009 • Flood and Water Management Act 2010 • Groundwater (Water Framework Directive) (England) Direction 2016 • Hazardous Waste (England and Wales) Regulations 2005 • Health and Safety at Work etc. Act 1974 • Health and Social Care Act 2012 • The Hedgerows Regulations 1997 • Highways Act 1980 • Human Rights Act 1998 • The Infrastructure Planning (Decisions) Regulations 2010

- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
- Land Drainage Act 1991
- Levelling Up and Regeneration Act 2023
- Localism Act 2011
- Marine and Costal Access Act 2009
- National Parks and Access to the Countryside Act 1949
- National Parks and Access to the Countryside Act 2000
- Natural Environment and Rural Communities Act 2006
- Neighbourhood Planning Act 2017
- Noise Insulation Regulations 1975
- The Planning Act 2008
- Planning (Hazardous Substances) Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Pollution Prevention and Control Act 1999
- Protection of Badgers Act 1992
- Town and Country Planning Act 1990
- Waste (England and Wales) Regulations 2011
- Waste Electrical and Electronic Equipment Regulations 2013
- Water Abstraction and Impounding (Exemptions) Regulations 2017
- Water Act 2003
- Water Act 2014
- Water Framework Directive (2000/60/EC)
- Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015
- Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
- Water Industry Act 1991
- Water Resources (Abstraction and Impounding) Regulations 2006
- Water Resources Act 1991
- Water Supply (Water Quality) Regulations 2018
- Wild Mammals (Protection) Act 1996
- Wildlife and Countryside Act 1981

Table A5 – Relevant Local Policies

Plan	Identified documents and/or relevant policies
West Oxfordshire District Council	West Oxfordshire Local Plan 2031 (adopted 2018); Neighbourhood Development Plans for Woodstock (2023), Eynsham (2020) and Cassington (2023); The Salt Cross Garden Village Area Action Plan (AAP)
Cherwell District Council	Cherwell Local Plan 2011-2031 (Part 1) (adopted 2015), including saved policies from the Local Plan 1996 and its Partial Review, adopted in 2020
Vale of White Horse District Council	Vale of White Horse Local Plan 2031 Parts One (adopted 2016) and Two (adopted 2019); the Cumnor Neighbourhood Development Plan (2021)
Oxfordshire County Council	The Oxfordshire Minerals and Waste Local Plan Part 1 – Core Strategy (adopted 2017) and saved policies of the Oxfordshire Minerals and Waste Local Plan (adopted 1996)

Table A6 – Made Development Consent Orders

Other Made DCOs identified by the Applicant
The Applicant has identified the following made Orders to support the Proposed Development: • Hinkley Point C (Nuclear Generating Station) Order 2013 • Meaford Gas Fired Generating Station Order 2016 • Wrexham Gas Fired Generating Station Order 2017 • Drax Power (Generating Stations) Order 2019 • Great Yarmouth Third River Crossing Order 2020 • Lake Lothing Third Crossing Order 2020 • Riverside Energy Park Order 2020 • Cleve Hill Solar Park Order 2020 • Hornsea Three Offshore Wind Farm Order 2020 • A303 Amesbury to Berwick Down Order 2020 • Immingham Open Cycle Gas Turbine Order 2020 • Little Crow Solar Park Order 2022 • A47/ AA Thickthorn Junction Order 2022 • A47 Blofield to North Burlingham Order 2022 • A428 Black Cat to Caxton Gibbet Order 2022 • M25 Junction 10/A3 Wisley Interchange Order 2022 • Norfolk Vanguard Offshore Wind Farm Order 2022 • A47 Wansford to Sutton Order 2023 • The Longfield Solar Farm Order 2023 • Hornsea Four Offshore Wind Farm Order 2023 • Mallard Pass Solar Farm Order 2024 • Gate Burton Energy Park Order 2024 • Cottam Solar Project Order 2024 • Sunnica Energy Farm Order 2024 • Drax Power Station Bio-energy with Carbon Capture and Storage Extension Order 2024 • Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024 • West Burton Solar Project Order 2025 • East Yorkshire Solar Farm Order 2025 • Heckington Fen Solar Park Order 2025 • Oaklands Farm Solar Park Order 2025

Table A7 – Attributes of Outstanding Universal Value for the Blenheim Place World Heritage Site

Attribute Reference	Summary Explanation
Attribute 1	It remains the home of the same aristocratic family, the successive Dukes of Marlborough, for which it was built
Attribute 2	It still contains the unique early 18th century architecture of the Palace and its associated assemblage of buildings together with an archive of original survey and building documentation.
Attribute 3	It is still set within the early 18th century grand Vanbrugh landscape overlaid by Lancelot Brown's masterpiece of English Landscape style design, internationally considered to be the ''English Versailles''.
Attribute 4	The surviving special relationship between the important architectural elements and their landscape setting are an exceptional piece of design and, together are greater than the sum of their parts.
Attribute 5	The UK has by far the greatest concentration of veteran trees in northern Europe and within High Park, which sits in the south-west section of Blenheim Park, is one of the finest areas of ancient oak-dominated woodland in the country. It is partially descended from the ancient Wychwood Forest, a 12th century deer park and an Anglo-Saxon chase.
Attribute 6	The gardens and pleasure grounds which surround the Palace were partly designed by Lancelot Brown in the mid-18th century, and partly by the French landscape architect Achille Duchene at the start of the 20th century.
Attribute 7	The park retains a complete, 18th century enclosing stone wall which protects its integrity, but views into and out of the site still provide key linkages between Blenheim and the traditional English countryside and villages surrounding it.

APPENDIX B: ABBREVIATIONS

Abbreviation or acronym	Reference
AA	Appropriate Assessment
AADT	Average annual daily traffic flow
AEoI	Adverse Effects on Integrity
AIL	Abnormal Indivisible Load
ALA 1981	Acquisition of Land Act 1981
ALC	Agricultural Land Classification
AP	Affected Person
APFP Regs	The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (as amended)
AQA	Air Quality Assessment
AQMA	Air Quality Management Area
AQS	Air Quality Strategy for England, Scotland, Wales and Northern Ireland 2007
ASI	Accompanied Site Inspection
BCR	Benefit cost ratio
BESS	Battery Energy Storage System
BMV	Best and most versatile
BNG	Biodiversity Net Gain
BoR	Book of Reference
BPM	Best Practicable Means
CA	Compulsory Acquisition
CAA	Civil Aviation Authority
CAH	Compulsory Acquisition Hearing
CaPC	Cassington Parish Council
CA Regs	Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended)
CCA 2008	Climate Change Act 2008
CDC	Cherwell District Council
CDS	Conceptual Drainage Strategy
CEMP	Construction Environmental Management Plan
CL	Common Land
CoCP	Code of Construction Practice
CO_2	Carbon Dioxide
COMAH	Control of Major Accident Hazard Regulations 2015
CPO	Compulsory Purchase Order
CPRE	Campaign to Protect Rural England
CRoW	Countryside and Rights of Way Act 2000
CS	Core Strategy
CTMP	Construction Traffic Management Plan
CuPC	Cumnor Parish Council
D	Deadline
DAS	Design and Access Statement
DAMS	Detailed Archaeological Mitigation Strategy
DBA	Desk-Based Assessment
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DEFRA	Department for Environment, Food and Rural Affairs

DESNZ	Department for Energy Security and Net Zero
DfT	Department for Transport
DIO	Defence Infrastructure Organisation
DM	Do-Minimum
DMRB	Design Manual for Roads and Bridges
DS	Do-Something
EA	Environment Agency
ECHR	European Convention on Human Rights
EFATO	Engine Failure After Take Off
EIA	Environmental Impact Assessment
EIA Regs	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended)
EL	Examination Library
EM	Explanatory Memorandum
EMF	Electo-Magnetic Field
EMP	Environmental Management Plan
EPR	The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)
EPS	European Protected Species
ES	Environmental Statement
EqA2010	Equality Act 2010
ExA	Examining Authority
ExQ1/2/3	The ExA's first, second, third etc rounds of written questions
FRA	Flood Risk Assessment
FS	Funding Statement
FTE	Full Time Equivalent
FZ1	Flood Zone 1
FZ2	Flood Zone 2
FZ3	Flood Zone 3
FZ3b	Flood Zone 3b
GCN	Great Crested Newts
GHG	Greenhouse Gas
GIA	Growth and Infrastructure Act 2013
GVA	Gross Value Added
GW	Giga Watt
ha	Hectare(s)
HGV	Heavy goods vehicle
HE	Historic England
HoTs	Heads of Terms
HPI(s)	Habitat(s) of Principal Importance
HRA	Habitats Regulations Assessment
HRA 1998	Human Rights Act 1998
IAPI	Initial Assessment of Principal Issues
IP	Interested Party
IP Regs	The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
LA	Local Authority

LEMP	Landscape and Ecology Management Plan
LEP	Local Enterprise Partnership
LGV	Light Goods Vehicles
LHA	Local Highway Authority
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LNR	Local Nature Reserve
LNRS	Local nature recovery strategy
LOAEL	Lowest observed adverse effect level
LoD	Limits of Deviation
LoNI	Letter of No Impediment
LRN	Local Road Network
LSE	Likely Significant Effects
LTP	Local Transport Plan
LVIA	Landscape and Visual Impacts Assessment
MHCLG	Ministry of Housing, Communities and Local Government
MoD	Ministry of Defence
MU(s)	Motorised User(s)
MW	Megawatt
NE	Natural England
NL	National Landscape (Area of Outstanding Natural Beauty)
NIA(s)	Noise Important Area(s)
NIPA	National Infrastructure Planning Association
NMU(s)	Non-Motorised User(s)
NO_2	Nitrogen Dioxide
NPA 2017	The Neighbourhood Planning Act 2017
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPSA	National Policy Statement for Airports
NPSE	Noise Policy Statement for England (DEFRA 2010)
NPS EN-1	Overarching National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure
NSIP	Nationally Significant Infrastructure Project
OASL	Oxford Aviation Services Limited
OCC	Oxfordshire County Council
OCoCP	Outline Code of Construction Practice
ODP	Outline Decommissioning Plan
OFH	Open Floor Hearing
OHA	Oxfordshire Host Authorities
OLDP	Outline Layout and Design Principles document
OLEMP	Outline Landscape and Ecology Management Plan
OOMP	Outline Operational Management Plan
OPRWMP	Outline Public Rights of Way Management Plan
OSSCEP	Outline Skills Supply Chain and Employment Plan
OS	Open Space
OSMP	Outline Soil Management Plan
OUV	Outstanding Universal Value
OWSI	Outline Written Scheme of Investigation

PA2008	Planning Act 2008 (as amended)
PEIR	Preliminary Environmental Impact Report
PM	Preliminary Meeting
PMA	Private means of access
$PM_{2.5}$	Particulate Matter with a diameter of 2.5 micrometres or less
PM_{10}	Particulate Matter with a diameter of 10 micrometres or less
PP	Protective Provision
PPA	Planning Performance Agreement
PRoW	Public Right of Way
PRoWMP	Public Rights of Way Management Plan
PSED	Public Sector Equality Duties
PSS	Planning Support Statement
R	Requirement
R17	Rule 17 Letter
rDCO	The ExA's recommended Development Consent Order
REAC	Register of Environmental Actions and Commitments
RIES	Report on the Implications for European Sites
RPA	Root protection area
RPG	Registered Park and Garden
RR	Relevant Representations
s106	Section 106 agreement under the Town and Country Planning Act 1990 (as amended)
SAC	Special Area of Conservation
SCL	Special Category Land
SF_6	Sulphur Hexafluoride
SNCB	Statutory Nature Conservation Body
SNCI	Site of Nature Conservation Interest
SoCC	Statement of Community Consultation
SoCG	Statement of Common Ground
SoN	Statement of Need
SOAEL	Significant observed adverse effect level
SoR	Statement of Reasons
SoS	Secretary of State
SoOUV	Statement of Outstanding Universal Value
SP	Statutory Party
SPA	Special Protection Area
SPV	Special Purpose Vehicle
SRN	Strategic Road Network
SSCE	Skills, Supply Chain and Employment
SSCEP	Skills, Supply Chain and Employment Plan
SSSI	Site of Special Scientific Interest
STEM	Science, Technology, Engineering and Mathematics
SU(s)	Statutory Undertakers
SUDS	Sustainable Drainage Systems
TA	Transport Assessment
TCPA1990	The Town and Country Planning Act 1990 (as amended)
TWUL	Thames Water Utilities Limited
TP	Temporary Possession
TPO	Tree Preservation Order

UKCP18	United Kingdom Climate Projections 2018
USI	Unaccompanied Site Inspection
UU	Unilateral Undertaking
VWHDC	Vale of White Horse District Council
VSC	Very Special Circumstances
WebTAG	Web-based Transport Analysis Guidance
WODC	West Oxfordshire District Council
WFD	Water Framework Directive
WHS	World Heritage Site
WMS	Written Ministerial Statement
WR	Written Representation
ZTV	Zone of Theoretical Visibility

APPENDIX C: HABITATS REGULATIONS ASSESSMENT

FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

C1.1. INTRODUCTION

C1.1.1. This appendix sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security and Net Zero (SoS), as the competent authority, in performing their duties under The Conservation of Habitats and Species Regulations 2017 ('The Habitats Regulations').

C1.1.2. This appendix is structured as follows:

- Section 1.2: Findings in relation to Likely Significant Effects (LSE)
- Section 1.3: Examination Matters
- Section 1.4: Summary of findings in relation to adverse effects on integrity
- Section 1.5: HRA conclusions

C1.1.3. In accordance with the precautionary principle embedded in The Habitats Regulations, consent for the proposed development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s) and no reasonable scientific doubt remains (CJEU Case C-127/02 Waddenzee 7 September 2004).

C1.1.4. For the purpose of this report, in line with The Habitats Regulations and relevant government policy, the term 'European sites' includes Special Areas of Conservation (SAC), candidate SACs, proposed SACs, Special Protection Areas (SPA), potential SPAs, listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites.

C1.1.5. Policy considerations and the legal obligations under The Habitats Regulations are described in Chapter 4 of this report.

C1.1.6. The ExA has been mindful throughout the examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the competent authority. We have sought evidence from the applicant and the relevant Interested Parties (IPs), including Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), through written questions and issue specific hearings (ISHs).

RIES and Consultation

C1.1.7. The ExA produced a Report on the Implications for European Sites (RIES) [PD-016] which compiled, documented, and signposted HRA-relevant information provided in the DCO application and examination representations up to Deadline (DL) 5 (12 September 2025). The RIES was issued to set out ExA understanding on HRA-relevant information and the position of the IPs in relation to the effects of the proposed development on European sites at that point in time. Consultation on the RIES took place between 18 September 2025 and 20 October 2025.

C1.1.8. The ExA's recommendation is that the RIES, and consultation on it, may be relied upon as an appropriate body of information to enable the Secretary of State to fulfil their duties of consultation under regulation 63(3) of The Habitats Regulations, should the SoS wish to do so.

Proposed Development Description and HRA Implications

C1.1.9. The proposed development is described in Chapter 1 of this Report.

C1.1.10. The spatial relationship between the order limits of the proposed development and European sites is shown in figure 1 of the Habitat Regulations Assessment Report [APP-163].

C1.1.11. The proposed development is not directly connected with, or necessary to, the management of a European site. Therefore, the SoS must make an 'appropriate assessment' of the implications of the proposed development on potentially affected European sites in light of their Conservation Objectives.

C1.1.12. The applicant's assessment of effects is presented in the following application document:

- Environmental Statement Appendix 9.14: Habitat Regulations Assessment Report [APP-163] referred to hereafter as the applicant's HRA Report.

C1.1.13. The applicant updated its HRA Report at DL 6 [REP6-022] in response to a request from NE to undertake a precautionary assessment of changes in air quality at the Oxford Meadows SAC.

C1.1.14. During the pre-examination stage, the applicant submitted a change request [AS-001] as described in Chapter 1 of this Report. These changes were accepted by the ExA. No HRA-relevant matters arose from this change request.

C1.1.15. The applicant did not identify any Likely Significant Effects (LSE) on non-UK European sites in European Economic Area States in its HRA Report [APP-163] and there were no potential LSE identified by any IP during the examination. As such, only UK European sites are addressed in this report.

Summary of HRA Matters Considered During the Examination

C1.1.16. The main HRA matters raised by the ExA, NE and other IPs and discussed during the examination include:

- Noise and water quality impacts from piling during construction.
- Air quality impacts during construction.
- Impediments to the delivery of site improvement plans.
- Hydrological impacts from the creation of floodplain meadow.

C1.1.17. These matters are discussed in the RIES [PD-016] and in the sections below.

C1.2. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS (LSE)

C1.2.1. Under regulation 63 of The Habitats Regulations, the competent authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an 'appropriate assessment' (AA) and the activities, sites or plans and projects to be included for further consideration in the AA.

C1.2.2. The European sites and qualifying features that were considered in the applicant's assessment of LSE are presented in section 3 of the HRA report [APP-163].

C1.2.3. The applicant's HRA Report sets out the methodology applied to determining what would constitute a 'significant effect' within its HRA Report [APP-163].

C1.2.4. The HRA Report identified two European Sites within the UK National Site Network for inclusion within the assessment:

- Cothill Fen SAC; and
- Oxford Meadows SAC

C1.2.5. The ANCB agreed [RR-0761] that all relevant European sites and European site features that could be affected by the project had been identified by the applicant.

C1.2.6. No further matters have been raised in the examination in relation to the applicant's approach to identification of European sites.

LSE from the Proposed Development Alone and In Combination

C1.2.7. The applicant identified potential impacts of the proposed development considered to have the potential to result in likely significant effects (LSE) in section 4 of the HRA report [APP-163].

C1.2.8. The other plans and projects included in the in-combination assessment are set out in ES Appendix 20.1 [APP-224] and their locations depicted on ES figures 20.1, 20.2 and 20.3 [APP-116; APP-117; APP-118].

C1.2.9. The impact pathways considered by the applicant to have the potential to result in LSE are set out in section 4 of the HRA Report [APP-163] and comprise:

- direct damage to habitats
- change in habitat management regimes
- changes in air quality
- changes in water quality
- changes in hydrology
- disturbance
- spread of invasive non-native species (INNS)

C1.2.10. The applicant's HRA report concluded no LSE from the proposed development alone or in-combination on any of the qualifying features of:

- Cothill Fen SAC

C1.2.11. NE [RR-0761] confirmed agreement with the conclusion of no LSE on Cothill Fen SAC.

C1.2.12. The applicant's HRA report concluded potential LSE from changes in water quality and spread of INNS from the proposed development alone and in-combination on any of the qualifying features of:

- Oxford Meadows SAC

C1.2.13. NE [RR-0761] confirmed agreement with the applicant's conclusions on this matter.

C1.3. EXAMINATION MATTERS

Noise impacts from piling

C1.3.1. In ExQ1, the applicant and NE were asked to explain why piling was not considered a potential noise impact pathway.

C1.3.2. Noise impacts from piling to both Oxford Meadows SAC and Cothill Fen SAC were screened out by the applicant [REP2-025] on the basis that impacts would be imperceptible due to the existing village and road noise and due to the distance (1.2km and 3.65km respectively from the proposed development). NE agreed with this conclusion and further stated that the qualifying feature (lowland hay meadows) of Oxford Meadows SAC were not noise sensitive. Further detail is provided in Table 2.2, ID 2.1 of the RIES.

Water quality impacts from piling

C1.3.3. In ExQ1 [PD-008, Q1.12.1], the applicant and NE were asked to explain why piling was not considered a potential water quality impact pathway.

C1.3.4. The applicant [REP2-025] explained that the panel piles are unlikely to affect groundwater flow, with any risks managed through good site practices under the Outline Code of Construction Practice [APP-232]. Natural England [REP2-057] agreed that there is no evidence that piling harms water quality and further stated that Cothill Fen SAC is not hydrologically connected to the development area so there is no pathway for impact. Further details are provided in Table 2.2, ID 2.2 of the RIES.

Air quality impacts

C1.3.5. At ExQ1 [PD-008, Q1.12.2] the ExA queried why vehicle numbers rather than movements were used to determine that the HGV annual average daily traffic (AADT) threshold of 200 vehicles had not been breached given that the in-combination assessment figure of 192 is close to the threshold.

C1.3.6. The applicant clarified that the vehicle numbers are AADT movements and account for two-way flows, making the approach suitably precautionary. NE [REP2-057] agreed the figure is near the threshold and recommended a more precautionary assessment, particularly for ammonia deposition. The applicant agreed to undertake an additional assessment, with results to be provided to the examination byDL6. Further details are provided in Table 2.2, ID 2.3 of the RIES.

C1.3.7. At DL6 an updated HRA report [REP6-022] was provided by the applicant which set out the additional work undertaken with respect to potential air quality effects on the

Oxford Meadows SAC. This concluded no LSE on the SAC from changes to air quality in combination with other plans and projects.

C1.3.8. NE did not raise any objection to the applicant's conclusion of no LSE on the Oxford Meadows SAC [REP7-040].

Site improvement plans

C1.3.9. ExQ1 [PD-008, Q1.12.3] asked NE whether the project (alone or in-combination) would lead to any impediment to the delivery of the Site Improvement Plans cited in the HRA and, if so, how.

C1.3.10. NE [REP2-057] responded that it does not believe (subject to further information on air quality) that the project would lead to the impediment of the Site Improvement Plans of Cothill Fen or Oxford Meadows SACs.

C1.3.11. In the RIES [PD-016] the ExA asked if NE could confirm its position in relation to whether it believes the proposed development would lead to the impediment of the Site Improvement Plans of the Cothill Fen or Oxford Meadows SACs.

C1.3.12. NE did not directly respond to the question but did not raise any concerns in relation to the applicant's conclusions on this matter in any remaining correspondence to the examination.

Hydrological impacts

C1.3.13. ExQ1 [PD-008, Q1.12.4] asked the applicant and NE whether creating new floodplain meadow along the River Evenlode could affect the hydrology of Oxford Meadows or Cothill Fen SACs.

C1.3.14. The applicant [REP2-025] responded that Cothill Fen SAC has no hydrological connection to the project site, and the hydrology of Oxford Meadows SAC is driven by the River Thames and would not be affected. NE [REP2-057] agreed with this conclusion. Further detail is provided in Table 2.2, ID 2.5 of the RIES.

C1.4. SUMMARY OF FINDINGS IN RELATION TO ADVERSE EFFECTS ON INTEGRITY (AEoI)

C1.4.1. The Oxford Meadows SAC and qualifying features identified in section 1.2 above were further assessed by the applicant to determine if they could be subject to AEoI from the proposed development, either alone or in-combination. The assessment of AEoI was made in light of the conservation objectives for the European site.

Changes in water quality

C1.4.2. The applicant's HRA report [APP-163] states that the proposed development site is linked to the Oxford Meadows SAC via the River Evenlode and River Thames and there is potential for water quality effects to occur during construction and operation from pollution as a result of spillages from plant. Any potential negative impacts of possible spillages would be mitigated via the implementation of a Construction Environmental Management Plan and Operational Environmental Management Plan. It concluded no adverse effect on the integrity of the Oxford Meadows SAC due to changes in water quality from the proposed development either alone or in combination with other plans or projects.

Changes in air quality

C1.4.3. The applicant's HRA report [APP-163] states that project construction traffic, in combination with other plans and projects, could result in a change in nitrogen deposition of greater than 1% of the minimum critical load and there is potential for air quality effects on the Oxford Meadows SAC. On the basis that the area of the SAC where nitrogen deposition is predicted to be greater than 1% of the minimum critical load is not the grassland habitat nor plant species for which the site is designated, no adverse effect on integrity was predicted from changes to air quality in combination with other plans or projects.

Spread of INNS

C1.4.4. The applicant's HRA report [APP-163] states that the project site is linked to the Oxford Meadows SAC via the River Evenlode and River Thames and there is potential for the spread of INNS during both construction and operation. Any potential negative impacts associated with the spread of INNS would be mitigated via an Invasive Species Management Plan, which would include details for how such species would be managed during construction to ensure there is no spread. Additionally, landscaping of the proposed development will be undertaken according to the principles set out in the Outline Landscape and Ecology Management Plan [REP6-034] to ensure that INNS are not imported nor spread during the operational phase of the proposed development. It concludes no adverse effect on the integrity of the Oxford Meadows SAC due to the introduction or spread of INNS from the proposed development either alone or in combination with other plans or projects.

C1.4.5. Subject to securing the measures set out in the Outline Code of Construction Practice (OCoCP) [APP-232, APP-233), NE agreed [REP7-040] that it is likely that there would be no adverse effects on the integrity of Oxford Meadows SAC.

C1.5. HRA CONCLUSIONS

C1.5.1. The proposed development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with

respect to adverse effects on potentially affected sites must be assessed by the SoS.

C1.5.2. The applicant's HRA Report [REP6-022] identified two European site for inclusion in the assessment:

- Cothill Fen SAC
- Oxford Meadows SAC

C1.5.3. All potential effects were screened out as not likely to occur with respect to the Cothill Fen SAC. NE [RR-0761] confirmed agreement with the conclusion of no LSE on Cothill Fen SAC.

C1.5.4. With regard to Oxford Meadows SAC, the applicant concluded that in the absence of mitigation measures, changes in water and air quality during construction and spread of INNS during both construction and operational phases could not be screened out and were subject to appropriate assessment.

C1.5.5. Following the application of avoidance measures and further analysis, the applicant ruled out adverse effects on the integrity of Oxford Meadows SAC. Subject to securing the measures set out in the OCoCP, NE agreed [REP7-040] that it is likely that there would be no adverse effects on the integrity of Oxford Meadows SAC.

C1.5.6. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.

C1.5.7. The ExA's findings are that adverse effects on integrity on all the European sites considered in the HRA report can be excluded from the proposed development when considered alone or in-combination with other plans or projects from the impact-effect pathways assessed, subject to the mitigation measures which would be secured in the Recommended DCO.

C1.5.8. The ExA therefore considers that there is sufficient information before the SoS to enable them to undertake an appropriate assessment in order to fulfil their duty under the requirements of The Habitats Regulations.

APPENDIX D: THE RECOMMENDED DCO

STATUTORY INSTRUMENTS

202* No. ****

INFRASTRUCTURE PLANNING

The Botley West Solar Farm Order 202*

Made - - - - ***

Coming into force - - ***

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008 ("the 2008 Act")(**a**) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**b**) for an order granting development consent.

The application has been examined by the Examining Authority appointed by the Secretary of State pursuant to chapter 2 of Part 6 of the 2008 Act and carried out in accordance with chapter 4 of Part 6 of the Infrastructure Planning (Examination Procedure) Rules 2010(**c**).

The Examining Authority, having considered the application together with the documents that accompanied it, and the representations made and not withdrawn, has, in accordance with section 74(2)(**d**) of the 2008 Act made a report and recommendation to the Secretary of State.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**e**) and has had regard to the documents and matters referred to in section 104(2)(**f**) of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State, in exercise of the powers conferred by sections 114(**g**), 115(**h**), 117(**i**), 120(**j**), 122(**k**), 123(**l**) and 140 of the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Botley West Solar Farm Order and comes into force on [*] 202[*].

Interpretation

2.—(1) In this Order—

"the 1961 Act" means the Land Compensation Act 1961(**m**);

"the 1965 Act" means the Compulsory Purchase Act 1965(**n**);

"the 1980 Act" means the Highways Act 1980(**o**);

(a) 2008 c. 29. Section 37 was amended by section 137(5) of, and paragraph 5 of Schedule 13 to the Localism Act 2011 (c. 20).
(b) S.I. 2009/2264.
(c) S.I. 2010/103.
(d) As was amended by paragraph 29(1) and (3) of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(e) S.I. 2017/572.
(f) Section 104 was amended by section 58(5) of the Marine and Coastal Access Act 2009 (c. 23) and by section 128(2) and Schedule 13, paragraphs 1 and 49(1) to (6) of the Localism Act 2011 (c. 20)
(g) As was amended by paragraph 55 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20)
(h) As was amended by section 160 of Part 6 of the Housing and Planning Act 2016 (c. 22) and section 43 of Part 2 of the Wales Act 2017 (c. 4).
(i) As was amended by paragraph 58 of Part 1 of Schedule 13 and Part 20 of Schedule 25 to the Localism Act 2011.
(j) As was amended by section 140 and paragraph 60 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(k) As was amended by paragraph 62 of Part 1 of Schedule 13 to the Localism Act 2011 (c. 20).
(l) Ibid.
(m) 1961 c. 33.
(n) 1965 c. 56.

"the 1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**a**);

"the 1984 Act" means the Road Traffic Regulation Act 1984(**b**);

"the 1989 Act" means the Electricity Act 1989(**c**);

"the 1990 Act" means the Town and Country Planning Act 1990(**d**);

"the 1991 Act" means the New Roads and Street Works Act 1991(**e**);

"the 2008 Act" means the Planning Act 2008(**f**);

"address" includes any number or address used for the purposes of electronic transmission;

"apparatus" has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act except that, unless otherwise provided, it further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables, telecommunications equipment and electrical cabinets;

"authorised development" means the development described in Schedule 1 (authorised development), which is development within the meaning of section 32 (meaning of "development") of the 2008 Act authorised by this Order;

"book of reference" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the book of reference for the purposes of this Order;

"building" includes any structure or erection or any part of a building, structure or erection;

"carriageway" has the same meaning as in the 1980 Act;

"conceptual drainage strategy" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the conceptual drainage strategy for the purposes of this Order;

"commence" means beginning to carry out a material operation, as defined in section 155 (which explains when development begins) of the 2008 Act, comprised in or carried out or for the purposes of the authorised development other than the permitted preliminary works (except where stated to the contrary) and "commencement" and "commenced" are to be construed accordingly;

"commissioning" means the process of testing all systems and components of Work No. 1 in order to ensure that they, and the authorised development as a whole, function in accordance with plant design specifications and the undertaker's operational and safety requirements;

"date of final commissioning" means the date on which the authorised development commences operation by generating electricity on a commercial basis but excluding the generation of electricity during commissioning and testing;

"electrical cables" means—

(a) cables of differing types and voltages installed for the purposes of conducting electricity, auxiliary cables, cables connecting to direct current (DC) boxes, earthing cables, data cables and optical fibre cables; and

(b) works associated with cable laying including jointing pits, hardstanding adjoining the jointing pits, combiner boxes, fibre bays, cable ducts, cable protection, joint protection, manholes, kiosks, marker posts, underground cable marker, tiles and tape, send and receive pits for horizontal directional drilling or other trenchless techniques, trenching, lighting and a pit or container to capture fluids associated with drilling;

"electronic transmission" means a communication transmitted—

(o) 1980 c. 66.
(a) 1981 c. 66.
(b) 1984 c. 27.
(c) 1989 c. 29.
(d) 1990 c. 8.
(e) 1991 c. 22.
(f) 2008 c. 29.

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"environmental statement" means the document of that name identified in the table at Schedule 13(documents and plans to be certified) and which is certified by the Secretary of State as the environmental statement for the purposes of this Order;

"footpath" and "footway" have the same meaning as in the 1980 Act;

"hedgerow removal plans" means the plans of that name identified in the table at Schedule 13 (documents and plans to be certified) and which are certified by the Secretary of State as the hedgerow removal plans for the purposes of this Order;

"highway" and "highway authority" have the same meaning as in the 1980 Act(**a**);

"land plans" means the plans of that name identified in the table at Schedule 13(documents and plans to be certified) and which are certified by the Secretary of State as the land plans for the purposes of this Order;

"maintain" includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of the authorised development (but not remove, reconstruct or replace the whole of Work No. 1 at the same time), to the extent that such works do not give rise to any materially new or materially different environmental effects than those identified in the environmental statement for the operation of the authorised development and "maintenance" and "maintaining" are to be construed accordingly;

"National Grid" means National Grid Electricity Transmission Plc (company number 2366977) whose registered office is at 1 to 3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

"National Grid connection works" means those parts of the authorised development identified in work numbers 4(a)(ii), 4(a)(iii), 7, 8 and 9 (to the extent work numbers 7, 8 and 9 are necessary in connection with work numbers 4(a)(ii) or 4(a)(iii));

"Order land" means the land show coloured pink or blue which is required for, or is required to facilitate, or is incidental to, or is affected by the authorised development shown on the land plans and described in the book of reference;

"Order limits" means the limits shown on the land plans and works plans within which the authorised development may be carried out and land acquired or used;

"outline code of construction practice" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the outline code of construction practice for the purposes of this Order;

"outline decommissioning plan" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the outline decommissioning plan for the purposes of this Order;

"outline layout and design principles" means the document of that name identified as the outline layout and design principles in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the outline layout and design principles for the purposes of this Order;

"outline landscape and ecology management plan" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the outline landscape and ecology management plan of the purposes of this Order;

"outline operational management plan" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the outline operational management plan for the purposes of this Order;

"outline skills, supply chain and employment plan" means the plan of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the

(a) "highway" is defined in section 328(1). For "highway authority" see section 1.

Secretary of State as the outline skills, supply chain and employment plan for the purposes of this Order;

"outline written scheme of investigation" means the document of that name identified in the table at Schedule 13 (documents and plans to be certified) and which is certified by the Secretary of State as the outline written scheme of investigation for the purposes of this Order;

"owner", in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(**a**);

"permitted preliminary works" means all or any of—

(a) environmental surveys, geotechnical surveys, intrusive archaeological surveys and other investigations for the purpose of assessing ground conditions;

(b) removal of plant and machinery;

(c) above ground site preparation for temporary facilities for the use of contractors;

(d) remedial work in respect of any contamination or other adverse ground conditions;

(e) diversion and laying of apparatus;

(f) the provision of temporary means of enclosure, fencing and site security for construction;

(g) the temporary display of site notices or advertisements;

(h) site clearance (including vegetation removal); or

(i) advanced planting to allow for an early establishment of protective screening.

"plot" means any plot as may be identified by reference to a number and which is listed in the book of reference and shown on the land plans;

"relevant planning authority" means the local planning authority for the area in which the land to which the provisions of this Order apply is situated;

"requirements" means those matters set out in Schedule 2 (requirements) and "requirement" means any one of the requirements;

"statutory undertaker" means any person falling within section 127(8) (statutory undertakers' land) of the 2008 Act and includes a public communications provider defined by section 151(1) (interpretation of chapter 1) of the Communications Act 2003(**b**);

"street" means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes any footpath and part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act(**c**);

"streets, access and rights of way plans" means the plans of that name identified in the table at Schedule 13(documents and plans to be certified) and which are certified by the Secretary of State as the streets, access and rights of way plans for the purposes of this Order;

"street works" means the works listed in article 8 (street works);

"subsidiary" has the same meaning as in section 1159 of the Companies Act 2006(**d**);

"traffic authority" has the same meaning as in section 121A (traffic authorities) of the 1984 Act(**e**);

"traffic regulation measures plans" means the plan of that name identified in the table at Schedule 13(documents and plans to be certified) and which is certified by the Secretary of State as the traffic regulation measures plans for the purposes of this Order;

(a) 1981 c. 67.
(b) 2003 c. 21.
(c) "street authority" is defined in section 49 which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c. 7).
(d) 2006 c. 46.
(e) Section 121A was inserted by paragraph 70 of Schedule 8 to the 1991 Act, and subsequently amended by section 271 of the Greater London Authority Act 1999 (c. 29); section 1(6) of, and paragraphs 70 and 95 of Part 1 of Schedule 1 to the Infrastructure Act 2015; and S.I. 1999/1920 and S.I. 2001/1400.

"undertaker" means SolarFive Ltd of 16 Great Queen Street, Covent Garden, London, United Kingdom, WC2B 5AH (company number 12602740) and any other person who for the time being has the benefit of this Order in accordance with article 33 (benefit of the Order) or article 34 (consent to transfer the benefit of the Order);

"Upper Tribunal" means the Lands Chamber of the Upper Tribunal;

"watercourse" includes every river, stream, creek, ditch, drain, canal, cut, culvert, dyke, sluice, sewer and passage through which water flows except a public sewer or drain;

"working day" means any day other than a Saturday, Sunday or any English bank or public holiday; and

"works plans" means the plans of that name identified in the table at Schedule 13 (documents and plans to be certified) and which are certified by the Secretary of State as the works plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain anything in, on or under land or in the airspace above its surface and to any trusts or incidents (including restrictive covenants) to which the land is subject and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or over which rights are created and acquired under this Order or is otherwise comprised in this Order.

(3) In this Order, references to the purposes of the authorised development include the construction, maintenance, operation, use and decommissioning of the authorised development.

(4) All distances, directions, capacities and lengths referred to in this Order are approximate and distances between lines or points on a numbered work comprised in the authorised development and shown on the works plans, traffic regulation measures plans and streets, access and rights of way plans are to be taken to be measured along that work.

(5) References in this Order to numbered works are references to the works comprising the authorised development as numbered in Schedule 1 (authorised development) and shown on the works plans and a reference in this Order to a work designated by a number, or by a combination of letters and numbers, is a reference to the work so designated in that Schedule and a reference to "Work No. [X]" or "numbered work [X]" means numbered works [X]A and [X]B inclusive and the same principle applies to such numbered works that contain letters.

(6) In this Order, the expression "includes" is to be construed without limitation unless the contrary intention appears.

(7) In this Order, references to any statutory body include that body's successor bodies.

(8) All areas described in square metres in the book of reference are approximate.

(9) In this Order, references to materially new or materially different environmental effects in comparison with those reported in the environmental statement are not to be construed so as to include the avoidance, removal or reduction of an assessed adverse environmental effect or a positive environmental effect, or the increase of an assessed positive environmental effect. A matter will be within scope of the environmental statement if it does not give rise to materially new or materially different environmental effects to those reported in the environmental statement.

(10) References in this Order to any statute, order, regulation or similar instrument are to be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by this Order

3.—(1) Subject to the provisions of this Order and the requirements, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) Each numbered work must be situated within the corresponding numbered area shown on the works plans.

Operation of a generating station

4.—(1) The undertaker is authorised to use and operate the generating station comprised in the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required from time to time to authorise the operation of an electricity generating station.

Power to maintain the authorised development

5.—(1) The undertaker may at any time maintain the authorised development.

(2) This article only authorises the carrying out of maintenance works within the Order limits.

(3) This article does not authorise the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement.

Disapplication and modification of statutory provisions

6.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purposes of, or in connection with any part of the authorised development—

(a) section 32 (variation of awards) of the Land Drainage Act 1991(**a**);

(b) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991(**b**);

(c) 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 appropriate agency) to the Water Resources Act 1991(**c**);

(d) regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(**d**) in respect of a flood risk activity only;

(e) the legislation listed in Schedule 3 (legislation to be disapplied) in so far as the provisions still in force are incompatible with the powers contained within this Order; and

(f) the provisions of the Neighbourhood Planning Act 2017(**e**) insofar as they relate to the temporary possession of land under articles 28 (temporary use of land for constructing the

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(a) Section 32 was amended by S.I. 2013/755.

(b) Section 66 was amended by paragraphs 25 and 38 of Schedule 2 to the Flood and Water Management Act 2010 and section 86 of the Water Act 2014 (c. 21).

(c) 1991 c. 57. Paragraph 5 was amended by section 100 of Part 9 of the Natural Environment and Rural Communities Act 2006 (c. 16), section 84 of, and paragraph 3 of Part 4 of Schedule 11 to the 2009 Act and S.I. 2013/755. Paragraph 6 was amended by section 105 of, and paragraph 26 of Schedule 15 to, the Environment Act 1995 (c. 25), sections 224, 233 and 321 of and paragraphs 20 and 24 of Schedule 16 and Part 5(B) of Schedule 22 to the 2009 Act and S.I. 2013/755. Paragraph 6A was inserted by section 103(3) of Part 5 of the Environment Act 1995 (c. 25).

(d) S.I. 2016/1154. Regulation 12 was amended by S.I. 2018/110.

(e) 2017 c. 20.

authorised development) and 29 (temporary use of land for maintaining the authorised development) of this Order.

(2) For the purposes of section 9 (requirement of licence for felling) of the Forestry Act 1967(**a**) any felling comprised in the carrying out of any work or operation required for the purposes of, or in connection with, the authorised development is deemed to be felling immediately required for the purpose of carrying out development authorised by planning permission granted under the 1990 Act.

(3) Regulation 6(1) of the Hedgerows Regulations 1997 has effect as though after sub-paragraph (e) there were added—

"(ea) for carrying out any development or in the exercise of any functions that are authorised by the Botley West Solar Farm Order 202[ ];"

(4) Regulation 5 of The Management of Hedgerows (England) Regulations 2024 is modified so as to read for the purposes of this Order only as if there were inserted after paragraph 5(e)—

"(f) the carrying out of any development or in the exercise of any functions that are authorised by the Botley West Solar Farm Order 202[ ];"

(5) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 (meaning of "development") of the Community Infrastructure Levy Regulations 2010(**b**) any building comprised in the authorised development is deemed to be—

(a) a building into which people do not normally go; or

(b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

(6) If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

(a) not itself a development for which development consent is required under the 2008 Act or part of such a development; or

(b) not for development authorised by Schedule 1 of this Order; or

(c) required to complete or enable the maintenance, use or operation of any part of the development authorised by this Order,

then the construction, maintenance, use or operation of that development under the terms of the planning permission does not constitute a breach of the terms of this Order.

(7) To the extent that any development carried out or used—

(a) pursuant to a planning permission granted under section 57 (requirement of planning permission) or section 73 (determination of applications to develop land without compliance with conditions previously attached) of the 1990 Act, including if changed by a determination by the local planning authority under section 96A (power to make non-material changes to planning permission or permission in principles) of the 1990 Act, or compliance with any conditions of that permission; or

(b) pursuant to any development consent order granted under section 114 (grant or refusal of development consent) of the 2008 Act, including any corrections or amendments to that development order made under section 119 (correction of errors in development consent decisions) or section 153 (changes to, and revocation of, orders granting development consent) of the 2008 Act, or compliance with the terms of that development consent order; or

(c) pursuant to a consent granted by the Secretary of State pursuant to section 36 (consent required for construction of etc. generating stations) of the 1989 Act, including any

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(a) 1967 c. 10. Section 9 was amended by section 4 of, and paragraph 141 of, Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2013/755. There are other amendments to section 9 that are not relevant to this Order.

(b) S.I. 2010/948, amended by S.I. 2011/987; there are other amending instruments but none are relevant to this Order.

variation to that consent made under section 36C (variation of consents under section 36) of that Act,

is inconsistent with the exercise of any power, right or obligation under this Order or the authorised development—

(d) that inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that planning permission or development consent order is capable of physical implementation; and

(e) in respect of that inconsistency, no enforcement action under the 1989 Act, 1990 Act or the 2008 Act may be taken, whether that inconsistency relates to land inside or outside the Order limits.

(8) Any development or any part of a development within the Order limits which is constructed or used under the authority of any permission falling under paragraphs (6) or (7) is deemed not to be a breach of, or inconsistent with, this Order and does not prevent the authorised development being carried out or used or any other power or right under this Order being exercised.

(9) In paragraph 5(e), "enforcement action" means any enforcing action under Part 7 (enforcement) of the 1990 Act or Part 8 of the 2008 Act, as relevant.

Defence to proceedings in respect of statutory nuisance

7.—(1) Where proceedings are brought under section 82(1) (summary proceedings by a person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**a**) in relation to a nuisance falling within sub-paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order may be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance—

(a) relates to premises used by the undertaker for the purposes of or in connection with the authorised development and that the nuisance is attributable to the construction, operation, maintenance, use or decommissioning of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites) of the Control of Pollution Act 1974(**b**), or a consent given under section 61 (prior consent for work on construction sites) of that Act, or any document approved under the provisions of Schedule 2 (requirements) of this Order; or

(b) is a consequence of the construction, maintenance or decommissioning of the authorised development and that it cannot reasonably be avoided; or

(c) is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974, does not apply where the consent relates to the use of the premises by the undertaker for the purposes of the authorised development, or in connection with the authorised development.

PART 3

STREETS

Street works

8.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) and may—

(a) break up or open the street, or any sewer, drain or tunnel under it;

(b) drill, tunnel or bore under the street;

(a) 1990 c. 43.
(b) 1974 c. 40.

(c) place and keep apparatus and electrical cables under the street;

(d) maintain, change the position or remove apparatus and electrical cables under the street;

(e) repair, replace or otherwise alter the surface or structure of the street or any culvert under the street; and

(f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e).

(2) The authority given by paragraph (1) is a statutory right or licence for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Where the undertaker is not the street authority, the provisions of sections 54 (notice of certain works) to 106 (index of defined expressions) of the 1991 Act apply to any street works carried out under paragraph (1).

Power to alter layout, etc., of streets

9.—(1) The undertaker may for the purposes of, or in connection with, the authorised development alter the layout of or carry out any works in the street—

(a) in the case of the streets specified in column 2 of the table in Part 1 (permanent alteration of layout) of Schedule 5 (alteration of streets) permanently in the manner specified in relation to that street in column 3; and

(b) in the case of the streets as specified in column 2 of the table in Part 2 (temporary alteration of layout) of Schedule 5 (alteration of streets) temporarily in the manner specified in relation to that street in column 3.

(2) Without prejudice to the specific powers conferred by paragraph (1), but subject to paragraphs (3) and (4), the undertaker may, for the purposes of the authorised development, or in connection with the authorised development, alter the layout of any street and, without limitation on the scope of this paragraph, the undertaker may—

(a) alter the level or increase the width of any kerb, footway, cycle track or verge;

(b) make and maintain passing places; and

(c) alter, remove, replace and relocate any street furniture, including bollards, lighting columns, road signs and chevron signs.

(3) The undertaker must restore any street that has been temporarily altered under this Order to the reasonable satisfaction of the street authority.

(4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority, such consent to be in a form reasonably required by the street authority.

(5) Paragraphs (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

(6) Paragraph (4) does not apply if the street authority has already provided detailed design approval pursuant to requirement 5(1) of Schedule 2 (requirements) in relation to a street in which the undertaker seeks to use the powers given by paragraph (2).

Construction and maintenance of altered streets

10.—(1) The permanent alterations to each of the streets specified in Part 1 (permanent alteration of layout) of Schedule 5 (alteration of streets) to this Order must be completed to the reasonable satisfaction of the highway authority or street authority (as relevant) and, unless otherwise agreed by the highway authority or street authority, the alterations must be maintained by and at the expense of the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the highway authority or street authority (as relevant).

(2) Subject to paragraph (3), the temporary alterations to each of the streets specified in Part 2 (temporary alteration of layout) of Schedule 5 (alteration of streets):

(a) must be completed to the reasonable satisfaction of the street authority; and

(b) must be maintained by and at the expense of the undertaker for the duration that the temporary alterations are used by the undertaker.

(3) Those restoration works carried out pursuant to article 9(3) (power to alter layout, etc., of streets):

(a) must be completed to the reasonable satisfaction of the highway authority or street authority; and

(b) must be maintained by the undertaker for a period of 12 months from their completion and from the expiry of that period by and at the expense of the highway authority or street authority.

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), a court must in particular have regard to the following matters—

(a) the character of the street including the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the street;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant that the undertaker had arranged for a competent person to carry out or supervise the maintenance of that part of the street to which the action relates unless it is also proved that the undertaker had given that person proper instructions with regard to the maintenance of the street and that those instructions had been carried out.

(6) Paragraphs (2)(a) and (3)(a) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Temporary closure of streets or public rights of way

11.—(1) The undertaker, during and for the purposes of constructing or maintaining the authorised development, may temporarily close, prohibit the use of, restrict the use of, authorise the use of, alter or divert any street or public right of way and may for any reasonable time—

(a) divert the traffic or a class of traffic from the street or public right of way;

(b) authorise the use of motor vehicles on classes of public rights of way where, notwithstanding the provisions of this article, there is otherwise no public right to use motor vehicles; and

(c) subject to paragraph (2), prevent all persons from passing along the street or public right of way.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closure, prohibition, restriction, alteration or diversion of a street or public right of way under this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily close, prohibit the use of, authorise the use of, restrict the use of, alter or divert—

(a) the streets specified in column 2 of the table in Part 1 (streets to be temporarily closed) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table;

(b) the public rights of way specified in column 2 of the table in Part 2 (public rights of way to be temporarily closed and diverted) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table;

(c) the public rights of way specified in column 2 of the table in Part 3 (temporary use of motor vehicles on public rights of way) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table.

(d) the public rights of way specified in column 2 of the table in Part 4 (permanent use of motor vehicles on public rights of way) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table;

(e) the public rights of way specified in column 2 of the table in Part 5 (temporary management of public rights of way) of Schedule 6 (streets and public rights of way) to the extent specified in column 3 of that table; and

(4) For the purposes of paragraphs (1) and (3), the undertaker must not temporarily close, prohibit the use of, authorise the use of, restrict the use of, alter or divert—

(a) any street or public right of way specified in paragraph (3) without first consulting the street authority; and

(b) any other street or public right of way without the consent of the street authority, and the street authority may attach reasonable conditions to any such consent.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) Without prejudice to the scope of paragraph (1), the undertaker may use any street or public right of way which has been temporarily closed, prohibited, restricted, altered or diverted under the powers conferred by this article and within the Order limits as a temporary working site.

(7) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, prohibit the use of, restrict the use of, alter or divert any public right of way within the Order limits which is added to the definitive map and statement (within the meaning of the Wildlife and Countryside Act 1981) on or after 15 November 2024.

(8) In this article expressions used in this article and in the 1984 Act have the same meaning.

(9) Nothing in this article prevents the undertaker from temporarily closing, prohibiting the use of, authorising the use of, restricting the use of, altering or diverting a street or public right of way under this article more than once.

Use of private roads

12.—(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction or maintenance of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Access to works

13. —(1) The undertaker may, for the purposes of the authorised development and in connection with the authorised development—

(a) form and lay out the permanent means of access, or improve existing means of access, in the locations specified in Part 1 (permanent means of access to works) of Schedule 7 (access to works);

(b) form and lay out the temporary means of access in the location specified in Part 2 (temporary means of access to works) of Schedule 7 (access to works); and

(c) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) Paragraph (1)(b) does not apply if the relevant planning authority has already provided detailed design approval pursuant to requirement 5(1) of Schedule 2 (requirements) for the access sought to be formed and lay out pursuant to paragraph (1)(b).

Agreements with street authorities

14. —(1) A street authority and the undertaker may enter into agreements with respect to—

(a) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;

(b) any closure, prohibition, restriction, alteration or diversion of a street authorised by this Order;

(c) the undertaking in the street of any of the works referred to in article 8 (street works) and article 10(1) (construction and maintenance of altered streets); or

(d) the adoption by a street authority which is the highway authority of works—

(i) undertaken on a street which is existing public maintainable highway; or

(ii) which the undertaker and highway authority agree to be adopted as public maintainable highway.

(2) If such an agreement provides that the street authority must undertake works on behalf of the undertaker the agreement may, without prejudice to the generality of paragraph (1)—

(a) make provision for the street authority to carry out any function under this Order which relates to the street in question;

(b) specify a reasonable time for the completion of the works; and

(c) contain such terms as to payment and otherwise as the parties consider appropriate.

Traffic regulation measures

15. —(1) Subject to the provisions of this article the undertaker may at any time, in the interests of safety and for the purposes of, or in connection with, the authorised development—

(a) make provision in the extents of the road specified in column 1 of Part 1 of Schedule 8 (traffic regulation measures) imposing the temporary speed limit mentioned in column 2 of that Part of that Schedule;

(b) make provision in the extents of the road specified in column 1 of Part 2 of Schedule 8 (traffic regulation measures) temporarily suspending the weight restriction on that road as mentioned in column 2 of that Part of that Schedule; and

(c) temporarily place traffic signs and signals in the extents of the road over which temporary provision has been made under this paragraph (1) or under paragraph (2) and the placing of those traffic signs and signals is deemed to have been permitted by the traffic authority

for the purposes of section 65 of the 1984 Act and the Traffic Signs Regulations and General Directions 2016(**a**).

(2) Subject to the provisions of this article and without limitation to the exercise of the powers conferred by paragraph (1), the undertaker may make temporary provision for the purposes of the authorised development—

(a) as to the speed at which vehicles may proceed along any road;

(b) permitting, prohibiting or restricting the stopping, waiting, loading or unloading of vehicles on any road;

(c) as to the prescribed routes for vehicular traffic or the direction or priority of vehicular traffic on any road;

(d) permitting, prohibiting or restricting the use by vehicular traffic or non-vehicular traffic of any road; and

(e) suspending or amending in whole or in part any order made, or having effect as if made, under the 1984 Act.

(3) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(**b**) when in accordance with regulation 3(5) of those regulations.

(4) Before exercising the power conferred by paragraph (2) the undertaker must—

(a) consult with the chief officer of police in whose area the road is situated; and

(b) obtain the written consent of the traffic authority, and the traffic authority may attach reasonable conditions to any such consent.

(5) The undertaker must not exercise the powers in paragraphs (1) or (2) unless it has—

(a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and

(b) not less than 7 days before the provision is to take effect published the undertaker's intention to make the provision in one or more newspaper circulating in the area in which any road to which the provision relates is situated.

(6) Any provision made under the powers conferred by paragraphs (1) or (2) of this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraphs (1) or (2).

(7) Any provision made by the undertaker under paragraphs (1) or (2)—

(a) must be made by written instrument in such form as the undertaker considers appropriate;

(b) has effect as if duly made by the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act and the instrument by which it is effected may specify specific savings and exemptions to which the provision is subject; and

(c) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004(**c**) (road traffic contraventions subject to civil enforcement).

(8) As soon as reasonably practicable following the making of a provision under paragraphs (1) or (2), the undertaker must serve a copy of the written instrument pursuant to paragraph (7)(a) in respect of any such provision on the highway authority.

(9) In this article—

(a) subject to paragraph (b), expressions used in this article and in the 1984 Act have the same meaning; and

(b) a "road" means a road that is a public highway maintained by and at the expense of the traffic authority.

(a) S.I. 2016/362.
(b) S.I. 2011/935.
(c) 2004 c. 18.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

16. —(1) Subject to paragraphs (3) and (4) the undertaker may use any watercourse or any public sewer or drain for the drainage of water for the purposes of the authorised development or in connection with the authorised development, and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(**a**).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs whose consent may be given subject to terms and conditions as that person may reasonably impose.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) Where the undertaker discharges water into, or makes any opening into, a watercourse, public sewer or drain belonging to or under the control of a drainage authority (as defined in Part 3 of Schedule 15 (protective provisions)), the provisions of Part 3 of Schedule 15 (protective provisions) apply in substitution for the provisions of paragraphs (3) and (4).

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise the entry into controlled waters of any matter whose entry or discharge into controlled waters requires a licence pursuant to the Environmental Permitting (England and Wales) Regulations 2016(**b**).

(8) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

(b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(**c**) have the same meaning as in that Act.

Authority to survey and investigate the land

17. —(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or enter on any land which may be affected by the authorised development or enter on any land upon which entry is required in order to carry out monitoring or surveys in respect of the authorised development and—

(a) survey or investigate the land;

(b) without prejudice to the generality of sub-paragraph (a), make trial holes or bore holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and groundwater and remove soil and groundwater samples;

(a) 1991 c. 56.
(b) S.I. 2016/1154.
(c) 1991 c. 57.

(c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including the digging of trenches; and

(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes, bore holes or trenches.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

(a) must, if so required before entering the land, produce written evidence of their authority to do so; and

(b) may take with them such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

(a) in land located within the highway boundary without the consent of the highway authority, and the highway authority may attach reasonable conditions to any such consent; or

(b) in a private street without the consent of the street authority, and the street authority may attach reasonable conditions to any such consent.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

18. —(1) The undertaker may—

(a) acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or as is incidental, to it; and

(b) use any land so acquired for the purpose authorised by this Order or for any other purposes in connection with or ancillary to the undertaking.

(2) This article is subject to article 19 (time limit for exercise of authority to acquire land compulsorily), article 21 (compulsory acquisition of rights), article 24 (acquisition of subsoil or airspace only) and article 28 (temporary use of land for constructing the authorised development).

Time limit for exercise of authority to acquire land compulsorily

19. —(1) 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) is five years beginning on the day on which this Order is made

(2) No notice to treat is to be served under Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act and no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 23 (application of the 1981 Act) after the end of the applicable period, including any extension to the applicable period pursuant to those Acts.

(3) The authority conferred by article 28 (temporary use of land for constructing the authorised development) must not be used after the end of the applicable period referred to in paragraph (1), save that if an application is made under section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent) the applicable period is to be extended by—

(a) a period equivalent to the period beginning on the day the application is made and ending on the day it is withdrawn or finally determined; or

(b) if shorter, one year.

(4) An application is not finally determined for the purposes of paragraph (3)(a) if an appeal in respect of the application—

(a) could be brought (ignoring any possibility of an appeal out of time with permission); or

(b) has been made and not withdrawn or finally determined.

(5) Nothing in paragraph (3) prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of land - incorporation of the mineral code

20. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(**a**) are incorporated into this Order subject to the modifications that—

(a) for "the acquiring authority" substitute "the undertaker";

(b) for the "undertaking" substitute "authorised development"; and

(c) paragraph 8(3) is not incorporated.

Compulsory acquisition of rights

21. —(1) Subject to paragraph (2) and article 28 (temporary use of land for constructing the authorised development), the undertaker may acquire compulsorily such rights over the Order land or impose such restrictive covenants over the Order land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land), by creating them as well as by acquiring rights already in existence.

(2) Subject to the provisions of this paragraph, article 22 (private rights) and article 30 (statutory undertakers), in the case of the Order land specified in column 1 of Schedule 9 (land in which only new rights etc. may be acquired) the undertaker's powers of compulsory acquisition are limited to the acquisition of such new rights and the imposition of restrictive covenants for the purpose specified in relation to that land in column 2 of that Schedule.

(3) Subject to section 8 (other provisions as to divided land) and Schedule 2A (counter-notice requiring purchase of land) of the 1965 Act (as substituted by paragraph 5(8) of Schedule 10 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants)), where the undertaker creates or acquires an existing right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 10 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of restrictive covenants.

(5) In any case where the acquisition of new rights or imposition of a restriction under paragraph (1) or (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights to the statutory undertaker in question.

(**a**) 1981 c. 67.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

Private rights

22. —(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under this Order are extinguished on the earliest of—

(a) from the date of acquisition of the land, or of the right, or of the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement or through the grant of a lease of the land by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act.

(2) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under article 21 (compulsory acquisition of rights) cease to have effect in so far as their continuance would be inconsistent with the exercise of the right or compliance with the restrictive covenant on the earliest of—

(a) as from the date of the acquisition of the right or imposition of the restrictive covenant by the undertaker (whether the right is acquired compulsorily, by agreement or through the grant of a lease of the land by agreement); or

(b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act in pursuance of the right.

(3) Subject to the provisions of this article, all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable, in so far as their continuance would be inconsistent with the purpose for which temporary possession is taken, for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 30 (statutory undertakers) applies.

(6) Paragraphs (1) to (3) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or the acquisition of rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of the land;

(iii) the undertaker's entry onto the land; or

(iv) the undertaker's taking temporary possession of the land,

stating that any or all of those paragraphs do not apply to any right specified in the notice; or

(b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(7) If an agreement referred to in paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether that title was derived before or after the making of the agreement.

(8) References in this article to private rights over land include any right of way, trust, incident, restrictive covenant, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support; and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Application of the 1981 Act

23. —(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of the Act), for subsection 2 substitute—

> "(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.".

(4) In section 5(2) (earliest date for execution of declaration) omit the words from "and this subsection" to the end.

(5) In section 5B(1) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order) "substitute "section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)".

(6) In section 6 (notices after extension of declaration), in subsection (1)(b) for "section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981" substitute "section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008".

(7) In section 7 (constructive notice to treat), in subsection (1)(a) omit the words "(as modified by section 4 of the Acquisition of Land Act 1981)".

(8) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

> "(2) But see article 24(3) (acquisition of subsoil or airspace only) of the Botley West Solar Farm Order 202[*], which excludes the acquisition of subsoil only from this Schedule."

(9) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 26 (modification of Part 1 of the Compulsory Purchase Act 1965)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

24. —(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 18 (compulsory acquisition of land) or article 21 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over the land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act as modified by Schedule 10 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of new restrictive covenants);

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraphs (2) and (3) do not apply where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or factory.

Power to override easements and other rights

25. —(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article "authorised activity" means—

(a) activities carried out for the purposes of or in connection with the authorised development;

(b) the exercise of any power authorised by this Order; or

(c) the use of any land within the Order limits (including the temporary use of land).

(3) The interests and rights to which this article applies include any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by the virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

(a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and

(b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—

(i) the compensation is to be estimated in connection with a purchase under that Act; or

(ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person deriving title under the undertaker or any contractors, servants or agents of the undertaker by whom the land in question was acquired—

(a) is liable to pay compensation by virtue of paragraph (4); and

(b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1).

Modification of Part 1 of the Compulsory Purchase Act 1965

26. —(1) Part 1 of the 1965 Act (compulsory acquisition under Acquisition of Land Act of 1946), as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge) for "section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order) "substitute "section 118 of the 2008 Act (legal challenges relating to applications for orders granting development consent)".

(3) In section 11A (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision"; and

(b) in subsection (2), after "land" insert "under that provision".

(4) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

"(2) But see article 24(3) (acquisition of subsoil or airspace only) of the Botley West Solar Farm Order 202[*], which excludes the acquisition of subsoil only from this Schedule."; and

(b) after paragraph 29 insert—

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 28 (temporary use of land for constructing the authorised development) or article 29 (temporary use of land for maintaining the authorised development) of the Botley West Solar Farm Order 202[*].".

Rights under or over streets

27. —(1) The undertaker may enter on, appropriate and use so much of the subsoil of or airspace over any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

(a) any subway or underground building; or

(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for constructing the authorised development

28. —(1) The undertaker may, in connection with the construction of the authorised development—

(a) enter on and take temporary possession of—

(i) so much of the land specified in column (1) of the table in Schedule 11 (land of which temporary possession may be taken) for the purpose specified in relation to the land in column (2) of that table; and

(ii) any Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;

(b) remove any buildings, agricultural plant and apparatus, drainage, fences, debris and vegetation from that land;

(c) construct temporary works (including means of access), haul roads, security fencing, bridges, structures and buildings on that land;

(d) use the land for the purposes of a temporary working site with access to the working site in connection with the authorised development;

(e) construct any works on that land as are mentioned in Schedule 1 (authorised development); and

(f) carry out mitigation works required under the requirements in Schedule 2 (requirements).

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house; or

(b) a garden belonging to a house, unless forming part of Plot 6-23 on the land plans; or

(c) any building (other than a house) if it is for the time being occupied.

(3) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of the land referred to in paragraph (1)(a)(i) after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken; or

(b) in the case of land referred to in paragraph (1)(a)(ii) after the end of the period of one year beginning with the date of final commissioning of the part of the authorised development for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(5) Unless the undertaker has served notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act or otherwise acquired the land or rights over land subject to temporary possession, the undertaker must before giving up possession of land of which temporary possession has been taken under this article, remove all works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

(a) replace any building, structure, debris, drain or electric line removed under this article;

(b) remove any drainage works installed by the undertaker under this article;

(c) remove any new road surface or other improvements carried out under this article to any street specified in Schedule 4 (streets subject to street works), Schedule 5 (alteration of streets) or Schedule 7 (access to works);

(d) remove any fencing or boundary treatments installed by the undertaker under this article to replace or enhance existing fencing or boundary treatments; or

(e) restore the land on which any works have been carried out under paragraph (1)(f) insofar as the works relate to mitigation, compensation or enhancement works identified in the environmental statement or required pursuant to the requirements in Schedule 2 (requirements).

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) The undertaker must not compulsorily acquire, acquire new rights over or impose restrictive covenants over, the land referred to in paragraph (1)(a)(i) under this Order.

(11) Nothing in this article precludes the undertaker from—

(a) creating and acquiring new rights or imposing restrictions over any part of the Order land identified in Schedule 9 (land in which only new rights etc. may be acquired); or

(b) acquiring any part of the subsoil of (or rights in the subsoil of) that land under article 24 (acquisition of subsoil or airspace only) or any part of the subsoil of or airspace over that land under article 27 (rights under or over streets).

(12) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(13) Nothing in this article prevents the taking of temporary possession more than once in relation to any land that the undertaker takes temporary possession of under this article.

Temporary use of land for maintaining the authorised development

29. —(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

(a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;

(b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and

(c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house; or

(b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article "the maintenance period" means the period of five years beginning with the date of final commissioning of the part of the authorised development for which temporary possession is required under this article except in relation to landscaping or ecological works where "the maintenance period" means such period as set out in the landscape and ecology management plan which is approved under requirement 6 beginning with the date on which that part of the landscaping is completed.

Statutory undertakers

30. Subject to the provisions of Schedule 15 (protective provisions) the undertaker may—

(a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, the land belonging to statutory undertakers shown on the land plans within the Order land; and

(b) extinguish the rights of, remove, relocate the rights of or reposition the apparatus belonging to statutory undertakers over or within the Order land.

Apparatus and rights of statutory undertakers in closed streets

31. Where a street or public right of way is altered or diverted or its use is temporarily prohibited or restricted under article 8 (street works), article 9 (power to alter layout, etc., of streets), article 10 (construction and maintenance of altered streets) or article 11 (temporary closure of streets or public rights of way) any statutory undertaker whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to Schedule 15 (protective provisions), as if this Order had not been made.

Recovery of costs of new connections

32.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 30 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 30 (statutory undertakers), any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which Part 3 (street works in England and Wales) of the 1991 Act applies.

(4) In this article—

"public communications provider" has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(**a**); and

"public utility undertaker" has the same meaning as in the 1980 Act.

(a) 2003 c. 21.

PART 6

MISCELLANEOUS AND GENERAL

Benefit of the Order

33. —(1) Subject to article 34 (consent to transfer the benefit of the Order), the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Sub-paragraph (1) does not apply to Work No. 2 or the National Grid connection works, in respect of which the provisions of this Order are for the benefit of the undertaker and National Grid.

Consent to transfer the benefit of the Order

34. —(1) Subject to paragraph (3), the undertaker may—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and

(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where a transfer or grant has been made references in this Order to the undertaker, except in paragraph (8), are to include references to the transferee or lessee.

(3) The consent of the Secretary of State is required for the exercise of the powers of paragraph (1) except where—

(a) the transferee or lessee is the holder of a licence under section 6 (licences authorising supply etc.) of the 1989 Act; or

(b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—

(i) no such claims have been made;

(ii) any such claim has been made and has been compromised or withdrawn;

(iii) compensation has been paid in full and final settlement of any such claim;

(iv) payment of compensation into court has taken place in lieu of settlement of any such claim; or

(v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation is payable.

(4) Where the consent of the Secretary of State is not required, the undertaker must notify the Secretary of State in writing before transferring or granting a benefit referred to in paragraph (1).

(5) The notification referred to in paragraph (4) must state—

(a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;

(b) subject to paragraph (6), the date on which the transfer will take effect;

(c) the powers to be transferred or granted;

(d) pursuant to paragraph (9), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and

(e) where relevant, a plan showing the works or areas to which the transfer or grant relates.

(6) The date specified under paragraph (5)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notification.

(7) The notification given must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notification.

(8) A copy of any decision by the Secretary of State to approve a transfer or grant under paragraph (3) or the notification of a transfer or grant issued under paragraph (4) must be provided by the undertaker to the relevant authority as soon as reasonably practicable following issuance.

(9) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit—

(a) the benefit transferred or granted ("the transferred benefit") must include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;

(b) the transferred benefit will reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit will not be enforceable against the undertaker; and

(c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

Application of landlord and tenant law

35. —(1) This article applies to—

(a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the purposes of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement, so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for the purposes of the 1990 Act

36. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3) (cases in which land is to be treated as not being operational land) of the 1990 Act.

Felling or lopping of trees and removal of hedgerows

37. —(1) Subject to paragraph (2), the undertaker may fell or lop any tree or shrub near any part of the authorised development or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from—

(a) obstructing or interfering with the purposes of the authorised development or any apparatus used in connection with the authorised development;

(b) constituting a danger to persons using the authorised development; or

(c) obstructing or interfering with the passage of vehicles to the extent necessary for the purposes of construction or decommissioning of the authorised development.

(2) In carrying out any activity authorised by paragraph (1) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) The undertaker may, for the purposes of the authorised development or in connection with the authorised development and subject to paragraph (2), undertake works to or remove any hedgerows within the Order limits that may be required.

(5) Without prejudice to the generality of paragraph (4), the undertaker may, for the purposes of the authorised development or in connection with the authorised development and subject to paragraph (2), remove the hedgerows specified in column 2 of the table in Schedule 12 (hedgerows to be removed) and shown on the hedgerow removal plans.

(6) The undertaker may not pursuant to paragraphs (1) and (5) fell or lop a tree or remove hedgerows within the extent of the publicly maintainable highway without the prior written consent of the highway authority, and the highway authority may attach reasonable conditions to any such consent.

(7) In this article "hedgerow" has the same meaning as in the Hedgerows Regulations 1997(**a**).

Trees subject to tree preservation orders

38.—(1) The undertaker may fell or lop any tree that is subject to a tree preservation order within or overhanging land within the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so in order to prevent the tree from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

(a) the undertaker must do no unnecessary damage to any tree and must pay compensation to any person for any loss or damage arising from such activity; and

(b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.

(3) The authority given by paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Certification of plans and documents, etc.

39.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of all documents and plans listed in the table at Schedule 13 (documents and plans to be certified) for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

No double recovery

40. Compensation is not payable in respect of the same matter both under this Order and under any enactment, any contract or any rule of law.

(**a**) S.I. 1997/1160.

Arbitration

41. —(1) Subject to paragraph (2), any difference under any provision of this Order must, unless otherwise expressly provided for or agreed in writing between the undertaker and the party in question, be referred to and settled by arbitration in accordance with the rules set out in Schedule 14 (arbitration rules) of this Order.

(2) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

Protective provisions

42. Schedule 15 (protective provisions) has effect.

Service of notices

43. —(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at that time of service.

(4) Where for the purpose of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by the description of "owner", or as the case may be "occupier" of the land (describing it); and

(b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(**a**) 1978 c. 30.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

Procedure in relation to certain approvals etc.

44. —(1) Where an application is made to or request is made of, a consenting authority for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing.

(2) Where paragraph (1) applies to any consent, agreement or approval, such consent, agreement or approval must not be unreasonably withheld or delayed.

(3) Schedule 16 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals required, granted, refused or withheld in relation to the requirements.

(4) Save for applications made pursuant to Schedule 16 (procedure for discharge of requirements) and where stated to the contrary if, within eight weeks (or such longer period as may be agreed between the undertaker and the relevant consenting authority in writing) after the application or request has been submitted to a consenting authority it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(5) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (4).

(6) Schedule 16 (procedure for discharge of requirements) does not apply in respect of any consents, agreements or approvals contemplated by the provisions of Schedule 15 (protective provisions).

(7) In this article "consenting authority" means the relevant planning authority, highway authority, traffic authority, street authority, the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in Schedule 15 (protective provisions).

Guarantees in respect of payment of compensation

45. —(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any part of the Order land unless it has first put in place either—

(a) a guarantee, the form and amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant provision in relation to that part of the Order land; or

(b) an alternative form of security, the form and amount of which has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation pursuant to the provisions referred to in paragraph (2) in respect of the exercise of the relevant provision in relation to that part of the Order land.

(2) The provisions are—

(a) article 18 (compulsory acquisition of land);

(b) article 21 (compulsory acquisition of rights);

(c) article 22 (private rights);

(d) article 27 (rights under or over streets);

(e) article 28 (temporary use of land for constructing the authorised development);

(f) article 29 (temporary use of land for maintaining the authorised development); and

(g) article 30 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

National Grid substation works

46. If National Grid elects to undertake any elements of the works described in Works No. 2 or the National Grid connection works pursuant to planning permission granted under Part 3 of the 1990 Act or Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 then the requirements contained in Schedule 2 will not be enforceable in so far as they relate to those works and National Grid will serve written notice of the same on the relevant planning authority.

Signed by authority of the Secretary of State for Energy Security and Net Zero

Signature

Address

Title

Date

Department for Energy Security and Net Zero

SCHEDULES

SCHEDULE 1

Article 3

AUTHORISED DEVELOPMENT

Interpretation

1. In this Schedule—

"Auxiliary Equipment" means Low Voltage AC distribution board, Low Voltage DC distribution board, Battery and Charger panel, the power panel for security lighting, Protection and Control Panel and Telecom and Metering Panel and lightning protection;

"Inverter" means electrical equipment required to convert direct current power to alternating current;

"New National Grid Substation" means a compound containing electrical equipment (including power transformers, gantries, switchgear, reactive compensation equipment, electrical protection equipment devices (disconnectors, circuit breakers), harmonic filters, cables and back-up generators), control buildings, lightning protection masts, communications masts, access, fencing and other associated equipment, structures or buildings;

"Permissive Paths" means new access tracks providing restricted public access within the Order limits;

"PV Module" means a solar photovoltaic panel or module designed to convert solar irradiance to electrical energy;

"Power Converter Stations" means a station comprising Inverters, Transformers, Switchgear and supporting equipment with each component for each solar station either:

(a) located outside, with a concrete foundation slab for each of the Inverters, Transformers and Switchgear and a levelling layer of thick sand within a concrete perimeter pavement; or

(b) housed together within a container sitting on a concrete foundation slab and a levelling layer of thick sand with a concrete perimeter pavement;

"Solar Panel Table" means a rack made with galvanised steel and/or magnelis or other material designed to support the solar panels and mounted on piles driven into the ground, piles rammed into a pre-drilled hole, a pillar attaching to a steel ground screw, or pillars fixed to concrete foundations of concrete ballasts and includes drives and motors;

"Substation" means a compound containing electrical equipment required to switch, transform and convert electricity and provide reactive power compensation;

"Switchgear" means a combination of electrical disconnect switches, fuses or circuit breakers used to control, protect and isolate electrical equipment; and

"Transformer" means a structure containing an electrical device to transform electricity to a different voltage.

Authorised Development

2.—(1) In the Districts of West Oxfordshire, Cherwell and Vale of White Horse and in the County of Oxfordshire a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act and associated development under section 115(1)(b) of the 2008 Act.

(2) The nationally significant infrastructure project comprises one generating station with a gross electrical output capacity of over 50 megawatts comprising all or any of the work numbers in this Schedule or any part of any work number in this Schedule—

Work No. 1 – a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 50 megawatts including—

(a) Solar PV Modules fitted to Solar Panel Tables; and

(b) Power Converter Stations;

and associated development within the meaning of section 115(2) of the 2008 Act comprising—

Work No. 2 – development of a New National Grid Substation;

Work No. 3 – development of onsite Substations and associated works including—

(a) **Works 3A** – Main Substation

(i) Substation comprising main components of 400kV Switchgear, 400kV cable sealing end, 400kV surge arrester, 400kV post-insulator, 2 x 400/275 kV, 2*500 MVA Transformers, 400kV shunt reactor, 400kV bus duct, lightning protection, 400kV cabling, cable sealing ends and Auxiliary Equipment;

(ii) Substation buildings including building to accommodate 400kV Switchgear, buildings to accommodate 275kV Switchgear and associated control and protection equipment, control room building to accommodate protection and control cabinets and auxiliary boards and panels;

(iii) hardstanding, internal access road and parking areas; and

(iv) on site attenuation to collect and treat surface water before discharge.

(b) **Works 3B** – Six secondary Substations

(i) each Substation, comprising main components of 275kV Switchgear, 275kV cable sealing end, 275kV surge arrester, 275kV post-insulator, at least 1 x 275/33kV Transformer, 45/60/180/3*220 MVA, 275kV bus duct, 33kV Switchgear, lightning protection, 33kV cabling and Auxiliary Equipment;

(ii) Substation buildings including building to accommodate 275kV Switchgear, buildings to accommodate 33kV Switchgear and associated control and protection equipment, control room building to accommodate protection and control cabinets and auxiliary boards and panels;

(iii) hardstanding, internal access road and parking areas; and

(iv) on site attenuation to collect and treat surface water before discharge.

Work No. 4 – works in connection with high voltage electrical cabling including—

(a) works to lay high voltage electrical cables, access and construction compounds for the electrical cables including—

(i) works to lay up to and including 275kV electrical cables connecting Work No.3B to Work No. 3A;

(ii) works to lay up to and including 400kV electrical cables connecting Work No. 3A to Work No. 2;

(iii) grid connection infrastructure, including works to lay up to and including 400kV electrical cables, to connect Work No. 2 or Work No. 3A to the National Grid network;

(iv) laying down of internal access tracks, ramps, means of access, footways, roads, including the laying and construction of drainage infrastructure, signage and information boards;

(v) joint bays, link boxes, cable ducts, cable protection, joint protection, manholes;

(vi) marker posts, underground cable marker, tiles and tape, communications chambers, optical fibre cables and lighting and other works associated with cable laying;

(vii) fencing, gates, boundary treatment and other means of enclosure;

(viii) tunnelling, boring and drilling works for trenchless crossings and open trench crossings; and

(ix) temporary construction and decommissioning laydown areas comprising—

(aa) areas of hardstanding, compacted ground or track matting;

(bb) car parking;

(cc) area to store materials and equipment;

(dd) site and welfare offices and workshops;

(ee) security infrastructure, including cameras, perimeter fencing and lighting;

(ff) safety infrastructure to manage traffic when crossing roads or other obstacles;

(gg) site drainage and waste management infrastructure (including sewerage); and

(hh) electricity, water, waste water and telecommunications connections.

Work No. 5 – sensitive archaeological site protection and management including—

(a) habitat creation and management including grazing;

(b) biodiversity mitigation and enhancement measures;

(c) works to upgrade existing footpaths or create new Permissive Paths; and

(d) fencing gates boundary treatment and other means of enclosure.

Work No. 6 – works including—

(a) electrical cables, including but not limited to electrical cables connecting Works No. 1 and 3b to one another, connecting solar panels to one another, connecting Substations to one another, connecting the solar stations and on-site Substations, including tunnelling, boring and drilling works for trenchless crossings and open trench crossings;

(b) site establishments and preparation works, including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks (including soil stripping and storage and site levelling) and excavations; the alteration of the position of services and utilities; and works for the protection of buildings and land;

(c) fencing, gates, boundary treatment and other means of enclosure;

(d) works for the provision of security and monitoring measures such as CCTV columns, cameras, lighting columns and lighting, weather stations, perimeter fencing and communication infrastructure;

(e) landscaping and biodiversity mitigation and enhancement measures including sheep grazing;

(f) laying down of internal access tracks, ramps, means of access, footpaths, crossing of watercourses and roads, including the laying and construction of drainage infrastructure, signage and information boards;

(g) improvement, maintenance and use of existing private tracks;

(h) works to upgrade existing footpaths or create new Permissive Paths;

(i) laying down of temporary footpath diversions, signage and information boards;

(j) hardstanding and parking areas;

(k) sustainable drainage systems, runoff outfalls, general drainage and irrigation infrastructure, systems and improvements or extensions to existing drainage and irrigation systems;

(l) works to maintain and repair streets and access roads;

(m) electricity, water, waste water and telecommunications connections including pressurised water pipes;

(n) construction and decommissioning compounds fields, including site and welfare offices and areas to store materials and equipment; and

(o) other works to mitigate any adverse effects of the construction, maintenance, operation or decommissioning of the authorised development.

Work No. 7 – **temporary construction and decommissioning compounds including**—

(a) areas of hardstanding; compacted ground or track matting;

(b) parking areas;

(c) site and welfare offices, canteens and workshops;

(d) security infrastructure, including cameras, perimeter fencing and lighting;

(e) areas to store materials, equipment, waste skips and spoil;

(f) site drainage and waste management infrastructure (including sewerage); and

(g) electricity, water, waste water and telecommunications connections.

Work No. 8 – **areas of landscape management, protection and enhancement including**—

(a) measures to enhance the existing woodland and hedgerows;

(b) landscape and biodiversity mitigation and enhancement measures;

(c) community growing areas;

(d) habitat creation and management including earthworks and landscaping;

(e) laying and construction of drainage infrastructure and means of access;

(f) laying down of internal access tracks, means of access and crossing of watercourses; and

(g) fencing gates boundary treatment and other means of enclosure.

Work No. 9 – **works to facilitate access to Work No. 1 to Work No. 8 including**—

(a) creation of accesses from the public highway;

(b) creation of visibility splays;

(c) laying down of internal access tracks, means of access and crossing of watercourses;

(d) works to improve and widen accesses across bridges;

(e) works to alter the layout of any street or highway;

(f) works to widen and surface the public highway and private means of access; and

(g) making and maintaining passing places.

In connection with and in addition to Work Nos. 1 to 9 further ancillary or related development within the Order limits, including—

(a) works for the provision of fencing and security measures such as CCTV, columns, lighting, communication boxes, lightning protection masts and weather stations;

(b) laying down of internal access tracks, ramps and span bridges, means of access, non-motorised links, footpaths and footways, laying and surfacing of Permissive Paths;

(c) laying down of temporary footpath diversions and construction of drainage infrastructure, signage and information boards;

(d) bunds, embankments, trenching and swales;

(e) landscaping and other works to mitigate any adverse effects of construction, maintenance or operation of the authorised development;

(f) electrical, gas, water, foul water drainage and telecommunications infrastructure connections, diversions and works to, and works to alter the position of, such services and utilities connections;

(g) works to the existing irrigation system and works to alter the position and extent of such irrigation system;

(h) surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage systems;

(i) earthworks, site establishments and preparation works including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks

(including soil stripping and storage and site levelling) and excavations; the alteration of the position of services and utilities; and works for the protection of buildings and land;

(j) works required for the strengthening, improvement, maintenance, or reconstruction of any street;

(k) tunnelling, boring and drilling works; and

(l) working sites in connection with the construction and decommissioning of the authorised development and its restoration.

and further ancillary or related development comprising such other works or operations as may be necessary or expedient for the purposes of or in connection with the authorised development but only within the Order limits and insofar as they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

SCHEDULE 2

Article 3

REQUIREMENTS

Interpretation

1. In this Schedule—

"relevant planning authorities" and "relevant planning authority" means Oxfordshire County Council, West Oxfordshire District Council, Cherwell District Council and Vale of White Horse District Council, as applicable.

Commencement of the authorised development

2. The authorised development must not begin after the expiration of five years from the date this Order comes into force.

Approved details and amendments to them

3.—(1) With respect to the documents certified under article 39 (certification of plans and documents, etc) and any plans, details or schemes which have been approved pursuant to any requirement (together the "Approved Documents, Plans, Details or Schemes"), the undertaker may submit to the relevant planning authority for approval any amendments to any of the Approved Documents, Plans, Details or Schemes and, following approval by the relevant planning authority, the relevant Approved Documents, Plans, Details or Schemes is to be taken to include the amendments as so approved pursuant to this paragraph.

(2) Approval under sub-paragraph (1) for the amendments to any of the Approved Documents, Plans, Details or Schemes must not be given except where it has been demonstrated to the satisfaction of the relevant planning authority that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Community liaison group

4.—(1) Prior to the commencement of the authorised development the undertaker must submit to the relevant planning authorities for approval the terms of reference for a community liaison group whose aim is to facilitate liaison between representatives of people living in the vicinity of the Order limits and other relevant organisations in relation to the construction of the authorised development.

(2) The community liaison group must be established prior to commencement of the authorised development and must be administered by the undertaker, and operated, in accordance with the approved terms of reference.

(3) The community liaison group is to continue to meet until the date of final commissioning of the final part of the authorised development unless otherwise agreed with the relevant planning authorities.

Detailed design approval

5.—(1) No part of the authorised development may commence until details of—

(a) the layout;

(b) scale;

(c) proposed finished ground levels;

(d) external appearance;

(e) hard surfacing materials;

(f) vehicular and pedestrian access, parking and circulation areas; and

(g) refuse or other storage units, signs and lighting,

relating to that part have been submitted to and approved in writing by the relevant planning authority for that part or the relevant planning authorities (as applicable).

(2) The details submitted must accord with the outline layout and design principles.

(3) The authorised development must be carried out and thereafter maintained in accordance with the approved details.

(4) Approval from the relevant planning authority or relevant planning authorities (as appropriate) pursuant to sub-paragraph (1) is to be in consultation with Historic England insofar as it relates to:

(a) Work No. 5; or

(b) any parts of Work Nos. 6 or 8 within the setting of either the World Heritage Site, the Church of St Peter and St Paul (Church Hanborough), the Church of St Peter (Cassington) or the Church of St Michael (Begbroke).

Landscape and ecology management plan

6.—(1) No part of the authorised development may commence until a written landscape and ecology management plan has been submitted to and approved by the relevant planning authority for that part, or where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(2) The landscape and ecology management plan must be substantially in accordance with the outline landscape and ecological management plan.

(3) The landscape and ecology management plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

(4) For the purposes of sub-paragraph (1), "commence" includes part (h) (site clearance (including vegetation removal, demolition of existing buildings and structures)) and (i) (advanced planting to allow for an early establishment of protective screening) of the permitted preliminary works.

(5) Approval from the relevant planning authority or relevant planning authorities (as appropriate) pursuant to sub-paragraph (1) is to be in consultation with Historic England insofar as it relates to:

(a) Work No. 5; or

(b) any parts of Work Nos. 6 or 8 within the setting of either the World Heritage Site, the Church of St Peter and St Paul (Church Hanborough), the Church of St Peter (Cassington) or the Church of St Michael (Begbroke).

Biodiversity net gain

7.—(1) No part of the authorised development may commence until a biodiversity net gain plan has been submitted to and approved by the relevant planning authority, in consultation with the relevant statutory nature conservation body.

(2) The biodiversity net gain plan must include details of how the strategy will secure a minimum of 70% biodiversity net gain in area-based habitat units, a minimum of 50% biodiversity net gain for hedgerow units, and a minimum of 20% biodiversity net gain for watercourse units as substantially in accordance with the methodology outlined in the outline landscape and ecology management plan , using the Department of Environment, Food and Rural Affairs' 4.0 metric to calculate those percentages (or such other biodiversity metric approved by the relevant planning authority in consultation with the relevant statutory nature conservation body).

(3) The biodiversity net gain plan must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the plan relates.

Fencing and other means of enclosure

8.—(1) No part of the authorised development may commence until written details of all proposed temporary fences, walls or other means of enclosure, including those set out in the code of construction practice, for that part have been submitted to and approved by the relevant planning authority or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(2) No part of the authorised development may commence until written details of all permanent fences, walls or other means of enclosure for that part have been submitted to and approved by the relevant planning authority or, where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(3) For the purposes of sub-paragraph (1), "commence" includes any permitted preliminary works.

(4) The written details provided under sub-paragraph (2) must be substantially in accordance with the outline layout and design principles.

(5) Any construction site must remain securely fenced in accordance with the approved details under sub-paragraph (1) or (2) at all times during construction of the authorised development.

(6) Any temporary fencing must be removed on completion of the part of construction of the authorised development for which it was used.

(7) Approval from the relevant planning authority or relevant planning authorities (as appropriate) pursuant to sub-paragraph (1) or sub-paragraph (2) is to be in consultation with Historic England insofar as it relates to:

(a) Work No. 5; or

(b) any parts of Work Nos. 6 or 8 within the setting of either the World Heritage Site, the Church of St Peter and St Paul (Church Hanborough), the Church of St Peter (Cassington) or the Church of St Michael (Begbroke).

Surface and foul water drainage

9.—(1) No part of the authorised development may commence until written details of the surface water drainage works and (if any) foul water drainage system (including means of pollution control) for that part have been submitted to and approved by the relevant planning authority for that part, or where the part falls within the administrative areas of multiple relevant planning authorities, each of the relevant planning authorities.

(2) The written details under sub-paragraph (1) must be substantially in accordance with the conceptual drainage strategy.

(3) Before approving the written details under sub-paragraph (1) the relevant planning authority must consult with Thames Water Utilities Limited or its successor in function as the relevant water undertaker, and the relevant Parish Council for that part.

(4) Any approved scheme pursuant to sub-paragraph (1) must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the strategy relates.

Archaeology

10.—(1) No part of the authorised development may commence and no part of the permitted preliminary works for that part comprising the intrusive archaeological surveys may start until:

(a) The evaluation reports and buffer zones have been amended and approved in writing by the relevant planning authority; and

(b) Following agreement of the evaluation reports and of the buffer zones, an archaeological written scheme of investigation for that part has been submitted to and approved in writing by the relevant planning authority.

(2) For the purposes of sub-paragraph 10(1), "commence" includes part (a) of the permitted preliminary works insofar as the works relate to intrusive archaeological surveys.

(3) The archaeological written scheme of investigation must be substantially in accordance with the outline written scheme of investigation, approved in advance by the relevant planning authority, and must be implemented as approved.

(4) Within two years of the completion of the archaeological mitigation fieldwork, an updated project design and post excavation assessment detailing all processing, research and analysis necessary to produced and secure the delivery of an accessible and useable archive and a full report for publication must be submitted to and approved in writing by the relevant planning authority.

Code of construction practice

11. —(1) No part of the authorised development may commence until a code of construction practice for that part has been submitted to and approved by the relevant planning authority.

(2) The code of construction practice must include the following plans;

(a) construction traffic management plan;

(b) public rights of way management strategy;

(c) soil management plan;

(d) site resources and waste management plan;

(e) dust management plan;

(3) The code of construction practice and any plans to be included within the code of construction practice pursuant to sub-paragraph (2) must be substantially in accordance with the outline code of construction practice.

(4) The code of construction practice must be implemented as approved.

(5) Approval from the relevant planning authority pursuant to sub-paragraph (1) is to be in consultation with:

(a) the planning waste authority in respect of the site resources and waste management plan;

(b) the relevant highway authority;

(c) National Highways in respect of the construction traffic management plan;

(d) the Environment Agency in respect of flood risk; and

(e) Siemens Healthcare Limited in respect of any parts of the construction traffic management plan that relates to Wharf Road.

Operational management plan

12. —(1) Prior to the date of final commissioning for any part of the authorised development, an operational management plan for that part must be submitted to and approved by the relevant planning authority or, where the part falls within the administrative area of multiple relevant planning authorities, each of the relevant planning authorities.

(2) The operational management plan must be substantially in accordance with the outline operational management plan.

(3) The operational management plan must be implemented as approved.

(4) Approval from the relevant planning authority or relevant planning authorities (as appropriate) pursuant to sub-paragraph (1) is to be in consultation with:

(a) the planning waste authority;

(b) the relevant highway authority; and

(c) Historic England insofar as it relates to:

(i) Work No. 5; or

(ii) any parts of Work Nos. 6 or 8 within the setting of either the World Heritage Site, the Church of St Peter and St Paul (Church Hanborough), the Church of St Peter (Cassington) or the Church of St Michael (Begbroke).

Skills, supply chain and employment

13. —(1) No part of the authorised development may commence until a skills, supply chain and employment plan in relation to that part has been submitted to and approved by the relevant planning authority for that part or, where the part falls within the administrative areas of multiple planning authorities, each of the relevant planning authorities.

(2) The skills, supply chain and employment plan must be substantially in accordance with the outline skills, supply chain and employment plan.

(3) Any plan under this paragraph must identify opportunities for individuals and businesses to access employment, skills and supply chain opportunities associated with that part of the authorised development and the means for publicising such opportunities.

(4) 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.

Decommissioning and restoration

14. —(1) Decommissioning of the authorised development must commence no later than 37.5 years following the date of final commissioning.

(2) Unless otherwise agreed with the relevant planning authority to which this requirement applies, no later than 12 months prior to the date the undertaker intends to decommission any part of the authorised development, the undertaker must notify that relevant planning authority of the intended date of decommissioning for that part of the authorised development.

(3) Unless otherwise agreed with the relevant planning authority, no later than ten weeks prior to the intended date of decommissioning of any part of the authorised development' the undertaker must submit to the relevant planning authority for that part a decommissioning plan for approval.

(4) Where the undertaker decides to decommission a part of the authorised development that falls within the administrative areas of multiple planning authorities, the decommissioning plan must be submitted to each relevant planning authority and the approval of all relevant planning authorities is required for the purposes of this paragraph.

(5) The decommissioning plan must be substantially in accordance with the outline decommissioning plan and must include a timetable for its implementation.

(6) No decommissioning works must be carried out until the relevant planning authority has approved the decommissioning plan submitted in relation to those works.

(7) The decommissioning plan must be implemented as approved.

(8) This requirement is without prejudice to any other consents or permissions that may be required to decommission any part of the authorised development.

Pre-commencement Works

15. (1) No part of the authorised development may commence until details of the following have been submitted to and approved in writing by the Secretary of State:

(a) the planning permission and/ or development consent for the National Grid Electricty Transmission Plc proposed substation at Farmoor Reservoir (if delivered outside the Order limits); and

(b) a construction programme that aligns the completion of the substation at Farmoor Reservoir and the connection offer of the applicant (regardless of whether the substation is to be delivered within or outside the Order limits).

(2) With respect to subparagraph (1) above, in the event of the National Grid substation being delivered within the Order limits, this shall be in accordance with the layout shown on sheet 13a of the Works Plans. In the event that National Grid substation is delivered outside of the Order, Work No.2 shall not occur and, instead, the layout shown on sheet 13b of the Works Plans shall be implemented.

De-commissioning Fund

16. (1) No phase of the authorised development may commence until a decommissioning fund or other form of financial guarantee that secures the cost of performance of all decommissioning obligations under Requirement 14 of this Order has been submitted to an approved in writing by the local planning authority.

(2) The value of the decommissioning fund or other form of financial guarantee shall be agreed between the undertaker and the local planning authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning obligations referred to in Requirement 14 of this Order.

(3) The decommissioning fund or other form of financial guarantee shall be maintained in favour of the local planning authority until the date of completion of the works to be undertaken in accordance with Requirement 14 of this Order.

(4) The value of the decommissioning fund or other form of financial guarantee shall be reviewed by agreement between the undertaker and the local planning authority by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning obligations and best practice prevailing at the time of each review.

Farmland Bird Strategy

17. (1) No part of Work No.1 may commence until a Farmland Bird Strategy (FBS) has been submitted to and approved by the Secretary of State in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided.

(2) The FBS must include:

(a) the location where the compensation measures will be delivered and the suitability of that location (including why the location is appropriate ecologically and likely to support successful compensation) and confirmation that the necessary landowner agreement(s) are in place;

(b) details of the capacity and ability of the compensation areas to compensate for the impact of the authorised development on skylarks and corn bunting;

(c) an implementation timetable for delivery including any arrangements made with a third party for implementation of the measures;

(d) details for the ongoing management and maintenance of the compensation measures;

(e) details for the ongoing monitoring and reporting of the effectiveness of the compensation measures including:

(i) survey methods;

(ii) survey programmes;

(iii) success criteria; and

(iv) timescales for the monitoring reports to be delivered.

(f) details of any adaptive management measures, with details of the factors used to trigger any alternative and/ or adaptive management measures; and

(g) details of how survey and monitoring data will be shared in the appropriate formats with the relevant Local Environmental Records Centre(s) and relevant national/ regional environmental recording schemes, and any potential research collaborations.

(3) The undertaker must implement the measures set out in the FBS approved by the Secretary of State unless otherwise agreed by the Secretary of State following consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided.

(4) Results from the monitoring and reporting scheme referred to in paragraph 2(e) must be submitted at least annually to the Secretary of State, the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided. This must include details of the effectiveness of the compensation measures delivered. If the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the compensation measures delivered have been ineffective the undertaker must provide proposals for any alternative and/ or adaptive management measures to address this. Any proposals to address ineffectiveness of the compensation measures must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the local planning authority for the area in which the compensation measure is to be provided.

(5) The FBS approved under paragraph (1) includes any amendments that may subsequently be approved in writing by the Secretary of State.

Buffers to Residences

18. (1) There shall be a distance of no less than 250 metres between the edge of any part of the proposed operational solar array and any residential dwellinghouse (as measured from the curtilage of any private residential property or address) unless otherwise demonstrated to be acceptable in writing to the satisfaction of the relevant local planning authority, such satisfaction to be given formally in writing subject to Schedule 16 of this Order.

SCHEDULE 3

Article 6

LEGISLATION TO BE DISAPPLIED

1. The following provisions do not apply in so far as they relate to the construction of any numbered work or the carrying out of any operation required for the purpose of, or in connection with, the construction, operation, maintenance or decommissioning of the authorised development—

(a) Cumnor and South Hincksey Inclosures Act 1814

(b) Earl of Abingdon's Estate Act 1812

(c) Great Western Railway Act 1870

(d) Great Western Railway Act 1890

(e) Great Western Railway (Additional Powers) Act 1897

(f) Kidlington Inclosure Act 1810

(g) Oxford Canal Navigation Act 1829

(h) Oxford Corporation (Water&c.) Act 1928

(i) Oxfordshire Act 1985

(j) Oxfordshire and District Water Board Act 1972

(k) Oxford, Worcester and Wolverhampton Railway Act 1845

(l) Oxford, Worcester and Wolverhampton Railway Act 1858

(m) Oxford, Worcester and Wolverhampton Railway Act 1859

(n) Oxford, Worcester and Wolverhampton Railway (Amendment) Act 1850

(o) Oxford, Worcester and Wolverhampton Railway (Branches and Extension) Act 1853

(p) Oxford, Worcester and Wolverhampton Railway (Deviation) Act 1848

(q) Thames Conservancy Act 1950

(r) Witney Railway Act 1859

(s) Witney Railway Act 1861

(t) Woodstock Railway Act 1886

SCHEDULE 4

Article 8

STREETS SUBJECT TO STREET WORKS

(1) *Area*	*(2)* *Street*	*(3)* *Description of the street works*
Oxfordshire County Council	B4027	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-1 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Stratford Lane	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-2 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-3 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	B4027	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-4 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-5 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-6 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Shipton Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-7 as shown on Sheet 4 of the streets, access

		and rights of way plans.
Oxfordshire County Council	A4095 Upper Campsfield Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-8 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	A44 / A4095 Bladon Roundabout	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-9 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	A44 Woodstock Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-10 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-11 as shown on Sheet 6 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-12 as shown on Sheet 6 of the streets, access and rights of way plans.
Oxfordshire County Council	Langford Lane	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-13 as shown on Sheet 5 of the streets, access and rights of way plans.
Oxfordshire County Council	A44 Woodstock Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-14 as shown on Sheet 5 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-15 as shown on Sheet 7 of the streets, access and rights of way plans.

Oxfordshire County Council	Lower Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-16 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-17 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-18 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	Yarnton Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-19 as shown on Sheet 9 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-20 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	A40 / Lower Road / B449 Eynsham Roundabout	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-21 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	B449	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-22 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-23 as shown on Sheet 11 of the streets, access and rights of way plans.

Oxfordshire County Council	B4044 Oxford Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-24 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	Wharf Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-25 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	B4044	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-26 as shown on Sheet 12 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-27 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road	Street works to facilitate cable installation works for the length shown in green patterned hatching at the point marked SW-28 as shown on Sheet 13 of the streets, access and rights of way plans.

SCHEDULE 5

Articles 9 and 10

ALTERATION OF STREETS

PART 1

PERMANENT ALTERATION OF LAYOUT

(1) *Area*	*(2)* *Street*	*(3)* *Description of the alteration*
Oxfordshire County Council	A4260 Banbury Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of A4260 Banbury Road in the area depicted in solid green hatching at the point marked ASP-1 as shown on Sheet 2 of the streets, access and rights of way plans.
Oxfordshire County Council	Stratford Lane carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Stratford Lane in the area depicted in solid green hatching at the point marked ASP-2 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	B4027 carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of B4027 in the area depicted in solid green hatching at the point marked ASP-3 as shown on Sheet 2 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Banbury Road in the area depicted in solid green hatching at the point marked ASP-4 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Banbury Road in the area depicted in solid green hatching at the point marked ASP-5 as shown on Sheet 3 of the streets, access and rights of

		way plans.
Oxfordshire County Council	B4027 / Banbury Road Junction	Existing junction of B4027 and Banbury Road in the area depicted in solid green hatching at the point marked ASP-6 as shown on Sheet 3 of the streets, access and rights of way plans to be retained and improved with alteration of layout including modifications to road markings on the carriageway to B4027 and Banbury Road.
Oxfordshire County Council	Lower Road carriageway and existing access	Alteration of layout including modifications to road markings on the carriageway of Lower Road in the area depicted in solid green hatching at the point marked ASP-7 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Cassington Road in the area depicted in solid green hatching at the point marked ASP-8 as shown on Sheet 6 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Cassington Road in the area depicted in solid green hatching at the point marked ASP-9 as shown on Sheet 6 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Lower Road in the area depicted in solid green hatching at the point marked ASP-10 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Cassington Road in the area depicted in solid green hatching at the point marked ASP-11 as shown on Sheet 7

		of the streets, access and rights of way plans.
		ASP-12 to ASP-16 not required.
Oxfordshire County Council	Lower Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Lower Road in the area depicted in solid green hatching at the point marked ASP-17 as shown on Sheet 10 of the streets, access and rights of way plans.
		ASP-18 not required.
Oxfordshire County Council	A44 Woodstock Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of A44 Woodstock Road in the area depicted in solid green hatching at the point marked ASP-19 as shown on Sheet 5 of the streets, access and rights of way plans.
		ASP-20 not required.
Oxfordshire County Council	Lower Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Lower Road in the area depicted in solid green hatching at the point marked ASP-21 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road	Alteration of layout including modifications to road markings on the carriageway to facilitate localised widening in the area depicted in solid green hatching between the points marked ASP-22 and ASP-23 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of B4017 Cumnor Road in the area depicted in solid green hatching at the point marked ASP-24 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of B4017 Cumnor Road in the

		area depicted in solid green hatching at the point marked ASP-25 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road carriageway and existing access	Alteration of layout including modifications to road markings on the carriageway of B4017 Cumnor Road in the area depicted in solid green hatching at the point marked ASP- 26 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Lower Road in the area depicted in solid green hatching at the point marked ASP-27 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Lower Road in the area depicted in solid green hatching at the point marked ASP-28 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Burleigh Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Burleigh Road in the area depicted in solid green hatching at the point marked ASP-29 as shown on Sheet 9 of the streets, access and rights of way plans.
Oxfordshire County Council	Burleigh Road carriageway and existing access road	Alteration of layout including modifications to road markings on the carriageway of Burleigh Road in the area depicted in solid green hatching at the point marked ASP-30 as shown on Sheet 7 of the streets, access and rights of way plans.
Oxfordshire County Council	Burleigh Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Burleigh Road in the area depicted in solid green hatching at the point marked

		ASP-31 as shown on Sheet 7 of the streets, access and rights of way plans.
Oxfordshire County Council	Burleigh Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Burleigh Road in the area depicted in solid green hatching at the point marked ASP-32 as shown on Sheet 7 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Lower Road in the area depicted in solid green hatching at the point marked ASP-33 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Yarnton Road carriageway and existing access road	Alteration of layout including modifications to road markings on the carriageway of Yarnton Road in the area depicted in solid green hatching at the point marked ASP-34 as shown on Sheet 9 of the streets, access and rights of way plans.
		ASP-35 and ASP-36 not required.
Oxfordshire County Council	B4027 carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of B4027 in the area depicted in solid green hatching at the point marked ASP-37 as shown on Sheet 2 of the streets, access and rights of way plans.
Oxfordshire County Council	Stratford Lane carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Stratford Lane in the area depicted in solid green hatching at the point marked ASP-38 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Langford Lane carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Langford Lane in the area depicted in solid green hatching at the point marked

		ASP-39 as shown on Sheet 5 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Banbury Road in the area depicted in solid green hatching at the point marked ASP-40 as shown on Sheet 3 of the streets, access and rights of way plans.

PART 2

TEMPORARY ALTERATION OF LAYOUT

(1) *Area*	*(2)* *Street*	*(3)* *Description of the alteration*
Oxfordshire County Council	B4027 carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of B4027 in the area depicted in solid blue hatching at the point marked AST-1 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Shipton Road carriageway and existing access	Alteration of layout including modifications to road markings on the carriageway of Shipton Road in the area depicted in solid blue hatching at the point marked AST-2 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	A4095 Upper Campsfield Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of A4095 Upper Campsfield Road in the area depicted in solid blue hatching at the point marked AST-3 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	A4095 Bladon Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of A4095 Bladon Road in the area depicted in solid blue hatching at the point marked AST-4 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	Burleigh Road / Yarnton Road	Existing junction of Burleigh

	Junction	Road and Yarnton Road in the area depicted in solid blue hatching at the point marked AST-5 as shown on Sheet 9 of the streets, access and rights of way plans to be retained and improved with alteration of layout including modifications to road markings on the carriageway to Burleigh Road and Yarnton Road.
Oxfordshire County Council	Cassington Road carriageway and field access	Alteration of layout including modifications to road markings on the carriageway of Cassington Road in the area depicted in solid blue hatching at the point marked AST-6 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	B4044 Oxford Road carriageway and existing access road	Alteration of layout including modifications to road markings on the carriageway of B4044 Oxford Road in the area depicted in solid blue hatching at the point marked AST-7 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	Wharf Road carriageway and existing access road	Alteration of layout including modifications to road markings on the carriageway of Wharf Road in the area depicted in solid blue hatching at the point marked AST-8 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road / B4044 Eynsham Road Junction	Existing junction of B4017 Cumnor Road and B4044 Eynsham Road in the area depicted in solid blue hatching at the point marked AST-9 as shown on Sheet 12 of the streets, access and rights of way plans to be retained and improved with alteration of layout including modifications to road markings on the carriageway to B4017 Cumnor Road and B4044 Eynsham Road.
Oxfordshire County Council	Lower Road	Alteration of layout including modifications to road markings on the carriageway of Lower Road in the area depicted in solid blue hatching

	at the point marked AST-10 as shown on Sheet 10 of the streets, access and rights of way plans.

SCHEDULE 6

Article 11

STREETS AND PUBLIC RIGHTS OF WAY

PART 1

STREETS TO BE TEMPORARILY CLOSED

(1) *Area*	*(2)* *Street*	*(3)* *Measure*
Oxfordshire County Council	B4027	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-1 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Stratford Lane	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-2 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-3 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	B4027	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-4 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road	Temporarily single or full closure to all traffic save for traffic under the direction of

		the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-5 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Shipton Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-6 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	A4095 Upper Campsfield Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-7 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	A44 Woodstock Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-8 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	Langford Lane	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-9 as shown on Sheet 5 of the streets, access and rights of way plans.
Oxfordshire County Council	A44 Woodstock Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-10 as shown on Sheet 5 of the streets, access and rights of

		way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-11 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-12 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-13 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	Yarnton Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-14 as shown on Sheet 9 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-15 as shown on Sheet 10 of the streets, access and rights of way plans.

Oxfordshire County Council	A40 / Lower Road / B449 Eynsham Roundabout	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-16 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	B449	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-17 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-18 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	B4044 Oxford Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-19 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	Wharf Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-20 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	B4044	Temporarily single or full closure to all traffic save for

		traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-21 as shown on Sheet 12 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-22 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-23 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	B4027	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-24 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Shipton Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-25 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	A4095 Upper Campsfield Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of

		the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-26 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	A4095 Bladon Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-27 as shown on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-28 as shown on Sheet 6 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-29 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	Wharf Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-30 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	B4044 Oxford Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in

		green solid hatching at the point marked SCT-31 as shown on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-32 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-33 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-34 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-35 as shown on Sheet 7 of the streets, access and rights of way plans.
Oxfordshire County Council	A44 Woodstock Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-36 as

		shown on Sheet 5 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-37 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	A4260 Banbury Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-38 as shown on Sheet 2 of the streets, access and rights of way plans.
Oxfordshire County Council	B4027	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-39 as shown on Sheet 2 of the streets, access and rights of way plans.
Oxfordshire County Council	B4027	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-40 as shown on Sheet 2 of the streets, access and rights of way plans.
Oxfordshire County Council	Stratford Lane	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-41 as shown on Sheet 3 of the streets, access and rights of

		way plans.
Oxfordshire County Council	Banbury Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-42 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Stratford Lane	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-43 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Banbury Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-44 as shown on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Burleigh Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-45 as shown on Sheet 7 of the streets, access and rights of way plans.
Oxfordshire County Council	Cassington Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-46 as shown on Sheet 6 of the streets, access and rights of way plans.

Oxfordshire County Council	Cassington Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-47 as shown on Sheet 6 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-48 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-49 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-50 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-51 as shown on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Burleigh Road	Temporarily single or full closure to all traffic save for

		traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-52 as shown on Sheet 7 of the streets, access and rights of way plans.
Oxfordshire County Council	Burleigh Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-53 as shown on Sheet 7 of the streets, access and rights of way plans.
		SCT-54 not required.
Oxfordshire County Council	Burleigh Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-55 as shown on Sheet 9 of the streets, access and rights of way plans.
Oxfordshire County Council	Yarnton Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-56 as shown on Sheet 9 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-57 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	Lower Road	Temporarily single or full closure to all traffic save for

		traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-58 as shown on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	B4017 Cumnor Road	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-59 as shown on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	Langford Lane	Temporarily single or full closure to all traffic save for traffic under the direction of the undertaker for the width of the street to facilitate the street works for the lengths shown in green solid hatching at the point marked SCT-60 as shown on Sheet 5 of the streets, access and rights of way plans.

PART 2

PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED AND DIVERTED

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
West Oxfordshire District Council	Public bridleway 206/23/30	Public bridleway 206/23/30 to be temporarily closed between PROW_CT-1 and PROW_CT-1_1 and diverted between PROW_N-5 and PROW_N-5_1 as shown by TD-2 on Sheet 11 of the streets, access and rights of way plans to facilitate construction of the authorised development.
West Oxfordshire District Council	Public footpath 206/5/20	Public footpath 206/5/20 to be temporarily closed between PROW_CT-2 and PROW_CT-2_1 and diverted between PROW_N-6 and PROW_N-6_1 as shown by TD-2 on Sheet 11 of the streets, access

		and rights of way plans to facilitate construction of the authorised development.
		PROW_CT-3 not required.
West Oxfordshire District Council	Public footpath 132/4/10	Public footpath 132/4/10 to be temporarily closed and diverted between PROW_CT-4 and PROW_CT-4_1 and diverted between PROW_N-7 and PROW_N-7_1 as shown by TD-1 on Sheet 5 of the streets, access and rights of way plans to facilitate construction of the authorised development.

PART 3

TEMPORARY USE OF MOTOR VEHICLES ON PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
West Oxfordshire District Council	Public footpath 416/22/10	Temporary use of motor vehicles under the direction of the undertaker at TMV-1 as shown on Sheet 1 of the streets, access and rights of way plans to facilitate construction of the authorised development.
West Oxfordshire District Council	Public footpath 132/4/10	Temporary use of motor vehicles under the direction of the undertaker at TMV-2 as shown on Sheet 5 of the streets, access and rights of way plans to facilitate construction of the authorised development.
West Oxfordshire District Council	Public bridleway 416/11/20	Temporary use of motor vehicles under the direction of the undertaker at TMV-3 and TMV-9, as shown on Sheet 1 and Sheet 2 of the streets, access and rights of way plans to facilitate construction of the authorised development.
		TMV-4 not required.
Cherwell District Council	Public footpath 265/34/10	Temporary use of motor vehicles under the direction of the undertaker at TMV-5, as shown on Sheet 5 of the streets, access and rights of way plans to facilitate construction of the authorised development.

Cherwell District Council	Public footpath 132/3/10	Temporary use of motor vehicles under the direction of the undertaker at TMV-5, as shown on Sheet 5 of the streets, access and rights of way plans to facilitate construction of the authorised development.
West Oxfordshire District Council	Public footpath 124/5/10	Temporary use of motor vehicles under the direction of the undertaker at TMV-6 to facilitate the construction of the scheme on Sheet 5 of the streets, access and rights of way plans to facilitate construction of the authorised development.
West Oxfordshire District Council	Public footpath 152/8/10	Temporary use of motor vehicles under the direction of the undertaker at TMV-7 and TMV-8 as shown on Sheet 7 of the streets, access and rights of way plans to facilitate construction of the authorised development.
		TMV-9 is required as set out above.
West Oxfordshire District Council	Public footpath 132/6/10	Temporary use of motor vehicles under the direction of the undertaker at TMV-10 as shown on Sheet 6 of the streets, access and rights of way plans to facilitate construction of the authorised development.
West Oxfordshire District Council	Bridleway 416/5/10	Temporary use of motor vehicles under the direction of the undertaker at TMV-11 and TMV-12 as shown on Sheet 2 of the streets, access and rights of way plans to facilitate construction of the authorised development.
West Oxfordshire District Council	Bridleway 416/5/20	Temporary use of motor vehicles under the direction of the undertaker at TMV-13 as shown on Sheet 2 of the streets, access and rights of way plans to facilitate construction of the authorised development.

PART 4

PERMANENT USE OF MOTOR VEHICLES ON PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
		PMV-1 not required.
West Oxfordshire District Council	Public bridleway 416/11/20	Permanent use of motor vehicles under the direction of the undertaker at PMV-2 as shown on Sheet 1 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.
West Oxfordshire District Council	National Cycle Route 5	Permanent use of motor vehicles under the direction of the undertaker at PMV-2 on Sheet 1 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.
		PMV-3 to PMV-20 not required.
West Oxfordshire District Council	Public footpath 152/8/10	Permanent use of motor vehicles under the direction of the undertaker at PMV-21 on Sheet 9 and PMV-22 on Sheet 7 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.
West Oxfordshire District Council	Public footpath 152/6/10	Permanent use of motor vehicles under the direction of the undertaker at PMV-23 on Sheet 9 and PMV- 24 on Sheet 10 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.
West Oxfordshire District Council	Public footpath 238/1/10	Permanent use of motor vehicles under the direction of the undertaker at PMV-25 on Sheet 8 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.
West Oxfordshire District Council	Public footpath 238/2/20	Permanent use of motor vehicles under the direction of the undertaker at PMV-26 on Sheet 8 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised

		development.
		PMV-27 not required.
West Oxfordshire District Council	Public footpath 416/24/10	Permanent use of motor vehicles under the direction of the undertaker at PMV-28 as shown on Sheet 2 and Sheet 3 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.
		PMV-29 not required.
Cherwell District Council	Public footpath 342/4/10	Permanent use of motor vehicles under the direction of the undertaker at PMV-30 as shown on Sheet 4 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.
Cherwell District Council	Public footpath 342/5/20	Permanent use of motor vehicles under the direction of the undertaker at PMV-31 as shown on Sheet 4 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.
		PMV-32 and PMV-33 not required.
West Oxfordshire District Council	Public footpath 152/7/10	Permanent use of motor vehicles under the direction of the undertaker at PMV-34 as shown on Sheet 6 and Sheet 7 and PMV-35 on Sheet 7 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.
Vale of White Horse District Council	Public footpath 184/29/10	Permanent use of motor vehicles under the direction of the undertaker at PMV-36 on Sheet 13 of the streets, access and rights of way plans to facilitate the construction and operation of the authorised development.

PART 5

TEMPORARY MANAGEMENT OF PUBLIC RIGHTS OF WAY

(1) *Area*	*(2)* *Public right of way*	*(3)* *Measure*
West Oxfordshire District Council	Public footpath 416/22/10	Public Right of Way at SA-1 as shown on Sheet 1 of the

		streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council, West Oxfordshire District Council	Public bridleway 342/1/10	Public Right of Way at SA-2 and MCR-30 as shown on Sheet 3 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council	Public footpath 342/4/10	Public Right of Way at SA-3, MCR-23 and MCR-61 as shown on Sheet 4 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council	Public footpath 342/5/10	Public Right of Way at SA-4 and MCR-24 as shown on Sheet 4 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council	Public footpath 342/5/20	Public Right of Way at SA-4 and MCR-25 as shown on Sheet 4 of the streets, access and rights of way plans to be managed during construction of the authorised development.
West Oxfordshire District Council	Public footpath 152/8/10	Public Right of Way at SA-5, MCR-33 and MCR-80 as shown on Sheet 7 and Sheet 9 of the streets, access and rights of way plans to be managed during construction of the authorised development.
West Oxfordshire District Council	Public bridleway 206/23/30	Public Right of Way at SA-6 as shown on Sheet 11 of the streets, access and rights of way plans to be managed during construction of the authorised development.
West Oxfordshire District Council	Public bridleway 206/23/20	Public Right of Way at SA-7 as shown on Sheet 11 of the streets, access and rights of way plans to be managed during construction of the authorised development.
West Oxfordshire District Council	Public footpath 206/5/20	Public Right of Way at SA-7 and MCR-83 as shown on Sheet 11 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council, West Oxfordshire District	National Cycle Route 5	Public Right of Way at MCR-1 and MCR-41 as shown on

Council		Sheet 1, MCR-2 and MCR-42 as shown on Sheet 2 of the streets, access and rights of way plans to be managed during construction of the authorised development.
West Oxfordshire District Council	Public bridleway 416/11/20	Public Right of Way at MCR-1 and MCR-41 as shown on Sheet 1 and MCR-2 on Sheet 2 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-3 not required.
Cherwell District Council	Public footpath 342/6/10	Public Right of Way at MCR-4 as shown on Sheet 3 and MCR -55 on Sheet 4 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR–5 not required.
West Oxfordshire District Council	Public footpath 132/6/10	Public Right of Way at MCR-6 as shown on Sheet 6 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council, West Oxfordshire District Council	Shakespeare's Way	Public Right of Way at MCR-7, MCR-8, MCR-56 and MCR-57 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council, West Oxfordshire District Council	Public bridleway 124/4/10	Public Right of Way at MCR-8 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR–9 not required.
West Oxfordshire District Council	Public footpath 238/2/20	Public Right of Way at MCR-10 as shown on Sheet 8 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-11 not required.
West Oxfordshire District Council	Public footpath 152/7/10	Public Right of Way at MCR-12, MCR-13, MCR-54 and MCR-78 as shown on Sheet 6 and Sheet 7 of the streets, access and rights of way plans to be managed during construction of the authorised

		development.
		MCR-14 not required.
West Oxfordshire District Council	Public footpath 238/5/20	Public Right of Way at MCR-15 as shown on Sheet 8 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-16 not required.
Vale of White Horse District Council	Oxford Green Belt Way	Public Right of Way at MCR-17 and MCR-26 as shown on Sheet 13 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Vale of White Horse District Council	Public footpath 184/29/10	Public Right of Way at MCR-18 as shown on Sheet 13 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council	Public bridleway 342/2/20	Public Right of Way at MCR-19 as shown on Sheet 4 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council	Public footpath 265/26/10	Public Right of Way at MCR-20 and MCR-69 and as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council	Public footpath 265/34/10	Public Right of Way at MCR-21 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council, West Oxfordshire District Council	Public footpath 132/2/10	Public Right of Way at MCR-21 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council	Public bridleway 342/2/10	Public Right of Way at MCR-22 as shown on Sheet 4 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-23, MCR-24 and MCR-25 are required as set out above.
Vale of White Horse District	Public footpath 184/15/30	Public Right of Way at MCR-

Council		26 as shown on Sheet 13 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-27 and MCR-28 not required.
West Oxfordshire District Council	Public bridleway 413/5/50	Public Right of Way at MCR-29 as shown on Sheet 3 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-30 required as set out above. MCR-31 not required.
West Oxfordshire District Council	Public footpath 132/4/10	Public Right of Way at MCR-32 and MCR-74 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-33 required as set out above. MCR-34 to MCR-36 not required.
Cherwell District Council	Public footpath 132/3/10	Public Right of Way at MCR-37 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-38 to MCR-40 not required. MCR-41 required as set out above.
West Oxfordshire District Council	Public bridleway 416/11/30	Public Right of Way at MCR-42 as shown on Sheet 2 of the streets, access and rights of way plans to be managed during construction of the authorised development.
West Oxfordshire District Council	Public footpath 416/5/10	Public Right of Way at MCR-43 and MCR-44 as shown on Sheet 2 of the streets, access and rights of way plans to be managed during construction of the authorised development
West Oxfordshire District Council	Public footpath 416/24/10	Public Right of Way at MCR-45 and MCR-46 as shown on Sheet 3 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-47 to MCR-53, and MCR-55 not required. MCR-54 required as set out above.
West Oxfordshire District Council	Public bridleway 132/5/10	Public Right of Way at MCR-56 and MCR-72 as shown on

		Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development
		MCR-57 and MCR-61 are required as set out above. MCR-58 to MCR-60, and MCR-62 to MCR-65 not required.
West Oxfordshire District Council	Public footpath 132/10/10	Public Right of Way at MCR-66 and MCR-68 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council	Public footpath 124/12/10	Public Right of Way at MCR-67 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
Cherwell District Council, West Oxfordshire District Council	Public footpath 265/24/10	Public Right of Way at MCR-68, as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-69 is required as set out above. MCR-70 not required.
Cherwell District Council	Public footpath 265/25/10	Public Right of Way at MCR-71 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-72 and MCR-74 are required as set out above. MCR-73 not required.
Cherwell District Council, West Oxfordshire District Council	Public footpath 124/5/10	Public Right of Way at MCR-75 and MCR-76 as shown on Sheet 5 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-77, MCR-79 and MCR-81 are not required. MCR-78 and MCR-80 are required as set out above.
West Oxfordshire District Council	Public bridleway 206/11/40	Public Right of Way at MCR-82 as shown on Sheet 10 of the streets, access and rights of way plans to be managed during construction of the authorised development.
		MCR-83 not required.
West Oxfordshire District	Public footpath 152/6/10	Public Right of Way at MCR-

Council	84 as shown on Sheet 9 of the streets, access and rights of way plans to be managed during construction of the authorised development.

SCHEDULE 7

Article 13

ACCESS TO WORKS

PART 1

PERMANENT MEANS OF ACCESS TO WORKS

(1) *Area*	*(2)* *Location*	*(3)* *Description of means of access*
Oxfordshire County Council	Existing field access off B4017 Cumnor Road	Existing field access to be improved at the point marked PA-1 on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Lower Road	Existing field access to be improved at the point marked PA-2 on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing access off Lower Road	Existing access to be improved at the point marked PA-3 on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Lower Road	Existing field access to be improved at the point marked PA-4 on Sheet 10 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Cassington Road	Existing field access to be improved at the point marked PA-5 on Sheet 7 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Burleigh Road	Existing field access to be improved at the point marked PA-6 on Sheet 7 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing access road off Burleigh Road	Existing access road to be improved at the point marked PA-7 on Sheet 7 of the streets, access and rights of way plans.
		PA-8 not required
Oxfordshire County Council	Existing field access off Cassington Road	Existing field access to be improved at the point marked PA-9 on Sheet 6 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Lower Road	Existing field access to be improved at the point marked PA-10 on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Lower	Existing field access to be

	Road	improved at the point marked PA-11 on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Lower Road	Existing field access to be improved at the point marked PA-12 on Sheet 8 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Lower Road	Existing field access to be improved at the point marked PA-13 on Sheet 8 of the streets, access and rights of way plans.
		PA-14 not required
Oxfordshire County Council	Existing access road off Burleigh Road	Existing field access to be improved at the point marked PA-15 on Sheet 9 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing access road off Yarnton Road	Existing access road to be improved at the point marked PA-16 on Sheet 9 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Burleigh Road	Existing field access to be improved at the point marked PA-17 on Sheet 7 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Langford Lane	Existing field access to be improved at the point marked PA-18 on Sheet 5 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off B4027	Existing field access to be improved at the point marked PA-19 on Sheet 2 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off A4260 Banbury Road	Existing field access to be improved at the point marked PA-20 on Sheet 2 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off B4027	Existing field access to be improved at the point marked PA-21 on Sheet 2 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Stratford Lane	Existing field access to be improved at the point marked PA-22 on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off	Existing field access to be

	Stratford Lane	improved at the point marked PA-23 on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Banbury Road	Existing field access to be improved at the point marked PA-24 on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Banbury Road	Existing field access to be improved at the point marked PA-25 on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Banbury Road	Existing field access to be improved at the point marked PA-26 on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing access off B4017 Cumnor Road	Existing access to be improved at the point marked PA-27 on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off B4017 Cumnor Road	Existing field access to be improved at the point marked PA-28 on Sheet 13 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Cassington Road	Existing field access to be improved at the point marked PA-29 on Sheet 6 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off A44 Woodstock Road	Existing field access to be improved at the point marked PA-30 on Sheet 5 of the streets, access and rights of way plans.

PART 2

TEMPORARY MEANS OF ACCESS TO WORKS

(1) *Area*	*(2)* *Location*	*(3)* *Description of means of access*
Oxfordshire County Council	Existing field access off B4027	Existing field access to be improved at the point marked TA-1 on Sheet 3 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off A4095 Upper Campsfield Road	Existing field access to be improved at the point marked TA-2 on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off A4095 Bladon Road	Existing field access to be improved at the point marked

		TA-3 on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing field access off Cassington Road	Existing field access to be improved at the point marked TA-4 on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing access road off B4044 Oxford Road	Existing access to be improved at the point marked TA-5 on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing access road off Wharf Road	Existing access to be improved at the point marked TA-6 on Sheet 11 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing access off Shipton Road	Existing access to be improved at the point marked TA-7 on Sheet 4 of the streets, access and rights of way plans.
Oxfordshire County Council	Existing access off Lower Road	Existing access to be improved at the point marked TA-8 on Sheet 10 of the streets, access and rights of way plans

SCHEDULE 8

Article 15

TRAFFIC REGULATION MEASURES

PART 1

TEMPORARY SPEED LIMITS

(1) *Road name, number and length*	*(2)* *Temporary speed limit*
Lower Road between A4095 and Mill Lane as shown on sheets 6, 8 and 10 of the traffic regulation measures plans.	Temporary change in speed limit to 40 miles per hour.
Cassington Road and Burleigh Road between A4095 and Yarnton Road as shown on sheets 6, 7 and 9 of the traffic regulation measures plans.	Temporary change in speed limit to 40 miles per hour.
Stratford Lane between B4027 and River Glyme as shown on sheet 3 of the traffic regulation measures plans.	Temporary change in speed limit to 40 miles per hour.
Banbury Road between B4027 and a point 108 metres to the north of Budds Close as shown on sheets 3 and 4 of the traffic regulation measures plans.	Temporary change in speed limit to 40 miles per hour.
B4027 between Milford Lane and Banbury Road as shown on sheets 2 and 3 of the traffic regulation measures plans.	Temporary change in speed limit to 40 miles per hour.
B4017 Cumnor Road between a point 83 metres to the south of Farmoor Court and a point 170 metres to the north of Leys Road as shown on sheets 12 and 13 of the traffic regulation measures plans.	Temporary change in speed limit to 40 miles per hour.

PART 2

TEMPORARY SUSPENSION OF WEIGHT RESTRICTIONS

(1) *Road name, number and length*	*(2)* *Temporary alteration of vehicle weight limit restriction*
Cassington Road and Burleigh Road between A4095 and Yarnton Road between Burleigh Road and Cassington Sewage Treatment Works access as shown on sheets 6, 7 and 9 of the temporary traffic regulation measures plans.	Temporary suspension of the existing 7.5 tonnes (except for loading) weight restriction.
Stratford Lane between B4027 and a point 405m to the south-west of the B4027 as shown on sheet 3 of the temporary traffic regulation measures plans.	Temporary suspension of the eastern extent of the existing 7.5 tonnes weight restriction to a point 405m to the south-west of the B4027.

SCHEDULE 9

Article 21

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

Interpretation

1. In this Schedule—

"access rights" means rights over land to—

(a) alter, improve, form, maintain, retain, use (with or without vehicles, plant and machinery), remove, reinstate means of access to the authorised development including visibility splays, bridges and road widening and to remove impediments (including vegetation) to such access;

(b) form, remove, reinstate passing places in the highway and means of access to the authorised development including visibility splays and to remove impediments to such access;

(c) remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface) for all purposes in connection with the authorised development;

(d) install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary;

(e) install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows, landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works; and

(f) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development;

"cable rights" means rights over land to—

(a) install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain electrical underground cables, or overhead cables, earthing cables, optical fibre cables, data cables, telecommunications cables and other services, works associated with such cables including bays, ducts, protection and safety measures and equipment, and other ancillary apparatus and structures (including but not limited to access chambers, manholes and marker posts) and any other works necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said cables, telecommunications and other ancillary apparatus;

(b) remain, pass and repass on foot, with or without vehicles, plant and machinery (including rights to lay and use any temporary surface or form a temporary compound) for all purposes in connection with the authorised development;

(c) continuous vertical and lateral support for the authorised development;

(d) install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain sewers, drains, pipes, ducts, mains, conduits, services, flues and to drain into and manage waterflows in any drains, watercourses and culverts;

(e) install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding, landscaping and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs, hedgerows,

landscaping and other ecological measures the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works;

(f) install, use, support, protect, inspect, alter, remove, replace, refurbish, reconstruct, retain, renew, improve and maintain security fencing, gates, boundary treatment, public rights of way and any other ancillary apparatus and any other works as necessary; and

(g) restrict and remove the erection of buildings or structures, restrict the altering of ground levels, restrict and remove vegetation and restrict the planting of trees or carrying out operations or actions (including but not limited to blasting and piling) which may obstruct, interrupt or interfere with the exercise of the rights or damage the authorised development.

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purposes for which rights over land may be required and restrictive covenants imposed*
1-01	Access rights
1-02	Access rights
1-03	Access rights
1-04	Cable rights and access rights
1-06	Cable rights and access rights
1-11	Cable rights and access rights
1-12	Cable rights and access rights
2-02	Cable rights and access rights
2-06	Cable rights and access rights
2-08	Cable rights and access rights
2-09	Cable rights and access rights
2-14	Access rights
2-15	Access rights
2-17	Cable rights and access rights
2-18	Cable rights and access rights
2-19	Cable rights
2-20	Cable rights
2-21	Cable rights
3-02	Cable rights and access rights
3-04	Access rights
3-05	Cable rights and access rights
3-06	Cable rights and access rights
3-08	Cable rights and access rights
3-09	Access rights
3-10	Access rights
3-11	Access rights
3-13	Cable rights
3-14	Cable rights
3-15	Cable rights and access rights
3-16	Cable rights and access rights
3-17	Cable rights and access rights
3-18	Cable rights and access rights
3-19	Cable rights and access rights
3-20	Cable rights and access rights
3-21	Access rights
3-24	Access rights

3-26	Cable rights and access rights
3-28	Access rights
3-29	Access rights
3-30	Access rights
3-31	Access rights
3-32	Access rights
3-33	Access rights
3-34	Access rights
3-35	Cable rights
4-01	Cable rights
4-02	Cable rights
4-03	Cable rights
4-04	Cable rights
4-05	Cable rights
4-06	Cable rights
4-07	Cable rights
4-08	Cable rights
4-10	Cable rights
4-12	Cable rights
4-14	Cable rights
4-15	Cable rights
4-16	Cable rights and access rights
4-17	Cable rights
4-18	Cable rights
4-19	Cable rights
4-20	Cable rights
4-21	Cable rights
4-22	Cable rights
4-25	Cable rights
4-26	Cable rights and access rights
5-02	Cable rights and access rights
5-06	Cable rights and access rights
5-07	Cable rights and access rights
5-08	Cable rights and access rights
5-09	Cable rights and access rights
5-10	Cable rights and access rights
5-12b	Access rights
5-12 c	Cable rights
5-13	Access rights
5-14	Access rights
5-15	Access rights
5-16	Cable rights and access rights
5-21	Cable rights and access rights
6-10	Cable rights and access rights
6-12	Cable rights
6-14	Cable rights
6-15	Cable rights and access rights
6-16	Cable rights
6-20	Cable rights and access rights
6-21	Cable rights and access rights
6-22	Cable rights and access rights

6-23	Cable rights and access rights
7-02	Cable rights and access rights
7-04	Cable rights
7-05	Cable rights
7-08	Cable rights
7-10	Access rights
7-11	Cable rights and access rights
7-12	Cable rights and access rights
7-13	Cable rights and access rights
7-14	Cable rights and access rights
7-15	Cable rights
7-16	Access rights
7-17	Cable rights and access rights
7-19	Cable rights
7-20	Access rights
7-21	Access rights
7-22	Access rights
7-23	Cable rights and access rights
7-24	Access rights
7-25	Cable rights and access rights
7-26	Cable rights and access rights
7-27	Cable rights and access rights
7-28	Cable rights and access rights
7-29	Access rights
7-30	Access rights
7-34	Cable rights and access rights
7-36	Cable rights
8-02	Cable rights and access rights
8-03	Cable rights and access rights
8-05	Cable rights and access rights
8-22	Cable rights and access rights
8-24	Cable rights and access rights
8-25	Cable rights and access rights
8-29	Cable rights and access rights
8-31	Cable rights and access rights
8-33	Access rights
8-34	Access rights
8-35	Access rights
8-37	Access rights
9-05	Access rights
9-06	Cable rights and access rights
9-07	Access rights
9-09	Cable rights and access rights
9-10	Cable rights and access rights
9-11	Cable rights and access rights
9-12	Cable rights and access rights
9-14	Cable rights
10-03	Cable rights and access rights
10-04	Cable rights and access rights
10-06	Cable rights
10-07	Cable rights

10-08	Cable rights and access rights
10-10	Cable rights
10-13	Cable rights and access rights
10-14	Cable rights and access rights
10-17	Cable rights
10-18	Cable rights
10-19	Cable rights
10-20	Cable rights
10-21	Cable rights
11-01	Cable rights
11-02	Cable rights
11-03	Cable rights
11-04	Cable rights and access rights
11-05	Cable rights
11-06	Cable rights
11-07	Cable rights
11-08	Cable rights
11-09	Cable rights
11-10	Cable rights
11-11	Cable rights
11-12	Cable rights
11-13	Cable rights
11-14	Cable rights
11-15	Cable rights
11-16	Cable rights
11-17	Cable rights
11-18	Cable rights
11-19	Cable rights
11-20	Cable rights
11-21	Cable rights
11-22	Cable rights
11-23	Cable rights
11-24	Cable rights
11-25	Cable rights
11-26	Cable rights
11-27	Cable rights and access rights
11-28	Cable rights and access rights
11-29	Cable rights and access rights
11-30	Cable rights and access rights
11-31	Cable rights and access rights
11-32	Cable rights and access rights
11-33	Cable rights
11-34	Cable rights and access rights
11-35	Cable rights
11-36	Cable rights
11-37	Cable rights
11-38	Cable rights
11-39	Cable rights and access rights
11-40	Cable rights and access rights
11-41	Cable rights
11-42	Cable rights

11-43	Cable rights
11-44	Cable rights
11-45	Cable rights
11-46	Cable rights and access rights
11-47	Access rights
11-48	Cable rights and access rights
12-01	Cable rights and access rights
12-02	Cable rights and access rights
12-03	Cable rights and access rights
12-04	Cable rights and access rights
12-05	Cable rights
12-06	Cable rights
12-07	Cable rights and access rights
12-08	Access rights
12-09	Access rights
13-01	Cable rights
13-02	Cable rights and access rights
13-03	Cable rights and access rights
13-09	Cable rights and access rights

SCHEDULE 10

Article 21

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR THE CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIVE COVENANTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5—

(a) for the words "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for the words "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

3.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 5A(5A) (relevant valuation date), omit the words after "if—" and substitute—

"(a) the acquiring authority enters on land for the purpose of exercising a right in pursuant of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 10 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) to the Botley West Solar Farm Order 202[*];

(b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 10 (modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) to the Botley West Solar Farm Order 202[*]) to acquire an interest in the land; and

(c) the acquiring authority enters on and takes possession of that land the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.".

Application of Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the acquisition of land under article 18 (compulsory acquisition of land) and as modified by article 26 (modification of Part 1 of the Compulsory Purchase Act 1965), applies to the compulsory acquisition of a right by the creation of a new right under article 21 (compulsory acquisition of rights)—

(a) 1973 c.26.

(a) with the modifications specified in paragraph 5; and

(b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows—

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restriction is to be enforceable.

(3) For section 7 of the 1965 Act (measure of compensation in case of severance) substitute—

"**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.".

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry)(**a**) of the 1965 Act is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to compulsory acquisition under article 18 (compulsory acquisition of land)), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 11A (powers of entry: further notices of entry)(**b**), 11B (counter-notice requiring possession to be taken on specified date)(**c**), 12 (penalty for unauthorised entry)(**d**) and 13 (refusal to give possession to acquiring authority)(**e**) of the 1965 Act are modified correspondingly.

(6) Section 20 (**f**) (tenants at will, etc) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such

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(a) Section 11 was amended by section 34(1) of, and Schedule 4 to the Acquisition of Land Act 1981 (c.67), section 3 of, and Part 1 of Schedule 1 to the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), sections 186(2), 187(2) and 188 of, and paragraph 6 of Schedule 14 and paragraph 3 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22) and S.I. 2009/1307.

(b) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016.

(c) Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016.

(d) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to the Court Act 1971 (c. 23) and paragraphs (2) and (4) of Schedule 16 to the Housing and Planning Act 2016.

(e) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(f) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 26 (modification of Part 1 of the Compulsory Purchase Act 1965) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act (counter notice requiring purchase of land not in notice to treat) substitute—

"SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 23 (application of the 1981 Act) of the Botley West Solar Farm Order 202[*] in respect of the land to which the notice to treat relates.

(2) But see article 24(3) (acquisition of subsoil only) of the Botley West Solar Farm Order 202[*] which excludes the acquisition of subsoil only from this Schedule.

2. In this Schedule, "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter notice, or

(c) refer the counter notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of three months beginning with the day on which the counter-notice is served ("the decision period").

7. If the authority decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

(a) in the case of a house, building or factory; cause material detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right or the imposition of the covenant,

(b) the use to be made of the right or covenant proposed to be acquired or imposed, and

(c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14. —(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of six weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense cause by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.".

SCHEDULE 11

Article 28

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) *Plot reference number shown on the Land Plans*	*(2)* *Purpose for which temporary possession may be taken*
Plot 1-08	Temporary use to facilitate the construction of Work Nos. 1,5,6,7,8 and 9
Plot 1-09	Temporary use to facilitate the construction of Work Nos. 1,5,6,7,8 and 9
Plot 5-11	Temporary use to facilitate the construction of Work No. 6
Plot 5-12a	Temporary use to facilitate the construction of Work No. 7

SCHEDULE 12

Article 37

HEDGEROWS TO BE REMOVED

(1) *Area*	*(2)* *Number of hedgerow and extent of removal*	*(3)* *Purpose of removal*	*(4)* *Important Hedgerow*
West Oxfordshire District Council	Removal of up to 1.6m of the hedgerow H2.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 2 of 13.	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 11m of the hedgerow H2.02 as shown approximately within the Hedgerow removal plans Sheet 2 of 13.	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 3.5m of the hedgerow H2.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 2 of 13.	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 58.5m of the hedgerow H2.04 as shown approximately within the Hedgerow removal plans Sheet 2 of 13.	To facilitate construction of the authorised development.	No
West Oxfordshire District Council	Removal of up to 2m of the hedgerow H2.05 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 2 of 13.	To facilitate construction of the authorised development.	No
West Oxfordshire District Council	Removal of up to 55m of the hedgerow H3.01 as shown approximately within the Hedgerow removal plans Sheet 3 of 13.	To facilitate construction of the authorised development.	Yes
West Oxfordshire	Removal of up to	To facilitate	Yes

District Council	3.5m of the hedgerow H3.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 3 of 13.	construction of the authorised development	
West Oxfordshire District Council	Removal of up to 2m of the hedgerow H3.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 3 of 13.	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 0.2m of the hedgerow H3.04 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 3 of 13.	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 12m of the hedgerow H3.05 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 3 of 13.	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H3.06 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 3 of 13.	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 29m of the hedgerow H3.07 as shown approximately within the Hedgerow removal plans Sheet 3 of 13.	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H3.08 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 3 of 13	To facilitate construction of the authorised development	Yes
Cherwell District Council	Removal of up to 9.5m of the hedgerow	To facilitate construction of the	Yes

	H3.09 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 3 of 13.	authorised development	
Cherwell District Council	Removal of up to 0.2m of the hedgerow H3.10 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 3 of 13.	To facilitate construction of the authorised development	No
Cherwell District Council	Removal of up to 2m of the hedgerow H4.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 4 of 13.	To facilitate construction of the authorised development	No
Cherwell District Council	Removal of up to 2m of the hedgerow H4.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 4 of 13	To facilitate construction of the authorised development	No
Cherwell District Council	Removal of up to 2m of the hedgerow H4.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 4 of 13	To facilitate construction of the authorised development	Yes
Cherwell District Council	Removal of up to 2m of the hedgerow H4.04 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 4 of 13	To facilitate construction of the authorised development	No
Cherwell District Council	Removal of up to 2m of the hedgerow H4.05 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 4 of 13	To facilitate construction of the authorised development	Yes
Cherwell District Council	Removal of up to 2m of the hedgerow	To facilitate construction of the	No

	H4.06 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 4 of 13	authorised development	
Cherwell District Council	Removal of up to 5m of the hedgerow H5.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
Cherwell District Council	Removal of up to 1.5m of the hedgerow H5.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
Cherwell District Council	Removal of up to 5m of the hedgerow H5.04 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 2.4m of the hedgerow H5.05 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 1.9m of the hedgerow H5.06 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H5.07 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 5m of the hedgerow	To facilitate construction of the	No

	H5.08 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	authorised development	
West Oxfordshire District Council	Removal of up to 2.2m of the hedgerow H5.09 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
Cherwell District Council	Removal of up to 14.5m of the hedgerow H5.10 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	Yes
Cherwell District Council	Removal of up to 1.9m of the hedgerow H5.11 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 2.3m of the hedgerow H5.12 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 3.7m of the hedgerow H5.13 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H5.14 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
West Oxfordshire	Removal of up to	To facilitate	Yes

District Council	2.3m of the hedgerow H5.15 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	construction of the authorised development	
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H5.16 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H5.17 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	Yes
Cherwell District Council	Removal of up to 25m of the hedgerow H5.20 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 5 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 2.5m of the hedgerow H6.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 6 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 0.1m of the hedgerow H6.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 6 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 15.0m of the hedgerow H6.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 6 of 13	To facilitate construction of the authorised development	No

West Oxfordshire District Council	Removal of up to 16.5m of the hedgerow H7.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.04 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.05 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.06 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.07 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7	To facilitate construction of the authorised development	No

	of 13		
West Oxfordshire District Council	Removal of up to 4.2m of the hedgerow H7.08 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 0.5m of the hedgerow H7.09 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 1.1m of the hedgerow H7.10 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.11 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.12 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.13 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H7.14 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7	To facilitate construction of the authorised development	No

	of 13		
West Oxfordshire District Council	Removal of up to 0.5m of the hedgerow H7.15 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 0.7m of the hedgerow H7.16 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 7 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 3m of the hedgerow H8.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 8 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H8.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 8 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 3.3m of the hedgerow H8.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 8 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 2.8m of the hedgerow H8.04 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 8 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 0.5m of the hedgerow H8.05 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 8	To facilitate construction of the authorised development	No

	of 13		
West Oxfordshire District Council	Removal of up to 1.2m of the hedgerow H9.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 9 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 1m of the hedgerow H9.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 9 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 0.3m of the hedgerow H9.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 9 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 31m of the hedgerow H10.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 10 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 23m of the hedgerow H10.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 10 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H10.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 10 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 2.8m of the hedgerow H10.04 within the Order limits as shown approximately within the Hedgerow removal plans Sheet	To facilitate construction of the authorised development	No

	10 of 13		
West Oxfordshire District Council	Removal of up to 1.7m of the hedgerow H10.05 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 10 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 0.2m of the hedgerow H11.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 11 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 3.5m of the hedgerow H11.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 11 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H11.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 11 of 13	To facilitate construction of the authorised development	Yes
West Oxfordshire District Council	Removal of up to 2m of the hedgerow H11.04 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 11 of 13	To facilitate construction of the authorised development	No
West Oxfordshire District Council	Removal of up to 5m of the hedgerow H11.05 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 11 of 13	To facilitate construction of the authorised development	No
Vale of White Horse District Council	Removal of up to 5m of the hedgerow H11.06 within the Order limits as shown approximately within the Hedgerow removal plans Sheet	To facilitate construction of the authorised development	No

	11 of 13		
Vale of White Horse District Council	Removal of up to 5m of the hedgerow H11.07 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 11 of 13	To facilitate construction of the authorised development	No
Vale of White Horse District Council	Removal of up to 70m of the hedgerow H13.01 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 13 of 13	To facilitate construction of the authorised development	No
Vale of White Horse District Council	Removal of up to 1.6m of the hedgerow H13.02 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 13 of 13	To facilitate construction of the authorised development	No
Vale of White Horse District Council	Removal of up to 30m of the hedgerow H13.03 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 13 of 13	To facilitate construction of the authorised development	No
Vale of White Horse District Council	Removal of up to 65m of the hedgerow H13.04 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 13 of 13	To facilitate construction of the authorised development	No
Vale of White Horse District Council	Removal of up to 16.5m of the hedgerow H13.05 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 13 of 13	To facilitate construction of the authorised development	No
Vale of White Horse District Council	Removal of up to 0.7m of the hedgerow H13.06 within the Order limits as shown approximately within the Hedgerow	To facilitate construction of the authorised development	No

	removal plans Sheet 13 of 13		
Vale of White Horse District Council	Removal of up to 0.9m of the hedgerow H13.07 within the Order limits as shown approximately within the Hedgerow removal plans Sheet 13 of 13	To facilitate construction of the authorised development	No

SCHEDULE 13

Article 39

DOCUMENTS AND PLANS TO BE CERTIFIED

PART 1

DOCUMENTS FORMING THE ENVIRONMENTAL STATEMENT TO BE CERTIFIED

(1) *Document name*	*(2)* *Document reference*	*(3)* *Revision number*	*(4)* *Date*	*(5)* *Examination Library Reference*
Environmental Statement	EN010147/APP/6.1 to EN010147/APP/6.3	0	November 2024	[APP-036] to [APP-058]
Figures	EN010147/APP/6.4	0	November 2024	[APP-059] to [APP-123]
Technical Appendices	EN010147/APP/6.5	0	November 2024	[APP-124] to [APP-224]

PART 2

EXAMINATION DOCUMENTS FORMING PART OF THE ENVIRONMENTAL STATEMENT TO BE CERTIFIED

(1) *Document name*	*(2)* *Document reference*	*(3)* *Revision number*	*(4)* *Date*	*(5)* *Examination Library Reference*
Chapter 7: Historic Environment	EN010147/APP/6.3	3	September 2025	[CR2-019]
Chapter 8: Landscape and Visual Impact Assessment	EN010147/APP/6.3	4	October 2025	[REP6-012]
Chapter 9: Ecology and Nature Conservation	EN010147/APP/6.3	3	August 2025	[REP4-010]
Chapter 10: Hydrology and Flood Risk	EN010147/APP/6.3	2	October 2025	[REP6-010]
Chapter 11: Ground Conditions	EN010147/APP/6.3	3	November 2025	TBC
Chapter 12: Traffic and Transport	EN010147/APP/6.3	1	September 2025	[REP5-016]

Chapter 13: Noise and Vibration	EN010147/APP/6.3	1	May 2025	[PDB-010]
Chapter 14: Climate Change	EN010147/APP/6.3	1	July 2025	[REP3-016]
Chapter 15: Socio-Economics	EN010147/APP/6.3	2	November 2025	TBC
Chapter 16: Human Health	EN010147/APP/6.3	1	September 2025	[CR2-023]
Chapter 19: Air Quality	EN010147/APP/6.3	1	September 2025	[REP5-020]
Chapter 20: Cumulative Effects and Interrelationships	EN010147/APP/6.3	1	September 2025	[REP5-022]
Figure 1.2 - Masterplan Overview	EN010147/APP/6.4	3	November 2025	TBC
Figures 2.1a - 2.4c - Illustrative Masterplan	EN010147/APP/6.4	3	November 2025	TBC
Figure 8.12-8.127 Representative Viewpoint Photographs (Winter)	EN010147/APP/6.4	1	September 2025	[REP5-028]
8.128-8.243 Representative Viewpoint Photographs (Summer)	EN010147/APP/6.4	1	September 2025	[REP5-029]
Figure 8.248 to 8.371 Photomontages (Winter and Summer)	EN010147/APP/6.4	1	September 2025	[REP5-030]
Figure 17.3 Surveyed ALC Grades	EN010147/APP/6.4	1	September 2025	[CR2-033]
Figure 17.4 Land Holdings	EN010147/APP/6.4	1	September 2025	[CR2-034]
Figure 17.5 PRoW and Other Promoted Routes	EN010147/APP/6.4	1	September 2025	[CR2-035]
Figure 20.1: Cumulative Developments - West Oxfordshire	EN010147/APP/6.4	1	September 2025	[REP5-048]
Figure 20.2: Cumulative Developments – Cherwell	EN010147/APP/6.4	1	September 2025	[REP5-049]
Figure 20.3:	EN010147/APP/	1	September 2025	[REP5-050]

Cumulative Developments - Vale of White Horse and OCC	6.4			
Appendix 4.4 Glint and Glare Study inc Technical Aerodrome Safeguarding Report	EN010147/APP/6.5	1	August 2025	[REP4-012]
Appendix 6.1 Project Mitigation Measures and Commitments Schedule	EN010147/APP/6.5	1	August 2025	[REP4-014]
Appendix 6.2 Cable Laying Methodology and Indicative HDD Crossing Locations	EN010147/APP/6.5	1	August 2025	[REP4-016]
Appendix 7.4 Heritage Impact Assessment for the Blenheim Palace World Heritage Site	EN010147/APP/6.4	1	September 2025	[CR2-036]
Appendix 7.5 Settings Assessment	EN010147/APP/6.5	3	September 2025	[CR2-038]
Appendix 8.3 Strategic Arboricultural Impact Assessment & Method Statement	EN010147/APP/6.5	1	October 2025	[REP6-014] to [REP6-018]
Appendix 8.5: Landscape Character Assessment	EN010147/APP/6.5	0	September 2025	[REP5-031]
Appendix 8.6: Public Rights of Way (PRoW) Assessment	EN010147/APP/6.5	0	September 2025	[REP5-037]
Appendix 8.7: Representative Viewpoint Assessment	EN010147/APP/6.5	0	September 2025	[REP5-038]
Appendix 9.4: Bat Survey Report	EN010147/APP/6.5	1	September 2025	[REP5-039]
Appendix 9.13 Biodiversity Net	EN010147/APP/6.5	2	October 2025	[REP6-019]

Gain Assessment				
Appendix 9.14 Habitats Regulations Assessment Report	EN010147/APP/6.5	1	October 2025	[REP6-022]
Appendix 10.1 Flood Risk Assessment	EN010147/APP/6.5	2	October 2025	[REP6-024]
Appendix 10.6: Surface water and Groundwater abstractions, pollutions incidents and discharge consents Report	EN010147/APP/6.5	1	July 2025	[REP3-024]
Appendix 10.7: Water Framework Directive Assessment	EN010147/APP/6.5	1	July 2025	[REP3-026]
Appendix 12.7 Traffic Flows with Construction Traffic	EN010147/APP/6.5	1	September 2025	[REP5-032]
Appendix 20.1 Cumulative Developments Longlist and Shortlist	EN010147/APP/6.5	1	September 2025	[REP5-034]

PART 3

OTHER DOCUMENTS TO BE CERTIFIED

(1) *Document name*	*(2)* *Document reference*	*(3)* *Revision number*	*(4)* *Date*	*(5)* *Examination Library Reference*
Book of reference	EN010147/APP/4.3	6	November 2025	TBC
Appendix 10.2: Conceptual drainage strategy	EN010147/APP/6.3	2	August 2025	[REP4-018]
Hedgerow removal plans	EN010147/APP/2.10	2	September 2025	[CR2-007]
Land plans	EN010147/APP/2.4	3	November 2025	TBC
Outline code of construction practice	EN010147/APP/7.6.1	6	November 2025	TBC
Outline	EN010147/APP/	2	October 2025	[REP6-036]

decommissioning plan	7.6.4			
Outline layout and design principles	EN010147/APP/ 7.7	6	November 2025	TBC
Outline landscape and ecology management plan	EN010147/APP/ 7.6.3	7	November 2025	TBC
Outline operational management plan	EN010147/APP/ 7.6.2	5	October 2025	[REP6-032]
Appendix 15.2: Outline skills, supply chain and employment plan	EN010147/APP/ 6.5	3	October 2025	[REP6-026]
Outline written scheme of investigation	EN010147/APP/ 7.6.5	3	September 2025	[CR2-053]
Streets, access and rights of way plans	EN010147/APP/ 2.2	2	September 2025	[CR2-004]
Traffic regulation measures plans	EN010147/APP/ 2.11	2	September 2025	[CR2-008]
Works plans	EN010147/APP/ 2.3	3	November 2025	TBC

SCHEDULE 14

Article 41

ARBITRATION RULES

Commencing an arbitration

1. The arbitration is deemed to have commenced when a party ("the claimant") serves a written notice of arbitration on the other party ("the respondent").

Appointment of the arbitrator

2.—(1) Within 14 days of the receipt of the notice of arbitration, the parties must agree and nominate a single arbitrator and notify the arbitrator of their appointment.

(2) If the nominated arbitrator refuses the appointment, the parties must agree and nominate an alternative arbitrator within 14 days of the receipt of the notice of the nominated arbitrator's refusal.

(3) If the parties do not agree and nominate a single arbitrator within the time period stipulated in sub-paragraph (1) (or as the case may be, sub-paragraph (2)), the Secretary of State will, on application by either party after giving written notice to the other party, appoint a single arbitrator.

Time periods

3.—(1) All time periods in these arbitration rules are measured in days and include weekends, but not bank or public holidays.

(2) Time periods are calculated from the day after the arbitrator is appointed which is either—

(a) the date the arbitrator notifies the parties in writing of his/her acceptance of an appointment by agreement of the parties; or

(b) the date the arbitrator is appointed by the Secretary of State.

Timetable

4.—(1) The timetable for the arbitration is that which is set out in sub-paragraphs (2) to (4) below unless amended in accordance with paragraph 6(3).

(2) Within 14 days of the arbitrator being appointed, the claimant must provide both the respondent and the arbitrator with—

(a) a written statement of claim which describes the nature of the difference between the parties, the legal and factual issues, the claimant's contentions as to those issues, the amount of its claim or the remedy it is seeking;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports.

(3) Within 14 days of receipt of the claimant's statements under sub-paragraph (2) by the arbitrator and respondent, the respondent must provide the claimant and the arbitrator with—

(a) a written statement of defence consisting of a response to the claimant's statement of claim, its statement in respect of the nature of the difference, the legal and factual issues in the claimant's claim, its acceptance of any elements of the claimant's claim and its contentions as to those elements of the claimant's claim it does not accept;

(b) all statements of evidence and copies of all documents on which it relies, including contractual documentation, correspondence (including electronic documents), legal precedents and expert witness reports;

(c) any objection it wishes to make to the claimant's statements, comments on the claimant's expert reports (if submitted by the claimant) and explanations of the objections.

(4) Within seven days of the respondent serving its statements under sub-paragraph (3), the claimant may make a statement of reply by providing both the respondent and the arbitrator with—

(a) a written statement responding to the respondent's submissions, including its reply in respect of the nature of the difference, the issues (both factual and legal) and its contentions in relation to the issues;

(b) all statements of evidence and copies of documents in response to the respondent's submissions;

(c) any expert report in response to the respondent's submissions;

(d) any objections to the statements of evidence, expert reports or other documents submitted by the respondent; and

(e) its written submissions in response to the legal and factual issues involved.

Procedure

5.—(1) The parties' pleadings, witness statements and expert reports (if any) must be concise. A single pleading must not exceed 30 single-sided A4 pages using 10pt Arial font.

(2) The arbitrator will make an award on the substantive differences based solely on the written material submitted by the parties unless the arbitrator decides that a hearing is necessary to explain or resolve any matters.

(3) Either party may, within two days of delivery of the last submission, request a hearing giving specific reasons why it considers a hearing is required.

(4) Within seven days of receiving the last submission, the arbitrator must notify the parties whether a hearing is to be held and the length of that hearing.

(5) Within ten days of the arbitrator advising the parties that a hearing is to be held, the date and venue for the hearing are to be fixed by agreement with the parties, save that if there is no agreement the arbitrator must direct a date and venue which the arbitrator considers is fair and reasonable in all the circumstances. The date for the hearing must not be less than 35 days from the date of the arbitrator's direction confirming the date and venue of the hearing.

(6) A decision must be made by the arbitrator on whether there is any need for expert evidence to be submitted orally at the hearing. If oral expert evidence is required by the arbitrator, then any experts attending the hearing may be asked questions by the arbitrator.

(7) There is to be no examination or cross-examination of experts, but the arbitrator must invite the parties to ask questions of the experts by way of clarification of any answers given by the experts in response to the arbitrator's questions. Prior to the hearing in relation to the experts—

(a) at least 28 days before a hearing, the arbitrator must provide a list of issues to be addressed by the experts;

(b) if more than one expert is called, they will jointly confer and produce a joint report or reports within 14 days of the issues being provided; and

(c) the form and content of a joint report must be as directed by the arbitrator and must be provided at least seven days before the hearing.

(8) Within 14 days of a hearing or a decision by the arbitrator that no hearing is to be held the parties may by way of exchange provide the arbitrator with a final submission in connection with the matters in dispute and any submissions on costs. The arbitrator must take these submissions into account in the award.

(9) The arbitrator may make other directions or rulings as considered appropriate in order to ensure that the parties comply with the timetable and procedures to achieve an award on the substantive difference within four months of the date on which the arbitrator is appointed unless both parties otherwise agree to an extension to the date for the award.

(10) If a party fails to comply with the timetable, procedure or any other direction then the arbitrator may continue in the absence of a party or submission or document, and may make a decision on the information before the arbitrator attaching the appropriate weight to any evidence submitted beyond any timetable or in breach of any procedure or direction.

(11) The arbitrator's award must include reasons. The parties must accept that the extent to which reasons are given must be proportionate to the issues in dispute and the time available to the arbitrator to deliver the award.

Arbitrator's powers

6.—(1) The arbitrator has all the powers of the Arbitration Act 1996, save where modified in this Schedule.

(2) There must be no discovery or disclosure, except that the arbitrator is to have the power to order the parties to produce such documents as are reasonably requested by another party no later than the statement of reply, or by the arbitrator, where the documents are manifestly relevant, specifically identified and the burden of production is not excessive. Any application and orders should be made by way of a Redfern Schedule without any hearing.

(3) Any time limits fixed in accordance with this procedure or by the arbitrator may be varied by agreement between the parties, subject to any such variation being acceptable to and approved by the arbitrator. In the absence of agreement, the arbitrator may vary the timescales or procedure—

(a) if the arbitrator is satisfied that a variation of any fixed time limit is reasonably necessary to avoid a breach of the rules of natural justice and then;

(b) only for such a period that is necessary to achieve fairness between the parties.

(4) On the date the award is made, the arbitrator will notify the parties that the award is completed, signed and dated, and that it will be issued to the parties on receipt of cleared funds for the arbitrator's fees and expenses.

Costs

7.—(1) The costs of the arbitration must include the fees and expenses of the arbitrator, the reasonable fees and expenses of any experts and the reasonable legal and other costs incurred by the parties for the arbitration.

(2) Where the difference involves connected or interrelated issues, the arbitrator must consider the relevant costs collectively.

(3) The final award must fix the costs of the arbitration and decide which of the parties are to bear them or in what proportion they are to be borne by the parties.

(4) The arbitrator must award recoverable costs on the general principle that each party should bear its own costs, having regard to all material circumstances, including such matters as exaggerated claims or defences, the degree of success for different elements of the claims, claims that have incurred substantial costs, the conduct of the parties and the degree of success of a party.

Confidentiality

8.—(1) Hearings in this arbitration are to take place in private.

(2) Materials, documents, awards, expert reports and any matters relating to the arbitration are confidential and must not be disclosed to any third party without prior written consent of the other party, save for any application to the courts or where disclosure is required under any legislative or regulatory requirement.

SCHEDULE 15

Article 42

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule, (save for any utility undertakers which are specifically protected by any other Part of this Schedule, which will take precedence) the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertakers concerned.

2. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

"apparatus" means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(**a**)), belonging to or maintained by that utility undertaker;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;

(c) in the case of a water undertaker—

(i) mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and

(ii) any water mains or service pipes (or part of a water main or service pipe) that is the subject of an agreement to adopt made under section 51A of the Water Industry Act 1991;

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(**b**); and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus; and

(e) any other mains, pipelines or cables that are not the subject of the protective provisions in Parts 2 to 9 of this Schedule;

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land; and

"utility undertaker" means—

(a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(a) 1989 c. 29.
(b) 1991 c.56

(b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(**a**);

(c) water undertaker within the meaning of the Water Industry Act 1991;

(d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991; and

(e) an owner or operator of apparatus within paragraph (e) of the definition of that term,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

4. Regardless of the temporary prohibition or restriction of use of streets under the powers conferred by article 11 (temporary closure of streets or public rights of way), a utility undertaker is at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction was in that street.

5. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land and to gain access to it must not be extinguished , until alternative apparatus has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 41 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in

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(**a**) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45) and was further amended by section 76 of the Utilities Act 2000 (c. 27).

sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that it desires itself to execute any work, or part of any work, in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus, in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

8.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 6(2), the undertaker must submit to the utility undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 6(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable

subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker the reasonable expenses incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 6(2).

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 41 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 6(2); and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in paragraph 6(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

(a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and

(b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(3) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

11. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaking in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

2. In this Part of this Schedule—

"the 2003 Act" means the Communications Act 2003(**a**);

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in section 106 (application of the electronic communications code) of the 2003 Act;

"electronic communications code network" means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

"electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

"operator" means the operator of an electronic communications code network.

3. The exercise of the powers of article 30 (statutory undertakers) is subject to Part 10 (undertakers' works affecting electronic communications apparatus) of the electronic communications code.

4.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(**a**) 2003 c. 21.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 41 (arbitration).

5. This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or

(b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

6. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF DRAINAGE AUTHORITIES

1. The provisions of this Part of this Schedule have effect for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

2. In this Part of this Schedule—

"authorised development" has the same meaning as in article 2 (interpretation) of this Order and (unless otherwise specified) for the purposes of this Part of this Schedule includes the operation and maintenance of the authorised development and the construction of any works authorised by this Part of this Schedule;

"construction" includes execution, placing, altering, replacing, relaying and removal, and

"construct" and "constructed" must be construed accordingly;

"drainage authority" means in relation to an ordinary watercourse—

(a) the drainage board concerned within the meaning of section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991; or

(b) in the case of any area for which there is no such drainage board, the lead local flood authority within the meaning of section 6 (other definitions) of the Flood and Water Management Act 2010;

"drainage work" means any ordinary watercourse and includes any bank, wall, embankment or other structure, or any appliance constructed for land drainage or flood defence which is the responsibility of the drainage authority;

"ordinary watercourse" has the meaning given by section 72 (interpretation) of the Land Drainage Act 1991;

"plans" includes sections, drawings, specifications and method statements;

"specified work" means so much of the authorised development as is in, on, under, over or within 8 metres of a drainage work or is otherwise likely to affect the flow of water in any watercourse.

3.—(1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may reasonably require within 14 days of the submission of the plans.

(2) A specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 9.

(3) Any approval of the drainage authority required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) is deemed to have been given if it is neither given nor refused within 28 days of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and

(c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work taking into account the terms of this Order.

(4) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

4. Without limiting the scope of paragraph 3, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary taking account of the terms of this Order—

(a) to safeguard any drainage work against damage by reason of any specified work; or

(b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired, and that the risk of flooding is not otherwise increased beyond the level of flood risk that was assessed in the environmental statement, by reason of any specified work.

5.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 4, must be constructed—

(a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part of this Schedule; and

(b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

(a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and

(b) notice in writing of its completion not later than seven days after the date on which it is brought into use.

6. If by reason of the construction of a specified work or of the failure of any of a specified work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker as soon as reasonably practicable to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

7. The undertaker must make reasonable compensation for costs, charges and expenses which the drainage authority may reasonably incur—

(a) in the examination or approval of plans under this Part of this Schedule;

(b) in inspecting the construction of the specified work or any protective works required by the drainage authority under this Part of this Schedule; and

(c) in carrying out any surveys or tests by the drainage authority which are reasonably required in connection with the construction of the specified work.

8.—(1) The undertaker must make reasonable compensation for liabilities, costs and losses which may be reasonably incurred or suffered by reason of—

(a) the construction of any specified works comprised within the authorised development; or

(b) any act or omission of the undertaker, its employees, contractors or agents or others while engaged upon the construction of the authorised development.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand.

(3) The undertaker may at its own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom.

(4) The drainage authority must not compromise or settle any such claim or make any admission which might be prejudicial to the claim without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

(5) The drainage authority will, having regard to its statutory functions, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss

(6) The drainage authority will, at the request of the undertaker and having regard to its statutory functions, afford all reasonable assistance for the purpose of contesting any such claim or action, and is entitled to be repaid its reasonable expenses reasonably incurred in so doing.

(7) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part of this Schedule.

(8) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of the drainage authority or the breach of a statutory duty of the drainage authority, its officers, servants, contractors or agents.

9. Any dispute arising between the undertaker and the drainage authority under this Part of this Schedule, if the parties agree, is to be determined by arbitration under article 41 (arbitration).

PART 4

FOR THE PROTECTION OF RAILWAY INTERESTS

1. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 14 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

2. In this Part of this Schedule—

"asset protection agreement" means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993(**a**);

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London, England SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006(**b**)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure

(a) 1993 c. 43.
(b) 2006 c.46.

Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

"railway property" means any railway belonging to Network Rail and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail or a tenant or licencee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under—

(a) the Railways Act 1993;

(b) the network licence; and/or

(c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 5 (power to maintain the authorised development) in respect of such works.

3.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

(a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

(b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

4.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

5.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 4(4) must, when commenced, be constructed—

(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 4;

(b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;

(c) in such manner as to cause as little damage as is possible to railway property; and

(d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

6.—(1) The undertaker must—

(a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and

(b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

7. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

8.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of

Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 4(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 9(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

9. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

(a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 4(3) or in constructing any protective works under the provisions of paragraph 4(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;

(c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

(d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and

(e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

10. —(1) In this paragraph—

"EMI" means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail's apparatus; and

"Network Rail's apparatus" means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—

(a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 4(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

(b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and

(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 4(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;

(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;

(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and

(d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (4) or (5)—

(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;

(b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 6.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 14(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 9(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

11. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

12. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

13. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

14. —(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 40 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or

(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

(c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;

(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

(e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

(a) give the undertaker reasonable written notice of any such claims or demands

(b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and

(c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

15. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 14) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

16. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

17. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

(a) any railway property shown on the works and land plans and described in the book of reference;

(b) any lands, works or other property held in connection with any such railway property; and

(c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

18. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

19. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 34 (consent to transfer the benefit of the Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

(a) the nature of the application to be made;

(b) the extent of the geographical area to which the application relates; and

(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

20. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 39 (certification of plans and documents etc.) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

21. Any dispute arising under this part of this Part of this Schedule, unless otherwise provided for, must be referred to and settled by arbitration in accordance with article 41 (Arbitration) and the Arbitration Rules at Schedule 14 (Arbitration Rules).

PART 5

FOR THE PROTECTION OF THAMES WATER UTILITIES LIMITED

Application

1. For the protection of the utility undertaker referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker.

Interpretation

2. In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991;

"alternative apparatus" means alternative apparatus adequate to enable the utility undertaker to fulfil its statutory functions in a manner no less efficient and effective than previously;

"apparatus" means—

(i) any mains, pipes, other water apparatus or accessories (as defined in section 219 of the Water Industry Act 1991) belonging to, maintained or used by the utility undertaker for the purposes of water supply; and

(ii) any water mains or service pipes which are the subject of a notice of intention to adopt made under section 51A of the Water Industry Act 1991; and

(iii) any sewer, drain or disposal works vested in the utility undertaker under the Water Industry Act 1991; and

(iv) any sewer, drain or disposal works which is so vested, or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act, and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps, inspection chambers or other accessories (as defined in section 219(1) of the Water Industry Act 1991) forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;'

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, method statements, sections, descriptions, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

"utility undertaker" means Thames Water Utilities Limited (Company Number 02366661) whose registered office is at Clearwater Court, Vastern Road, Reading, Berkshire, RG1 8DB or any successor in function as the relevant water or sewerage undertaker.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in closed public rights of way or altered streets

4. Regardless of the temporary closure or diversion of any highway under the powers conferred by article 11 (temporary closure of public rights of way), the utility undertaker is at liberty at all times to take all necessary access across any such closed highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the closure or diversion was in that highway.

Compulsory acquisition

5. – (1) Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not appropriate, acquire, extinguish, interfere with or override any interest in land, easement or other interest or right of the utility undertaker nor acquire any of its apparatus otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between the utility undertaker and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of the utility undertaker or affects the provisions of any enactment or agreement regulating the relations between the utility undertaker and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as the utility undertaker reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between the utility undertaker and the undertaker acting reasonably and which must be no less favourable on the whole to the utility undertaker unless otherwise agreed by the utility undertaker, and it will be the responsibility of the undertaker to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such part of the authorised development.

(3) The undertaker and the utility undertaker agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by the utility undertaker or other enactments relied upon by the utility undertaker as of right or other use in relation to the apparatus, then the provisions in this part of this Schedule prevail.

(4) Any agreement or consent granted by the utility undertaker under paragraph 8 (retained apparatus) or any other paragraph of this part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves decommissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of the utility undertaker in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release the utility undertaker from all liabilities in respect of such decommissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any of the utility undertaker's rights or interests (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 6 (removal of apparatus) do not apply, the undertaker must:

(a) retain any notice of the utility undertaker's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of the utility undertaker's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of the utility undertaker's easement, right or other interest in relation to such acquired land; and

(c) provide up to date official entry copies to the utility undertaker within 20 working days of receipt of such up to date official entry copies.

Removal of apparatus

6.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of the utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in accordance with sub-paragraphs (2) to (8).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give 56 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed for approval by the utility undertaker in accordance with sub-paragraph (4) and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (4), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed the utility undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for the utility undertaker to use its compulsory purchase powers to this end unless it elects (in its absolute discretion) to so do.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker and the undertaker or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(5) The utility undertaker must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 41 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (4), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (4), if the undertaker gives notice in writing to the utility undertaker that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker and if the utility undertaker gives its consent in writing (which must not be unreasonably withheld or delayed and will be subject to the provisions of sub-paragraph (7)), that work, instead of being executed by the utility undertaker, may be executed by the undertaker without unnecessary delay under the superintendence (if the utility undertaker determines, in its absolute discretion, that this is necessary) to the reasonable satisfaction of the utility undertaker.

(7) If by the end of the period of 56 days from the submission of the details relating to required removal works under sub-paragraphs (2) and (4) or the carrying out of works pursuant to sub-paragraph (6) the utility undertaker has not intimated its disapproval of those details and the grounds of such disapproval, the undertaker may give the utility undertaker written notice requiring the utility undertaker to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the utility undertaker receives written notice from the undertaker and if by the expiry of the further 28 days the utility undertaker has not intimated approval or disapproval, the utility undertaker will be deemed to have approved the details as submitted provided that such notification has been made in accordance with paragraph 18 (notices and applications). For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which must remain the sole responsibility of the utility undertaker or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker must, before taking or requiring any further step in such substitution works, use best endeavours to comply with the utility undertaker's reasonable requests for a reasonable period of time to enable the utility undertaker to;

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to the utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 41 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the arbitrator will—

(a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptions of the alternative apparatus which may be required to prevent interference with the proposed works of the undertaker; and

(b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or on the land for which the alternative apparatus is to be substituted; and

(c) give effect to the statutory obligations of the utility undertaker and the undertaker.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to the utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(4) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2010 or other legislation.

Retained apparatus

8.—(1) Not less than 56 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near or within 15 metres of the outside face of any apparatus (except where it is a pipe, in which case sub-paragraph (8) will

apply), (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 5(2) (removal of apparatus), the undertaker must submit to the utility undertaker a plan of the works to be executed.

(2) The undertaker must not commence any works to which sub-paragraph (1) applies until the utility undertaker has given written approval of the plan so submitted (such approval not to be unreasonably withheld or delayed) and such approval may be given subject to reasonable requirements or modifications for the purposes mentioned in sub-paragraph (3).

(3) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements or modifications as may be made in accordance with sub- paragraph (2) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(4) Any requirements or modifications made by the utility undertaker under sub-paragraph (2) must be made within a period of 35 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(5) If the utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2) (removal of apparatus).

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(7) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency works but in that case must:

(a) give the utility undertaker notice in accordance with paragraph 18 (notices and applications) as soon as is reasonably practicable;

(b) provide utility undertaker with a plan of those works as soon as reasonably practicable subsequently;

(c) carry out the works in accordance with industry best practice and guidelines on safe working near utilities;

(d) comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances; and

(e) keep the impact of those emergency works on the utility undertaker's apparatus to a minimum.

(8) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near the utility undertaker's apparatus (where it is a pipe) if those works fall within the following distances measured from the outside face of such apparatus;

(a) 3 meters in the case of distribution mains and sewers; and

(b) 5 meters in the case of trunk water mains.

Expenses and costs

9.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to the utility undertaker all expenses, costs and charges reasonably incurred and any compensation properly paid by the utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraphs 5(2) or 7(2) or 7(3).

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 41 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker by virtue of sub- paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to the utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

10.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 5(2) (removal of apparatus), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by the utility undertaker, the undertaker must—

(a) bear and pay within 30 days of submission of an invoice or relevant breakdown from the utility undertaker the cost reasonably and properly incurred by the utility undertaker, accompanied by an invoice or claim, in making good such damage or restoring the supply; and

(b) indemnify the utility undertaker against claims, demands, proceedings, damages, penalty or costs reasonably and properly incurred by or recovered from the utility undertaker, by reason or in direct consequence of any such damage or interruption or the utility undertaker becoming liable to any third party as aforesaid.

(2) The fact that any act or thing may have been done by the utility undertaker on behalf of the undertaker or in accordance with a plan approved by the utility undertaker or in accordance with any requirement of the utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless the utility undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of the utility undertaker, its officers, servants, contractors or agents.

(4) The utility undertaker will, having regard to its statutory functions, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, damages, penalties or costs.

(5) The utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Access

11. If in consequence of the exercise of the powers conferred by this Order the access to any apparatus or land of the utility undertaker is obstructed, the undertaker must provide such alternative means of access to that apparatus or land as will enable the utility undertaker to maintain or use the apparatus or land no less effectively than was possible before the obstruction.

Cooperation

12. Where in consequence of the proposed construction of any of the authorised development, the undertaker or the utility undertaker requires the removal of apparatus under paragraph 5(2) (removal of apparatus) or the utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 7 (retained apparatus), the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and the utility undertaker must use all reasonable endeavours to co-operate with the undertaker for that purpose.

13. Where the undertaker identifies any apparatus which they have reason to believe may belong to or be maintainable by the utility undertaker, but which does not appear on any statutory map kept for the purpose by the utility undertaker, it must inform the utility undertaker of the existence and location of the apparatus as soon as reasonably practicable.

14. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and the utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

15. The undertaker must procure that its employees, contractors and subcontractors take all reasonable and proper precautions in exercise of powers conferred by this Order, including compliance with these provisions at Part 5 of Schedule 15 of the Order save that this obligation will not prevent the construction or operation of the authorised development.

Authority for the works

16.—(1) Any works involving the laying or construction of pipes or accessories thereto to form part of the utility undertaker's undertaking, or inspection, adjustment, repair or alteration (including moving or removing and replacing) of such apparatus, or any works requisite for or incidental to the purpose of any such works, will, unless otherwise agreed in writing by the utility undertaker, be undertaken pursuant to the utility undertaker's statutory powers following the service of statutory notice of entry onto land, such notice to be served by the utility undertaker.

(2) In the event that the utility undertaker carries out any works involving new or existing assets of the utility undertaker under its own statutory powers then the provisions of this Part of this Schedule will apply to such works and the utility undertaker covenants to observe and comply with this Part of this Schedule irrespective of whether it is carrying out the works under its own statutory powers or in reliance on the powers conferred by the Order.

(3) In the event that the utility undertaker carries out any works involving new or existing utility undertaker assets under its own statutory powers but then fails to carry out those works in accordance with this Part of this Schedule or within a reasonable timeframe then this will not prevent or otherwise prejudice the exercise of the powers to carry out the works conferred by the Order.

Alteration of ground levels

17. The undertaker must inform the utility undertaker as soon as practicably possible if they determine to alter the ground level more than 300mm within 3 metres laterally of the outside face of any apparatus. Subsequently the utility undertaker must determine if works under paragraph 5 (removal of apparatus) or 7 (retained apparatus) are necessary.

Survey works

18. The undertaker must provide written notice to the utility undertaker as soon as practicably possible if they intend to survey using ground intrusive methods within 3 metres laterally of the outside face of any apparatus. Subsequently the utility undertaker must determine if works under paragraph 5 (removal of apparatus) or 7 (retained apparatus) are necessary.

Notices and applications

19. Notwithstanding any other provision of this Order, any:

(a) written notice to the utility undertaker provided for in this Order; or

(b) application for the approval of the utility undertaker made pursuant to article 17 (discharge of water) as may be required,

must be made by email to devcon.team@thameswater.co.uk or developer.services@thameswater.co.uk or such other contact details as may be provided by the utility undertaker to the undertaker from time to time. In the case of emergencies, notice must also be given via the Thames Water website or such other contact details as may be provided by the utility undertaker to the undertaker from time to time.

PART 6

FOR THE PROTECTION OF SOUTHERN GAS NETWORKS PLC AS GAS UNDERTAKER

Application

1. For the protection of SGN the following provisions will, unless otherwise agreed in writing between the undertaker and SGN, have effect.

Interpretation

2. In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991;

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of SGN to enable SGN to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by SGN for the purposes of gas distribution together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of SGN for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised development" has the same meaning as in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this part of this Schedule;

"commence" has the same meaning as in article 2 (interpretation) of this Order and commencement is to be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement include any below ground works, intrusive monitoring, groundwork operations or the receipt and erection of construction plant any monitoring;

"deed of consent" means a deed of consent, crossing or proximity agreement, deed of easement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by SGN (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, requires the undertaker to submit for SGN's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SGN including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus or alternative apparatus;

"Order" means the Botley West Solar Farm Order 202[*];

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"parent company" means a parent company of the undertaker acceptable to SGN and which must have been approved by SGN acting reasonably;

"rights" includes rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

"SGN" means Southern Gas Networks plc (05167021) whose registered office address is St Lawrence House, Station Approach, Horley, Surrey, RH6 9HJ or its successors in title or successor bodies or any successor as a gas transporter within the meaning of Part 1 (gas supply) of the Gas Act 1986.

"specified works" means any of the authorised development or activities undertaken in association with the authorised development which;

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 7(2) or otherwise; or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 7(2) or otherwise;

"undertaker" means the undertaker as defined in article 2 (interpretation) of this Order.

On Street Apparatus

3.—(1) Except for paragraphs 4 (apparatus of SGN in closed public rights of way), 6 (removal of apparatus) in so far as sub-paragraph (2) applies, 7 (facilities and rights for alternative apparatus) in so far as sub-paragraph (2) below applies, 8 (retained apparatus: protection), 9 (expenses) and 10 (indemnity) of this Part of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of SGN, the other provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and SGN are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

(2) Paragraphs 6 and 7 of this part of this Schedule will apply to diversions even where carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

Apparatus of SGN in closed public rights of way

4. Notwithstanding the temporary closure or diversion of any street or public rights of way under the powers of article 11 (temporary closure of public rights of way), SGN will be at liberty at all times to take all necessary access across any such closed street or public rights of way or to execute and do all such works and things in, upon or under any such street or public rights of way as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the closure or diversion was in that street or public rights of way.

Acquisition of land

5.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of SGN otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between SGN and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of SGN or affects the provisions of any enactment or agreement regulating the relations between SGN and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as SGN reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between SGN and the undertaker acting reasonably and which must be no less favourable on the whole to SGN unless otherwise agreed by SGN, and it will be the responsibility of the undertaker to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such part of the authorised development.

(3) The undertaker and SGN agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SGN or other enactments relied upon by SGN as of right or other use in relation to the apparatus, then the provisions in this part of this Schedule prevail.

(4) Any agreement or consent granted by SGN under paragraph 8 (retained apparatus: protection of SGN) or any other paragraph of this part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves decommissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of SGN in such decommissioned apparatus and consequently acquire

title to such decommissioned apparatus and release SGN from all liabilities in respect of such decommissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any SGN right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 6 (removal of apparatus) do not apply, the undertaker must—

(a) retain any notice of SGN's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of SGN's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of SGN's easement, right or other interest in relation to such acquired land; and

(c) provide up to date official entry copies to SGN within 20 working days of receipt of such up to date official entry copies.

Removal of apparatus

6.—(1) If, in the exercise of the agreement reached in accordance with paragraph 5 (acquisition of land) or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this part of this Schedule and any right of SGN to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of SGN and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to SGN advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SGN reasonably needs to move or remove any of its apparatus) the undertaker must afford to SGN to its satisfaction (taking into account sub-paragraph 7(1) below) the necessary facilities and rights;

(a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus);

(b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, SGN may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for SGN to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between SGN and the undertaker.

(5) SGN must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to SGN of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to SGN to its reasonable satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently

to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

7.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SGN facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and SGN and must be no less favourable on the whole to SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by SGN.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SGN under sub-paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 14 (arbitration) of this Part of this Schedule and the arbitrator shall make such provision for the payment of compensation by the undertaker to SGN as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of SGN

8.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to SGN a plan and, if reasonably required by SGN, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to SGN under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until SGN has given written approval of the plan so submitted.

(4) Any approval of SGN required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and

(b) must not be unreasonably withheld or delayed and SGN must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) In relation to any work to which sub-paragraphs (1) and (2) apply, SGN may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with—

(a) the plan, submitted under sub-paragraph (1) and (2), as approved or as amended from time to time by agreement between the undertaker and SGN; and

(b) all conditions imposed under sub-paragraph (4)(a), and SGN will be entitled to watch and inspect the execution of those works.

(7) Where SGN requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to SGN's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and SGN must give 45 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If SGN, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 5 to 7 apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 6(2) (removal of apparatus).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker is not to be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to SGN notice as soon as is reasonably practicable and a plan of those works and must comply with—

(a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and

(b) sub-paragraph (11) at all times.

(11) As soon as reasonably practicable after any ground subsidence event which is known to or may have affected apparatus attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that SGN retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 9 (expenses).

Expenses

9.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to SGN on demand all charges, costs and expenses reasonably anticipated or reasonably incurred by SGN in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or rights or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by SGN in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by SGN as a consequence of SGN;

(i) using its own compulsory purchase powers to acquire any necessary rights under sub-paragraph 6(3) if it elects to do so; or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting SGN;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule; and

(g) any watching brief pursuant to sub-paragraph 8(6).

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 41 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to SGN by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is to not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

Indemnity

10. —(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of SGN, or there is any interruption in any service provided, or in the supply of any goods, by SGN, or SGN becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand the cost reasonably incurred by SGN in making good such damage or restoring the supply; and

(b) indemnify SGN for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from SGN, by reason or in consequence of any such damage or interruption or SGN becoming liable to any third party as aforesaid other than arising from any default of SGN.

(2) The fact that any act or thing may have been done by SGN on behalf of the undertaker or in accordance with a plan approved by SGN or in accordance with any requirement of SGN or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph unless SGN fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan or as otherwise agreed between the undertaker and SGN.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of SGN, its officers, servants, contractors or agents; and

(b) any of the authorised development or any other works authorised by this Part of this Schedule carried out by SGN as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 (benefit of order granting development consent) of the Planning Act 2008 or article 34 (Consent to transfer benefit of the Order) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this sub-section (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 10.

(4) SGN must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) SGN must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph 10 applies. The undertaker will only be liable under this paragraph 10 for claims reasonably incurred by SGN.

Enactments and agreements

11. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between SGN and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and SGN in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

12. —(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or SGN requires the removal of apparatus under sub-paragraph 6(1) or SGN makes requirements for the protection or alteration of apparatus under paragraph 8 (retained apparatus: protection of SGN), the undertaker must co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of SGN's undertaking and SGN must co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SGN's consent, agreement or approval is required in relation to plans, documents or other information submitted by SGN or the taking of action by SGN, it must not be unreasonably withheld or delayed.

Access

13. If in consequence of the agreement reached in accordance with sub-paragraph 5(1) (acquisition of land) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable SGN to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

14. Save for differences or disputes arising under sub-paragraphs 6(2), 6(4) and 7(1) any difference or dispute arising between the undertaker and SGN under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and SGN, be determined by arbitration in accordance with article 41 (arbitration).

Notices

15. The plans submitted to SGN by the undertaker pursuant to sub-paragraph 8(1) (retained apparatus: protection of SGN) must be sent to SGN at Legal Services, Nexus Building, 25 Farringdon Street, London, EC4A 4AB or such other address as SGN may from time to time appoint instead for that purpose and notify to the undertaker.

PART 7

FOR THE PROTECTION OF THE ENVIRONMENT AGENCY

1.—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this part of this Schedule—

"the Agency" means the Environment Agency;

"construction" includes execution, placing, altering, replacing, relaying and removal and excavation and "construct" and "constructed" is construed accordingly;

"drainage work" means any main river and includes any land which provides flood storage capacity for any main river, flood plain and any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage, flood defence or tidal monitoring;

"emergency" means an occurrence which presents a risk of—

(a) serious flooding;

(b) serious detrimental impact on drainage;

(c) serious harm to the environment;

"fishery" means any waters containing fish and fish in, or migrating to or from, such waters and the spawn, spawning ground, habitat or food of such fish;

"main river" has the same meaning given in section 113 of the Water Resources Act 1991;

"non-tidal main river" has the meaning given in paragraph 2(1) of Part 1 of Schedule 25 to the Environmental Permitting (England and Wales) Regulations 2016;

"plans" includes plans, sections, elevations, drawings, specifications, programmes, proposals, calculations, method statements and descriptions;

"remote defence" means any berm, wall or embankment that is constructed for the purposes of preventing or alleviating flooding from, or in connection with, any main river;

"specified work" means so much of any work or operation authorised by this Order as is in, on, under, over or within:

(a) 8 metres of the base of a remote defence which is likely to—

(i) endanger the stability of, cause damage or reduce the effectiveness of that remote defence, or

(ii) interfere with the Agency's access to or along that remote defence;

(b) 8 metres of a drainage work involving a non-tidal main river;

(c) any distance of a drainage work and is otherwise likely to—

(i) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

(ii) affect the flow, purity or quality of water in any main river or other surface waters;

(iii) cause obstruction to the free passage of fish or damage to any fishery;

(iv) affect the conservation, distribution or use of water resources; or

(v) affect the conservation value of the main river and habitats in its immediate vicinity;

(d) or which involves:

(i) an activity that includes dredging, raising or taking of any sand, silt, ballast, clay, gravel or other materials from or off the bed or banks of a drainage work (or causing such materials to be dredged, raised or taken), including hydrodynamic dredging or desilting; and

(ii) any quarrying or excavation within 16 metres of a drainage work which is likely to cause damage to or endanger the stability of the banks or structure of that drainage work;

"undertaker" means SolarFive Ltd (company number 12602740) and whose registered office address is 16 Great Queen Street, Covent Garden, London, United Kingdom, WC2B 5AH.

Submission and approval of plans

2.—(1) Before beginning to construct any specified work, the undertaker must submit to the Agency plans of the specified work and such further particulars available to it as the Agency may within 28 days of the receipt of the plans reasonably request.

(2) Any such specified work must not be constructed except in accordance with such plans as may be approved in writing by the Agency, or determined under paragraph 12.

(3) Any approval of the Agency required under this paragraph—

(a) must not be unreasonably withheld or delayed;

(b) is deemed to have been refused if it is neither given nor refused within two months of the submission of the plans or such later date as is agreed between the Agency and the undertaker and if further particulars have been requested pursuant to sub-paragraph (1) the period between the making of this request and the provision of further particulars in response to it will not be taken into account in the calculation of the two months for the purposes of this sub-paragraph (b); and

(c) may be given subject to such reasonable requirements as the Agency may have for the protection of any drainage work or the fishery or for the protection of water resources, or for the prevention of flooding or pollution or for nature conservation or the prevention of environmental harm in the discharge of its environmental duties.

(4) The Agency must use its reasonable endeavours to respond to the submission of any plans before the expiration of the period mentioned in sub-paragraph (3)(b).

(5) In the case of a refusal, the Agency must provide reasons for the grounds of that refusal.

Construction of protective works

3. Without limiting paragraph 2, the requirements which the Agency may have under that paragraph include conditions requiring the undertaker, at its own expense, to construct such protective works, whether temporary or permanent, before or during the construction of the specified works (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

(a) to safeguard any drainage work against damage; or

(b) to secure that its efficiency for flood defence purposes is not impaired and that the risk of flooding is not otherwise increased,

by reason of any specified work.

Timing of works and service of notices

4.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the Agency under paragraph 3, must be constructed—

(a) without unreasonable delay in accordance with the plans approved under this part of this Schedule; and

(b) to the reasonable satisfaction of the Agency,

and the Agency is entitled by its officer to watch and inspect the construction of such works.

(2) The undertaker must give to the Agency not less than 14 days' notice in writing of its intention to commence construction of any specified work and notice in writing of its completion not later than 7 days after the date on which it is completed.

(3) If the Agency reasonably requires, the undertaker must construct all or part of the protective works so that they are in place prior to the construction of any specified work to which the protective works relate.

Works not in accordance with this Part of this Schedule

5.—(1) Where the undertaker fails to obtain consent or comply with conditions imposed by the Agency in accordance with these protective provisions and where the Agency acting reasonably considers it necessary to avoid any of the risks specified in sub-paragraph (2), the Agency may serve written notice requiring the undertaker to cease all or part of the specified works as may be specified within the notice within the period specified in the notice, and the undertaker must cease constructing the specified works or part thereof until such time as it has obtained the consent or complied with the condition specified within the notice served.

(2) The risks specified in sub-paragraph (1) are—

(a) risk of flooding;

(b) risk of harm to the environment;

(c) risk of detrimental impact on drainage;

(d) damage to the fishery.

(3) If any part of a specified work or any protective work required by the Agency is constructed otherwise than in accordance with the requirements of this Part of this Schedule, the Agency may by notice in writing require the undertaker at the undertaker's own expense to comply with the requirements of this Part of this Schedule or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down the work and, where removal is required, to restore the site to its former condition to such extent and within such limits as the Agency reasonably requires.

(4) Subject to sub-paragraph (5), if, within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (3) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may execute the works specified in the notice and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(5) In the event of any dispute as to whether sub-paragraph (3) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (4) until the dispute has been finally determined in accordance with paragraph 12.

Maintenance of works

6.—(1) Subject to sub-paragraph (5) the undertaker must from the commencement of the construction of the specified works maintain in good repair and condition and free from obstruction any drainage work which is situated within the Order limits for that specified work and

on land held by the undertaker for the purposes of or in connection with the specified works, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any such drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the Agency, the Agency may by notice in writing require the undertaker to repair and restore the work, or any part of such work, or (if the undertaker so elects and the Agency in writing consents, such consent not to be unreasonably withheld or delayed), to remove the work and restore the site to its former condition, to such extent and within such limits as the Agency reasonably requires.

(3) Subject to sub-paragraph (5), if, within a reasonable period, being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the Agency may do what is necessary for such compliance and any reasonable expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the Agency must not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 12.

(5) This paragraph does not apply to—

(a) drainage works which are vested in the Agency, or which the Agency or another person is liable to maintain and is not proscribed by the powers of the Order from doing so; or

(b) any obstruction of a drainage work expressly authorised in the approval of specified works plans and carried out in accordance with the provisions of this part of this Schedule provided that any obstruction is removed as soon as reasonably practicable.

Remediating impaired drainage work

7. If by reason of the construction of any specified work or of the failure of any such work, the efficiency of any drainage work for flood defence purposes is impaired, or that drainage work is otherwise damaged, such impairment or damage must be made good by the undertaker to the reasonable satisfaction of the Agency and if the undertaker fails to do so, the Agency may make good the impairment or damage and recover any expenditure incurred by the Agency in so doing from the undertaker.

Agency Access

8. If by reason of construction of the specified work or the failure of any such work, the Agency's access to flood defences or equipment maintained for flood defence purposes is materially obstructed, the undertaker must notify the Agency as soon as reasonably practicable and provide such suitable alternative means of access that will allow the Agency to maintain the flood defence or use the equipment no less effectively than was possible before the obstruction occurred and such alternative access must be available as soon as reasonably practicable after the undertaker becomes aware of such obstruction, except in the case of an emergency in which case the undertaker must provide such alternative means of access on demand.

Free passage of fish

9.—(1) The undertaker must take all such measures as may be reasonably practicable to prevent any interruption of the free passage of fish in the fishery during the construction of any specified work.

(2) If by reason of—

(a) the construction of any specified work; or

(b) the failure of any such work,

damage to the fishery is caused, or the Agency has reason to expect that such damage may be caused, the Agency may serve notice on the undertaker requiring it to take such steps as may be reasonably practicable to make good the damage, or, as the case may be, to protect the fishery against such damage within the period specified in the notice.

(3) If the undertaker fails to take such steps as are described in the notice served under sub-paragraph (2), the Agency may take those steps and any expenditure incurred by the Agency in so doing is recoverable from the undertaker.

(4) In any case where immediate action by the Agency is reasonably required in order to secure that the risk of damage to the fishery is avoided or reduced, the Agency may take such steps as are reasonable for the purpose, and may recover from the undertaker any expenditure incurred in so doing provided that notice specifying those steps is served on the undertaker as soon as reasonably practicable after the Agency has taken, or commenced to take, the steps specified in the notice.

Indemnity

10. The undertaker indemnifies the Agency in respect of all costs, charges and expenses which the Agency may reasonably and properly incur—

(a) in the examination or approval of plans under this part of this Schedule;

(b) in the inspection of the construction of the specified works or any protective works required by the Agency under this part of this Schedule; and

(c) in the carrying out of any surveys or tests by the Agency which are reasonably required in connection with the construction of the specified works.

11. —(1) The undertaker is responsible for and indemnifies the Agency against all costs, losses liabilities, claims and demands not otherwise provided for in this Schedule which may be reasonably incurred or suffered by the Agency by reason of—

(a) the construction, operation or maintenance of any specified works comprised within the authorised development or the failure of any such works comprised within them; or

(b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the authorised development or dealing with any failure of the authorised development.

(2) For the avoidance of doubt, in sub-paragraph (1)—

"costs" includes—

(a) expenses and charges;

(b) staff costs and overheads; and

(c) legal costs;

"losses" includes physical damage.

"claims" and "demands" include as applicable—

(a) costs (within the meaning of this sub-paragraph) incurred in connection with any claim or demand; and

(b) any interest element of sums claimed or demanded;

"liabilities" includes—

(a) contractual liabilities;

(b) tortious liabilities (including liabilities for negligence or nuisance);

(c) liabilities to pay statutory compensation or for breach of statutory duty; and

(d) liabilities to pay statutory penalties imposed on the basis of strict liability (but does not include liabilities to pay other statutory penalties).

(3) The Agency must give to the undertaker reasonable notice of any such claim or demand and must not settle or compromise a claim without the agreement of the undertaker and that agreement must not be unreasonably withheld or delayed.

(4) The Agency must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(5) The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved by the Agency, or to its satisfaction, or in accordance with any directions or award of an arbitrator, must not relieve the undertaker from any liability under the provisions of this part of this Schedule.

(6) Nothing in this paragraph imposes any liability on the undertaker with respect to any costs, charges, expenses, damages, claims, demands or losses to the extent that they are attributable to the neglect or default of the Agency, its officers, servants, contractors or agents.

Disputes

12. Any dispute arising between the undertaker and the Agency under this part of this part of this Schedule must, if the parties agree, be determined by arbitration under article 41 (arbitration), but failing agreement be determined by the Secretary of State for Environment, Food and Rural Affairs or its successor and the Secretary of State for Energy Security and Net Zero or its successor acting jointly on a reference to them by the undertaker or the Agency, after notice in writing by one to the other.

PART 8

FOR THE PROTECTION OF SIEMENS HEALTHCARE LIMITED

1. For the protection of Siemens, the following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Siemens.

2. In this Part of this Schedule—

"Eynsham factory" means the facility at Wharf Rd, Eynsham, Witney OX29 4BP;

"Siemens" means Siemens Healthcare Limited (company number 09567186) whose registered office is at Park View, Watchmoor Park, Camberley, Surrey, United Kingdom, GU15 3YL, or any successor company operating the Eynsham factory;

"specified works" means any part of the authorised development or activities undertaken in association with the authorised development which will or may affect access to or from Wharf Road or which may in any way adversely affect Siemens' operations at the Eynsham factory;

3.—(1) The undertaker must indemnify Siemens against all reasonable loss, damage, liability, costs and expenses reasonably suffered or incurred by Siemens by reason of—

(a) the construction, operation or maintenance of any specified works or the failure of any such works comprised within them; or

(b) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged upon the construction, operation or maintenance of the specified works or dealing with any failure of the specified works.

(2) The indemnity in sub-paragraph (1) does not apply to the extent that any loss, damage, liability, costs or expenses are attributable to the act, neglect or default of Siemens or its officers, employees, contractors, or agents.

(3) Siemens must, at all times take reasonable steps to prevent and mitigate any such claims, demands, proceedings, costs, damages, expenses or loss.

(4) Siemens must give to the undertaker reasonable notice of any claim or demand against it in respect of which it may seek indemnity under this paragraph, and no settlement or compromise of such claim or demand may be made without the prior consent of the undertaker, such consent not to be unreasonably withheld or delayed.

(5) If the undertaker reasonably withholds consent to a settlement or compromise under sub-paragraph (4), the undertaker may assume the conduct of any defence, settlement or compromise of the claim or demand at its own expense.

(6) The undertaker must coordinate the execution of the specified works in order to ensure that operational vehicular access to the Eynsham factory will be maintained at all times during the construction of the specified works without closure of Wharf Road.

PART 9

FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC

Application

1.—(1) For the protection of National Grid as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing, between the undertaker and National Grid.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid, where the benefit of this Order is transferred or granted to another person under article 34 (consent to transfer the benefit of the Order)—

(a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and

(b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but without prejudice to paragraph 14(3)(b)).

Interpretation

2. In this Part of this Schedule—

"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and "A3" if the rating is assigned by Moody's Investors Services Inc.;

"acceptable insurance" means general third party liability insurance effected and maintained by the undertaker or its contractor with a combined property damage and bodily injury limit of indemnity of not less than a sum to be agreed in writing between the parties. Such insurance must be maintained (a) during the construction period of the specified works; and (b) after the construction period of the authorised development in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an "acceptable credit provider", such insurance must include (without limitation):

(a) a waiver of subrogation and an indemnity to principal clause in favour of National Grid;

(b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than a sum to be agreed in writing between the parties;

"acceptable security" means either:

(a) a parent company guarantee from a parent company in favour of National Grid to cover the undertaker's liability to National Grid to a total liability cap of a sum to be agreed in writing between the parties (in a form reasonably satisfactory to National Grid and where required by National Grid, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or

(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid to cover the undertaker's liability to National Grid for an amount to be agreed in writing between the parties (in a form reasonably satisfactory to National Grid);

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means:

(a) any electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid together with any replacement apparatus; and

(b) such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as given to the term "authorised development" in article 2 of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"commence" has the same meaning as is given in article 2 of this Order and "commencement" will be construed to have the same meaning;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"Farmoor Substation" means the new National Grid substation to be delivered either in exercise of the works powers in Work No. 2 of Schedule 1 to this Order or pursuant to planning permission granted under Part 3 of the 1990 Act or Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015;

"Farmoor Substation area" means the land shown covered by Work No. 2 shown on Sheet 13a of the works plans within which National Grid may construct the Farmoor Substation if to be constructed pursuant to this Order;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for National Grid's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"Incentive Deduction" means any incentive deduction National Grid Electricity Transmission plc receives under its electricity transmission licence which is caused by an event on its transmission system that causes electricity not to be supplied to a demand customer and which arises as a result of the authorised works;

"maintain" and "maintenance" will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid: construct, use, repair, alter, inspect, renew or remove the apparatus;

"National Grid" means National Grid Electricity Transmission Plc (company number 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH or any successor as a licence holder within the meaning of Part 1 of the Electricity Act 1989;

"National Grid connection works" has the same meaning as is given in article 2 of this Order;

"NGESO" means as defined in the STC;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

"specified works" means any of the authorised development or activities undertaken in association with the authorised works which—

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 10 or otherwise; or

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 10 or otherwise; or

(c) includes any of the activities that are referred to in development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines";

"STC" means the System Operator Transmission Owner Code prepared by the electricity Transmission Owners and NGESO as modified from time to time;

"STC Claims" means any claim made under the STC against National Grid Electricity Transmission plc arising out of or in connection with the de-energisation (whereby no electricity can flow to or from the relevant system through the generator or interconnector's equipment) of a generator or interconnector party solely as a result of the de-energisation of plant and apparatus forming part of National Grid Electricity Transmission plc's transmission system which arises as a result of the authorised works; and

"Transmission Owner" means as defined in the STC.

National Grid connection works

3. The undertaker must not except with the agreement of National Grid carry out Work No. 2 or the National Grid connection works, or any part of it (excepting any works which are works regulated by the connection agreement between the undertaker and National Grid Energy Systems Operator (or a successor thereto)).

4.—(1) Before beginning to construct Work No. 2 or the National Grid connection works, or any part of it, the undertaker must submit to National Grid plans of Work No. 2 or the relevant National Grid connection works (or part of it) and such further particulars available to it as National Grid may request within 21 days of receipt of the plans reasonably requested.

(2) Any part of Work No. 2 or National Grid connection works must not be constructed except in accordance with such plans as may be approved in writing by National Grid.

5.—(1) Any approval of National Grid required under this Schedule—

(a) must not be unreasonably withheld or delayed;

(b) in the case of a refusal must be accompanied by a statement of grounds or refusal; and

(c) may be given subject to such reasonable requirements as National Grid may have in connection with the safe, economic and efficient construction, commissioning, operation, maintenance and future decommissioning of the Farmoor Substation or otherwise for the protection of Farmoor Substation apparatus,

provided always that in relation to a refusal under sub-paragraph (b) or any requirements requested pursuant to sub-paragraph (c) the undertaker will be permitted to refer such matters to dispute resolution pursuant to paragraph 18 (arbitration).

(2) National Grid must respond to the submission of any plans within a period of 56 days from the date of submission of the plans. If National Grid require further particulars, such particulars must be requested by National Grid no later than 21 days from the submission of plans and thereafter National Grid must employ reasonable endeavours to respond to the submission within 35 days from receipt of the further particulars.

6.—(1) The undertaker must give to National Grid not less than 14 days' notice in writing of its intention to commence construction of Work No. 2 or any National Grid connection works and notice in writing of its completion not later than 7 days after the date on which it is completed and National Grid will be entitled by its officer to watch and inspect the construction of such works.

(2) If any part of Work No. 2 or the National Grid connection works is constructed otherwise than in accordance with paragraph 4(2) above National Grid may by notice in writing identify the extent to which Work No. 2 or the National Grid connection works do not comply with the approved details and request the undertaker at the undertaker's own expense carry out remedial works so as to comply with the requirements of paragraph 4(2) of this Part of this Schedule or such alternative works as may be agreed with National Grid or as otherwise may be agreed between the parties.

(3) Subject to sub-paragraph (4), if within a reasonable period, being not less than 28 days beginning with the date when a notice under sub-paragraph (2) is served upon the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, National Grid may execute the works specified in the notice and any reasonable expenditure incurred by National Grid in so doing will be recoverable from the undertaker.

(4) In the event of any dispute as to whether sub-paragraph (2) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, National Grid will not, except in the case of an emergency, exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined in accordance with paragraph 18 (arbitration).

On street apparatus

7. Except for paragraph 8 (apparatus of National Grid in closed streets and public rights of way), paragraph 12 (retained apparatus: protection of National Grid as electricity undertaker), paragraph 13 (expenses), and paragraph 14 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the provisions of this Part of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid in closed streets and public rights of way

8. Notwithstanding the temporary prohibition or restriction of use or diversion of a street or public right of way under the powers of article 11 (temporary closure of public rights of way), National Grid is at liberty at all times to take all necessary access across any such street or public right of way and to execute and do all such works and things in, upon or under any such street or public right of way as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the prohibition or restriction of use or diversion was in that street or public right of way.

Acquisition of land

9.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire or take temporary possession of any land or apparatus or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right or apparatus of National Grid otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected

in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid.

(3) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule will prevail.

(4) Any agreement or consent granted by National Grid under paragraph 12 or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

10. —(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to National Grid to its satisfaction (taking into account paragraph 11(1) below) the necessary facilities and rights—

(a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and

(b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such consents, facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary consents, facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

11.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed (in National Grid's opinion, acting reasonably), the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 18 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of National Grid as electricity undertaker

12.—(1) Not less than 56 days before the commencement of any specified works, the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity assets.

(2) The plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;

(f) any intended maintenance regimes;

(g) an assessment of risks of rise of earth issues; and

(h) a ground monitoring scheme, where required.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

(a) details of any cable trench design including route, dimensions, clearance to pylon foundations;

(b) demonstration that pylon foundations will not be affected prior to, during and post construction;

(c) details of load bearing capacities of trenches;

(d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;

(e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;

(f) written details of the operations and maintenance regime for any cable, including frequency and method of access;

(g) assessment of earth rise potential if reasonably required by National Grid's engineers; and

(h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to and including 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraphs (4)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and

(b) must not be unreasonably withheld or delayed and National Grid must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or, as relevant, sub-paragraph (6) as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any specified works for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 10(2), provided that such written notice is given by National Grid to the undertaker within 28 days of submission of a plan pursuant to sub-paragraph (1).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of any specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances.

Expenses

13.—(1) Save where otherwise agreed in writing between National Grid and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to

in this Part of this Schedule (excluding the construction, maintenance and decommissioning of the Farmoor Substation) including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a direct consequence of National Grid—

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 10(3); or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in direct consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 18 to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where anticipated charges, costs or expenses have been paid by the undertaker pursuant to sub-paragraph (1), if the actual charges, costs or expenses incurred by National Grid are less than the amount already paid by the undertaker, National Grid will repay the difference to the undertaker as soon as reasonably practicable.

Indemnity

14.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and

(b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party and including STC Claims or an Incentive Deduction other than arising from any act, neglect or default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workmanlike manner or in a manner that does not accord with the approved plan or as otherwise agreed in writing between the undertaker and National Grid.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the act, neglect or default of National Grid, its officers, servants, contractors or agents;

(b) any authorised works or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the 2008 Act or article 34 (consent to transfer the benefit of the Order) subject to the proviso that once such works become apparatus ("new apparatus"), any specified works yet to be executed and not falling within this sub-paragraph (b) will be subject to the full terms of this Part of this Schedule including this paragraph 14; or

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering its representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) Not to commence construction (and not to permit the commencement of such construction) of the specified works until the following conditions are satisfied:

(a) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it will maintain such acceptable security for the construction period of the specified works from the proposed date of commencement of construction of the such works to the completion of those works) and National Grid has confirmed the same to the undertaker in writing; and

(b) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid that it will maintain such acceptable insurance for the construction period of the specified works from the proposed date of commencement of construction of such works to the completion of those works) and National Grid has confirmed the same in writing to the undertaker.

(7) In the event that the undertaker fails to comply with sub-paragraph (6), nothing in this Part of this Schedule will prevent National Grid from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

Enactments and agreements

15. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

16.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 10(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 11, the undertaker will use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid will use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

17. If in consequence of the agreement reached in accordance with paragraph 9 or the powers granted under this Order the access to any apparatus or the Farmoor Substation is materially obstructed, the undertaker must provide such alternative means of access to such apparatus or the Farmoor Substation as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

18. Any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 41 (arbitration).

Notices

19. Notwithstanding article 43 (service of notices), any plans submitted to National Grid by the undertaker pursuant to paragraph 12 must be submitted using the LSBUD system (https://lsbud.co.uk/) or to such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

SCHEDULE 16

Article 44

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

1. In this Schedule—

"discharge" means any consent, agreement or approval required by—

(a) a requirement;

(b) a document referred to by a requirement; or

(c) a document that has been approved pursuant to a requirement;

"requirement consultee" means any body or authority named in a requirement as a body to be consulted by the relevant planning authority in discharging that requirement;

"start date" means the date of the notification given by the Secretary of State under paragraph 4(2)(b); and

"working day" means any day other than a Saturday, Sunday or English bank or public holiday.

Applications made under requirement

2.—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement, the undertaker will also submit a copy of that application to any requirement consultee at the same time as it is submitted to the relevant planning authority.

(2) Where an application has been made to the relevant planning authority for discharge, the relevant planning authority must give notice to the undertaker of its decision on the application within a period of eight weeks beginning with the later of—

(a) the day immediately following that on which the application is received by the authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 3; or

(c) such longer period that is agreed in writing by the undertaker and the relevant planning authority.

(3) Subject to paragraph 4, in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (2), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(4) Any application made to the relevant planning authority pursuant to sub-paragraph (2) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are.

(5) Where an application has been made to the relevant planning authority for any discharge and the relevant planning authority does not determine the application within the period set out in sub-paragraph (2) and the application is accompanied by a report pursuant to sub-paragraph (4) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement then the application is to be taken to have been refused by the relevant planning authority at the end of that period.

Further information and consultation

3.—(1) In relation to any application to which this Schedule applies, the relevant planning authority may request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) In the event that the relevant planning authority considers such further information to be necessary and the provision governing or requiring the application does not specify that consultation with a requirement consultee is required, the relevant planning authority must, within ten working days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the provision governing or requiring the application specifies that consultation with a requirement consultee is required, the relevant planning authority must issue the consultation to the requirement consultee within five working days of receipt of the application, and must notify the undertaker in writing specifying any further information the relevant planning authority considers necessary or that is requested by the requirement consultee within five working days of receipt of such a request and in any event within 15 working days of receipt of the application (or such other period as is agreed in writing between the undertaker and the relevant planning authority).

(4) In the event that the relevant planning authority does not give notification as specified in sub-paragraph (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(5) Where further information is requested under this paragraph in relation to part only of an application, that part is to be treated as separate from the remainder of the application for the purposes of calculating time periods in paragraph 2 and paragraph 3.

Appeals

4.—(1) The undertaker may appeal in the event that—

(a) the relevant planning authority refuses an application for any discharge or grants it subject to conditions;

(b) the relevant planning authority is deemed to have refused an application pursuant to paragraph 2(5);

(c) on receipt of a request for further information pursuant to paragraph 3 the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application; or

(d) on receipt of any further information requested, the relevant planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The steps to be followed in the appeal process are as follows—

(a) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and any requirement consultee;

(b) the Secretary of State must appoint a person to determine the appeal as soon as reasonably practicable and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person's attention should be sent;

(c) the relevant planning authority and any requirement consultee must submit written representations to the appointed person in respect of the appeal within 10 working days of the start date and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

(d) the undertaker may make any counter-submissions to the appointed person within 10 working days of receipt of written representations pursuant to sub-paragraph (c);

(e) the appointed person must make their decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable and in any event within 30 working days of the deadline for the receipt of counter-submissions pursuant to sub-paragraph (d); and

(f) the appointment of the person pursuant to sub-paragraph (b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(3) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal they must, within five working days of the appointed person's appointment, notify the appeal parties in writing specifying the further information required.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the relevant party to the appointed person and the other appeal parties on the date specified by the appointed person (the "specified date"), and the appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 10 working days of the specified date, but otherwise the process and time limits set out in sub-paragraphs (c) to (e) of sub-paragraph (2) apply.

(5) The appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to them in the first instance.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.

(7) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to them that there is sufficient material to enable a decision to be made on the merits of the case.

(8) The decision of the appointed person on an appeal is to be final and binding on the parties unless proceedings are brought by a claim for judicial review.

(9) If an approval is given by the appointed person pursuant to this Schedule, it is to be deemed to be an approval for the purpose of Schedule 2 (requirements) as if it had been given by the relevant planning authority. The relevant planning authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person's determination.

(10) Save where a direction is given pursuant to sub-paragraph (11) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(11) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to advice on planning appeals and award costs published in Planning Practice Guidance: Appeals (March 2014) or any circular or guidance which may from time to time replace it.

Fees

5.—(1) Where an application is made to the relevant planning authority for a discharge, a fee is to apply and must be paid to the relevant planning authority for each application as follows—

Application	*Fee payable*
First application for the discharge of each of the requirements 5 (Detailed design approval), 6 (Landscape and ecology management plan), 7 (Biodiversity net gain), 9 (Surface and foul water drainage), 11 (Code of Construction Practice), 12 (Operational environmental management plan), and 14 (Decommissioning and restoration).	£2,535
Each subsequent application for the discharge of each of the requirements listed in Row 1.	£578
Any application under requirement 5 (Detailed design approval) in respect of the requirements listed in Row 1.	£578
Any application for the discharge of any other requirements not listed in Row 1.	£145
Any application under requirement 3 (Approved details and amendments to them) in respect of requirements not listed in not listed in Row 1.	£145
Any approval required by a document referred to by any requirement or a document approved pursuant to any requirement	£145

(2) Where an application under sub-paragraph (1) is made and a fee payable on or after 1 April 2025, then regulation 18A of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits)(England) Regulations 2012(**a**) (as may be amended by the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Amendment Regulations 2023) will apply as modified by this Order, so that "the relevant amount" means the fee payable under sub paragraph (1).

(3) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of—

(a) the application being rejected as invalidly made; or

(b) the relevant planning authority failing to determine the application within the relevant period in paragraph 2(2) or paragraph 2(3) unless—

(i) within that period the undertaker agrees, in writing, that the fee is to be retained by the relevant planning authority and credited in respect of a future application; or

(ii) a longer period of time for determining the application has been agreed pursuant to paragraph 2(2) or 2(3) of this Schedule, as applicable.

Anticipatory steps towards compliance with any requirements

6.—(1) If before the coming into force of this Order the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of Schedule 2 of this Order, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

(2) Any document submitted to the relevant planning authority which the undertaker considers may constitute a step referred to at sub-paragraph (1) must include a statement that it is likely to engage sub-paragraph (1).

(a) S.I. amended by S.I. 2013/2153, S.I. 2014/357, S.I. 2014/643, S.I. 2017/1314 and S.I. 2019/1154.

Register of requirements

7.—(1) The undertaker must, prior to first submitting an application for discharge under this Schedule, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in this Schedule that provide for further approvals to be given by the relevant planning authority.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the relevant planning authority has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following the date of final commissioning.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises SolarFive Ltd (referred to in this Order as the undertaker) to construct, operate, maintain and decommission a ground mounted solar photovoltaic generating station with a gross electrical output capacity over 50 megawatts and associated development. The Order would permit the undertaker to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the Order plans and the book of reference mentioned in the Order and certified in accordance with article 39 (certification of plans and documents, etc) of this Order may be inspected free of charge during working hours at West Oxfordshire District Council Town Centre Shop, 3 Welch Way, Witney, OX28 6JH and Kidlington Library, 23 Oxford Rd, Kidlington, OX5 2BP.