



# BEACON FEN ENERGY PARK

Planning Inspectorate Reference: EN010151

Applicant's Response to SoS Request for Information (June 2026)

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June 2026



## Quality information

Prepared by	Checked by	Verified by	Approved by
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# 1. Introduction

## 1.1 Overview

- 1.1.1 The Applicant has received the Secretary of State's Request for Information ('RFI') dated 12 June 2026 and its response is set out within this document under the following headings, which correspond to the RFI, being Biodiversity and Land Rights.

## 2. Biodiversity

### 2.1 Mitigation for Skylark

- 2.1.1 The RFI requests the Applicant to update its Outline Landscape and Ecological Management Plan ('**oLEMP**') and Outline Construction Management Plan ('**oCEMP**') to specify and secure the mitigation and enhancements that the Project has put forward for Skylark. The RFI notes that throughout the Examination the Applicant stated there will be a photovoltaic exclusion zone in place, restrictions to grass cutting and the potential for offsite enhancements with Lincolnshire Wildlife Trust, however, none of these mitigation or enhancement measures are mentioned in either the oLEMP or oCEMP.
- 2.1.2 In relation to grass cutting, the oLEMP has been updated and submitted with this response (Document ref. 6.3.19 – note, if accepted by the Secretary of State, a consequential amendment would be needed to Schedule 12 (Documents and Plans to be certified) of any made Order to reflect the updated document revision number and date) to clearly include the mitigation measure for skylark related to the timing and frequency of grassland cuts in buffer areas adjacent to ditches and wildflower meadows.
- 2.1.3 In relation to the solar PV exclusion zones, these are shown on the **Indicative Site Layout Plan (REP2-028)**. The **Works Plan (REP8-003)** is aligned with the Indicative Site Layout Plan in this respect as the areas identified on that plan as being PV exclusion zones in REP2-028 are shown on the Works Plan as only authorising Work Nos. 6 and 9 (and in one case, Work No. 6 only). The exclusion of solar PV from these zones is therefore secured via Article 3(2) of the draft DCO which requires that each numbered work (in Schedule 1 of the draft DCO) must be situated within the corresponding numbered area shown on the Works Plan. However, in the updated oLEMP submitted as part of the Applicant's response to the RFI, in addition to the amendments noted above in relation to grass cutting, it has been made clear that the exclusion zones will be managed to support a greater density of skylark than at present, as per the commitment made by the Applicant elsewhere in the examination. All amendments to the oLEMP are aligned with the statements made in the **Ecology Chapter of the ES (REP8-013)**.
- 2.1.4 In relation to the potential for offsite enhancements with Lincolnshire Wildlife Trust, the position remains as set out in the **Applicant's Closing Statement (REP8-029)** on page 18. In the statement the Applicant records that with the mitigation measures proposed for skylark there will not be significant effects on skylark alone or cumulatively with other projects. As a result, no offsite mitigation is required. The statement notes that nevertheless, the Applicant did seek to discuss the potential for offsite enhancements, however, those discussions have not progressed. Whilst the Applicant remains open to those discussions, any agreement with Lincolnshire Wildlife Trust would relate purely to enhancements and is not relied upon in order to mitigate significant adverse effects, and it is therefore not considered necessary to make the development acceptable in planning terms nor to enable development consent to be granted.

2.1.5 The Applicant has reviewed the mitigation in relation to skylark during construction and is satisfied this is secured without amendments to the oCEMP. This relates to retention of nesting and foraging habitats and avoiding removal of habitats within nesting season if possible and is secured via general measures relating to birds included in the oCEMP. Specifically, Chapter 7 of the **ES (REP8-013)** references mitigation measures for skylark during construction as comprising retention of nesting and foraging habitats and avoiding removal of habitats within the nesting season if possible. The **oCEMP (REP8-015)** at paragraph 6.7.4 states that the detailed LEMP(s) will provide a series of mitigation measures to be implemented during construction including the retention and establishment of habitat areas and species-specific enhancement measures to protect species including birds. At paragraph 6.7.6 the oCEMP then states that: "Vegetation clearance will be undertaken at an appropriate time of year where possible, outside of breeding and nesting seasons;". The oCEMP also includes a further section entitled "Birds" at paragraph 6.7.12, which provides:

*"Where practical, vegetation clearance will be undertaken at an appropriate time of year (outside of the breeding season for birds). Clearance of sensitive vegetation will be avoided during the nesting period (i.e. March to August, inclusive). Where vegetation clearance is not practical outside the nesting bird period, habitats will be checked for the presence of any nests by a suitably qualified ornithologist and the Ecological Clerk of Works (ECoW) prior to vegetation removal. If active nests are found, appropriate buffer zones (to be advised by the suitably qualified ornithologist / ECoW) will be put in place and the area monitored until the young birds have fledged."*

2.1.6 Finally, the Applicant notes the recent publication of a report titled "Solar Farms & Skylarks" published by Solar Energy UK, which draws on various recent studies of the interaction between ground mounted solar farms and skylarks. The Applicant considers that the conclusions of this report are aligned with the skylark mitigation measures proposed as part of this application. The executive summary to the report states that: *"Although Skylarks are displaced from nesting within the footprint of solar arrays, the species continues to forage within and around these developments."* and that *"Alternative mitigations [sic] approaches [to skylark plots] include meadow grassland creation, set-aside or spring sown crops and the maintenance of uncultivated field margins, whilst maintaining open sightlines required by the species."*

2.1.7 The Applicant further notes that in updating the oLEMP in response to the RFI, it was apparent that whilst the changes made at Deadline 8 were clearly shown in the tracked version REP8-018, those changes were not reflected in the clean version REP8-017. Those changes have therefore been carried across to the version provided as part of this response.

## **2.2 Suitability of the mitigation and avoidance measures proposed for bats**

2.2.1 The Secretary of State has invited Natural England to provide its advice on the suitability of the mitigation and avoidance measures proposed by the

Applicant in relation to bats, and whether the Applicant would require a Protected Species licence for the proposed works.

2.2.2 The Applicant notes that in **Natural England's response to ExQ3 (REP7-060)**, in response to BIO.3.2 which asked Natural England to provide a summary of any outstanding concerns that remain in relation to issues addressed in Chapter 7 of the ES, Natural England replied "We can confirm we have no additional comments to provide in relation to Chapter 7 of the ES" (Chapter 7 is the Ecology Chapter of the ES and sets out the mitigation and avoidance measures proposed for bats).

2.2.3 In the signed **Statement of Common Ground with Natural England (REP7-045)**, "Protected species licencing" is listed under "Matters agreed during Examination Stage" and the commentary is:

*"Natural England and the Applicant have discussed the processes for draft protected species mitigation licences. To date only great crested newts (GCN) have been identified as requiring licences and Natural England have requested a draft licence application. The Letter of No Impediment (Natural England reference 2024-68077-EPS-AD1) was received on 23rd September, confirming Natural England see no impediment to granting the licence if the DCO is granted.*

*During the DAS meetings of 29/08/24 and 16/05/25, the Applicant discussed that full surveys have not yet been completed for GCN, but environmental DNA (eDNA) surveys have located their presence in ponds near to the Site. Natural England agreed the surveys could be conditioned as part of the Letter of No Impediment issued following approval of the draft licence application (Natural England reference 2024-68077-EPS-AD1).*

*Natural England note that update surveys will occur for other protected species (notably otters and water voles) and request that they are notified rapidly if they are found to be impacted by the proposed works (for example if new dwellings are found in the Cable Route Corridor). In this case a licence may be required, and this has been acknowledged in the Other Consents and Licences Statement updated at Deadline 1 (REP1-006).*

*During the DAS meeting of 05/11/25, Natural England agreed that with the Letter of No Impediment in place and the position clarified on other protected species licencing, this matter is now resolved."*

2.2.4 The Applicant's understanding is therefore that Natural England is satisfied with the mitigation and avoidance measures that the Applicant has proposed, and that it is not currently expected that a Protected Species Licence would be required in relation to bats, however, Natural England is satisfied that that position will be kept under review.

## 3. Land Rights

### 3.1 Crown Consent

3.1.1 The RFI requests an update from the Applicant and the Crown Estate Commissioners as to the status of negotiations regarding the section 135 consent sought by the Applicant. The Applicant confirmed in its **Closing Statement (REP8-029)** that Crown consent pursuant to section 135 of the Planning Act 2008 was recently granted by The Crown Estate Commissioners and noted the Applicant's understanding that the Crown Estate would submit the consent into the Examination. The section 135 consent from the Crown Estate dated 12 February 2026 is attached to this RFI response at **Appendix 1**.

### 3.2 Update on negotiations with affected persons

3.2.1 The RFI requests an update from the Applicant on the status of negotiations in relation to the voluntary agreements for the following affected persons:

- Gerard Amaury Arnaud March Phillips de Lisle.
- Peter Andrew March Phillipps de Lisle.
- Simon John Henry Still de Lisle.
- Patrick Simon Benjamin.
- Roythornes Trustees Limited.
- The Lincoln Diocesan Trust and Board of Finance Limited.
- The Vicarage Drove Project Limited.

3.2.2 The Applicant provides updates for these affected persons as follows:

- **Gerard Amaury Arnaud March Phillips de Lisle** – please see update for Roythornes Trustees Limited.
- **Peter Andrew March Phillipps de Lisle** - please see update for Roythornes Trustees Limited.
- **Simon John Henry Still de Lisle** - please see update for Roythornes Trustees Limited.
- **Patrick Simon Benjamin** – the Affected Person's interest in land is subject to an Option Agreement benefiting Vicarage Drove BESS Limited. The Applicant is not aware of any in principle concerns that would prevent the completion of a private treaty agreement, but the Applicant's understanding is the agreement will be entered into once terms are finalised with Vicarage Drove BESS Limited. As such, the update provided in the next section of this submission on negotiations with Vicarage Drove BESS Limited is considered as relevant to this response.
- **Roythornes Trustees Limited** – the agent for the Affected Person additionally represents all de Lisle interests and this update is relevant to all interests. The Applicant has continued to attempt to engage with the Affected Persons' agent but has received no correspondence since a

telephone conversation in November, with regular 'chaser' emails (the latest dated 5th May 2026) yet to be responded to by the agent. We understand there are no substantive points of difference, but the Applicant will continue in its' efforts to pursue a private treaty agreement.

- **The Lincoln Diocesan Trust and Board of Finance Limited** – the Affected Person's interest in land is subject to an Option Agreement benefiting a third-party developer. It is understood by the Applicant that there are no in principle matters in dispute, but any such agreement is dependent on parallel agreement with the third-party developer.
- **The Vicarage Drove Project Limited** – the Affected Person's interest in land is subject to an Option Agreement benefitting UK Transition Power Holdings Limited (the parent company of **Fidra Energy Limited (Fidra)**). The Applicant has sought to progress a private treaty agreement relating to the rights in land sought in the draft DCO, but the Affected Person's agent confirmed that they had not received client instructions to engage on the negotiations. An update on negotiations with Fidra (and its subsidiary Bicker Drove Limited, which is the applicant for its planning application and holds the general licence) in relation to a side agreement is included in the next section of this response.

### 3.3 Update on negotiations with statutory undertakers

- 3.3.1 The RFI requests an update on the status of negotiations in relation to protective provisions in relation to: National Grid Electricity Distribution (East Midlands) PLC, Network Rail Infrastructure Limited, Triton Knoll OFTO Limited, Vicarage Drove BESS Limited and Vicarage Drove Energy Centre.
- 3.3.2 In its response to Examiner's Question CA.3.4 within the **Applicant's Responses to ExQ3s (REP7-052)** and within the **Applicant's Closing Statement (REP8-029)**, the Applicant provided an update on the status of discussions with the relevant statutory undertakers who have apparatus and/or land interests within the Order limits of the Project (including those listed in the RFI). Following the close of the examination, the Applicant has continued engagement with those parties where agreement was outstanding and set out below is the update on progress in this regard. It is noted that this update includes both the parties listed by the Secretary of State in the RFI, as well as other parties where agreement had not been reached at the end of examination, with that additional information provided for completeness.
- 3.3.3 Where agreements were noted in the **Applicant's Responses to ExQ3s (REP7-052)** as *'agreed, pending completion of relevant documents'* with **National Grid Viking Link Limited** and **Cadent Gas Limited**, these agreements have now completed, and the Applicant understands that the relevant statutory undertakers have now withdrawn their representations to the examination accordingly. The corresponding form of agreed protective provisions in favour of those parties was respectively included in Parts 5 and 11 of Schedule 11 to the draft DCO (version 9) submitted at Deadline 8 (**REP8-004**).
- 3.3.4 In respect of third parties where terms were described in the **Applicant's Responses to ExQ3s (REP7-052)** as *'under discussion'* or *'almost agreed'*,

the Applicant is pleased to confirm that agreement has been reached with the following entities:

- **Anglian Water Services Limited (Anglian Water)** – the Applicant's Closing Statement recorded that agreement had been reached with Anglian Water pending Anglian Water's internal governance process, and that following that process Anglian Water would provide confirmation of the agreement to the Examining Authority. Anglian Water subsequently made a representation prior to the close of the examination (**AS-048**) in which it referenced the Applicant's Closing Statement and provided written confirmation that the Protective Provisions included by the Applicant in the final draft DCO (Part 3 of Schedule 11) at Deadline 8 for the benefit of Anglian Water were agreed. The position with Anglian Water is therefore entirely resolved.
- **National Grid Electricity Transmission plc (NGET)** – the form of protective provisions was agreed prior to the close of the examination and reflected in Part 13 of Schedule 11 of the **Draft DCO (REP8-004)**. The pending side agreement has now also been completed, and the Applicant understands that NGET has withdrawn its representation to the examination accordingly.
- **Triton Knoll OFTO Limited (Triton Knoll)** – whilst there was one outstanding point remaining at the time of the final deadline, the Applicant was able to agree this point prior to the close of the examination and so an agreed form of protective provisions was included in Part 8 of Schedule 11 of the final form of **Draft DCO (REP8-004)** submitted by the Applicant prior to the close of the examination. Whilst protective provisions have been agreed, the Applicant understands that Triton Knoll has not withdrawn its representation to the examination because it is waiting for further progress on the Option agreement currently being negotiated with respect its land interests. Until such representation is withdrawn section 127 of the Planning Act 2008 is still technically engaged. However, the Applicant considers that no serious detriment is caused to Triton Knoll's undertaking on the basis that protective provisions have been agreed, which specifically restrict the ability of the Applicant to exercise its powers of compulsory acquisition over Triton Knoll's interests – meaning that the Applicant will need Triton Knoll's voluntary agreement in this respect in any event.
- **National Grid Electricity Distribution (East Midlands) PLC (NGED)** – whilst NGED did not submit a representation to the examination, the Applicant continued to engage with them to seek to agree a side agreement to ensure they were satisfied requisite protection for their assets was provided (in concert with the existing protections afforded by the default protective provisions under Part 1 of Schedule 11 to the draft DCO). The Applicant confirms that this side agreement has now been completed. It is understood that NGED has separately written to the Secretary of State to confirm they are satisfied with the position reached and no further protection is required in respect of NGED's apparatus.
- **AGR Solar 2 Limited in relation to Bicker Fen solar farm** – the parties have entered into a side agreement and the Applicant understands AGR Solar 2 Limited has separately written to the Secretary of State to confirm withdrawal of its objection.

- **AGR Solar 3 Limited in relation to Little Hale Fen solar farm** - the parties have entered into a side agreement and the Applicant understands AGR Solar 3 Limited has separately written to the Secretary of State to confirm withdrawal of its objection.

3.3.5 The effect of these further six agreements means only four agreements remain outstanding. The Applicant discusses the position reached with **Network Rail Limited (Network Rail)** and **Fidra Energy Limited (Fidra)** in the subsequent section (where fundamental disagreement remains), but in respect of Vicarage Drove BESS Limited and Vicarage Drove Energy Centre Limited, active discussions remain ongoing and we offer the below interim update:

- **Vicarage Drove BESS Limited in relation to Vicarage Drove BESS** - The parties have largely reached agreement on the principles of a side agreement with limited commercial and drafting points to be resolved. The parties are engaging proactively and the Applicant anticipates reaching agreement shortly, allowing Vicarage Drove BESS Limited to withdraw its representation (**REP5-058**). The Applicant will update the Secretary of State when any agreement is reached.
- **Vicarage Drove Energy Centre Limited (VDEC)** – The Applicant has been engaging on technical matters with VDEC with a view to progressing a commercial side agreement to sit alongside the protective provisions included in Part 12 of Schedule 11 to the **Draft DCO (REP8-004)**. The Applicant notes that VDEC is not presently content with the form of protections in the Draft DCO and, through further engagement with VDEC, hopes to resolve the residual objection via a side agreement between the parties. The terms of this side agreement are not yet confirmed, pending further commercial discussions between the parties. For the avoidance of doubt, in the absence of such further agreement, the Applicant maintains its position on the adequacy of the protections within those provisions, as described in the aforementioned response to CA3.4 and the Applicant's Closing Statement.

3.3.6 As noted in the Applicant's Closing Statement, there are two parties where fundamental disagreement remains outstanding and which is of a nature which has precluded progress since the close of the examination. These are Network Rail and Fidra. The Applicant provides an update as follows:

- **Network Rail** – The Applicant made detailed submissions on the position with Network Rail in its response to CA.3.3 within in the **Applicant's Responses to ExQ 3 (REP7-052)**, and the position remains the same. Following a number of chasers from the Applicant, comments on the protective provisions proposed by the Applicant and included within the **Draft DCO (AS-039)** were provided by Network Rail's solicitors on 16 February 2026, one week prior to the close of the examination. The Applicant responded to the comments provided by Network Rail on 25 March 2026. However, because the comments related to the fundamental point of principle previously explained within the Applicant's submissions to the examination, no amendment to the protective provisions was possible. No further response has been received from Network Rail's solicitors to date. In the absence of any movement from Network Rail on those fundamental points of principle, the Applicant does not anticipate reaching agreement with Network Rail prior to the anticipated decision on this Project and maintains its

submissions set out in response to CA3.3. to justify its position and would respectfully invite the Secretary of State to prefer the Applicant's submissions and proposed protective provisions on this basis.

- **Fidra** – the Applicant made detailed submissions on the position reached with Fidra in response to ExQ3 CA.3.4 and as part of its Closing Statement and maintains the full extent of those submissions and considers they address the substance of Fidra's own submissions made in its **Closing Statement (REP8-039)**. Ultimately, the disagreement between the parties can be distilled to divergent views on the status of the Fidra project and the need for any consequent additional protection to be afforded to it (beyond that already secured in the draft DCO). Fidra maintains in its Closing Statement the credibility and maturity of its proposed project. Whereas the Applicant considers any additional protection with the draft DCO (particularly those advanced by Fidra) to be unnecessary and wholly disproportionate in the context of the respective schemes.
- The Applicant acknowledges that on 2 June 2026 Boston Borough Council's Planning Committee resolved to approve Fidra's (applicant name, Bicker Drove Limited) planning application. As of 24 June 2026, the date of this RFI response, Boston Borough Council's planning register does not show that the planning permission has been issued, however, the Applicant assumes that it will be in accordance with the committee resolution.
- However, regardless of the status of Fidra's planning application, the Applicant considers the ongoing uncertainty regarding the Fidra project's grid connection to be the material factor which underpins the Applicant's reluctance to condition the Project to the Fidra project to any further extent than currently proposed. To clarify, the Applicant considers the effect of the outputs of the National Energy System Operator's (NESO) connection reform is such that Fidra's project is such that there is very considerable uncertainty regarding the viability and, in any case, delivery timescales for the Fidra project in this area. The Applicant does not propose to go into detail regarding the background context to NESO's connection reform process as the Secretary of State will be well versed on the subject and would instead propose to focus on the summary results specific to this interface between the Applicant's and Fidra's respective schemes:
  - NESO's Connections Reform results show that all Clean Power Action Plan (CPAP) targets for BESS were oversubscribed just with "Protected" projects.<sup>1</sup>
  - Therefore, the only way for a BESS project (as Fidra's scheme is) to receive a Gate 2 Offer as part of the First Gate 2 Window was to qualify for a relevant "Protection"<sup>2</sup>. Specifically, the relevant Protection Clauses for a BESS project to be offered a Gate 2 Offer in the First Gate 2 Window were Protection Clauses 1 and 2a:
    - For Protection Clauses 1 and 2a, Fidra would have needed to have obtained planning consent before the end of the application

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<sup>1</sup> [REDACTED]

<sup>2</sup> [Connections Reform design documents and methodologies | National Energy System Operator](#)

window for the First Gate 2 Window, which closed on 26 August 2025. Fidra did not have planning permission by this date.

- An alternative route to meet Protection Clause 2a is to have secured a government support contract (e.g. Capacity Market, Long Duration Energy Storage (LDES)) before the close of the application window for the First Gate 2 Window (26 August 2025). For the Capacity Market, there is no evidence that Fidra held a Capacity Market contract for this project (and would not have been eligible to do so due to not having planning consent). For LDES, Ofgem has not yet awarded any contracts under the LDES scheme.
- The effect of this is that the Applicant does not consider it possible that Fidra has received a Gate 2 Notification, which is the necessary precursor to receiving a Gate 2 Offer, which in turn would provide a confirmed grid connection date and confirmed point of connection.
- Looking further ahead, the Applicant considers it highly unlikely that the Fidra project will receive a Gate 2 offer in future Gate 2 windows as the Gate 2 battery capacity following the First Gate 2 Window (91 GW including built projects) is more than triple the current 2035 CPAP target (28.7 GW).
- The level of oversubscription was confirmed in the open letter from DESNZ and Ofgem on connections reform delivery on 16 April 2026– *“Although the reform process removed many non-viable battery projects and significantly reduced the queue, there is still 14.8 GW above the top of the Action Plan battery capacity range for 2030 and 61.7 GW above the projected battery system need in 2035.”*
- Clearly if Fidra disagree with the above analysis, and/or can evidence that it is in receipt of a Gate 2 Notification for the Fidra project (thus demonstrating that it will receive a Gate 2 Offer in first Gate 2 Window), then they will be entitled to make submissions to that effect.
- However, in the absence of any such evidence to the contrary, the Applicant considers the known facts and circumstances and general uncertainty pertaining to the deliverability of the Fidra project and, at the very least, the timescales for such delivery, support the Applicant's position that no further bespoke protection, including the protective provisions proposed by Fidra, is required to be imposed on the Beacon Fen project in view of the potential interface with the Fidra project.
- For completeness and as set out in **Applicant's Response to Other Parties Deadline 2 Submissions (REP3-016)**, it is vital that the Applicant retains the full extent of Plot 18-11 due to potential cable routing obstacles which would require a variance in the cable route to the Bicker Fen substation. Whilst only 30m within the 100m+ area will ultimately be required for the construction corridor (with the area further reducing to an up to 12m for the permanent easement), the Applicant needs to be able to route the 30m strip anywhere within that area to ensure the Project is deliverable. The 30m working width and 12m easement width are secured within the **Outline Construction Environmental Management Plan (REP7-020)** at paragraph 6.14.4.

This document is secured by virtue of Requirement 12 (construction environmental management plan) of the Draft DCO.

- Should the Secretary of State not agree with the Applicant in relation to Fidra and consider that some form of protection is required, the Applicant has prepared protective provisions, provided at Appendix 2 to this RFI response **on a without prejudice basis only**. These provisions are proposed as an alternative to those put forward by Fidra towards the close of the examination (the deficiencies of which were explained in the Applicant's Closing Statement (page 43) and set out measures to manage any interface between the two projects, contingent upon Fidra demonstrating that it has a grid connection into Bicker Fen substation. Should the Secretary of State consider that protection for the Fidra scheme is warranted and that consequently restrictions should be placed on the delivery of the Applicant's Project, any such provisions should only remain in effect if Fidra can demonstrate its grid connection as provided for in the protective provisions at Appendix 2. Any dilution of that principle would leave the Applicant's project, a nationally significant infrastructure project recognised as being of Critical National Priority under the Overarching National Policy Statement EN-1, subject and conditioned to a development which may not come forward and unnecessarily frustrate the pace of delivery of the Project and the vital benefits which it brings. The protective provisions provide an appropriate level of protection for any Fidra apparatus from the Project. The protective provisions do not cover the situation where the Project's cable is already installed and Fidra has a need to cross the Project's cable, as that is not within the scope of the DCO (being related to the exercise of Fidra's own planning permission, not powers under the DCO), and the Applicant would expect to enter into a crossing agreement with Fidra in that situation, as would ordinarily occur.<sup>3</sup>

3.3.7 Overall, the Applicant has closed out all points in the representations raised by third party statutory undertakers save for four specific bodies:

- With regards **Vicarage Drove BESS Limited**, the Applicant is in constructive discussions and hopes to reach commercial agreement.
- With regards **VDEC**, the Applicant is in constructive discussions and hopes to reach commercial agreement following further engagement.
- The position with **Network Rail** is unlikely to change ahead of the Secretary of State's determination of the Application for the reasons rehearsed in its previous submissions (as referenced above). In the absence of any such change, the decision before the Secretary of State is whether to prefer the protective provisions put forward by the Applicant or those put forward by Network Rail. The Applicant has sought to explain (particularly in response to ExQ3.CA.3.3) why its provisions should be preferred; however, should the Secretary of State have any additional queries in this respect that would assist when considering this point then the Applicant would be grateful for the opportunity to provide such further clarification.

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<sup>3</sup> Note the without prejudice protective provisions are drafted as being for the protection of Bicker Drove Limited. As explained in the Applicant's Closing Statement, the representations to the examination have been made by Fidra, albeit the electricity generation licence is in the name of Bicker Drove Limited, a subsidiary of Fidra. The planning permission will also be in the name of Bicker Drove Limited. The Applicant also understands Fidra to seek that any protection is for Bicker Drove Limited. It is for these reasons that the protective provisions have been drafted as they have.

- Regarding **Fidra**, the Applicant considers it similarly unlikely that there will be a material evolution in the respective positions advanced by the parties, which would accordingly preclude any agreement being reached (including the need for any bespoke protective provisions). For the reasons advanced above (and in previous submissions), the Applicant does not consider any such agreement or additional protection is necessary to enable the Project to be granted development consent. However, in circumstances where the Secretary of State was otherwise minded to prefer Fidra's submissions and that further protection is necessary, the Applicant has provided protective provisions with this RFI response on a without prejudice basis.

# Appendix 1: Section 135 Consent

The Crown Estate

1 St James's Market

London, SW1Y 4AH

Tel: +44 (0)20 7851 5000

Web: [www.thecrownestate.co.uk](http://www.thecrownestate.co.uk)

National Infrastructure Planning

The Planning Inspectorate

c/o QUADIANT

69 Buckingham Avenue

Slough

SL1 4PN

AND BY EMAIL: [beaconfen@planninginspectorate.gov.uk](mailto:beaconfen@planninginspectorate.gov.uk)

Date: 12 FEBRUARY 2026

Dear Sir or Madam,

**Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010  
Application by Beacon Fen Energy Park Limited ("the Applicant") for an Order Granting  
Development Consent for the Beacon Fen Energy Park**

I write further to the above.

In this letter:

"the book of reference" shall have the meaning given to it in the Order;

"the Commissioners" shall mean the Crown Estate Commissioners;

"Draft DCO" shall mean the Applicant's draft development consent order (PINS reference EN010151, Document Reference 3.1 and dated November 2025); and

"Order" shall mean The Beacon Fen Energy Park Order 202[ ] once made by the Secretary of State.

As you are aware, the Commissioners disagree with any view that section 135(1) of the Planning Act 2008 ("the Act") provides that any provision authorising the acquisition of third party interests in Crown land may only be included in a development consent order if the unconditional consent of the appropriate Crown body to the acquisition is obtained before the development consent order is made.

However, and without prejudice to the Commissioners' position set out in the preceding paragraph, the Commissioners have reached a separate agreement with the Applicant which provides the Commissioners with sufficient assurance as to the way in which compulsory acquisition powers (as contained in Articles 23 and 27 of the Draft DCO) may be exercised in respect of third party interests in Crown land forming part of the Crown Estate. As such, and subject to the below, the Commissioners confirm their consent to the compulsory acquisition of the third party interests in Plots 1-4, 2-2, 3-5, 3-7, 6-1, 7-2, 7-3, 8-1, 8-3 for the purpose of section 135(1) of the Act.

The Commissioners' consent is granted subject to:

1. the inclusion and continuing application of the following "Crown rights" wording in the Order at Article 41:

WORK\78971510\w.2

The Crown Estate

1 St James's Market

London, SW1Y 4AH

Tel: +44 (0)20 7851 5000

Web: www.thecrownestate.co.uk

**"Crown rights**

41. - (1) *Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter upon or in any manner interfere with any land or rights of any description—*

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;*
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or*
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.*

*(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227 ("Crown land" and "the appropriate Crown authority") of the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.*

*(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions and is deemed to have been given in writing where it is sent electronically."*

and;

2. the Commissioners being consulted further if any variation to the Draft DCO is proposed which could affect any other provisions of the Order which are subject to section 135(1) and 135(2) of the Act.

Section 135(2) consent is required for an order granting development consent to include provision(s) to apply to Crown land or rights benefitting the Crown (other than provision(s) authorising the compulsory acquisition of third party interests in Crown land).

Without prejudice to the Commissioners' position, subject to:

1. the inclusion of Article 41 in the Order as referred to above and its continuing application; and
2. the Commissioners being consulted further if any variation to the Draft DCO is proposed which could affect any other provisions of the Order which are subject to section 135(1) and 135(2) of the Act;

The Commissioners confirm their consent to Articles 3, 4, 5, 20, 32, 34, 40, 41 and 44 of the Draft DCO, to the extent that they are included in the Order, applying in relation to Plots 1-4, 2-2, 3-5, 3-7, 6-1, 7-2, 7-3, 8-1, 8-3 for the purpose of section 135(2) of the Act.

Yours sincerely



**For and on behalf of the Crown Estate Commissioners**



**Authorised by the Crown Estate Commissioners**

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# **Appendix 2: Without Prejudice Provisions for the Protection of Bicker Drove Limited**

## FOR THE PROTECTION OF BICKER DROVE LIMITED

1. The provisions of this Part of this Schedule apply for the protection of Bicker Drove, subject to paragraph 2, and unless otherwise agreed in writing between the undertaker and Bicker Drove.

2. —(1) In the event that Bicker Drove—

- (a) no longer has an interest in the Bicker Drove land; or
- (b) is no longer proceeding with the Bicker Drove Project,

Bicker Drove must notify the undertaker as soon as reasonably practicable.

(2) The provisions in this Part of this Schedule cease to apply—

- (a) in the case of any event listed under paragraph 2(1)(a) or (b) above; or
- (b) if on or before 1 June 2027 (or such later date as is requested by Bicker Drove in accordance with paragraph 2(3) and agreed by the undertaker), Bicker Drove has not provided to the undertaker written notice together with reasonable supporting evidence confirming that the Bicker Drove Project will connect into Bicker Fen substation.

(3) Any request by Bicker Drove pursuant to paragraph 2(2) for a date later than 1 June 2027 must—

- (a) be made prior to 1 May 2027;
- (b) include supporting evidence to demonstrate to the reasonable satisfaction of the undertaker that confirmation of a connection for the Bicker Drove Project as required by paragraph 2(2) will be received prior to 31 August 2027, and
- (c) be for a date no later than 1 September 2027.

### Interpretation

3. In this Part of this Schedule—

“apparatus” means the battery energy storage or other infrastructure owned, occupied or maintained by Bicker Drove on the Bicker Drove land for the purposes of the Bicker Drove Project;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) (interpretation) of this Order and includes any associated development authorised by the Order and for the purposes of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Part of this Schedule;

“Bicker Drove” means Bicker Drove Limited (company number 15674780) whose registered office address is at 20 St. James's Street, 7th Floor, London, United Kingdom, SW1A 1ES;

“Bicker Drove interface area” means the area notified by the undertaker to Bicker Drove in accordance with paragraph 4;

“Bicker Drove land” means the land over which Bicker Drove hold an interest and which is contained within the Order limits;

"Bicker Drove Project" means the proposed 1.2GW Battery Energy Storage System development subject to planning application reference B/25/0224 located on land near Boston, Lincolnshire;

"Bicker Drove stand-off area" means the Bicker Drove land within the Order limits, other than the Bicker Drove interface area;

“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, is to require the undertaker to submit for Bicker Drove’s approval a ground mitigation scheme;

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“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” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Bicker Drove; construct, use, repair, inspect, renew or remove the apparatus;

“plan” and “plans” includes sections, drawings, specifications, designs, design data, software, 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 the Bicker Drove interface area or Bicker Drove stand-off area (as applicable); and

“specified works” means so much of any works or operations authorised by this Order (or authorised by any planning permission intended to operate in conjunction with this Order) as is will or may be situated over, or within 15 metres measured in any direction of any apparatus of Bicker Drove and within the Bicker Drove interface area or Bicker Drove stand-off area (as applicable).

### **Notification of route within the Bicker Drove land**

4. —(1) As soon as is reasonably practicable after the undertaker has identified the area of land required for the authorised works within the Bicker Drove land and in any event no later than three years from the date this Order takes effect, the undertaker must notify Bicker Drove in writing of the confirmed location of the Bicker Drove interface area (the “Route Confirmation Notice”).

(2) The Route Confirmation Notice must include a plan sufficient to identify the Bicker Drove interface area.

(3) From (and including) the date the Route Confirmation Notice is given -

- (a) the area identified in the Route Confirmation Notice shall constitute the “Bicker Drove interface area”; and
- (b) the Bicker Drove land, other than the Bicker Drove interface area, shall constitute the “Bicker Drove stand-off area”;

for the purposes of this Part of this Schedule.

(4) The undertaker may, if reasonably required, issue a revised Route Confirmation Notice to vary the Bicker Drove interface area, provided that any revised notice is given as soon as is reasonably practicable and before the commencement of any specified works within any newly identified part of the Bicker Drove land. Any revised Route Confirmation Notice shall take effect from the date it is given and the Bicker Drove interface area and Bicker Drove stand-off area shall be construed accordingly.

(5) For the avoidance of doubt, the giving of the Route Confirmation Notice (or any revised Route Confirmation Notice) does not disapply or vary the undertaker’s obligations in paragraph 5 (*retained apparatus within the Bicker Drove interface area: protection*), including consultation and notice periods prior to commencing specified works within the Bicker Drove interface area.

### **Retained apparatus within the Bicker Drove interface area: protection**

5. The undertaker must consult with Bicker Drove on the plans and formulation of the proposed method of working and timing of execution of any specified works within the Bicker Drove interface area, not less than 56 days prior to such works commencing and have regard to reasonable representations received from Bicker Drove made at least 28 days prior to such works commencing.

6. Where, as a direct result of the specified works within the Bicker Drove interface area, Bicker Drove requires any diversion or protective works to be carried out either by themselves or by the undertaker (whether of a temporary or permanent nature) such diversion or protective works must be carried out to Bicker Drove’s reasonable satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which diversion or protective works are required and Bicker Drove shall

give notice of its requirement for such works within 28 days of the date of first being consulted in accordance with paragraph 5.

7. The undertaker must give to Bicker Drove not less than 28 days' written notice of its intention to commence the construction of any specified works within the Bicker Drove interface area and, not more than 14 days after completion of their construction, must give Bicker Drove written notice of the completion.

8. 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 within the Bicker Drove interface area, a new method of working and plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

9. The undertaker must at all reasonable times during construction of any specified works within the Bicker Drove interface area allow Bicker Drove and its servants and agents reasonable facilities for inspection of such specified works.

**Retained apparatus within the Bicker Drove stand-off area: protection**

10.—(1) Not less than 56 days before the commencement of any specified works within the Bicker Drove stand-off area, the undertaker must submit to Bicker Drove a plan of the works to be executed and seek from Bicker Drove details of the extent of their assets within the Bicker Drove stand-off area. In relation to the specified works within the Bicker Drove stand-off area the plan to be submitted to Bicker Drove under paragraph 10(1) above must include a method statement which shows and describes—

- (a) the exact position of the specified works within the Bicker Drove stand-off area;
- (b) the level at which the specified works within the Bicker Drove stand-off area are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal within the Bicker Drove stand-off area including details of excavation, positioning of plant;
- (d) the position of all apparatus within the Bicker Drove stand-off area;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus within the Bicker Drove stand-off area;
- (f) any intended maintenance regimes within the Bicker Drove stand-off area;
- (g) an assessment of risks of rise of earth issues within the Bicker Drove stand-off area; and
- (h) a ground monitoring scheme within the Bicker Drove stand-off area, where required.

(2) The undertaker must not commence any specified works within the Bicker Drove stand-off area to which sub-paragraph 10 applies until Bicker Drove has given written approval of the plan so submitted.

(3) Any approval of Bicker Drove required under sub-paragraph (2)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in subparagraphs (4) or (6); and
- (b) must not be unreasonably withheld or delayed.

(4) In relation to any work to which sub-paragraph 10 applies, Bicker Drove may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus within the Bicker Drove stand-off area and Bicker Drove must notify the undertaker of such modifications within a period of 56 days beginning with the date on which the plan required under paragraph 10(1) has been submitted to Bicker Drove.

(5) Works executed under sub-paragraph 10 must be executed in accordance with the plan, submitted under paragraph 10(1) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Bicker Drove and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (4) or (6) by Bicker Drove for the

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alteration or otherwise for the protection of the apparatus within the Bicker Drove stand-off area, or for securing access to it, and Bicker Drove will be entitled to watch and inspect the execution of those works within the Bicker Drove stand-off area.

(6) Where Bicker Drove requires any protective works within the Bicker Drove stand-off area 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 Bicker Drove's satisfaction prior to the commencement of any specified works within the Bicker Drove stand-off area (or any relevant part thereof) for which protective works are required and Bicker Drove shall 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).

(7) 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 the works within the Bicker Drove stand-off area for which a plan has been submitted for specified works within the Bicker Drove stand-off area (or part thereof), a new plan for such works, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(8) The undertaker will not be required to comply with paragraph 10(1) where it needs to carry out emergency works within the Bicker Drove stand-off area as defined in the 1991 Act but in that case it must give to Bicker Drove notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (4), (5) and (6) insofar as is reasonably practicable in the circumstances.

### **Acquisition of land within the Bicker Drove stand-off area**

**11.—**(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 (a) appropriate or acquire or take temporary possession of any land or apparatus within the Bicker Drove stand-off area belonging to Bicker Drove or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus, within the Bicker Drove stand-off area, belonging to Bicker Drove otherwise than by agreement (such agreement not to be unreasonably withheld or delayed).

(2) Any agreement or consent granted by Bicker Drove under paragraph 10 (*retained apparatus within the Bicker Drove stand-off area: protection*) or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under paragraph 11(1).

### **Cooperation within the Bicker Drove stand-off area**

**12.—**(1) Where in consequence of the proposed construction of any part of the authorised works within the Bicker Drove stand-off area, Bicker Drove makes requirements for the protection or alteration of apparatus under paragraph 10 (*retained apparatus: within the Bicker Drove stand-off area: protection*), the undertaker shall use reasonable endeavours to coordinate 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 Bicker Drove's undertaking and Bicker Drove shall use reasonable endeavours to cooperate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Bicker Drove'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**

**13.** If in consequence of the exercise of powers granted under this Order access to the Bicker Drove land is materially obstructed, the undertaker must provide such alternative means of access to the Bicker Drove land as will enable Bicker Drove to operate and maintain its apparatus no less effectively than was possible before such obstruction.

### **Expenses**

**14.—**(1) Save where otherwise agreed in writing between Bicker Drove and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to Bicker Drove within 30 days of

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receipt of an itemised invoice or claim from Bicker Drove all charges, costs and expenses reasonably and properly incurred by Bicker Drove comprising the review of plans under this Part of this Schedule.

(2) Notwithstanding any other provision of this Part of this Schedule, Bicker Drove shall not be entitled to recover more than once in respect of the same loss, cost, expense, or liability arising out of or in connection with any matter for which the undertaker is liable under this this Part of this Schedule or any related agreement.

(3) For the avoidance of doubt, where Bicker Drove is entitled to recover any sum under more than one provision of this this Part of this Schedule or any related agreement in respect of the same loss, cost, expense, or liability, Bicker Drove shall only be entitled to recover such sum once.

### **Indemnity**

**15.** (1) Subject to sub-paragraphs (2) to (6), 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 specified 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 Schedule or any subsidence resulting from any of these works), any damage is caused to any apparatus within the Bicker Drove land, the undertaker will bear and pay within 60 days of receipt of an invoice or claim from Bicker Drove the cost reasonably and properly incurred by Bicker Drove in making good such damage.

(2) The fact that any act or thing may have been done by Bicker Drove on behalf of the undertaker or in accordance with a plan reviewed by Bicker Drove pursuant to paragraph 4 or in accordance with any requirement of Bicker Drove or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of paragraph 15(1) unless Bicker Drove fails to carry out and execute the works properly with due care and attention and in a skillful and workmanlike manner or in a manner that does not accord with the approved plan.

(3) Nothing in paragraph 15(1) shall 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 Bicker Drove, its officers, servants, contractors or agents; or
- (b) 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) Bicker Drove must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability, compromise or demand must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering its representations.

(5) Bicker Drove 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) Bicker Drove must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within Bicker Drove's reasonable ability and control to do so and if reasonably requested to do so by the undertaker Bicker Drove must provide an explanation of how the claim has been minimised, where relevant.

### **Arbitration**

**16.** Any difference or dispute arising between Bicker Drove and the undertaker must, unless otherwise agreed in writing between Bicker Drove and the undertaker, be determined by arbitration in accordance with article 45 (arbitration) of the Order.