

Planning Inspectorate
Temple Quay House
2 The Square, Bristol
BS1 6PN

Our Ref
JEJ/ADW/124645.0023
Date
11 February 2025

By Email

Dear Sir or Madam

**Project: Fenwick Solar Farm (PINS Reference Number: EN010152)
Relevant Representation of Able UK Limited and Elba Securities Limited**

1. We write on behalf of both Able UK Limited (AUK) and Elba Securities Limited (ESL); AUK is the UK Asset Manager for ESL which is a company incorporated in Jersey. AUK and ESL (collectively referred to as 'ABLE' hereafter) object to the Fenwick Solar Farm Project (the **Project**), as proposed by Fenwick Solar Project Limited (the **Applicant**). This letter constitutes a Relevant Representation (**RR**) made by ABLE.
2. We acknowledge that the deadline for submission of RRs was 24 January 2025, however due to unavoidable circumstances it has not been possible to meet that deadline, and we apologise for this. ABLE are affected parties given the direct impact the Project has on their land interests, making it a Person with an Interest in Land for the purposes of section 56 of the Planning Act 2008 (**PA 2008**) and Regulation 16 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

Objection to Compulsory Acquisition of ABLE's Land Interests

3. ABLE strongly objects to the Applicant's case for compulsorily acquiring its land interests in carrying out the Project as set out in the [Book of Reference \(BoR\)](#) and corresponding [Land Plans \(LP\)](#). The Applicant seeks to acquire rights over the following plots, which fall within Category 1 (and in some cases Category 2 and 3) land interests held by ABLE:
 - a. 9/09 – BoR (page 100), LP (sheet 9)
 - b. 9/15 – BoR (page 104), LP (sheets 9 and 10)

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- c. 10/03 – BoR (page 105), LP (sheets 9 and 10)
 - d. 10/05 – BoR (page 106), LP (sheet 10)
 - e. 10/06 – BoR (page 108), LP (sheet 10)
 - f. 10/07 – BoR (page 109), LP (sheet 10)
 - g. 10/08 – BoR (page 111), LP (sheet 10)
 - h. 10/09 – BoR (page 113), LP (sheet 10)
 - i. 10/10 – BoR (page 114), LP (sheet 10)
 - j. 10/13 – BoR (page 118), LP (sheet 10)
4. ABLE objects to the acquisition of any of these land interests, but particularly plot 10/05 which is of strategic importance to ABLE. Plot 10/05 concerns what was historically the Thorpe Marsh Power Station site, which ABLE acquired in 1995. Since then, the site has been subject to substantial investment and decommissioning efforts. The work undertaken on the site thus far was undertaken to enable the construction of a new 1500 MW capacity electricity generating station. The generating station obtained consent from Department of Energy and Climate Change on 31 October 2011 pursuant to Section 36 of the Electricity Act 1989 (view here: [Thorpe Marsh CCGT Consent](#)).
5. Due to changes in energy policy the generating station has not been constructed, but the site's immediate access to the National Grid infrastructure make it a prime location for other development requiring grid access.
6. ABLE disputes the Applicant's rationale for compulsory acquisition of ABLE's land, particularly plot 10/05, given that it forms part of a site that has previously been consented for major development. The proposed compulsory acquisition would directly conflict with the significant work undertaken over several years and undermine the long-term strategic development objectives of the site as envisaged by ABLE. This would be a highly disruptive and unnecessary outcome that would derail ABLE's efforts invested thus far. The Applicant has failed to provide sufficient justification as to why ABLE's land specifically is crucial for the Project, and has not demonstrated that reasonable alternative locations for the development generally and the cable route in particular, have been adequately explored.
7. Section 122(3) PA 2008 stipulates that the Secretary of State may grant compulsory acquisition powers to a developer when '*there is a compelling case in the public interest for the land to be acquired compulsorily*'. In this instance, the Applicant has not met this threshold, as the land is being developed by ABLE and such development would be constrained by the presence of underground cables. We note that [NPS EN-3 \(Renewable Energy Infrastructure\)](#) at paragraphs 2.10.28 and 2.10.29 provide that '*solar is a highly flexible technology and as such can be*



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deployed on a wide variety of land types, whereby in considering the suitability of a site, the Applicant should *'where possible, utilise suitable previously developed land'*. It is both confusing and irrational that the Applicant has decided to select plot 10/05, which is a site that has previously obtained consent for critical national infrastructure and for which ABLE will most likely submitting an application for development that may itself constitute a Nationally Significant Infrastructure Project.

8. ABLE maintains its position that any form of mitigation negotiated with the Applicant in respect of the plots identified at paragraph 3 above will only be acceptable where it is deemed unavoidable to use ABLE and the mitigation does not impede the realisation of ABLE's plans. Any agreement or arrangement reached between ABLE and the Applicant to accommodate any aspect of the Project would be entirely at ABLE's discretion.
9. Mitigation measures, if deemed unavoidable, should address the following list of non-exhaustive concerns:
 - a. Any infrastructure installation on ABLE's land must not obstruct or restrict ABLE's ability to progress with any development brought forward in the future, including the location of such installation and its timing.
 - b. If ABLE's land is disturbed during the construction or operation of the Project, it is imperative that such land is restored to its original condition, thereby allowing future development of the land to continue as planned.
 - c. Should ABLE allow the development to progress on its land with suitable mitigation, ABLE is entitled to compensation for any temporary or permanent interference.
10. Given ABLE's development plans, we request that the Planning Inspectorate reject the Applicant's request for compulsory acquisition of the relevant plots. However, if elements of the Project must pass through ABLE's land, particularly parcel 10/05, we request that the Applicant engages in meaningful dialogue with ABLE to agree adequate mitigation measures to reach a satisfactory position prior to any work commencing.
11. Any costs incurred by ABLE in dealing with this application should be met by the Applicant.



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Yours faithfully



Angus Walker
Partner

For and on behalf of Broadfield Law UK LLP

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