FENWICK SOLAR FARM

Solar Farm

EN010152

Applicant's Summary of Oral Submissions at the Issue Specific Hearing (ISH2) on the Draft Development Consent Order and Post Hearing Notes

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Revision History

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Table of Contents

Tables

1. Introduction

1.1.1 An Issue Specific Hearing was held at 14:00 on Tuesday 17 June 2025 at Doncaster Racecourse, Doncaster, in relation to the draft Development Consent Order (**DCO**) and in accordance with the Planning Act 2008.

1.1.2 Parties from the Examining Authority, Pinsent Masons LLP (the Applicant's legal advisers for the Application), Aecom Limited (the Applicant's planning and environmental consultants for the Application) and City of Doncaster Council were present at the Issue Specific Hearing. It is the Applicant's oral submissions that are summarised in this document.

Table 1-1 Applicant's Summary of Oral Submissions and Post Hearing Notes

#	Agenda Item	Post-Hearing Notes
1.	**Welcome, introductions and arrangements for the hearing**	The following parties were present at the hearing: • Rory Cridland and Samantha Murphy, the Examining Authority (**the ExA**). • Taylor Power, Associate, and Gareth Phillips, Partner, Pinsent Masons LLP, the solicitors for Fenwick Solar Project Limited (**the Applicant**) for this matter. • Emyr Thomas, Partner and Parliamentary Agent, Sharpe Pritchard LLP the solicitors for City of Doncaster Council (**CDC**) for this matter. • Roy Sykes, City of Doncaster Council
2.	**Main discussion points**	**Article 2 – Interpretation** The ExA, in relation to the definition of "commence", enquired as to why the Applicant had retained the Town and Country Planning Act 1990 definition as opposed to that contained within the Planning Act 2008 as per recent DCO decisions. Taylor Power, for the Applicant, confirmed that the Applicant is open to reviewing recent Secretary of State decisions and would be willing to adopt the Planning Act subject to discussions with CDC to ensure the definition remains workable. The ExA then referred to the East Yorkshire Solar Farm Order 2025, noting a number of updates made by the Secretary of State to the made DCO. Ms Power confirmed that the Applicant had reviewed the East Yorkshire Solar Farm decision and was in the process of updating the draft DCO in order to incorporate these amends ahead of Deadline 3.

#	Agenda Item	Post-Hearing Notes

Post hearing note: *An* ***Appendix A*** *to this note has been provided which explains the changes made by the Secretary of State in the East Yorkshire Solar Farm decision, and where these have or have not been brought across into the* ***draft DCO [EN010152/APP/3.1]*** *as updated at Deadline 3 along with the reasoning for those changes (or exclusions). These changes have been discussed and agreed with the City of Doncaster Council.*

Article 6 – Disapplication and modification of statutory provisions

The ExA requested an update as to the Applicant's ongoing engagement with the Environment Agency (**EA**) in relation to the application of flood risk activity permits (**FRAP**).

Taylor Power, for the Applicant, responded that the Applicant and the EA are resolving the final matters under discussion. This includes the disapplication of FRAP. From the Applicant's perspective, the disapplication of FRAP is appropriate because the standard requirements and sign-offs which the EA holds under that permitting scheme are being replaced in full by the protective provisions which have already been agreed with the EA's legal team. This is a standard approach, which has been adopted by the EA in all solar DCOs to date.

Ms Power added that the Applicant's concern is therefore regarding the overlap between the permit process and the protective provisions process. The Applicant wants to ensure a workable process post-consent which avoids any duplication in approvals. It is unclear to the Applicant why the EA has sought the drafting of protective provisions which would replace the FRAP controls, but still seek for permitting to apply.

The latest status of those discussions has left this question for the EA technical team to confirm with their legal team. The Applicant is still awaiting response on the position, but hopes to be able to update the ExA at Deadline 3.

Post hearing note: *Following ISH2, the Applicant and the EA had further meetings to discuss the EA's position on the disapplication of FRAP for the Scheme. A full explanation of those further*

#	Agenda Item	Post-Hearing Notes

discussions is set out within the Environment Agency SoCG **[EN010152/APP/8.6]**, *which outlines that the EA has changed its position regarding the disapplication of FRAP within DCOs in respect of assets it identifies as "high risk". The EAs preference is therefore that FRAP continue to apply to works which overlay the Thorpe Marsh Reservoir on Sheets 9 and 10 of the* ***Works Plans [APP-214],*** *but be disapplied for the rest of the Scheme and the protective provisions relied on instead. The parties are discussing updates to the draft DCO to reflect this approach and intend to provide these in an updated version at Deadline 4.*

Article 14 – Means of Access

The ExA asked how the reinstatement of Access 6 and the associated hedgerow is secured in the draft DCO.

Taylor Power, for the Applicant, explained that Article 29 allows for temporary possession of land for construction and requires restoration to the reasonable satisfaction of landowners once works are complete, which would apply to any land and accesses only required for construction. Ms Power also noted that further control documents such as the Landscape and Ecological Management Plan (**LEMP**) provide for reinstatement, in addition to Article 29.

The ExA queried the wording contained within the Framework LEMP and asked whether this could be strengthened to ensure reinstatement is guaranteed.

Ms Power confirmed that the Applicant would review and consider strengthening the wording in the Framework LEMP to provide greater certainty.

Post hearing note: *the Applicant has updated the Framework LEMP to this effect at Deadline 3. Specifically, paragraphs* ***7.2.2****,* ***7.2.9****, and* ***7.2.10*** *have been updated to replace the phrase "where practicable" with "where permanent infrastructure would prohibit that replanting", providing greater certainty that hedgerow reinstatement will be carried out wherever feasible.*

#	Agenda Item	Post-Hearing Notes

Article 21 – Time limit for exercise of authority to acquire land compulsorily

The ExA requested further detail within the Explanatory Memorandum in relation to the operation of the provisions in Articles 21, 24 and 27.

Taylor Power, for the Applicant, explained that the use of the shorter one-year period aligns with recent updates to the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965, which provide for the same extension where implementation of compulsory purchase is interrupted by legal challenge. While this approach introduces some uncertainty in the final timeframes within which compulsory purchase apply due to potential interruption of legal challenge timeframes, it reflects the evolving standard practice and ensures consistency with other compulsory purchase regimes. Ms Power noted that this alignment benefits parties familiar with those Acts (including any land agents they may have engaged) and avoids inconsistencies in how powers are applied. She added that although the period is extended, it allows time for legal challenges to be resolved before compulsory purchase powers are exercised, ensuring the process is carried out with certainty and without undue haste.

The ExA noted recent amendments made by the Secretary of State to the East Yorkshire Solar Farm Order, and that these did not adopt the changes in the Compulsory Purchase (Vesting Declarations) Act 1981 and the Compulsory Purchase Act 1965. The ExA asked if this difference could be explained within the Explanatory Memorandum.

Ms Power clarified that the five-year period used in the East Yorkshire Solar Farm Order reflected the position put forward by the Applicant at that time, which did not account for recent amendments to the Compulsory Purchase Acts listed above under the Levelling Up and Regeneration Act 2023 as they had not come into effect at the time of its application. Ms Power explained that the current approach represents a drafting refinement made since that examination, aiming to align with the updated legislation. Ms Power agreed to update the Explanatory Memorandum to assist the Secretary of State in considering the matter.

#	Agenda Item	Post-Hearing Notes

***Post hearing note**: Further drafting has been added to the Explanatory Memorandum* **[EN010152/APP/3.2]** *at Deadline 3 to explain why the drafting in these articles differs from other recently made Orders.*

The ExA then asked for further clarification with regard to the notification of affected parties.

Ms Power said that, while there is no formal mechanism relating to notification, the Applicant has existing agreements with all landowners within the solar PV site which require it to provide notice in respect of the use of any rights under those agreements, and that the Applicant would continue to provide voluntary updates to landowners within the Order limits, particularly in the Grid Connection Corridor, where compulsory powers may be more relevant. Ms Power noted that formal notification requirements in respect of any legal challenges have not typically been included in previous DCOs.

Schedule 1, Work No 5 – Line drop option

The ExA sought clarification as to whether the Applicant would only pursue one option for grid connection.

Taylor Power, for the Applicant, confirmed that only one option would be pursued and that this was the basis of the Environmental Statement (**ES**) assessment. Ms Power explained that both the Grid Connection Corridor and the Line Drop were considered, with the ES assessing the worst-case scenario for each topic area. While the Line Drop is generally less intrusive, it still involves below-ground cabling that could affect heritage assets within the solar PV site. The final design will adopt only one of the two options.

The ExA expressed a preference for clearer wording in the DCO to ensure only one option can be pursued.

Ms Power explained that the DCO and associated management plans assume only one option will be built, and that it would not be practical or financially viable to construct both. She acknowledged

#	Agenda Item	Post-Hearing Notes

the ExA's concern and agreed to consider whether additional wording could be included in the DCO to clarify this.

***Post hearing note**: The **draft DCO** **[EN010152/APP/3.1]** has been updated at Deadline 3 at Requirement 4(3) to provide that at the point of detailed design the undertaker must confirm that either the grid connection corridor (Work No 4) or the Line Drop Option (Work No 5(b)) will be constructed and operated.*

General

Emyr Thomas, for CDC, raised points in relation to:

- amending Requirement 10 to include consultation with CDC's archaeological advisers,
- replacing the Schedule 15 fee provision with a Planning Performance Agreement, and
- securing a highways agreement under Article 15 with fallback provisions if not agreed.

Taylor Power, for the Applicant, confirmed that:

- On the archaeology consultation point, Ms Power reiterated that the Applicant prefers to limit Requirement 10 to statutory consultees. Ms Power explained that Schedule 15 is designed to facilitate formal consultation with named statutory bodies, whereas archaeological advisers are more akin to internal or advisory services. Ms Power noted that CDC would be expected to engage external consultants where necessary, without needing to specify them in the DCO, and that maintaining consistency with other requirements supports this approach.

- The Applicant is reviewing the draft Planning Performance Agreement and Highways agreement shared by CDC, noting that amendments are needed to align the latter with the DCO process. Ms Power expressed the Applicant's intention to agree framework versions of both documents before the end of the examination and reserved the Applicant's position on any proposed Grampian provisions until further discussions have taken place.

#	Agenda Item	Post-Hearing Notes
		The ExA asked whether the discussions between the Applicant and the EA were likely to result in any substantive changes to the DCO. Ms Power, for the Applicant, confirmed that no substantive changes to DCO are currently under discussion with the EA. She noted that the DCO was recently updated to include the EA as a consultee on additional requirements, but ongoing engagement primarily relates to the content of management plans. Any resulting changes are expected to be minor, such as wording adjustments to the Construction Environmental Management Plan, with no further amendments to the DCO anticipated at this stage. ***Post hearing note:*** *The Applicant notes that the latest positions between the Applicant, CDC and the EA, including in respect of the DCO and any further changes agreed since the hearing, are set out in the SOCGs as updated for Deadline 3.*
3.	**Schedule 14 – Protective Provisions**	Ms Power confirmed that the status of protective provisions are as outlined in the CAH1.
4.	**Opportunity for interested parties to comment on other aspects of the draft DCO and raise any matters not covered in agenda items 1-4**	N/A
5.	**Other Matters**	N/A
6.	**Close**	N/A