



Frodsham Solar

Statement of Reasons

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1.0 EXECUTIVE SUMMARY

1.0.1 This Statement of Reasons relates to the application for a development consent order (DCO) made by Frodsham Solar Limited ('the Applicant') to the Secretary of State for the Department for Energy Security and Net Zero (the 'Secretary of State') under the Planning Act 2008 (the 2008 Act) for powers to construct, operate (including maintenance and programmed replacements) and decommission the Frodsham Solar Farm ('the Proposed Development').

1.0.2 This Statement is required because the DCO application is seeking powers to:

- acquire land compulsorily;
- create and compulsorily acquire new rights over land and impose restrictions; and
- extinguish or override existing rights over land.

1.0.3 The Applicant is also seeking powers to take temporary possession of land to construct the Proposed Development.

1.0.4 It is necessary for the decision-maker to be satisfied that there is a compelling case in the public interest for the inclusion of compulsory acquisition powers in the DCO. This Statement of Reasons (the Statement) explains why it is necessary, proportionate and justified for the Applicant to seek powers of compulsory acquisition, and why there is a compelling public interest case for the Applicant to be granted these powers.

1.1 Description of the Proposed Development

1.1.1 The Proposed Development will comprise the construction, operation and maintenance, and decommissioning of a solar photovoltaic (PV) electricity generating facility with a capacity of more than 50 megawatts (MW), a Battery Energy Storage System (BESS), SPEN Grid Connection

linking Frodsham Solar Substation to the SP Energy Networks (SPEN) Frodsham Substation and associated infrastructure integral to the construction, operation and maintenance of the Proposed Development. The Proposed Development will be located within the 'Order limits' (as described below and also referred to as 'the Site') and is the subject of the DCO Application. Further details are set out in ES Vol 1: Chapter 2.0: The Proposed Development [EN010153/DR/6.1] accompanying the DCO Application.

- 1.1.2 The Proposed Development is located on land at Frodsham Marsh, Frodsham, Cheshire West and Chester. This includes land required for both temporary and permanent uses. The entirety of the Order Limits fall within the administrative area of Cheshire West and Chester Council.
- 1.1.3 The Proposed Development also includes the associated infrastructure for connection to the local electricity distribution network, as well as a private wire electricity connection that would provide the opportunity to supply renewable energy generated by the Proposed Development directly to nearby industrial businesses. It also includes the creation of a Non- Breeding Bird Mitigation Area and a Skylark Mitigation Area.
- 1.1.4 These areas are defined within **ES Vol 1: Chapter 1.0 Introduction [EN010153/DR/6.1]** and illustrated on **ES Vol 3 Figure 1-2: Proposed Development Areas [EN010153/DR/6.3]**.
- 1.1.5 The Proposed Development is set out in detail in Schedule 1 of the **draft DCO [EN010153/DR/3.1]**, where it is referred to as the "authorised development" and is divided into works packages. The areas in which each component of the Proposed Development may be constructed are shown on the **Works Plans ES Vol 1: Chapter 1.0 Introduction [EN010153/DR/2.3]**. The Work Nos. set out in Schedule 1 of the draft DCO are as follows:
 - Work No. 1 – a ground mounted solar photovoltaic generating station;

- Work No. 2 – a Battery Energy Storage System (BESS);
- Work No. 3 – an on-site substation (Frodsham Solar Substation);
- Work No. 4a – an electrical connection from Frodsham Solar Substation (Work No. 3) to Frodsham SPEN Substation;
- Work No 4b - a direct private wire connection from Frodsham Solar Substation (Work No. 3) to nearby businesses;
- Work No. 5 - works including electrical cables and communication cables connecting Work No. 1 to Work No. 3; Work No. 1 to Work No. 2; and, Work No. 2 to Work No. 3;
- Work No. 6a - works to create, enhance and maintain green infrastructure;
- Work No. 6b - works to create skylark plots to provide skylark foraging habitat;
- Work No. 6c – the creation and management of a Non Breeding Bird Mitigation Area;
- Work No. 7 – construction, maintenance and decommissioning compounds; and
- Work No. 8 – works for the improvement, maintenance, repair and use of existing streets, private tracks, public rights of way and access roads.

1.1.6 The current design for the Proposed Development would enable the generation of approximately 147 megawatts (MW) of electricity, as well as the storage of approximately 100 MW of electricity in a BESS. The precise generating capacity and storage capacity will be subject to detailed design, but it should be noted that at present the grid connection offer from the District Network Operator (DNO) is for 100 MW export and 50 MW import.

1.2 Description of the Order Limits

1.2.1 The land within the Order limits required to construct, operate and maintain and decommission the Proposed Development is shown on the

Location Plan [EN010153/DR/2.1] and totals 365ha ('the Site'). This encompasses the areas required for solar development, all associated infrastructure, BESS, access, cabling, the grid connection to the SPEN Substation, the private wire connections to local businesses and areas for mitigation.

1.2.2 The Site is located approximately 500 m to the north of the centre of Frodsham Town Centre within the administrative areas of Cheshire West and Chester Council, which is the Local Planning Authority.

1.2.3 As set out in ES Vol 1: Chapter 1.0 Introduction [EN010153/DR/6.1], there are a number of distinct development areas within the Order Limits. These are:

- Solar Array Development Area (SADA) that would include solar photovoltaic (PV) modules and support frames, internal access tracks, cabling, inverters, transformers, the solar array substation (known as the 'Frodsham Solar Substation) and the BESS;
- Main Site Access route;
- SPEN Grid Connection linking Frodsham Solar Substation to the SP Energy Networks (SPEN) Frodsham Substation
- SPEN / National Grid Substation and access to the substation compound
- Private Wire Connection to local businesses
- Non Breeding Bird Mitigation Area (NBBMA)
- Skylark Mitigation Area

1.2.4 These areas are defined within **ES Vol 1: Chapter 1.0 Introduction [EN010153/DR/6.1]** and illustrated on **ES Vol 3 Figure 1-2: Proposed Development Areas [EN010153/DR/6.3]**.

1.2.5 The land within the Order limits is not covered by any statutory landscape designations (i.e. National Parks or National Landscapes).

1.3 Source and Scope of Powers Sought in the DCO

- 1.3.1 Section 120 of the 2008 Act provides that an order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the 2008 Act lists the matters ancillary to the development, which includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement.
- 1.3.2 Section 122 of the 2008 Act provides that an order granting development consent may include provisions authorising the compulsory acquisition of land only if the Secretary of State, in respect of the Application, is satisfied that the land is required for the development to which the DCO relates and the land is required to facilitate or is incidental to that development.
- 1.3.3 The Secretary of State must also be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the draft DCO [EN010153/DR/3.1].
- 1.3.4 The powers sought with the Application for the draft DCO are:
- acquisition of all interests in land, including freehold (Article 20 in the DCO) - shown edged red and shaded pink on the **Land and Crown Land Plans [EN010153/DR/2.2]**;
 - acquisition of subsoil only (Article 26 in the DCO);
 - permanent acquisition of new rights (Article 23 in the DCO) - shown edged red and shaded blue on the **Land and Crown Land Plans [EN010153/DR/2.2]**;
 - temporary use of land to permit construction or maintenance where the Applicant has not yet exercised powers of compulsory acquisition

(Articles 30 and 31 in the DCO) on all land within the Order limits on the **Land and Crown Land Plans [EN010153/DR/2.2]**; and

- extinguishment and/or suspension of rights (Article 24 in the DCO) and overriding of easements and other rights (Article 27 in the DCO) on all land within the Order limits on the **Land and Crown Land Plans [EN010153/DR/2.2]**.

1.3.5 The Applicant considers that in the absence of these powers, the land within the Order Limits may not be assembled, uncertainty will prevail, and the Applicant's objectives as well as Government policy objectives would not be achieved.

1.3.6 The Applicant has sought to acquire the relevant interests, in order to ensure implementation of the Proposed Development. Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land, the rights and other interests in, on and over the land, the temporary use of land, as well as secure the removal of matters affecting the Order Limits land that may impede the Proposed Development, by agreement wherever possible.

1.3.7 This approach of seeking powers of compulsory acquisition in the application for the DCO and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the Department for Communities and Local Government Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (2013) (the CA Guidance).

1.3.8 This Statement (alongside the **Land and Rights Negotiations Tracker [EN010153/DR/4.4]**) sets out the position in relation to the negotiations undertaken to date with affected owners. In summary, at the time of writing, Option Agreements with landowners for the Solar Array Development Area (save for one parcel) and the NBBMA have been

agreed. An Option Agreement for the Skylark Mitigation Area is in the process of being finalised and agreed.

- 1.3.9 For other affected areas of land and parties, negotiations on land agreements and/or protective provisions are ongoing.

1.4 Purpose of the Powers

- 1.4.1 The meaningful and timely contributions offered by the Proposed Development to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, will be critical on the path to Net Zero. Without the Proposed Development, a significant and vital opportunity to develop a large-scale low-carbon electricity generating station will have been overlooked, which will materially increase the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.

- 1.4.2 In the absence of powers of compulsory acquisition, it may not be possible to assemble all of the land within the Order Limits, uncertainty will continue to prevail on the delivery of the Proposed Development, and the Applicant considers that its objectives and those of Government policy would not be achieved.

1.5 Justification for the Compulsory Acquisition Powers

- 1.5.1 Under section 122 of the 2008 Act, compulsory acquisition (CA) powers may only be granted if the Secretary of State is satisfied that the land is required for the Proposed Development (or is required to facilitate it or is incidental to it), and if there is a compelling case in the public interest for inclusion of the powers.
- 1.5.2 The CA Guidance also states there must be a clear idea how the land to be acquired is to be used and it must be no more than is reasonably required; there must be compelling evidence that the public benefits would outweigh the private loss from the acquisition; all reasonable

alternatives to compulsory acquisition should have been explored; there are reasonable prospects of the required funds for the acquisition being available; and that the purposes for which the land is sought are legitimate and sufficient to justify interfering with the human rights of affected people.

1.5.3 This Statement, the **Planning Statement [EN010153/DR/5.6]** and the **Explanatory Memorandum [EN010153/DR/3.2]** set out the factors that the Applicant considers demonstrate that the conditions in section 122 of the 2008 Act, and the considerations set out in the CA Guidance, are satisfied, with the exception of the availability of funding, which is demonstrated in the **Funding Statement [EN010153/DR/4.2]**.

1.5.4 In particular, those documents demonstrate that the Proposed Development would:

- help meet the urgent need for new energy infrastructure in the UK, providing enhanced energy security and supporting UK Government priorities in relation to economic development and security of supply;
- deliver additional renewable energy capacity, supporting the achievement of the UK Government's climate change commitments and carbon budgets;
- minimise or mitigate adverse impacts to an acceptable degree; and
- comply with NPS EN-1, NPS EN-3 and NPS EN-5 which have effect in relation to the Proposed Development and in accordance with which the application must be decided under section 104 of the 2008 Act.

1.6 Communications, Negotiations and Diligent Inquiry

1.6.1 In accordance with the requirements of the 2008 Act, the Applicant undertook "diligent inquiry" through a land referencing process to identify

parties within Categories 1, 2 and 3, as defined in sections 42 and 44 of the 2008 Act. Category 1 includes owners, lessees, tenants and occupiers of the land within the Order Land. Category 2 includes parties that are interested in the land or have the power to sell, convey or release the land within the Order Land. Category 3 includes parties that may be eligible to make a claim for compensation as a result of the construction or operation of the Proposed Development.

1.6.2 The current position in relation to the Applicant's engagement and negotiations with each landowner affected by the Proposed Development is explained in the **Land and Rights Negotiations Tracker [EN010153/DR/4.4]**.

1.6.3 Detailed discussions are ongoing with landowners and occupiers in order to ensure that their concerns are taken into account and accommodated wherever possible. Negotiations are continuing with landowners and persons with interests in land affected by the Proposed Development. The Applicant and its advisors have also been liaising with statutory undertakers whose apparatus may be affected by the Proposed Development.

1.6.4 The Applicant is in the process of entering an Option Agreement for a cable easement with National Grid Electricity Transmission (NGET) which is needed to connect to the Frodsham SPEN substation. NGET requires this alongside the grid connection agreement that is already in place.

1.7 Human Rights

1.7.1 Article 1 of the First Protocol to the European Convention on Human Rights (ECHR) and Article 8 of the ECHR have been considered in respect of the proposals for the Proposed Development. The draft DCO has the potential to infringe the human rights of persons who own

property or have rights in the land proposed to be acquired pursuant to the draft DCO.

- 1.7.2 The Applicant considers that there would be very significant public benefit arising from the making of the draft DCO, a benefit that can only be realised if compulsory acquisition powers are granted. The purpose for which the land is sought (to build and operate the Proposed Development) is legitimate, necessary and proportionate.

1.8 Special Considerations

- 1.8.1 There is no special category land within or affected by the Order limits.
- 1.8.2 There is Crown Land within the Order Limits, as demonstrated on the **Land and Crown Land and Crown Land Plans [EN010153/DR/2.6]**. The Crown Land plot is in the River Weaver (plot 5-16) and is necessary for the overhead crossing for connection to the Frodsham SPEN Substation. The Crown Estate's interest is in the riverbed, meaning powers are required to facilitate the Proposed Development's connection crossing over these plots.
- 1.8.3 An Option Agreement for an easement on the Crown Land is currently being negotiated with the Crown Estate.
- 1.8.4 The Crown Land within the Order Limits is excluded from the scope of compulsory acquisition powers – see article 44 of the **draft DCO [EN010153/DR/3.1]**.
- 1.8.5 Article 44 provides that the Order does not prejudicially affect any estate (etc.) of the Crown, and that the undertaker may not enter on or take any Crown land other than with the consent of the appropriate authority (article 44). The **Book of Reference [EN010153/DR/4.3]** also excludes interests belonging to the Crown in the description of the relevant plots and the **Land and Crown Land and Crown Land Plans [EN010153/DR/2.6]** also make this clear.

- 1.8.6 There is apparatus of statutory undertakers within the Order Limits. The Applicant has included protective provisions within the **draft DCO** and is seeking to agree these with each statutory undertaker whose apparatus would be affected by the Proposed Development.

1.9 Related Applications and Consents

- 1.9.1 The Applicant requires or may require various other consents, as well as a DCO, in order to build and operate the Proposed Development. The **Other Consents and Licences Statement [EN010153/DR/5.5]** sets out the additional consents required and when they will be applied for.
- 1.9.2 The Applicant is not aware of any reason why these and other consents required would not be granted and therefore does not consider that they represent an impediment to the Proposed Development proceeding.

1.10 Further Information

- 1.10.1 Where powers of compulsory acquisition are exercised, owners of the relevant land or rights in land may be entitled to compensation under the Compensation Code, where a valid claim is made out. Any dispute in respect of the compensation payable would be referred to and determined by the Lands Chamber of the Upper Tribunal.
- 1.10.2 Owners and occupiers of property affected by the Proposed Development who wish to discuss matters of compensation should contact the Applicant on 0808 175 4004 or at info@frodshamsolar.co.uk.
- 1.10.3 Provision is made by statute for compensation for the compulsory acquisition of land. Helpful information is given in the series of booklets published by the Department for Communities and Local Government entitled "Compulsory Purchase and Compensation". Copies of these booklets are obtainable, free of charge, from: <https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>.

1.11 Conclusion

- 1.11.1 The power to acquire the Order Limits land or rights over the Order Limits land and the power to impose restrictions are required for the purposes of, to facilitate or are incidental to, the Proposed Development and are no more than are reasonably necessary. Furthermore, there is a compelling case in the public interest.

2.0 INTRODUCTION

2.0.1 This Statement of Reasons has been prepared by Frodsham Solar Limited (the Applicant). It forms part of the application (the Application) for a development consent order (DCO) that has been submitted to the Secretary of State for Energy Security and Net Zero (the SoS) under section 37 of the Planning Act 2008 (the 2008 Act). Terms used in this Statement of Reasons are defined in **ES Vol 1 Table of Contents, Glossary and Acronyms [EN010153/DR/6.1]**.

2.1 The Proposed Development

2.1.1 The Proposed Development comprises a new solar energy generating station and an associated on-site Battery Energy Storage System (BESS) on land at Frodsham Marsh, Frodsham, Cheshire West and Chester ('the Site'). The Proposed Development also includes the associated infrastructure for connection to the local electricity distribution network, as well as a private wire electricity connection that would enable local industrial businesses to utilise the renewable energy generated by the Proposed Development.

2.1.2 The expected maximum area of land potentially required for the construction, operation and maintenance of the Proposed Development, which includes land required for permanent and temporary purposes, is shown on **ES Vol 3 Figure 1-1 Site Location [EN010153/DR/6.3]**. This is referred to as the Order Limits.

2.1.3 Subject to obtaining the necessary consents, construction is anticipated to commence in January 2028 and be completed in mid to late 2030. The Proposed Development comprises a temporary development with an operational phase of up to 40 years. Decommissioning activities would therefore commence in 2070, 40 years after final commissioning.

- 2.1.4 The Proposed Development qualifies as a Nationally Significant Infrastructure Project (NSIP) and will require a DCO to be granted from the Secretary of State, due to its generating capacity exceeding 50 MW.
- 2.1.5 Full details of the Proposed Development, including the proposed construction methods and phasing, can be found in **ES Volume 1 Chapter 2: Proposed Development [EN010153/DR/6.1]** accompanying the DCO Application.

2.2 The Applicant

- 2.2.1 The Applicant is Frodsham Solar Limited (company number 14432433), registered in England and Wales. The Applicant is part of Cubico Sustainable Investments Limited, which is a company registered in England and Wales under company number 09263711.
- 2.2.2 More information on the Applicant, its corporate structure and financials is presented in the **Funding Statement [EN010153/DR/4.2]**.

2.3 The Purpose and Structure of this Document

- 2.3.1 This Statement has been produced pursuant to Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (the APFP Regulations), the CA Guidance and the Guidance on Compulsory purchase process and the Crichel Down Rules (updated 31 January 2025).
- 2.3.2 This Statement is required because the DCO sought for the Proposed Development would authorise the compulsory acquisition of land or interests in land.
- 2.3.3 This Statement explains why it is necessary to acquire land, acquire and/or create rights and impose restrictions over land, override, suspend or extinguish rights over land and to temporarily use land for the purposes of the Proposed Development, if necessary, by compulsion. It also explains the reasons for the inclusion of compulsory acquisition and

related powers in the draft DCO and sets out why there is a clear and compelling case in the public interest, in accordance with section 122 of the 2008 Act, for the DCO to include such powers.

2.3.4 The structure of this Statement is set out below and also addresses each of the requirements of the relevant guidance referred to above:

- An introduction to the Applicant is contained in section **2.2**;
- A description of the Proposed Development is set out in section **3**;
- A description of the Works Packages is set out in section **3**;
- A description of the Order limits, its location, and present use is contained in section **4**;
- The legislation relied on and scope of powers sought are set out in section **5**;
- The purpose of the powers including the need for the Proposed Development and policy support is set out in section **6**;
- How the Applicant has sought to engage with landowners and negotiate to acquire the relevant land by agreement in section **7**;
- A statement of the justification for compulsory acquisition including reference to funding is included in section **6.12**;
- How regard has been given to human rights and equalities legislation relevant to the determination of the Application is in section **8**;
- Any special considerations affecting the Order limits including Crown Land is included in section **9**;
- Details of the other consents needed before the Proposed Development can be implemented are included in section **10**; and

- Any other information which would be of interest to someone affected by the Proposed Development, such as, telephone number and email address where further information on these matters can be obtained, is included in section 11.

2.4 Useful documents

2.4.1 This Statement is one of a number of documents accompanying the Application submitted to the SoS. It should be read in conjunction with the rest of the documents comprising the Application, particularly the following -

- **Land and Crown Land and Crown Land Plans [EN010153/DR/2.6];**
- **Works Plans [EN010153/DR/2.3];**
- **Draft Development Consent Order [EN010153/DR/3.1];**
- **Exploratory Memorandum [EN010153/DR/3.2];**
- **A Funding Statement [EN010153/DR/4.2];**
- **Book of Reference [EN010153/DR/4.3];**
- **Land and Rights Negotiations Tracker [EN010153/DR/4.4];**
- **Other Consents and Licences Statement [EN010153/DR/5.5];**
- **Planning Statement [EN010153/DR/5.6]** (which includes within a Statement of Need); and
- **ES Chapter 2: The Proposed Development [EN010153/DR/6.1].**

3.0 DESCRIPTION OF THE PROPOSED DEVELOPMENT

3.0.1 The Proposed Development comprises a new ground-mounted solar energy generating station with a total capacity exceeding 50 megawatts and an associated on-site Battery Energy Storage System (BESS) on land at Frodsham Marsh, Frodsham, Cheshire West and Chester. The Proposed Development also includes the associated infrastructure for connection to the local electricity distribution network, as well as a private wire electricity connection that would provide the opportunity to supply renewable energy generated by the Proposed Development directly to nearby businesses. It also includes the creation of the NBBMA and a Skylark Mitigation Area.

3.1 Works Packages

3.1.1 A detailed description of the Proposed Development can be found in **Chapter 2 of the Environmental Statement [EN010153/DR/6.1]**. It comprises a generating station of more than 50MW, being the NSIP, and is described in Work No. 1 in Schedule 1 to the **draft DCO [EN010153/DR/3.1]**. The Proposed Development also includes Associated Development, which comprises Work Nos. 2 to 8 in Schedule 1 to the **draft DCO [EN010153/DR/3.1]**. The works packages are as follows:

- Work No. 1 – a ground mounted solar photovoltaic generating station;
- Work No. 2 – a Battery Energy Storage System (BESS);
- Work No. 3 – an on-site substation (Frodsham Solar Substation);
- Work No. 4a – an electrical connection from Frodsham Solar Substation (Work No. 3) to Frodsham SPEN Substation
- Work No 4b - a direct private wire connection from Frodsham Solar Substation (Work No. 3) to nearby businesses;

- Work No. 5 - works including electrical cables and communication cables connecting Work No. 1 to Work No. 3; Work No. 1 to Work No. 2; and, Work No. 2 to Work No. 3;
- Work No. 6a - works to create, enhance and maintain green infrastructure;
- Work No. 6b - works to create skylark plots to provide skylark foraging habitat;
- Work No. 6c – the creation and management of a Non Breeding Bird Mitigation Area.;
- Work No. 7 – construction, maintenance and decommissioning compounds; and
- Work No. 8 – works for the improvement, maintenance, repair and use of existing streets, private tracks, public rights of way and access roads.

3.1.2 In connection with and in addition to Work Nos. 1 to 8, further ancillary and related development within the Order Limits may be required, including:

- laying down of internal access tracks, **temporary footpath diversions, ramps, means of access, carparks;**
- crossings of watercourses and roads;
- improvement, maintenance, repair and use of existing streets, **private tracks, public rights of way and access roads;**
- sustainable drainage systems including runoff outfalls, attenuation areas, general drainage and irrigation infrastructure, systems and improvements or extensions to existing drainage and irrigation systems;
- works for the provision of security and monitoring measures such as CCTV columns, cameras, lighting columns and lighting, weather stations, communication infrastructure, perimeter fencing;
- construction and decommissioning compounds, including site and welfare offices and areas to store materials and equipment;

- joint bays, link boxes, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable markers, tiles and tape, communications chambers, fibre optic cables and other works associated with cable laying;
- foundations for structures, buildings, plant and machinery;
- works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses;
- 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; and
- 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.

3.2 Proposed Timing of Construction

- 3.2.1 The Construction Phase is expected to last for approximately 30 months, based on the experience of constructing other similar-scale installations. Subject to securing a Development Consent Order in Summer 2026 it is anticipated that works would start on Site in January 2028 and be completed in mid 2030.
- 3.2.2 It is possible that the Construction Phase could be slightly shorter or longer than stated; however, for the purposes of this Statement, a 30-month programme has been assessed. The final programme would depend on the detailed design once any DCO Requirements have been discharged.

3.2.3 Further details of the proposed construction of the Proposed Development, including the proposed construction mitigation methods, can be found in **Chapter 2: Proposed Development [EN010153/DR/6.1]** and the **Outline Construction Environmental Management Plan (OCEMP) [EN010153/DR/7.5]**.

3.3 Flexibility

3.3.1 The Applicant has undertaken extensive studies and assessments to obtain as much certainty as possible, however, a number of elements of detailed design for the Proposed Development cannot be confirmed until the tendering process for the design and construction of the Proposed Development has been completed. For example, due to the rapid pace of technological development in the solar photovoltaic (PV) and energy storage industry, the Proposed Development could utilise technology which does not currently exist and therefore sufficient flexibility needs to be incorporated into the Application.

3.3.2 The technology associated with solar development is advancing rapidly, and it is anticipated that this technological progression will continue at pace over the coming years, as current research and development in the manufacturing sector yields new technologies. The design and construction contractor for the Proposed Development has also not yet been appointed. As such, the precise layout of the Proposed Development and equipment selection has not been finalised. It is therefore essential to provide a degree of flexibility within the DCO to allow the detailed design (and its associated land requirements) to react to these variables and the benefits of the Proposed Development to be fully realised. This provides the opportunity for the most efficient scheme to be constructed at the point the project is implemented.

3.3.3 To address this, a 'Rochdale Envelope' approach is used, this is set out in more detail in **ES Vol 1 Chapter 4: EIA Methodology [EN010153/DR/6.1]**. This involves assessing the maximum (and where

relevant, the minimum) parameters and limits of deviation for the Proposed Development where flexibility needs to be retained. The principles and justification for this approach are set out in **Chapter 4: EIA Methodology of the Environmental Statement [EN010153/DR/6.1]**, and the maximum (and minimum) parameters assessed as part of the Rochdale Envelope are set out in **Chapter 2: Proposed Development [EN010153/DR/6.1]**, the **Design Parameters Statement [EN010153/DR/7.1]** and other certified documents and plans such as the **Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]** which have been submitted with the DCO application. The **draft DCO [EN010153/DR/3.1]** includes a Requirement that detailed design of the Proposed Development must be in accordance with the design principles and details submitted under that Requirement.

- 3.3.4 This flexibility is essential to ensure the successful delivery and realisation of the benefits of the Proposed Development.

4.0 DESCRIPTION OF THE ORDER LIMITS

- 4.0.1 The land within the Order limits required to construct, operate and maintain and decommission the Proposed Development is shown on the **Location Plan [EN010153/DR/2.1]** and is located approximately 500 m to the north of the centre of Frodsham Town Centre within the administrative areas of Cheshire West and Chester Council, which is the Local Planning Authority.
- 4.0.2 The land within the Order limits totals 365ha. This encompasses the areas required for solar development, all associated infrastructure, BESS, access, cabling, the grid connection to the SPEN Substation, the private wire connections to local businesses and areas for mitigation including the Skylark Mitigation Area and the Non Breeding Bird Mitigation Area.
- 4.0.3 The Solar Array Development Area covers an area of approximately 246ha, and would be located at the eastern extent of Frodsham and Helsby Marsh, an area of land between the Mersey Estuary and the M56 motorway.
- 4.0.4 The Solar Development Area comprises three relatively distinct areas and includes solar photovoltaic (PV) modules and support frames, internal access tracks, cabling, inverters, transformers, the solar array substation (referred to as the 'Frodsham Solar Substation'):
- 4.0.5 The Eastern Cluster of Frodsham Wind Farm (approximately 152 ha): This area forms the western half of the Solar Array Development Area. Six wind turbines, 125 m to blade tip, are located in this area. The land forms part of the former Manchester Ship Canal Dredging Deposit Ground, and includes Dredging Cells 1, 2 and 5. The cells have been restored to agricultural land and are now grazed by sheep / cattle (by the tenant of Frodsham Marsh Farm). The land in this area lies between approximately 9.5 m and 12.5 m above ordnance datum (AOD).

- 4.0.6 Former agricultural land used by Frodsham Wildfowlers (approximately 36 ha): The central area of the Solar Array Development Area is former agricultural land which has been left fallow and managed to encourage use by wildfowl. This area is currently used for recreational shooting by Frodsham Wildfowlers. This area of the Site is crossed by a series of ditches which have been used to drain and manage water levels on Frodsham and Helsby Marsh. The land in this area lies at approximately 6 m AOD.
- 4.0.7 Agricultural land (approximately 61 ha): The south-eastern portion of the Solar Array Development Area is agricultural land. It is understood that the land has been used for growing crops and silage (this is not linked to the activities of Frodsham Marsh Farm). Some areas of the fields appear to have been left fallow and have colonised with scrub and wet grassland. Hedgerows demarcate boundaries between field units. The land in this area lies at approximately 5 m AOD.
- 4.0.8 The Solar Array Development Area is also designated as a Local Wildlife Site and as Green Belt. Neither the Site nor the immediate surrounding area is covered by any statutory landscape designations, e.g. National Parks or National Landscapes (formally referred to as Areas of Outstanding National Beauty (AONB)).
- 4.0.1 In the eastern half of the Solar Array Development Area (i.e. the area to the east of Brook Furlong), fields tend to be enclosed by dense hedgerows and tree belts. In the western half of the Solar Array Development Area (i.e. the area to the east of Brook Furlong), the Site is more open, with only occasional trees and remnant sections of hedgerow. There is also areas of scrub and woodland present on the embankments of the Manchester Ship Canal (MSC) dredging deposit cells. The landform across the Site is largely flat. However, engineered embankments are present that result in changes in levels across the Site. The embankments are generally associated with the cells of the

former MSC dredging depot grounds, flood defences and structures associated with the M56.

- 4.0.2 The NBBMA comprises the land on Cell 3, a section of land between Cell 3 and the MSC, and land immediately surrounding Marsh Farm. The land between Cell 3 and the MSC, and land immediately surrounding Marsh Farm forms part of the Mersey Estuary Site of Special Scientific Interest (SSSI). Cell 3 forms part of the mitigation for Frodsham Windfarm and comprises areas of grassland with some manmade scrapes (shallow areas of water). A number of ponds are located in the land between Cell 3 and the MSC, these have been used in the past for recreational fishing.
- 4.0.3 The Skylark Mitigation Area comprises an area of arable land approximately 30ha in area located to the south of Moorditch Lane.
- 4.0.4 The Main Site Access is from the west, leading from Pool Lane roundabout. Vehicles accessing the Site would turn onto Grinsome Road (a private road) from Pool Lane roundabout and travel east towards Protos¹ for approximately 1.5 km, routing north at Grinsome Road Roundabout, along Road 1 of Protos. Vehicles would then turn east along Marsh Lane which provides access to Frodsham Wind Farm. The Frodsham Wind Farm access tracks provide access to the Solar Array Development Area.
- 4.0.5 A series of Public Rights of Way (PRoW) cross the Site, these are illustrated on **ES Vol 3 Figure 1-5: Public Rights of Way [EN010153/DR/6.3]**. The PRoW includes footpaths and restricted byways, which allow access by foot, horseback and cyclists. National Cycle Route 5 runs along a section of the Main Site Access and along part of the southern edge of the Site.

¹ A significant strategic development site with the benefit of planning permissions for a range of energy generation and resource management businesses

4.0.6 The Site is crossed by a series of utilities, which are illustrated on **ES Vol 3 Figure 1-6: Utilities [EN010153/DR/6.3]**. The utilities that cross the Site include several above and below ground high voltage electricity transmission lines, high pressure gas lines, water distribution mains, telecommunication lines and private pipelines associated with nearby petrochemical plants. There are also proposals for new utilities across the Site which include a Carbon Dioxide pipeline and a Hydrogen pipeline. The Applicant is in discussion with the developers of these projects to ensure that all of the schemes (each of which will contribute to achieving the government's Net Zero policies) will be capable of being delivered i.e. that none of the schemes will prevent the physical development of the others. These projects are considered within the cumulative effects assessment within the Environmental Statement.

5.0 SOURCE AND SCOPE OF POWERS SOUGHT IN THE DCO

- 5.0.1 The **draft DCO [EN010153/DR/3.1]** contains powers to enable the acquisition of land, new rights over land and the imposition of restrictions that are required to construct, operate and maintain and decommission the Proposed Development. In addition, it contains powers sought for the possession and use of land on a temporary basis to facilitate the construction of the Proposed Development. Where the necessary land and rights over land cannot be acquired by agreement with the requisite landowners and occupiers, the draft DCO enables the acquisition of land and rights. These powers in the draft DCO relate to the Order Limits land only.
- 5.0.2 The Applicant has been seeking to acquire the relevant freehold interests and other rights over land required by agreement, in order to allow for the construction, operation and decommissioning of the Proposed Development. Option Agreements have been agreed with each of the owners of landholdings within the Solar Array Development Area (bar one parcel where negotiations have been on-going but the landowner has made clear that they do not wish to negotiate with the Applicant – see further discussion below) and NBBMA. An Option Agreement for the Skylark Mitigation Area is in the process of being finalised and agreed. The Applicant will continue to endeavour to acquire the land, rights and other interests by agreement for all parts of the Proposed Development wherever possible. This approach of making the application for powers of compulsory acquisition in the Application and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the CA Guidance.
- 5.0.3 Notwithstanding where an agreement has been reached, it is necessary for the Applicant to be granted the compulsory purchase powers included in the DCO so as to protect against a scenario whereby contracts are not adhered to or otherwise is set aside, for example: (i) freeholder owners

of the land within the Order land (where agreement has been reached) do not grant a lease of the land in accordance with the terms of the completed option agreements (thus preventing implementation of the Proposed Development); or (ii) the contracting party dies, is subject to divorce proceedings, or is declared insolvent. In those circumstances, it would be in the public interest for the Proposed Development to proceed and the interests in question effectively converted into a claim for compensation. The Applicant 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 Proposed Development.

- 5.0.4 There is unregistered land within the Order Limits. As such, site notices were affixed on or adjacent to the land in order to notify any unregistered interested parties of the Proposed Development. No parties came forward to identify themselves following this process.
- 5.0.5 The compulsory acquisition powers in the draft DCO will enable the Applicant to construct, operate, maintain, protect and decommission the Proposed Development, to mitigate impacts of the Proposed Development where necessary, and to ensure that access could be taken as necessary to facilitate the construction, operation and maintenance of the Proposed Development.

5.1 Enabling Powers

- 5.1.1 Section 120(3) of the 2008 Act provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the 2008 Act lists the matters ancillary to the development. These include (amongst others):
- the acquisition of land, compulsorily or by agreement (paragraph 1);

- the creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement (paragraph 2);
- the abrogation or modification of agreements relating to land (paragraph 3); and
- the payment of compensation (paragraph 36).

5.1.2 Section 122 of the 2008 Act provides that a DCO may only include provision authorising the compulsory acquisition of land if the Secretary of State is satisfied that the land is:

- required for the development to which the DCO relates;
- required to facilitate or is incidental to that development; or
- replacement land for commons, open spaces, etc.

5.1.3 Further, it is also necessary for the Secretary of State to be satisfied, in relation to the Application, that there is a compelling case in the public interest for the land to be acquired compulsorily. This is required by Section 122(3) of the 2008 Act.

5.1.4 This Statement provides the information that will enable the Secretary of State to comply with sections 120 and 122 of the 2008 Act.

5.2 Permanent Acquisition of Freehold

5.2.1 The areas of the Order Limits land over which compulsory acquisition powers are sought in respect of all interests (including freehold) are shown edged red and shaded pink on the **Land and Crown Land and Crown Land Plans [EN010153/DR/2.6]**. This land is described in more detail in the **Book of Reference [EN010153/DR/4.3]**. The **Land and Rights Negotiations Tracker [EN010153/DR/4.4]** sets out the plots over which freehold acquisition is required and the purposes for which powers are sought over each plot.

- 5.2.2 In summary, the areas in which freehold acquisition is sought are for Works Nos 1-3 and 6, namely the Solar Development Areas (and its associated landscaping and ecological works), the NBBMA and the Skylark Mitigation Area. The Applicant has only included powers to compulsorily acquire the freehold interest in land where other powers (such as to acquire new rights, impose restrictions or take temporary possession) would not be sufficient or appropriate to enable the construction, operation or maintenance of the Proposed Development. In the case of the Solar Development Areas, NBBMA and Skylark Mitigation Areas, the Application requires the ability to ensure that it can construct and operate, without interference, the solar development, and the ecological requirements that are required by the DCO.
- 5.2.3 Temporary compounds (Work No. 7) and permanent cable works (Work No. 5) will also take place within these land parcels, but will take place on land that will also ultimately be used for Solar Development Areas.
- 5.2.4 Article 21 of the draft DCO is relied upon for this purpose. The article reflects the terms of the source of the compulsory acquisition powers in section 122 of the 2008 Act, and would provide the Applicant with the power to acquire so much of the Order Land as is required for the Proposed Development, or such land as is required because it facilitates or is incidental to that development.

5.3 Permanent Acquisition of Rights and Imposition of Restrictions

- 5.3.1 The land over which compulsory acquisition powers are sought for rights and the creation of new rights (including imposing restrictive covenants) is shown edged red and shaded blue on the **Land and Crown Land and Crown Land Plans [EN010153/DR/2.6]**. This land is described in more detail in the **Book of Reference [EN010153/DR/4.3]**. The **Land and Rights Negotiations Tracker [EN010153/DR/4.4]** sets out the plots over which new rights and restrictions are required. In summary, these are the areas required for Work Nos. 4 and 5, being the underground

and above ground cable connections between the different Solar Development Areas Work Nos. and to connect to the Frodsham SPEN Substation (and the connection itself). These powers are also sought for access over highways for construction, operation, decommissioning and emergency purposes, and for the carrying out of Work No. 8, i.e. the improvements of existing roads and the creation of accesses. Compulsory acquisition powers are required to ensure that these cable routes and access routes are able to be put in place and utilised for the lifetime of the development without impediment.

- 5.3.2 Given the importance of the cabling and access to the overall operation of the Proposed Development, and ensuring its benefits are realised, compulsory acquisition powers are required in the absence of agreement having been reached with the owners of the land affected by the proposed powers.
- 5.3.3 There is also a need to impose restrictive covenants in relation to new rights required in order to ensure that impositions are not placed on the cabling or access routes which would restrict the ability of the Proposed Development to be constructed, operated or decommissioned.
- 5.3.4 This is line with the Ministry of Housing, Communities and Local Government and Department for Levelling Up, Housing and Communities Guidance on the Content of a Development Consent Order for Nationally Significant Infrastructure Projects (paragraph 011 Reference ID 04-011-20240430), which advises that it may be appropriate to include a power to impose restrictive covenants over part of the land which is subject to compulsory acquisition or use under the DCO. Planning Inspectorate guidance in Advice Note 15 concerning the drafting of DCOs (paragraphs 24.1-24.3) states that before deciding whether or not such a power is justified the Secretary of State will need to consider issues such as proportionality; the risk that use of land above or below a structure could be sterilised if it has to be acquired outright in

the absence of a power to impose restrictive covenants; or whether there is for example a policy of establishing a continuous protection zone for the infrastructure network which could be secured more efficiently with the benefit of this power.

5.3.5 The guidance states that the power to impose restrictive covenants over land above a buried cable or pipe, or where a slope contains artificial reinforcement has been granted in DCOs, and cites the Silvertown Tunnel Order 2018 as an example. The guidance advises that in order to enable the Secretary of State to consider whether the imposition of restrictive covenants is necessary for the purposes of implementing a DCO and appropriate in human rights terms, applicants should be prepared to fully explain and justify the need for including such powers.

5.3.6 The Applicant has had regard to this guidance in preparing its **draft DCO [EN010153/DR/3.1]**. Article 24 includes a power to impose restrictive covenants in relation to land over which new rights are acquired. These proposed restrictions are required to protect the apparatus from becoming exposed, damaged or built over; preventing operations which may obstruct, interrupt or interfere with apparatus and the exercise of new rights required; ensuring that access for future maintenance can be facilitated and ensuring that land requirements are minimised so far as possible.

5.3.7 The Applicant considers the imposition of such restrictions to be justified and proportionate in the circumstances of this case, in order to protect and preserve the integrity of the Proposed Development.

5.4 Temporary Possession

5.4.1 There will be situations where it will not be necessary for the Applicant to permanently acquire rights and interests, but instead be authorised to instead temporarily possess and use land, or to utilise such powers prior to the utilisation of compulsory acquisition powers.

- 5.4.2 The Applicant seeking such powers over all other land within the Order land, in order to allow it to take temporary possession ahead of acquiring land or rights permanently (see further explanation below).
- 5.4.3 The reason for seeking temporary use powers over all land in the Order limits is that it allows the Applicant to enter on to land for particular purposes (including site preparation works) in advance of any vesting of the relevant land/rights. This enables the Applicant to only compulsorily acquire the minimum amount of land and rights over land required to construct, operate and maintain the Proposed Development, because, for example, the Applicant could exercise the temporary possession powers to undertake site investigation works initially, and as a result of those investigations, decide not to construct part of the Proposed Development (and utilise its compulsory acquisition powers to do so), allowing this land to be not used and not needing to be subject to compulsory acquisition powers. Such an approach has precedent amongst other DCOs, including The Longfield Solar Farm Order 2023, the Mallard Pass Solar Farm Order 2024, the Gate Burton Energy Park Order 2024, the Cottam Solar Project Order 2024 and the West Burton Solar Project Order 2025.
- 5.4.4 Articles 30 and 31 of the **draft DCO [EN010153/DR/3.1]** are relied upon in respect of all land within the Order Limits. Article 31 allows temporary possession of land for the purposes of maintaining the Proposed Development.
- 5.4.5 The **Land and Rights Negotiations Tracker [EN010153/DR/4.4]** sets out the latest position in relation to negotiation of voluntary agreements with landowners. As part of these negotiations, landowners have been made aware that the DCO will seek temporary possession rights over all of their land included within the Order land.
- 5.4.6 Under Article 31, the Applicant is entitled to occupy the land for as long as necessary to carry out the relevant maintenance works. The Applicant

must give the landowner and any occupier not less than 28 days' notice and on completion of the maintenance works must remove all temporary works and restore the land to the satisfaction of the landowner.

5.5 Other Rights and Powers

5.5.1 In addition, the Applicant has included powers to ensure that easements and other private rights identified as affecting the land are extinguished or suspended, so as to facilitate the construction and operation of the Proposed Development without hindrance. Furthermore, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to be extinguished in order to facilitate the construction and operation of the Proposed Development. Article 24 of the draft DCO is relied upon in respect of this land and apply in relation to land in which compulsory acquisition or temporary possession are proposed (that is, land shaded pink, blue or yellow on the **Land and Crown Land and Crown Land Plans [EN010153/DR/2.6]**). With respect to land in which temporary possession powers are utilised, Article 24(3) makes clear that any private rights or restrictive covenants are only suspended for the period in which the Applicant is in lawful possession of the land (i.e. they would only be suspended temporarily).

5.5.2 The **draft DCO [EN010153/DR/3.1]** also contains the following additional powers which may constitute an interference with land and/or rights over land and as such are captured in Part 3 of the **Book of Reference [EN010153/DR/4.3]**:

- Article 9 - Street works: this article would confer authority on the Applicant to interfere with and execute works in or under any streets for the purposes of the authorised development;
- Article 13 - Temporary prohibition or restriction of use of streets and public rights of way and authorising vehicular use on public rights of way: this article permits the Applicant to temporarily prohibit or restrict the use of, alter, divert or restrict the use of streets and public rights of

way for the purposes of the development, whilst ensuring that pedestrian access is maintained;

- Article 14 - Access to works: this article allows works accesses to public highways to be created. It gives the Applicant a general power to form means of access;
- Article 17 - Discharge of water: this article sets out the circumstances in which the Applicant is entitled to discharge water into a sewer, watercourse or drain, and its purpose is to establish statutory authority for doing so;
- Article 18 - Protective works to buildings: this article provides a power to monitor certain buildings and structures (included within the Order limits) for the effects of ground movement relating to settlement arising from the construction of the authorised works; and to carry out protective works where necessary to mitigate the effects of such settlement. This power applies throughout the Order limits;
- Article 19 - Authority to survey and investigate the land: this article gives the Applicant the power to enter certain land for the purpose of surveying and testing. It provides that the Applicant must give 14 days' notice before exercising the powers of entry, and that compensation is payable for any loss or damage caused;
- Article 27 - Power to override easements and other rights: this article permits the Applicant to override easements and other rights such that land vested in the Applicant would be discharged from all rights, trusts and incidents to which it was previously subject at the point of vesting, together with the benefit of restrictive covenants and instances where land subject to third party rights is acquired by agreement rather than through compulsory acquisition; and
- Article 39 - Felling or lopping of trees and removal of hedgerows: this article would permit any tree or shrub that is near the Proposed Development to be felled or lopped, or have its roots cut back by the Applicant if it is considered to obstruct the construction, operation or

maintenance of the Proposed Development or endanger anyone using it. Compensation is payable for any loss or damage caused;

- Article 48 – Compulsory acquisition of land – incorporation of the minerals code: incorporates Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981. It has been included within the draft DCO as mineral rights have been identified within the Order land and the mineral code provides a statutory process for dealing with the purchase of and compensation for minerals.

5.5.3 All the above-mentioned articles in the **draft DCO [EN010153/DR/3.1]**, which would provide powers enabling the Applicant to acquire land permanently or to use land temporarily, are required to enable the construction, operation, maintenance and decommissioning of the Proposed Development.

6.0 PURPOSE OF THE POWERS

6.1 The need for the Proposed Development

6.1.1 The Statement of Need within the **Planning Statement [EN010153/DR/5.6]** sets out the need for the Proposed Development. A summary of the need for the Proposed Development is set out below.

6.1.2 Urgent and unprecedented action is needed on an international scale to meet the commitments established through the 2015 Paris Agreement to for urgent actions to decarbonise society and stop global warming. However, policies are not yet sufficient to deliver to those international commitments, and delivery is further behind policy.

6.1.3 The UK has legally binding targets, for example under the Climate Change Act 2008, to decarbonise and is developing new and enhancing existing policies to ensure that those targets are met in a secure and affordable fashion. However, policies are not yet sufficient to deliver to

those national commitments, and delivery against those UK policies is further behind.

6.1.4 The position solar generation is taking within Government policy is increasing in both scale and importance. Not only for the benefits it delivers to decarbonisation, but also because of the need for secure and affordable energy supplies.

6.1.5 Government is currently targeting 70GW of solar operational in the UK by 2035, including both ground mount and rooftop installations.

6.1.6 The Proposed Development will, if consented, contribute a significant generation capacity towards Government's current targets.

6.2 National Policy Support

6.2.1 A more detailed explanation of the legislative and policy context of the Proposed Development is set out in the **Planning Statement [EN010153/DR/5.6]**.

6.2.2 Section 104 of the 2008 Act makes clear that where an NPS exists relating to the type of development applied for, the SoS must have regard to it as a relevant NPS, and must decide the application in accordance with that NPS. The Applicant considers that the following NPSs are all important (as they provide specific policy in relation to solar development) and are therefore relevant (under section 104 of the PA2008) to the SoS's decision:

- Overarching National Policy Statement for Energy (EN-1) (NPS EN-1);
- National Policy Statement for Renewable Energy (EN-3) (NPS EN-3);
- and
- National Policy Statement for Electricity Networks Infrastructure (EN-5) in light of the grid connection;

- 6.2.3 The Energy NPSs and other national energy policy set out the government's aims to provide secure and affordable energy supplies whilst decarbonising the energy system. This is in order to enable the UK to achieve its legally binding commitment to reduce carbon emissions and achieve net zero carbon emissions by 2050; as well as provide a resilient and low cost energy network for the future. The Government recognises that the need to deliver these aims and commitments is immediate and therefore renewable energy NSIPs, including large scale solar projects, need to be delivered urgently. It has therefore identified that low carbon renewable developments, such as the Proposed Development, are 'critical national priority' infrastructure.
- 6.2.4 The Proposed Development will deliver these policy aims, providing a significant amount of low carbon electricity over its lifetime; and providing resilience, security and affordability of supplies due to its large scale and proposed integration of energy storage. It will therefore be an essential step in the development of the portfolio of solar generation that is required to decarbonise the UK's energy supply quickly, whilst providing increased energy security and affordability. The Proposed Development will make a valuable contribution to adopted UK government policy and the achievement of world-leading decarbonisation commitments.
- 6.2.5 The Proposed Development will also deliver other more localised economic, social and environmental benefits. These include biodiversity net gain and encouraging local people to access apprenticeships and training and employment during the construction phase. With regard to biodiversity, the Proposed Development is expected to deliver an exemplary project and will be implemented in accordance with the **Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]**.
- 6.2.6 The proposed landscaping and ecological scheme would deliver a quantifiable increase of at least 10% in both habitat and hedgerow units

across the Site and no net loss in watercourse units. A Biodiversity Net Gain (BNG) Report assessment has been provided with the application **BNG Report [EN010153/DR/7.13]** to demonstrate the level of net gain achieved across the habitat types.

6.2.7 The analysis of planning policy compliance in the **Planning Statement [EN010153/DR/5.6]** and the **Policy Compliance Document [EN010153/DR/5.7]** demonstrates that the need for the Proposed Development is supported by planning policy and other national energy and environmental policy, and that the Proposed Development addresses relevant national and local planning policies through its design, avoiding and minimising adverse impacts where possible.

6.2.8 With the mitigation proposed, the Environmental Statement demonstrates that the Proposed Development will not have any significant adverse effects in relation to:

- cultural heritage in relation to archaeological remains;
- cultural heritage in relation to the setting of heritage assets;
- biodiversity and nature conservation in relation to long-term effects to any Designated Sites;
- habitats (once habitats are established); breeding and non-breeding bird species (once habitats are established); bats; water vole (once habitats are established); otter; Great Crested Newt; badger; reptiles; and invertebrates;
- ground conditions receptors;
- flood risk, drainage, or surface water quality;
- traffic receptors;
- the local tourism economy and recreational use of land;

- climate Change in relation to GHG emissions;
- construction dust impacts; and
- resources and waste management;

6.2.9 It is however acknowledged that the Proposed Development will result in residual significant adverse effects in relation to:

- construction phase effects (to be seen in the context of beneficial effects in the medium to long term) to Frodsham, Helsby and Ince Marshes LWS;
- landscape effects on the character of the Frodsham Marshes; and
- visual effects for users of public footpaths that run through the Site.

6.2.10 The Applicant has carefully designed the Proposed Development to ensure landscape and visual impacts are minimised through sensitive siting of the largest Proposed Development components in the most well-screened areas of the Order Limits land, and through a green infrastructure led landscape and ecological design set out within the **Outline Landscape and Ecological Management Plan [EN010153/DR/7.13]** and the **Design Approach Document [EN010153/DR/5.8]**.

6.2.11 Key features of the Proposed Development design include offsets and buffer zones in proximity to residential receptors, extensive planting and habitat enhancement areas throughout the Solar Array Development Area and protection buffer zones around existing hedgerows, trees, woodland and watercourses. This limits the landscape and visual effects during the operational period to a small number of areas and receptors. In terms of the planning balance, the fact that these effects are localised; will be reversed following decommissioning at the end of the Proposed

Development's operational life; and that NPS EN-1 acknowledges that adverse effects are likely, given the scale of energy NSIPs, it is considered that the national benefits of the Proposed Development outweigh these localised effects.

- 6.2.12 As described in the **Planning Statement [EN010153/DR/5.6]**, whilst it has not been possible to avoid all impacts, these have been minimised, where possible, through careful and sensitive design and detailed mitigation strategies. When considered against the NPS and NPPF, the Proposed Development accords with relevant policies, and with regard to specific policy tests, the national and local benefits of the Proposed Development are considered on balance to outweigh its adverse impacts. The Proposed Development is also considered to be broadly consistent with relevant local planning policy, and accords with the relevant criteria which concern renewable and low carbon energy Proposed Developments. Therefore, it is considered that development consent for the Proposed Development should be granted.
- 6.2.13 The Government's Clean Power 2030 Action Plan sets a target that Britain's electricity demand should be met entirely by "clean" forms of generation by 2030, with at least 95% coming from low-carbon technologies such as solar. The Action Plan sets a target of 45-47 GW of solar power and also calls for a significant increase in battery storage capacity – targeting around 27.1 GW of installed storage by 2030 and 28.7 GW by 2035. This represents an approximately six-fold increase from the current 4.5 GW (approximately) of battery capacity at the end of 2024.
- 6.2.14 The Action Plan is clear that forms of renewable energy generation, such as the Proposed Development, is to play a central role in achieving these targets: "all routes to a Clean Power system will require mass deployment of offshore wind, onshore wind, and solar".

6.2.15 To ensure that the Proposed Development can be built, operated and maintained, and so that the Government's policy in relation to the timely provision of new generating capacity is met within a reasonable timescale, the Applicant requires the acquisition of a number of property interests in third party ownership, and has therefore applied for the grant of powers to facilitate acquisition and/or creation of new rights and interests, and to extinguish rights over land.

6.2.16 In the absence of powers of compulsory acquisition, it might not be possible to assemble all of the Order land, uncertainty will continue to prevail and the Applicant considers that its objectives and those of Government policy would not be achieved.

6.3 Justification for the Compulsory Acquisition Powers

6.4 The matters to which the SoS must have regard

6.4.1 As noted above, under section 122 of the 2008 Act, a DCO which includes compulsory acquisition powers may be granted only if the conditions in sections 122(2) and 122(3) are met. The conditions to be met are that:

- the land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development (section 122(2)) (see below); and
- there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the DCO (section 122(3)). The SoS must be persuaded that the public benefits from the compulsory acquisition will outweigh the private loss suffered by those whose land is to be acquired (see Sections 2.36.6 and 2.36.7 below).

6.4.2 In respect of the section 122(2) condition, paragraph 11 of the CA Guidance) states that applicants should be able to demonstrate to the satisfaction of the SoS that the land in question is needed for the

development for which consent is sought. The CA Guidance goes on to say that 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.

6.4.3 In respect of the section 122(3) condition, the CA Guidance (at paragraph 13) states that the SoS will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. At paragraph 14, the CA Guidance states that in determining where the balance of public interest lies, the Secretary of State will weigh up the public benefits that a Proposed Development will bring against any private loss to those affected by compulsory acquisition.

6.4.4 Further, paragraphs 8 to 10 of the CA Guidance also set out a number of general considerations that the applicant must demonstrate to the satisfaction of the SoS when justifying an order authorising compulsory acquisition. These are as follows:

- that all reasonable alternatives to compulsory acquisition (including modifications to the Proposed Development) have been explored - see section 6.8 below in relation to how the Applicant has given regard to alternatives to compulsory acquisition;
- that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate - see the remainder of this section, and Section 8 below;
- that the Applicant has a clear idea of how they intend to use the land which it is proposed to acquire – section 3 above describes the Proposed Development, and this section 6 alongside the **Land and Rights Negotiations Tracker [EN010153/DR/4.4]** together provide the purposes for which areas are to be acquired or used;

- that there is a reasonable prospect of the requisite funds for the acquisition becoming available - see section 6.12 below in addition to the **Funding Statement [EN010153/DR/4.2]**; and
- that the purposes for which compulsory acquisition of land powers are included in the DCO are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected - see Section 8 below.

6.4.5 This Statement sets out the factors that the Applicant considers demonstrate that the conditions in section 122 of the 2008 Act, and the considerations set out in the CA Guidance, are satisfied.

6.5 Use and quantum of the Order limits

6.5.1 At paragraph 11, the CA Guidance states that there must be no doubt in the decision maker's mind as to the purposes to which the land to be acquired is to be put. It should be demonstrated that the land is needed for the authorised Proposed Development and that it is no more than is reasonably required for that Proposed Development. Any land that is incidental to or is required to facilitate the development should also be limited to that which is no more than reasonably necessary and it should be made clear to the decision maker that this is the case.

6.5.2 In designing the Proposed Development and determining the land to be subject to compulsory acquisition and temporary possession powers, as demonstrated below, the Applicant has considered alternatives and modifications to the Proposed Development to minimise the potential land take.

6.5.3 Section 3 describes the Proposed Development and a summary of the Proposed Development for which land and rights over land within the Order land are required. The **Land and Rights Negotiations Tracker [EN010153/DR/4.4]** summarises the land and rights over land within the Order land required for the Proposed Development.

- 6.5.4 The proposed interference with the rights of those with an interest in the land is for a legitimate purpose because the Applicant requires the land for the development of the Proposed Development and can satisfy the conditions set out in section 122(2) of the 2008 Act. The land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development.
- 6.5.5 The scope of the powers of compulsory acquisition proposed in respect of the land within the Order land goes no further than is needed. All the land included within the Order land is needed to achieve the identified purpose of delivering the Proposed Development. The **Land and Rights Negotiations Tracker [EN010153/DR/4.4]** shows the powers being applied over each plot (including the plots over which freehold acquisition is acquired); the requirement for each plot of land demonstrating the assessment that has been carried out on each plot; and the works for which each plot of land is required by reference to Schedule 1 of the Proposed Development. The powers sought in the **Land and Crown Land and Crown Land Plans [EN010153/DR/2.6]** are aligned to the limits of deviation for each of the relevant works in the **Works Plans** (e.g. the extent of full compulsory acquisition aligns to the limits of deviation for Work Nos. 1-3 and 6). Those limits of deviation have been determined following the Rochdale Envelope approach, and accounting for the need for flexibility as set out in section 3.3 of this Statement.
- 6.5.6 Steps have been taken to ensure that the interference with the rights of those with an interest in the affected land is no more than is necessary to deliver the benefits associated with the Proposed Development.

6.6 Public Benefits

- 6.6.1 Section 6.1 and the Statement of Need within the **Planning Statement [EN010153/DR/5.6]** set out the need for the Proposed Development which would ensure meaningful and timely contributions to UK decarbonisation and security of energy supply, while helping lower bills

for consumers throughout its operational life, which is critical on the path to Net Zero. Without the Proposed Development, a significant and vital opportunity to develop a large-scale low-carbon electricity generation will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.

6.6.2 In addition to meeting the urgent national need for secure and affordable low carbon energy infrastructure, the Proposed Development will deliver other benefits, many of which have been maximised and will be delivered as a result of the Proposed Development's careful design. These include:

- Biodiversity net gain – see the **BNG Report [EN010153/DR/7.13]**, which demonstrates the level of net gain achieved across the habitat types.

6.6.3 A series of permissive paths across the Site have been proposed. These have been located to provide enhanced views of the Mersey Estuary and River Weaver, and also to offer linking paths between the existing PRoW to create a network of routes of differing lengths within the Site. In addition to providing new walking routes, it is also proposed to provide additional cycling and horse-riding opportunities by connecting to existing Restricted Byways. These are illustrated on **Existing and Proposed PRoW and Permissive Paths (ES Vol 3 Figure 2-4: Existing and Proposed PRoW and Permissive Paths [EN010153/DR/6.3])** and the **Indicative Environmental Masterplan (ES Vol 3 Figure 2-3 (a-e) Illustrative Environmental Masterplan [EN010153/DR/6.3])**.

6.6.4 The Proposed Development represents a significant investment in the Cheshire area (on the order of tens of millions of pounds in capital expenditure), which will generate jobs and business for the local economy. During the construction phase, the Proposed Development is expected to create a range of employment opportunities, with

approximately 109 full time (or equivalent) jobs created. The **outline Skills, Supply Chain and Employment Plan [EN010153/DR/7.11]** provides further detail and commitments in relation to local job opportunities.

- 6.6.5 Further information in relation to these project benefits can be found in the **Planning Statement [EN010153/DR/5.6]**.

6.7 Impacts and Private Loss

- 6.7.1 In order to deliver the benefits of the Proposed Development set out above, the Applicant requires the use of compulsory acquisition powers. This will result in a private loss by those persons whose land or interests in land is compulsorily acquired. Appropriate compensation would be available to those entitled to claim it under the relevant provisions of the national Compensation Code thereby minimising the private loss.
- 6.7.2 Compensation is payable for the compulsory acquisition of land or rights and for loss or damage caused by the exercise of any power of temporary use of land. Any dispute in respect of the compensation payable is to be determined by the Lands Chamber of the Upper Tribunal.
- 6.7.3 As shown in the **Land and Rights Negotiations Tracker [EN010153/DR/4.4]**, the Applicant has taken pro-active steps to engage with these persons whose land and rights will be affected by the Proposed Development to understand the direct and indirect impacts on them and to try to reach a voluntary agreement. This has helped to shape the proposals and, where possible enabled changes to designs to minimise the private loss.
- 6.7.4 All relevant environmental, social and economic benefits and adverse impacts have been assessed and are reported on in the Application documents, most notably the Environmental Statement.

6.7.5 Whilst the Proposed Development as a whole would, in common with any national infrastructure project, result in some adverse effects to the environment and local community (although in this case they are limited), it is considered that these (considered individually or collectively) would not outweigh the important nationally significant benefits of contributing towards the critical national priority need for secure and affordable low carbon energy infrastructure.

6.7.6 The Proposed Development is a NSIP and the public benefits associated with the Proposed Development are set out above. The Applicant considers that there is a compelling case in the public interest for the power to compulsorily acquire land and rights over land (together with the imposition of restrictions) to be included in the Order. Compensation is payable to all affected landowners and occupiers.

6.7.7 There is also a compelling case in the public interest for the power to extinguish, suspend or interfere with private rights to the extent necessary to deliver the Proposed Development. The extent of the Order land is no more than is reasonably necessary for the construction, operation and maintenance of the Proposed Development and therefore any interference with private rights is proportionate and necessary. Compensation is payable to anyone whose rights are extinguished, suspended or interfered with.

6.8 Alternatives to Compulsory Acquisition

6.8.1 The Applicant has considered all reasonable alternatives to compulsory acquisition: negotiated agreements, alternative sites and modifications to the Proposed Development have been considered prior to making the Application. Efforts to negotiate directly with landowners are ongoing. This is set out in more detail in the following sections.

6.8.2 The location and extent of land and rights has been carefully considered and designed in order to take the minimum amount of land required

whilst ensuring that the Proposed Development continues to meet the project benefits. The rights sought are therefore proportionate and necessary.

6.8.3 None of the alternatives or modifications considered for the Proposed Development would obviate the need for powers of compulsory acquisition powers and temporary possession over the Order land.

6.8.4 The Applicant therefore considers that all reasonable alternatives have been considered prior to the making of the Application and such consideration has included reasonable factors at relevant stages, such as consultee comments, technical feasibility, economic factors and the minimisation of environmental and visual impacts and land take.

6.9 Alternatives to the Proposed Development and Design Modifications

6.9.1 The ‘no development’ scenario as an alternative to the Proposed Development has not been considered. This is because ‘no development’ is not considered to be a reasonable alternative to the Proposed Development as it would not deliver the proposed additional electricity generation capacity which is essential to meet the urgent national need for secure and affordable low carbon energy infrastructure.

6.9.2 Further details on the consideration of alternatives are set out in **Chapter 3: Alternatives and Design Evolution of the ES Vol 1 [EN010153/DR/6.1]**. This includes consideration of modifications to the design of the Proposed Development over the pre-application period. In the context of the constraints of the Site, and the progress made with Option Agreements with willing landowners, there is limited scope to reduce land-take to avoid those areas where Option Agreements have not been agreed. Two parcels of land are currently not under an Option Agreement: the Skylark Mitigation Area and the land owned by Cheshire

Green Property Limited, both of which are essential to the construction and operation of the Proposed Development. .

6.9.3 The only non-agreed landowner within the SADA (Cheshire Green Property Limited) owns a parcel within the SADA that is surrounded on by other parts of the SADA and the River Weaver. In respect of this parcel, the Applicant notes the following:

- it has sought to reach a negotiated agreement with this landowner over an extended period, but that landowner has only recently determined that it wishes to enter into an agreement with another third party solar and battery developer to utilise that land instead for a separate project. The landowner is therefore clearly willing to have its land affected by other development;
- no detail is currently known about that other project (it is not in the public domain), but in the context of the 2030 Action Plan, it is noted that the Proposed Development is a scheme that is coming forward to deliver low carbon energy generation now, and so is not a speculative project;
- the land incorporates almost all of the Brook Furlong, which is an essential access route for the Proposed Development;
- if any other development was brought forward on that land, any cable connection to Frodsham SPEN substation or any other substation in the vicinity, would require cable rights under land proposed for the Proposed Development and so there is no certainty that other project could come forward without coming to an agreement with the Applicant; and
- this parcel contributes to the generating capacity of the Proposed Development from solar PVs, helping to meet the overall capacity

of the Proposed Development and therefore meeting the test of being required for the Proposed Development.

- 6.9.4 The Applicant therefore considers that given the overarching need for that capacity, removal of this parcel is not required.

6.10 Site Selection

- 6.10.1 In order to determine the location of a potential solar PV site, there needs to be an available grid connection, and, if possible, a landowner agreeable to their land being used for the development. A 'smaller development' as an alternative to the Proposed Development has not been considered further, as NPS EN-1 at paragraph 4.3.23 states that the decision maker: "...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 benefits and other environmental benefits) in the same timescale as the Proposed Development".

- 6.10.2 A smaller Proposed Development would not deliver the same generation capacity or energy security and climate change benefit as the Proposed Development, and as such would not represent a reasonable alternative. The Statement of Need within the **Planning Statement [EN010153/DR/5.6]** addresses the need for the Proposed Development at the size it is.

- 6.10.3 In order to be deliverable, irradiation (sunlight) levels and topography are key factors when determining the location of solar development. The preference is for a flat site or a site with a southerly aspect. The length of the grid connection is also critical, to minimise environmental and social impacts and deliver an economically viable Proposed Development.

- 6.10.4 The distance between the solar PV panels and the point of connection is low in comparison to similar projects. Therefore, proximity of a point of

connection for the Proposed Development at the SPEN Substation was a key criterion. This is recognised at paragraph 2.10.24 of NPS EN-3 which states:

- 6.10.5 “...the connection voltage, availability of network capacity, and the distance from the solar farm to the existing network can have a significant effect on the commercial feasibility of a development proposal.”
- 6.10.6 The Frodsham SPEN Substation is surrounded by a series of constraints that could significantly limit the viability of installing a lengthy grid connection due to the costs associated with directional drilling and/or alternative constraint avoidance measures. These constraints include the Mersey Estuary, River Weaver and Weaver Navigation; the towns of Runcorn, Frodsham, Ince and Helsby; and major transport infrastructure such as the M56 and Chester to Manchester railway line.
- 6.10.7 In light of the this, a Search Area Radius of 5km from the point of connection to the SPEN Frodsham Substation was set as a reasonable distance.
- 6.10.8 No Brownfield Land or PDL was identified within the 5km Search Area of sufficient size and availability to deliver the same infrastructure as that proposed in the same timescale. It was concluded that the only alternative options to develop a solar farm within the Search Area Radius would be to develop on vacant agricultural land located to the south of the towns of Frodsham and Helsby.
- 6.10.9 Following the exclusion of urban areas, the remaining land within the 5km Search Area naturally divided into three Option Areas: A (the Proposed Development site area), Area B and Area C, as described within **ES Vol 2 Appendix 3-1: Alternative Site Assessment [EN010153/DR/6.2]** (‘ASA’).
- 6.10.10 On further interrogation of the land available within those Option Areas, as set out in the ASA, the area where the Solar Array Development Site

is located was considered the preferred location for viability for the Proposed Development. This process, including the nature of the other areas, is described in detail in **Chapter 3: Alternatives and Design Evolution [EN010153/DR/6.1]** and the ASA.

6.11 Voluntary agreements with landowners

- 6.11.1 The Solar Array Development Area, NBBMA and Skylark Mitigation Area are held within 11 land ownerships, and this small number of landowners has been advantageous in terms of minimising project complexity, legal complexity and cost. The land was chosen following assessment work and discussion with landowners regarding areas of their land holdings that they were prepared to allow solar development on. The land has limited land use conflicts with respect to local development plan allocations and displacement of existing businesses.
- 6.11.2 Option Agreements have been agreed with the relevant landowners with the exception of two parcels, as described above.
- 6.11.3 It is necessary for the Applicant to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third-party interests or encumbrances affecting such land, rights and interests may be acquired, overridden or extinguished pursuant to the draft DCO, thereby ensuring that the Proposed Development can be constructed, operated and maintained without impediment.

6.12 Availability of funds for compensation

- 6.12.1 The **Funding Statement [EN010153/DR/4.2]** confirms that the Applicant has the ability to procure the financial resources required for the Proposed Development, including the cost of acquiring any land and rights and the payment of compensation, as applicable.
- 6.12.2 The Applicant is not aware of any interests within the Order land in respect of which a person may be able to make a blight claim, but in the

event this did occur the Applicant has sufficient funds to meet any compensation due.

- 6.12.3 The Applicant therefore considers that the Secretary of State can be satisfied that the requisite funds for payment of compensation will be available at the appropriate time.

7.0 COMMUNICATIONS AND NEGOTIATIONS

7.1 Diligent inquiry / land referencing

7.1.1 In accordance with the requirements of the 2008 Act, the Applicant undertook "diligent inquiry" through a land referencing process to identify parties within Categories 1, 2 and 3, as defined in sections 42 and 44 of the 2008 Act.

7.2 Diligent inquiry methodology

7.2.1 The Applicant was required to identify individuals in one or more of the categories set out in sections 44 and 57 of the 2008 Act. This included undertaking "diligent inquiry" to identify parties within Categories 1, 2 and 3, as defined in sections 44 and 57 of the 2008 Act. Category 1 includes owners, lessees, tenants and occupiers of the land within the Order limits. Category 2 includes parties that are interested in the land or have the power to sell, convey or release the land within the Order limits. Category 3 includes parties who the Applicant thinks would or might, if the Order sought by the application were made and fully implemented, be entitled to make a relevant claim for compensation under section 10 of the Compulsory Purchase Act 1965 and/or Part 1 of the Land Compensation Act 1973 and/or section 152(3) of the 2008 Act.

7.2.2 The Applicant sought to identify the Section 42(1)(d) consultees by undertaking diligent inquiry before the statutory consultation commenced. This included reviewing publicly available data (for example at the Land Registry), sending out Land Interest Questionnaires, undertaking site visits and erecting site notices.

7.2.3 The Applicant notified 80 identified Section 44 consultees by letter on 5 November 2024 and by email on 6 November 2024, ahead of the statutory consultation period commencing on 7 November 2024. These consultees were informed of a response deadline of 19 December 2024, exceeding the statutory requirement of 28 days.

- 7.2.4 As part of the on-going diligent inquiry process, in April 2025, the Applicant identified a further 2 Section 44 consultees due to the ongoing land referencing process. These consultees were informed on 9 April 2025 of a response deadline of 13 May 2025, exceeding the statutory requirement of 28 days. These bodies received a Section 44 covering letter and accompanying site location plan in writing by post and/or email, depending on contact details available to the Applicant.
- 7.2.5 A professional land referencing firm was employed to undertake diligent inquiry to identify land interests. The following processes were undertaken as part of the methodology to identify and consult with those with an interest in affected land.
- 7.2.6 Land Registry data was received in the form of a digital shape file (a GIS layer) and digital copies of the Official Copy Registers and Title Plans. All relevant freehold, leasehold, mortgagee, beneficiary, other charges and restrictive covenant information was extracted and stored in a land referencing database.
- 7.2.7 An update to the land registry information was carried out prior to the preparation of the **Book of Reference [EN010153/DR/4.3]** as part of the DCO application documentation.
- 7.2.8 Adopted highways plans were acquired from Cheshire West and Chester Council. Information was also obtained regarding special category land (including open space, common land, fuel and field garden allotments) and crown land; and any information relating to extant planning permissions. Information was received in a variety of formats and entered into the GIS system as appropriate. Where necessary, further enquiries were made to address any changes, anomalies, or gaps.
- 7.2.9 Statutory undertakers that were believed to have a possible interest in the area were contacted to identify their interests. Information received

was entered into the GIS as appropriate and where necessary further enquiries were made to address changes, anomalies or gaps.

- 7.2.10 Any existing information or stakeholder data gained by the Applicant as a result of property negotiation or Section 42 consultation was incorporated accordingly.
- 7.2.11 Consultation with landowners has been ongoing throughout the development of the proposals. The identification of potentially affected parties has been an ongoing process. This included checking all company addresses at Companies House to ensure the correct address was being used. The registered address was used unless advised differently by the affected party.
- 7.2.12 Land Interest Questionnaires (LIQs) were issued to all affected parties within the Order land. This included landowners, lessees, occupiers and statutory undertakers potentially affected by the Proposed Development. Telephone numbers and email addresses were provided on the letter which accompanied the LIQs, allowing parties to make contact if they sought further information on the proposals. Parties identified after this date, or whose initial LIQ unsuccessfully delivered, were issued at the earliest possible opportunity.
- 7.2.13 There is unregistered land within the Order Limits. As such, site notices were affixed on or adjacent to the land in order to notify any unregistered interested parties of the Proposed Development. No parties came forward to identify themselves following this process.

7.3 Consultation with landowners

- 7.3.1 The Applicant has been seeking to acquire the relevant freehold interests, new rights and temporary use of land by private treaty, in order to ensure implementation of the Proposed Development. The current position in relation to the Applicant's engagement and negotiations with

each landowner affected by the Proposed Development is explained in the **Land and Rights Negotiations Tracker [EN010153/DR/4.4]**.

- 7.3.2 It has not yet been possible to acquire all of the land required by agreement at the point of DCO Application. In addition, the Applicant requires certain rights to be suspended, overridden or extinguished within the Order land so as to ensure there are no impediments to the construction, operation and maintenance of the Proposed Development.
- 7.3.3 Negotiations will continue with landowners and persons with interests in land affected by the Proposed Development. Nonetheless, it is necessary for the Applicant to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third-party interests or encumbrances affecting such land, rights and interests may be acquired, overridden or extinguished pursuant to the draft DCO, thereby ensuring that the Proposed Development can be constructed, operated and maintained.

7.4 Consultation with Statutory Undertakers

- 7.4.1 The Applicant and its advisors have been liaising with statutory undertakers whose apparatus may be affected by the Proposed Development. A summary of these negotiations and correspondence can be found in the **Land and Rights Negotiations Tracker [EN010153/DR/4.4]**.
- 7.4.2 Protective Provisions for the benefit of all of these statutory undertakers are included in the **draft DCO [EN010153/DR/3.1]** – these are based either on discussions with these statutory undertakers or on precedent, with the nearby recently consented scheme of Hynet Carbon Dioxide Pipeline used as a starting point as relevant and appropriate.

8.0 HUMAN RIGHTS AND EQUALITIES

8.0.1 The Human Rights Act 1998 incorporated into UK law the European Convention on Human Rights (the "Convention"). The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual.

8.0.2 The following Articles of the Convention are relevant to the Secretary of State's decision as to whether the **draft DCO [EN010153/DR/3.1]** should be made so as to include powers of compulsory acquisition:

- Article 1 of the First Protocol to the Convention - protects the rights to peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest.
- Article 6 - entitles those affected by powers sought in the draft DCO 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.
- Article 8 - protects private and family life, home and correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.

8.0.3 The Secretary of State, as the decision maker, is under a duty to consider whether the exercise of powers interacts with the rights protected by the Convention.

8.0.4 The **draft DCO [EN010153/DR/3.1]** has the potential to infringe the rights of persons who hold interests in land within the Order land under Article 1 of the First Protocol, Article 6 and Article 8. Such an infringement is authorised by law so long as:

- the statutory procedures for making the DCO are followed and there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO; and
- the interference with the convention right is proportionate.

8.0.5 In relation to Article 1, in preparing the Application, the Applicant has considered the potential infringement of the Convention rights in consequence of the inclusion of compulsory acquisition powers within the draft DCO and has sought to minimise the amount of land over which it requires powers of compulsory acquisition. As set out above and in more detail in the Statement of Need in the **Planning Statement [EN010153/DR/5.6]** the Applicant considers that there would be very significant public benefits arising from the grant of the DCO. The benefits are only realised if the DCO is accompanied by the grant of powers of compulsory acquisition, and the purpose for which the land is sought (to build and operate the Proposed Development) is legitimate. The Applicant has concluded on balance that the significant public benefits outweigh the effects upon persons who own property within the Order land. For those affected by expropriation or dispossession, compensation is payable in accordance with the statutory compensation code.

8.0.6 In relation to Article 8, the Order limits do not include, and the Proposed Development does not require, the outright acquisition of any residential dwelling-houses. Consequently, as dwelling-houses will not be directly affected, it is not anticipated that the Convention rights protected by Article 8 will be infringed. In the event that such rights were to be infringed, such interference would be justifiable on the basis that it would be lawful and in the public interest.

8.0.7 In relation to Article 6, there has been opportunity to make representations regarding the preparation of the Application. In accordance with Part 5 of the 2008 Act, the Applicant has consulted with

persons set out in the categories contained in Section 44 of the 2008 Act, which includes owners, lessees, tenants and occupiers within the Order limits and those with an interest in the Order limits. The Applicant has also consulted with those persons who may be able to make a relevant claim under Section 10 of the Compulsory Purchase Act 1965, Part 1 of the Land Compensation Act 1973 or s152(3) of the 2008 Act.

- 8.0.8 Furthermore, representations can also be made in response to any notice given under Section 56 of the 2008 Act for consideration at examination of the Application by the Examining Authority and in any written representations procedure which the Examining Authority decides to uphold or at any compulsory acquisition hearing held under Section 92 of the 2008 Act.
- 8.0.9 Should the DCO be made, any person aggrieved may challenge the DCO in the High Court if they consider that the grounds for doing so are made out pursuant to Section 118 of the 2008 Act.
- 8.0.10 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. In relation to matters of compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), which is an independent judicial body, to determine the compensation payable.
- 8.0.11 For the above reasons, any infringement of the Convention rights of those whose interests are affected by the inclusion in the DCO of powers of compulsory acquisition, is proportionate, necessary and legitimate and is in accordance with national and European law. For the reasons set out in Section 7 of this Statement, the Applicant considers that there is a compelling case in the public interest for the exercise of such powers of compulsory acquisition.
- 8.0.12 The Applicant considers that the DCO strikes a fair balance between the public interest in the Proposed Development going ahead and the

interference with the rights that will be affected. The Applicant considers that it would, therefore, be appropriate and proportionate for the Secretary of State to make the DCO, including the grant of compulsory acquisition powers.

8.1 Equalities

- 8.1.1 This section considers the Proposed Development's potential impacts to persons of protected characteristics under the Equality Act 2010, in order to assist the Secretary of State in their consideration of the public sector equality duty under section 149 of the Equality Act 2010, and in the context of the Planning Inspectorate Pre-Application Prospectus.
- 8.1.2 No differentiated or disproportionate impacts to groups with protected characteristics under the Equalities Act 2010 are predicted as a result of the Scheme and the Proposed Development does not discriminate with consideration to protected characteristics including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 8.1.3 By contrast, it is the case that all individuals would experience the identified benefits and impacts arising from the Proposed Development equally, regardless of the individual's characteristics. This includes the benefits that a new renewable energy generating station would provide, such as improved energy security and a reduction in greenhouse gas emissions.
- 8.1.4 Furthermore, the proposed network of new permissive paths within the SADA, to link existing public rights of way and enhance connectivity within the Order Limits, will look to introduce a hierarchy of routes with different levels of access appropriate to their location. In accordance with the **Design Approach Document [EN010153/DR/5.8]**, it is expected that the routes closer to nearby towns will be more formal and therefore more easily accessible, relative to the more remote paths where a more

rugged/informal surface is likely to be most appropriate. Best practice guidance documents relating to accessibility will inform this element of access provision.

8.1.5 The Proposed Development includes provision for a visitor carpark. Should the carpark be built, its detailed design (accounted for through the approval of the LEMP) including finished surfaces and associated facilities will ensure that the carpark meets relevant legislation and best practice with respect to disabled access.

8.1.6 In accordance with the **Outline Skills, Employment and Supply Chain Plan [EN010153/DR/7.11]**, the Applicant is committed to improving diversity and inclusion in the workforce through inclusive training and hiring practices. The Applicant proposes collaborating with local stakeholders working to improve diversity. This could include collaborating with CWaCC, (who were awarded the Disability Confident Employer standard), to ensure disabled people are included in the hiring process and appropriate accommodations are made.

8.1.7 It is noted that traveller communities are protected against discrimination under the Equality Act 2010, and two traveller communities are located adjacent to the Proposed Development and outside of the Order Limits. Whilst the sites are unauthorised in planning terms, the Applicant has considered impacts to these sites as part of the development of the Application, including within the EIA. In particular:

- the BESS Plume Study appended to the **Outline Battery Safety Management Plan [EN010153/DR/7.8]** identified the traveller sites as sensitive receptors, and the study shows that the sites would not be impacted in the unlikely event there is a fire at the BESS site with an associated smoke plume;
- the **ES Vol 2 Appendix 4-2: Construction Dust Assessment [EN010153/DR/6.2]** considers all human receptors and considers

that with the application of the secured mitigation measures, no significant impacts would be caused; and

- the **ES Vol 2 Appendix 4-1: Noise Impact Assessment [EN010153/DR/6.2]** considers noise impacts to all human receptors and considers that with the application of the secured mitigation measures, no significant impacts would be caused.

8.1.8 With these conclusions in mind, it is therefore considered that no differentiated or disproportionate impacts to these traveller communities would arise from the Proposed Development.

9.0 SPECIAL CONSIDERATIONS AFFECTING THE ORDER LIMITS

Special Category Land - Crown Land

- 9.0.1 The Order land includes Crown Land. The Applicant has begun engagement with the Crown Estate to obtain Crown consent under section 135 of the Planning Act 2008 and agree an option agreement and considers there is no impediment to achieving this. Article 44 has been included in the **draft DCO [EN010153/DR/3.1]** to ensure that no compulsory acquisition of Crown interests can be undertaken.

Special Category Land - Open Space

- 9.0.2 There is no open space, common land or fuel or field garden allotments included or affected by the Order limits.

Statutory Undertakers' Land and Apparatus

- 9.0.3 Various Statutory Undertakers and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the Order limits. Statutory undertakers and other apparatus owners that are known to have interest in or equipment on, in or over the Order limits are included in the **Book of Reference [EN010153/DR/4.3]**. These include:

- Cadent Gas Ltd;
- National Gas Transmission plc;
- National Grid Electricity Transmission plc;
- Frodsham Wind Farm Limited;
- SP Manweb;
- Shell Limited;
- Essar Limited;

- United Utilities Water Limited;
- Environment Agency;
- British Pipelines Agency;
- Lead local flood authority;
- Local highways authority; and
- National Highways Limited.

9.0.4 Section 127(2) of the 2008 Act states that an order granting development consent may only include provision authorising the compulsory acquisition of statutory undertakers' land to the extent that matters set out in section 127(3) are satisfied. Those matters are:

- 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 undertakers without serious detriment to the carrying on of the undertaking.

9.0.5 Section 127(5) of the 2008 Act states that an order granting development consent may only include provision authorising the compulsory acquisition of a right over statutory undertaker's land by the creation of a new right over land to the extent that matters set out in section 127(6) are satisfied. Those matters are:

- the right can be purchased without serious detriment to the carrying on of the undertaking; or
- any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of the other land belonging to or available for acquisition by them.

- 9.0.6 Article 32 of the draft DCO gives the Applicant the authority to acquire land and rights from Statutory Undertakers, and to extinguish or suspend their rights, and to remove or reposition their apparatus, subject to the provisions of Schedules 13 to 27 which contains protective provisions for their benefit.
- 9.0.7 The Applicant considers that the protective provisions within the DCO provide adequate protection for Statutory Undertakers' assets and are based on well precedented principles. The Applicant therefore considers that the Statutory Undertakers will not suffer serious detriment to the carrying on of the undertaking as a result of the compulsory acquisition powers sought over the Order land being granted. The tests set out in sections 127(3) and 127(6) of the 2008 Act are therefore satisfied.
- 9.0.8 Section 138 of the 2008 Act applies if a development consent order authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a 'relevant right', or there is 'relevant apparatus' on, under or over the land. The draft DCO includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to statutory undertakers, in connection with the delivery of the Proposed Development.
- 9.0.9 The exercise of such powers will be carried out in accordance with the protective provisions contained in Schedule 13 to 27 to the DCO. The protective provisions set out constraints on the exercise of the powers in the DCO, with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests, whilst enabling the Proposed Development (i.e. the development authorised by the DCO) to proceed. The Applicant therefore considers that the test set out in section 138 of the 2008 Act is satisfied.
- 9.0.10 The Applicant is in discussions with the aforementioned statutory undertakers and owners of apparatus to agree the protective provisions

and, where required, side agreements and asset protection agreements with the other parties contacted.

9.0.11 In any event, Schedules 13 and 14 of the draft DCO include standard protective provisions for the protection of electricity, gas, water and sewerage undertakers and for the protection of operators of electronic communications code networks, in order to ensure the assets of those parties receive adequate protection.

9.0.12 There are no other relevant special considerations in respect of the Order limits.

10.0 RELATED APPLICATIONS AND CONSENTS

10.0.1 Other consents are or may be required in order for the Proposed Development to be constructed and subsequently operate. The key consents are identified below and reference should be made to the **Other Consents and Licences Statement [EN010153/DR/5.5]** which sets out the additional consents required and the status and timeframe for each consent.

10.0.2 The Applicant is not aware of any reason why these and other consents required would not be granted and therefore does not consider that they represent an impediment to the Proposed Development proceeding.

11.0 FURTHER INFORMATION

Negotiation of Sale

11.0.1 Owners and occupiers of property affected by the Proposed Development who wish to discuss matters of compensation should contact the Applicant on 0808 175 4004 or at info@frodshamsolar.co.uk.

Compensation

11.0.2 Provision is made by statute with regard to compensation for the compulsory acquisition of land and the depreciation value of properties. Helpful information is given in the series of booklets published by DCLG entitled "Compulsory Purchase and Compensation" listed below:-

- Guide 1 - Compulsory Purchase Procedure;
- Guide 2 - Compensation to Business Owners and Occupiers;
- Guide 3 - Compensation to Agricultural Owners and Occupiers; and
- Guide 4 - Compensation to Residential Owners and Occupiers;

11.0.3 Copies of these booklets are obtainable, free of charge, from:
<https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>

12.0 CONCLUSION

12.0.1 This Statement demonstrates that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Proposed Development meets the requirements of Section 122 of the 2008 Act as well as the considerations in the CA Guidance.

12.0.2 A description of the intended use of the land and rights to be acquired compulsorily has been provided.

12.0.3 In summary, the compulsory acquisition of the Order land or rights over the Order land (including restrictions), together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is required for the purposes of, to facilitate, or are incidental to, the Proposed Development and are proportionate and no more than is reasonably necessary.

12.0.4 Furthermore, there is a compelling case in the public interest for the land or rights over the land to be compulsorily acquired given the meaningful

and timely contributions offered by the Proposed Development to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life.

- 12.0.5 The need for the Proposed Development is clearly set out in NPS EN-1, NPS EN-3 and NPS EN-5. These demonstrate that there is a compelling case in the public interest for the land, and rights over land and imposition of restrictions, to be acquired compulsorily.
- 12.0.6 All reasonable alternatives to compulsory acquisition have been explored. Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land, the temporary use of land, the rights and other interests by agreement, as well as secure the removal of matters affecting the Order Land that may impede the Proposed Development, wherever possible.
- 12.0.7 Given the national and local need for the Proposed Development and the support for it found in policy, as well as the suitability of the Order limits (for the reasons outlined above), compulsory acquisition of the land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights is justified.
- 12.0.8 The proposed interference with the rights of those with an interest in the Order land is for a legitimate purpose, i.e. the construction and operation of the Proposed Development which is an NSIP, and is necessary and proportionate to that purpose. The Applicant considers that the very substantial public benefits to be derived from the proposed compulsory acquisition would decisively outweigh the private loss that would be suffered by those whose land or interests are to be acquired, and therefore justifies interfering with that land or rights.
- 12.0.9 The Applicant has set out clear and specific proposals for how the Order Land will be used.

12.0.10 An explanation has been provided as to how it is expected that the construction of the Proposed Development and the acquisition of the land or rights over the land will be funded, as well as compensation in respect of the exercise of powers of compulsory acquisition, which demonstrates that there is a reasonable prospect of the requisite funds being available. More detail is provided in the **Funding Statement [EN010153/DR/4.2]**.

12.0.11 Articles 1, 6 and 8 of the First Protocol to the Convention have been considered. The Applicant considers that the very substantial public benefits to be derived from Proposed Development would outweigh the private loss that would be suffered by those whose land is to be acquired or whose rights would be interfered with.

12.0.12 It is therefore submitted that the Order be made and any compulsory acquisition powers and powers of temporary possession sought within the Order be granted.