



Dean Moor Solar Farm

Statement of Reasons on behalf of FVS Dean Moor Limited

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Firma Energy

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DEAN MOOR SOLAR FARM
STATEMENT OF REASONS
PLANNING INSPECTORATE REFERENCE EN010155
PREPARED ON BEHALF OF FVS DEAN MOOR LIMITED

**The Infrastructure Planning (Applications: Prescribed Forms
and Procedure) Regulations 2009, Regulation 5(2)(h)**

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1 Executive Summary

- 1.1.1 This Statement of Reasons (the ‘Statement’) has been produced for FVS Dean Moor Limited (the ‘Applicant’) to support the DCO Application for the Dean Moor Solar Farm (‘the Proposed Development’) on approximately 276.5 hectares of land located between the villages of Gilgarran and Branthwaite in West Cumbria (the ‘Site’), which is situated within the administrative area of Cumberland Council (‘the Council’).
- 1.1.2 This Statement explains why it is necessary, proportionate and justifiable for the Applicant to seek powers of compulsory acquisition, and why there is a compelling case in the public interest for the Applicant to be granted these powers.
- 1.1.3 The Land Plans **[REF: 2.2]** and the Book of Reference **[REF: 4.3]** clearly set out the land subject to powers of compulsory acquisition or temporary possession. A description of the land subject to such powers is set out at section 7 of this Statement. The works making up the Proposed Development that will take place within the Order Limits are described in detail at Schedule 1 to the draft Development Consent Order **[REF: 3.1]**.
- 1.1.4 The need for, and the benefits of, the Proposed Development is set out in section 5 of this Statement. However, in summary, the Proposed Development will support the UK’s net zero target by generating large-scale of low carbon electricity which could be operational by 2030. In addition, supporting national and local policies, the Proposed Development will increase energy security, reliability and affordability of energy supply, benefiting both the local and national electricity network.
- 1.1.5 The Planning Statement **[REF: 5.5]** which is submitted in support of the DCO Application provides further detail on the necessity of the development.
- 1.1.6 The scope of the compulsory acquisition powers is set out in section 6 of this Statement. The Applicant is seeking a combination of permanent

acquisition of land and rights and temporary possession of land for some of its works.

- 1.1.7 The Applicant has complied with its duty of diligent inquiry in identifying Category 1, 2, and 3 parties. The Applicant has utilised a combination of desktop and other land referencing activities to identify those affected by the Proposed Development. Further details are set out in section 8 of this Statement.
- 1.1.8 The purpose for which powers are sought is set out in section 9 of this Statement. The Applicant requires powers of compulsory acquisition so that it may carry out the works necessary for the Proposed Development. Appendix A of this Statement sets out the purpose for acquisition by reference to the works carried out in each plot.
- 1.1.9 Section 10 of this Statement sets out the Applicant's justification for powers of compulsory acquisition with reference to the relevant tests in the Planning Act 2008 and compulsory acquisition guidance.
- 1.1.10 The Applicant has explored all reasonable alternatives to compulsory acquisition (including modifications to the Proposed Development). This has included consideration of avoiding the use of compulsory acquisition powers wherever possible. However, compulsory acquisition powers are required to ensure that the Applicant can deliver the Proposed Development without impediment.
- 1.1.11 The Applicant's proposed interest in the land is for a legitimate purpose and is necessary and proportionate. The Applicant requires powers of compulsory acquisition to implement the Proposed Development.
- 1.1.12 The Applicant has a clear idea of how it intends to use the land and the proposed use of each plot within the Order Limits is set out at Appendix A to this Statement.
- 1.1.13 There is a reasonable prospect of the requisite funds becoming available, as set out in the Applicant's Funding Statement **[REF: 4.2]**.

- 1.1.14 Any interference with the human rights of those with an interest in the land affected is legitimate and proportionate. The Applicant has considered Article 1 of the First Protocol to the European Convention on Human Rights and Articles 6 and 8 of the Convention¹. Interest holders would be entitled to compensation for acquisition of their interests. Further details are set out in section 14 of this Statement.
- 1.1.15 The Applicant is satisfied that there is a compelling case in the public interest for compulsory acquisition, particularly considering the benefits of the Proposed Development as set out in the Planning Statement.
- 1.1.16 Section 11 of this Statement sets out the Applicant's approach to acquiring land and rights by agreement. The Applicant has secured voluntary agreements for the Proposed Development with only agreements relating to residual interests remaining outstanding. The Applicant has met with the various land interest holders and has been actively engaging with them. A summary of negotiations is set out in the Pre-Application Land and Rights Negotiations Tracker **[REF: 4.4]** and an updated position will be provided throughout the examination should the application be accepted.

¹ The European Convention on Human Rights

2 Introduction

- 2.1.1 This Statement of Reasons has been prepared in accordance with the requirements of regulation 5(2)(h) of the Infrastructure Planning (Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations) and the 'Planning Act 2008: Guidance related to procedures for compulsory acquisition of land (the 'CA Guidance').
- 2.1.2 The planning history of the Site is described in the Planning Statement. A description of the existing physical Site is provided in the Environmental Statement ('ES') Chapter 3 - Site and Proposed Development Description **[REF: 6.1]** which accompanies the application for development consent.
- 2.1.3 The Proposed Development comprises the construction, operation, and decommissioning of a solar photovoltaic ('PV') energy generating station with a total capacity exceeding 50 Megawatts ('MW') comprising solar PV arrays, grid connection infrastructure, associated infrastructure, and green infrastructure.
- 2.1.4 The Proposed Development is a nationally significant infrastructure project for the purposes of the Planning Act 2008 (PA 2008). This is because the generating capacity of the Proposed Development would exceed 50 MW and will require a DCO to be granted by the Secretary of State for Energy Security and Net Zero.
- 2.1.5 Full details of the Proposed Development can be found in Chapter 3 of the ES accompanying the Application for development consent for the Proposed Development.

3 Purpose of this document

3.1 Purpose

3.1.1 This Statement has been prepared in compliance with the requirements of Regulation 5(2)(h) of the APFP Regs and section 37(3)(d) of the PA 2008, both as amended; and the CA Guidance.

3.1.2 This Statement is required because the DCO will authorise the compulsory acquisition of land and/or rights in land as described in section 7 and Appendix A of this Statement.

3.1.3 Paragraphs 31 and 32 of the CA Guidance acknowledge that the APFP Regs require a statement of reasons and Paragraph 32 advises that:

‘The statement of reasons should seek to justify the compulsory acquisition sought, and explain in particular why in the applicant’s opinion there is a compelling case in the public interest for it. This includes reasons for the creation of new rights’.

3.1.4 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. This Statement shows that there is a compelling case in the public interest for the DCO to include such powers.

3.1.5 The use of powers of compulsory acquisition in these circumstances is legitimate and proportionate, and any interference with the human rights of those with interests in the land proposed to be acquired is justified.

3.1.6 The Applicant has successfully entered into agreements for the Proposed Development, but discussions on residual interests remain ongoing and it has not yet been possible to acquire all interests by agreement. The Applicant is therefore seeking powers of compulsory acquisition through the DCO for all land within the Order Limits to ensure that the Proposed Development can be delivered without impediment. 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 by agreement. The 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 the CA Guidance which encourages applicants to plan for compulsory acquisition at the same time as conducting negotiations.

- 3.1.7 This Statement (including the Pre-Application Land and Rights Negotiations Tracker) sets out the position in relation to the negotiations undertaken to date with affected owners and other relevant parties.
- 3.1.8 This Statement forms part of a suite of documents accompanying the application submitted in accordance with section 55 of the PA 2008 and Regulation 5 of the APFP Regs and should be read alongside those documents. In particular, the Applicant has submitted the following documents relating to the compulsory acquisition powers sought as part of the Proposed Development:
- This Statement;
 - The Draft Development Consent Order;
 - The Explanatory Memorandum [REF: 3.2];
 - The Land Plans showing the land over which the various interests or rights over land would be acquired;
 - The Book of Reference containing details of the interests or rights in land which may be acquired and the names and addresses of all those who may be affected by the proposed acquisition of those interests or rights;
 - A statement to explain how the proposals contained in the DCO will be funded (the Funding Statement); and
 - The Pre-Application Land and Rights Negotiations Tracker.

3.2 Structure

- 3.2.1 This Statement is structured as follows:
- Section 4 outlines the description of the Proposed Development;
 - Section 5 outlines the need for and the benefits of the Proposed Development;
 - Section 6 summarises the scope of the compulsory acquisition powers and certain other powers set out in the DCO;

- Section 7 describes the land over which the compulsory acquisition powers are sought;
- Section 8 sets out the diligent inquiry process/methodology;
- Section 9 sets out the purpose for which compulsory acquisition powers are sought;
- Section 10 provides the justification for seeking powers of compulsory acquisition and certain other powers which are set out in the DCO;
- Section 11 outlines the Applicant's approach to the acquisition of land and rights by agreement;
- Section 12 identifies other consents which are or may be required in addition to the powers sought in the DCO;
- Section 13 covers special considerations including special category, Crown and statutory undertaker land;
- Section 14 provides justification of the interference with human rights and addresses equalities issues; and
- Section 15 comprises a summary and conclusions.

4 Description of the Proposed Development

4.1 The Applicant

- 4.1.1 FVS Dean Moor Limited is a joint-venture partnership between two renewable energy development specialists: Firma Energy DM Limited ('Firma Energy'); and ib vogt GmbH ('IBV').
- 4.1.2 Firma Energy, founded in 2021, is an independent management-owned energy development company based in Leeds. IBV is a leading global renewable energy developer and engineering contractor specialising in utility-scale solar farms.

4.2 Project Description

- 4.2.1 The Proposed Development comprises the construction, operation, and decommissioning of a solar (PV) energy generating station with a total capacity exceeding 50 MW comprising solar PV arrays, grid connection infrastructure, associated infrastructure, and green infrastructure.
- 4.2.2 The Proposed Development will be located on approximately 276.5 hectares ('ha') of land located between the villages of Gilgarran and Branthwaite in West Cumbria (the 'Site'), which is situated within the administrative area of the Council. The Proposed Development will be within the 'Order Limits' (the land shown on the Works Plans within which the Proposed Development can be carried out). The extent of the Site is the same as the Order Limits.
- 4.2.3 The Site is divided into four main areas (Areas A, B, C and D). Further information on these areas is provided within Chapter 3 of the ES.
- 4.2.4 The works which the Proposed Development will comprise are described in Schedule 1 to the draft DCO, where the 'authorised development' is divided into 'work numbers'. Full details of the works proposed are set out in Schedule 1 to the draft DCO and are shown on the Works Plans [REF: 2.3].

5 The need for and benefits of the Proposed Development

5.1 Introduction

5.1.1 The PA 2008 sets out the matters the Secretary of State must have regard to when considering applications for development consent. This includes national policy statements as well as any other matters which the Secretary of State thinks are both important and relevant to its decision. This section provides an overview of the need and policy context considering the PA 2008. It considers national energy policy and the need for and benefits of the Proposed Development.

5.1.2 A summary of the need and the policy context that supports the Proposed Development is set out briefly below. The need and policy context are covered in further detail in the Planning Statement accompanying the application for development consent.

5.2 The need for the Proposed Development

5.2.1 The Proposed Development will support the UK's net zero target by generating large-scale low carbon electricity which could be operational as early as 2027.

5.2.2 In addition the Proposed Development will increase energy security, reliability, and affordability of the energy supply, benefiting both the local and national electricity network. These key strategic benefits can be summarised as follows:

- Energy Security – The Proposed Development will reduce the UK's vulnerability to international energy supply and price shocks by increasing domestic energy production.
- Reliability – Given the capacity of 150MW, the Proposed Development will help diversify the electricity infrastructure mix, contributing towards the government's objective and in providing a reliable, energy supply.
- Affordability – Solar is a low-cost type of energy generation, and will decrease reliance on more expensive forms of energy generation.

5.2.3 As a temporary renewable energy generating station the Proposed Development will represent sustainable development by helping to reduce

emissions which contribute to climate change and by being delivered in a manner that will minimise adverse effects on, and maximise the benefits for, the environment, society, and the economy. In addition the Proposed Development has been sensitively designed, and will be constructed and operated in a manner that is sustainable in terms of minimising adverse effects on, and maximising the benefits for, the environment, society, and the economy.

- 5.2.4 As described in the planning, and other national and local government policies set out in section 5.3, the urgent need for renewable energy development is established, and subject to meeting specific requirements, generally such projects are afforded significant support.

5.3 The legislative and policy context

- 5.3.1 Section 104 of the PA 2008 applies to an application for an order granting development consent if a national policy statement has effect in relation to the Proposed Development.

- 5.3.2 Section 104(3) of the PA 2008 states that the Secretary of State must decide an application in accordance with any '*relevant policy statement*'. Section 104(2)(a) of the PA 2008 makes clear that a "relevant national policy statement" for is one that "has effect" in relation to the development.

- 5.3.3 Section 105 of the PA 2008 applies to the Proposed Development as a national policy statement does not have effect (See paragraph 5.2.4). Section 105 provides that in examining an application under this section, the Secretary of State must have regard to—

‘(a) any local impact report (within the meaning given by section 60(3)) submitted to the [Secretary of State] before the deadline specified in a notice under section 60(2),

(b) any matters prescribed in relation to development of the description to which the application relates, and

(c) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.'

National Policy Statements

- 5.3.4 The Overarching NPS for Energy (NPS EN-1) sets out the current national policy for delivering Nationally Significant Infrastructure Project (NSIP) energy infrastructure in England and Wales. For renewable energy projects,² NPS EN-1 has effect in combination with the relevant technology-specific NPS, which in this case is the National Policy Statement for Renewable Energy Infrastructure (NPS EN-3)³. Together these three NPS provide the primary policy against which the DCO Application must be assessed.
- 5.3.5 UK Government policy has a focus on delivering the change in energy generation and usage that will ensure that the UK meets its legally binding target of net zero by 2050. NPS EN-1 emphasises the importance of solar in the UK's future energy stock and the benefits of the rapidity of its deployment in helping the UK meet net zero and increase energy supply security.
- 5.3.6 Part 3 of NPS EN-1 identifies the need for nationally significant energy infrastructure to address energy security objectives and carbon reduction requirements, replace closing generating capacity, and support an increase in renewables supply. Paragraphs 3.2.1 and 3.2.2 state that the 'government's objectives for the energy system are to ensure our supply of energy always remains secure, reliable, affordable, and consistent with net zero emissions in 2050 for a wide range of future scenarios... we need a range of different types of energy infrastructure to deliver these objectives.'

² Department for Energy Security and Net Zero (2023) Overarching National Policy Statement for energy (EN-1).

³ Department for Energy Security and Net Zero (2023) National Policy Statement for Renewable Energy Infrastructure (EN-3).

- 5.3.7 Crucially, NPS EN-1 introduces the Critical National Priority (CNP) for low carbon energy infrastructure such as solar. Paragraph 4.2.5 confirms that solar photovoltaic generation is a form of CNP infrastructure.
- 5.3.8 Paragraph 4.1.7 of NPS EN-1 emphasises that “for projects which qualify as CNP infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases”. Paragraph 4.2.6 states that substantial weight should be given to the overarching need case for CNP infrastructure, as a starting point for determination of energy infrastructure applications.
- 5.3.9 NPS EN-3 states the need for the timely delivery of new renewable energy sources. Paragraph 2.10.10 stresses the importance of solar in delivering the UK Government’s goals for greater energy independence, referencing the British Energy Security Strategy (2022),⁴ which states that the UK Government expects a five-fold increase in solar deployment by 2035 (up to 70 GW).
- 5.3.10 NPS EN-3 at paragraph 1.1.2 emphasises the importance of renewable electricity generation to the transition of net zero. NPS EN-3 provides a framework for assessment and technology-specific information for specified renewable energy technologies.
- 5.3.11 NPS EN-5 is the primary basis for decisions on transmission and distribution system NSIPs and associated infrastructure. NPS EN-5’s relevance to the Proposed Development is limited to the grid connection.

National Planning Policy Framework

- 5.3.12 The National Planning Policy Framework (NPPF) was published by the Department for Communities and Local Government (now the Department for Levelling Up, Housing and Communities) in March 2012 and was last updated in December 2023. The Government published a consultation draft of proposed revisions to the NPPF in July 2024.

⁴ British Energy Security Strategy (2022)

- 5.3.13 Paragraph 5 of the NPPF confirms that it does not contain specific policies for NSIPs, and so does not have direct effect in relation to the Proposed Development. However, the NPPF may be a relevant matter in the Secretary of State's decision making. Chapter 2 of the NPPF, 'Achieving sustainable development' sets out that the planning system should contribute to the achievement of sustainable development, considering economic, social and environmental roles'.
- 5.3.14 The July 2024 NPPF draft proposes a change to paragraph 164 which would require local planning authorities to support planning applications for all forms of renewable and low carbon development and give significant weight to a proposal's contribution to renewable energy generation and a net zero future.

Local Planning Policy

- 5.3.15 Local development plans do not carry the same weight under the PA 2008 in respect of decision-making for NSIPs as they do with determining planning applications made pursuant to the Town and Country Planning Act 1990 (as amended). Whilst NPSs are the primary consideration for Nationally significant infrastructure Projects, a local development plan is still a matter that can be considered important when determining an application. However, in the event of any conflict, the relevant NPS prevails.
- 5.3.16 As of 1 April 2023, Allerdale Borough Council ('ABC') merged with Copeland Borough Council and Carlisle City Council to become the Council, which is now the administrative authority within which the Site is located. The Site is located within the former administrative boundary of ABC.
- 5.3.17 The Council is preparing the Cumberland Local Plan 2025-2045 for which evidence gathering and early-stage consultation is planned for March 2025 to March 2026. The local planning documents relevant to the Proposed Development and considered further in the Planning Statement is the ABC Local Plan.

6 Scope of Compulsory Acquisition

6.1 Introduction

- 6.1.1 The application for the Proposed Development is made under section 37 of the PA 2008 and in accordance with the APFP Regs.
- 6.1.2 The scope of the compulsory acquisition powers sought by the Applicant is set out in full in Part 5 of the draft DCO.
- 6.1.3 The compulsory acquisition powers in the DCO will enable the Applicant to construct, operate, maintain and decommission the Proposed Development and to mitigate impacts of the Proposed Development where necessary.
- 6.1.4 The Applicant has been seeking to acquire the relevant interests and other rights over land required by agreement. The Applicant has successfully entered into option agreements for the Proposed Development, however agreements with residual interest holders remain outstanding. Discussions with such other interested parties are ongoing and positive progress is being made (see the Pre-Application Land and Rights Negotiations Tracker).
- 6.1.5 In accordance with regulation 5(2)(i)(i) of the APFP Regs the Land Plans and Book of Reference submitted with the application set out the land subject to outright compulsory acquisition, the land subject to compulsory acquisition of permanent rights and the imposition of restrictive covenants, and the land subject to powers of temporary occupation only. This Statement seeks to justify the inclusion of such rights and powers in the DCO.
- 6.1.6 Regulation 7 of the APFP Regs sets out the prescribed contents of a Book of Reference. Regulation 7(1)(a) requires:
- 'Part 1 [of the Book of Reference] contains the names and addresses for service of each person within Categories 1 and 2 ... in respect of any land which it is proposed shall be subject to-*
- (i) powers of compulsory acquisition;*

(ii) rights to use land, including the right to attach brackets or other equipment to buildings; or

(iii) rights to carry out protective works to buildings;'

6.1.7 The Applicant has gathered details of the relevant interest holders in the Order land. This information was gathered as part of the Applicant's land referencing exercise.

6.1.8 In accordance with Regulation 7(1)(a) of the APFP Regulations, Part 1 of the Book of Reference contains the names and addresses for service of Categories 1 and 2 interests.

6.1.9 In accordance with Regulation 7(1)(b) of the APFP Regs, any Category 3 interest (i.e. those with a right to make a relevant claim) must be noted in Part 2 of the Book of Reference. The Applicant has taken a precautionary approach towards identifying Category 3 parties.

6.1.10 The Book of Reference therefore notes Category 3 parties with an interest in residential properties within close proximity to the Order land, where such interests are deemed to exist. Further details on the how the Applicant has identified Category 3 parties is set out in section 8 (Diligent inquiry/process/methodology).

6.2 Description of powers sought

6.2.1 Compulsory acquisition powers in the draft DCO include the following articles that relate to compulsory acquisition or interference with third party rights. These powers apply to the land shaded pink, blue or green (as applicable) on the Land Plans. For the avoidance of doubt, land shaded yellow on the Land Plans is land in which no interests, rights or possession are sought. Compulsory and temporary acquisition powers do not apply to the yellow land. More detail on the articles in the DCO can be found in the Explanatory Memorandum.

Article 23 – Compulsory acquisition of land

- 6.2.2 The Applicant would have the power to acquire compulsorily so much of the Order land as is required for the Proposed Development or to facilitate, or is incidental, to it. It is qualified and restricted by reference to article 25 (time limit for exercise of authority to acquire land compulsorily).

Article 24 – Compulsory acquisition of land – incorporation of the mineral code

- 6.2.3 This means that where the Applicant acquired land under the powers of the Order, it will not acquire any mineral deposits present in the land (other than those necessarily extracted or used in constructing the authorised development) unless they are expressly included in the conveyance.

Article 25 – Time limit for exercise of authority to acquire land compulsorily

- 6.2.4 This limits the Applicant's ability to serve a notice to treat or to execute a general vesting declaration to a period within five years from the granting of the DCO. This period is preceded by several other DCOs. Further justification for this period is set out in the Explanatory Memorandum.
- 6.2.5 The article also sets a five-year time limit on the power of the Applicant to take temporary possession of land under Article 34.

Article 26 – Compulsory acquisition of rights and imposition of restrictive covenants

- 6.2.6 This article allows the Applicant to compulsorily acquire rights, or impose restrictive covenants, over the Order land insofar as they are necessary to construct, operate, maintain and decommission the Proposed Development or are incidental to it or necessary to facilitate it. The rights over the land shaded blue on the Land Plans are set out in Schedule 9 of the draft DCO.

Article 27 – Private rights over land

- 6.2.7 This article allows for the extinguishment of private rights over land insofar as their continuance would be inconsistent with the exercise of the powers under article 23.

Article 28 – Power to override easements and other rights

- 6.2.8 This article provides a power to override easements and other rights in the Order land where an authorised activity is being undertaken by the Applicant and for compensation to be paid to affected persons whose interests in or rights over the Order land may be subject to interference arising therefrom.

Article 30 – Acquisition of subsoil only

- 6.2.9 This article permits the Applicant to acquire land (interests) below the surface, rather than having to acquire all of the land.

Article 33 – Rights under or over streets

- 6.2.10 This article grants the Applicant the right to enter on and appropriate subsoil of or airspace over any street within the Order land, as may be required for the Proposed Development.

Article 36 – Statutory undertakers

- 6.2.11 This article allows the Applicant to acquire land, or rights over land, belonging to statutory undertakers insofar as it falls within the Order land. The Applicant can extinguish the rights of, or remove or reposition apparatus belonging to, statutory undertakers. Schedule 14 of the draft DCO sets out the protective provisions for the protection of statutory undertakers.

6.3 Temporary possession powers

Article 34 – Temporary use of land for carrying out the authorised development

- 6.3.1 This article provides a power for the Applicant to temporarily occupy all land within the Order Limits for the carrying out of the authorised development. It prevents the Applicant from having to permanently acquire land which is required to construct the authorised development, but which is not needed permanently, and therefore assists in minimising the interference with landowners' rights.
- 6.3.2 Schedule 11 to the draft DCO sets out plots that are only subject to temporary possession, and not permanent acquisition. Land subject to temporary possession only is coloured green on the Land Plans.

Article 35 – Temporary use of land for maintaining the authorised development

- 6.3.3 This article would enable the Applicant to take temporary possession of land within the Order land required for the purpose of maintaining the authorised development and to construct such temporary works as may be reasonably necessary for that purpose for a period of five years (the maintenance period) from the date of final commissioning (as defined in the draft DCO).
- 6.3.4 Before giving up possession there is a requirement to remove all temporary works and restore the land to the owner's reasonable satisfaction. An owner or occupier suffering loss or damage would be entitled to claim compensation.

6.4 Other powers

- 6.4.1 Other powers which the draft DCO confers on the Applicant Order Limits are:

Article 12 – Street works

- 6.4.2 This article permits the Applicant to enter streets within the Order Limits for the purposes of breaking up, tunnelling, placing apparatus, maintaining apparatus, or executing works incidental to such actions.

Article 14 – Power to alter layout, etc., of streets

- 6.4.3 This article permits the Applicant the right to alter the streets within Schedule [4] in the manner specified in that Schedule, in connection with the Proposed Development or any other street within the Order Limits, subject to consent of the street authority.

Article 16 – Temporary closure or restriction of streets

- 6.4.4 This article would enable the Applicant for the purposes of carrying out the authorised development to temporarily close, alter, divert, or restrict the use of streets within Schedule 4 to the extent specified in that Schedule or any other street with the consent of the street authority. It would also permit the use of any such street as a temporary working site.
- 6.4.5 The power to prevent pedestrian access would be subject to the obligation to provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary closure, alteration, diversion or restriction if there would otherwise be no access.
- 6.4.6 The exercise of this article could potentially interfere with private rights (i.e., rights vested in a person rather than the public at large), such as rights to drive vehicles along a stopped-up street. In that event the right in question would be suspended. A person suffering loss due to such suspension would be entitled to compensation.

Article 17 – Access to works

- 6.4.7 This article would permit the Applicant to form, and layout means of access, or improve existing means of access, within the Order Limits as reasonably required for the purposes of the Proposed Development, subject to street authority consent. The relevant locations are set out in Schedule 7 to the draft DCO.

Article 20 – Discharge of water

- 6.4.8 This article permits the Applicant to use any watercourse, public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the Proposed Development. This may include laying down, taking up or altering pipes and making openings into and connections with the watercourse, public sewer or drain.
- 6.4.9 Consent from the owner of the relevant watercourse, public sewer or drain must be obtained before any water is discharged into it.

Article 21 – Protective work to buildings

- 6.4.10 This article enables the Applicant to carry out such protective works to buildings lying within the Order Limits or which may be affected by the Proposed Development as it considers necessary or expedient. Protective works may be carried out prior to commencing construction of the Proposed Development, during construction of the Proposed Development or up to five years after the Proposed Development has been completed.
- 6.4.11 Relevant notices must be served on the owners and occupiers of the building or land. An owner or occupier suffering loss would be entitled to compensation.

Article 22 – Authority to survey and investigate the land

- 6.4.12 This article permits the Applicant to enter any of the land within the Order Limits for the purposes of surveys. Landowners are entitled to notice and compensation for loss or damage resulting from the Applicant's survey works.

Article 37 – Apparatus and rights of statutory undertakers in stopped up streets

- 6.4.13 This article governs what happens to statutory undertakers' apparatus under streets that are stopped up by the DCO.

Article 43 – Felling or lopping of trees and removal of hedgerows

- 6.4.14 This article allows the Applicant to fell or lop any tree or shrub within, or overhanging, the Order Limits.

7 Description of land subject to compulsory acquisition and other powers

7.1 Site and Description of Land Areas

7.1.1 The Proposed Development is being constructed within the Order Limits. This area is clearly set out on the Land Plans identified with a red line.

7.1.2 The area of the Proposed Development is approximately 276.5ha. For the purposes of the description below, the Order Limits have been split into four distinct geographical components:

Area A – Land south of Branthwaite Road (approximately 40.3ha);

Area B – Land south of Branthwaite Road and north of Gilgarran Road (approximately 19.9ha);

Area C – Land south of Gilgarran Road and north of Dean Cross Road (approximately 203ha);

Area D – Land connecting Areas A and B, including Potato Pot Wind Farm (the 'Wind Farm'), Gilgarran Road between Areas B and C, and Branthwaite Edge Road (approximately 13.4ha)

7.1.3 Chapter 3 – Site and Proposed Development Description of the ES provides an overview of the current use of the land and a more detailed description of Areas A-D. They are shown on Figure 3.1 Solar Farm Area Plan of Chapter 3 and Figure 3.3 Land Use Plan [REF: 6.2].

8 Diligent inquiry/process/methodology

8.1 Introduction

- 8.1.1 In accordance with the PA 2008, the Applicant undertook 'diligent inquiry' to identify parties within Categories 1, 2 and 3, as defined in sections 44 and 57 of the PA 2008.
- 8.1.2 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 DCO were made and 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 PA 2008.
- 8.1.3 A professional land referencing firm, Ardent, were employed to undertake diligent inquiry to identify these land interests. The following processes were undertaken as part of the methodology to identify and consult with those with an interest in affected land.

8.2 Desktop Referencing

- 8.2.1 The geographical scope of land referencing covered the Order Limits, along with properties within close proximity that fell outside of the Order Limits that were identified as Category 3 interests.
- 8.2.2 HM Land Registry Registers and Title Plans were captured and stored using Ardent's database known as ATLAS. A title refresh of this data took place approximately 6 weeks prior to the DCO submission to ensure information was up to date.
- 8.2.3 Additional desktop referencing activities were undertaken to confirm and verify the addresses and names. Companies House searches were conducted to ensure registered companies' details were verified and ensuring the correct registered office was used to serve the notices. Royal

Mail address checks were made to validate the address of each notice served.

8.2.4 HM 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 were obtained and reviewed.

8.2.5 All relevant freehold and leasehold title information, together with the beneficiaries of relevant mortgages, charges, private rights, easements and restrictive covenants were identified and stored in a land referencing database.

8.2.6 Updates were requested from HM Land Registry ensuring updates were received ahead of key milestones and this ensured that any changes that occurred prior to section 42 consultation, and again before the submission of the Book of Reference were captured, with follow up undertaken where new interests were revealed.

8.3 Contact referencing

8.3.1 Consultation with landowners has been ongoing throughout the development of the proposals. The identification of potentially affected parties has been an ongoing process since prior to non-statutory consultation, above and beyond the desktop searches explained above.

8.3.2 A record of key land referencing activities is set out below at Table 8.1.

Table 8.1 – Land Referencing Activities

Activity	Dates
Land Interest Questionnaires (LIQs) / Request for Information (RFIs)	30.11.2023
Site visits – Unregistered land	06.12.2024
Statutory Consultation	08.03.2024

Land Interest Questionnaires (LIQs)

- 8.3.3 LIQs were posted via Royal Mail to all known interest holders under section 44 and 56 of the PA 2008 identified as part of the desktop referencing processes requesting information regarding land interests. The LIQ pack included a cover letter which provided an overview of the project, explained the need for land referencing, and how this fits into the DCO process and provided information on completing the LIQ form. A plan was also enclosed highlighting the land that may be affected by the project in which they hold an interest in. Returned LIQs that came via post or by email were then logged using Ardent's ATLAS database. This will be an ongoing process through acceptance and examination.
- 8.3.4 LIQs were also issued to potential Category 3 interests. Further formal land referencing questionnaires (LIQs and Requests for Information) were issued to all identified potentially affected parties to confirm and fully understand their interests as they became known to the land referencing team, and this will continue as land referencing is an ongoing exercise.
- 8.3.5 This included a request for information about a recipient's own interests, associated third party interests, and the spatial extent of the property. Included with the questionnaires were individual plans showing the anticipated land ownership boundaries.
- 8.3.6 Respondents were asked to complete the questionnaires, amend the boundary plans where required, and return the completed documents to the Applicant's land referencing team in pre-paid envelopes provided.
- 8.3.7 The Applicant's land referencing team analysed the returned information and entered it into the land referencing database or contacted the respondents to resolve any queries or conflicting information.
- 8.3.8 Recipients of the LIQ were also offered the means to respond or ask questions via email or via a dedicated hotline. The land referencing team recorded all information received and responded to any queries. See

further below regarding the steps taken when an LIQ was not returned by an interest holder.

Contact site visits/land information investigations

- 8.3.9 For LIQs that were not returned, chaser letters were issued to follow up and encourage the return of the form. If still no response was received, property addresses were 'cold-called', to ensure all attempts to compete a LIQ were conducted.
- 8.3.10 Highways were identified from local authority online mapping. PDF versions of the highway extents were also provided by the Council.
- 8.3.11 A project workshop was held to compare the HMLR boundaries with the highway boundaries. Parcel splits were made to ensure the highway extents were plotted accurately.
- 8.3.12 LIQs were sent to statutory undertakers with a potential interest in the project and to those who are not members of LinesearchBeforeUdig (LSBUD). Returned forms were then logged onto Ardent's ATLAS database and the relevant plots updated.

Special Category Land

- 8.3.13 Sections 130 to 132 of the PA 2008 govern the compulsory acquisition of land rights in land (including temporary acquisition) of "special category land". As a result of diligent enquiries, including checks of publicly available records such as information held by local authorities, no evidence of any special category land has been identified within the Order Limits.

Crown Land

- 8.3.14 Section 135 of the PA 2008 sets out the requirements that need to be satisfied with respect to a DCO authorising the compulsory acquisition of an interest in "Crown land". As a result of diligent enquiries, no evidence of any Crown land has been identified within the Order Limits.

Unregistered Land

- 8.3.15 In the case of unregistered land, where information could not be obtained from HM Land Registry and other referencing processes, site notices were affixed on or adjacent to the land inviting persons with an interest in this land to come forward. When erected, site notices were checked on a regular basis and replaced as necessary.
- 8.3.16 Further research was undertaken through enquiries with adjacent landowners, council enquiries and further desktop research to identify potential lines of investigation and historic interests. Where an interest remained unknown, a notice was placed on or near the land, and the entry “Unknown” was listed in the Book of Reference.
- 8.3.17 The combination of the above land referencing activities produced a list of interest holders for statutory consultation under the PA 2008, which commenced in March 2024. A more detailed description of the abovementioned consultation activities can be found in the Consultation Report [REF: 5.1].

Data management

- 8.3.18 All information on potentially affected persons with an interest in land is stored on the land referencing database known as ATLAS. This includes the nature of their interest and contact details. All correspondence was uploaded and attached to the relevant person with an interest in land. This includes LIQs received by post or completed on site, incoming and outgoing emails, records of telephone conversations, letters and all project related correspondence such as notices. To ensure diligent inquiry has been carried out, the dates, times and outcomes of all site visits were recorded.
- 8.3.19 Land Registry titles and plans were uploaded against the relevant parcel and interested parties to not only show a detailed history of the investigation but to provide an easily available source for all land and property.

- 8.3.20 All data collected was (and continues to be) held in accordance with the General Data Protection Regulation (EU) 2016/679 (GDPR), the Data Protection Act 2018 and is covered by the scope of the Applicant's land referencing consultant's ISO 27001 Information Security accredited policies and processes using it solely for the Proposed Development.

9 Purpose for which Powers are sought

9.1 Purpose

- 9.1.1 The Table appended to this Statement at Appendix A sets out the purpose for which powers are sought over each plot of land with reference to each specific work number, as noted in Schedule 1 to the draft DCO.
- 9.1.2 Without the powers to acquire rights and interests in land compulsorily there would be insufficient certainty about the Applicant's ability to deliver the Proposed Development in totality and within the necessary timescale. The Applicant therefore requires such powers to be included in the DCO, notwithstanding its preference to acquire the necessary interests in land and acquisition/extinguishment of rights by voluntary agreement.
- 9.1.3 All the land included in the Order Limits is necessary to enable the delivery of the Proposed Development. However, due to the nature of the design process and the timing of the consenting process, the Applicant requires a degree of flexibility as to where certain parts of the Proposed Development can be constructed within the defined limits of deviation which are provided for in the draft DCO. The Applicant is satisfied that all the land included in the Order Limits is necessary to enable the delivery of the Proposed Development.
- 9.1.4 In common with other projects, detailed design may avoid acquisition of some of the land that is within the scope of compulsory acquisition powers in the DCO Application; only land that is required for the Proposed Development will be acquired.

10 Justification for powers of compulsory acquisition

10.1 Legislation and CA Guidance

10.1.1 Section 122 of the PA 2008 provides that a DCO that includes compulsory acquisition powers may be granted only if the conditions in sections 122(2) and 122(3) of the PA 2008 are met. The first condition (section 122(2)) requires one of three criteria to be met, as follows:

- The land is required for the development to which the development consent relates; or
- The land is required to facilitate or is incidental to that development; or
- The land is replacement land to be given in exchange under section 131 or 132 of the PA 2008.

10.1.2 The second condition (section 122(3)) is that there is a compelling case in the public interest for compulsory acquisition.

10.1.3 Paragraphs 12 and 13 of the CA Guidance also identify that for the second condition to be met the Secretary of State will need to be persuaded 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.

10.1.4 The CA Guidance sets out the following general matters which a promoter of a proposed development must be able to demonstrate to the satisfaction of the Secretary of State to justify an order granting development consent:

- That all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored – this is dealt with in section 10.2 below;
- That the proposed interest in the land is for a legitimate purpose and is necessary and proportionate – this is dealt with in section 10.4 below;
- That it has a clear idea of how it intends to use the land which it is proposing to acquire – this is dealt with in section 10.5 below;
- That there is a reasonable prospect of the requisite funds becoming available – this is dealt with in section 10.6 below and in the Funding Statement; and

- There is justification for interfering with the human rights of those with an interest in the land affected – this is dealt with in section 10.7 and in section 13.2 of this Statement.

10.1.5 This Statement and the Land Plans demonstrates how and why the land included in the draft DCO is required and how such land would be used. In the case of each plot of land, the powers sought by the Applicant are necessary to deliver the proposals and are proportionate to the degree of interference with any private rights.

10.1.6 The following paragraphs explain how the section 122 conditions are met in the case of the Proposed Development.

10.2 Alternatives to the proposed Site and layout

10.2.1 As set out in Chapter 4 – Alternatives and Design Evolution of the ES [REF: 6.1] the Applicant has considered various alternatives including alternative locations of the Site and layouts within the Site prior to the making of the DCO Application.

10.3 Alternatives to compulsory acquisition

10.3.1 To construct, operate, and decommission the Proposed Development, land and rights in the ownership of parties other than the Applicant would need to be acquired. Given the size and nature of the Site, acquisition and/or use of third-party land cannot be avoided.

10.3.2 The Book of Reference and the Land Plans show the land and rights in land that are required for the Proposed Development and identify persons with an interest in the land. In each case the land and/or rights sought are necessary to deliver the Proposed Development and are proportionate to the degree of interference with the interests and rights of landowners.

10.3.3 As set out at section 11 of this Statement, the Applicant has entered into agreements with the key landowners for the land required for the Proposed Development, and will continue to seek to acquire all land and rights it needs by voluntary agreement, subject to the DCO being made.

- 10.3.4 The Applicant undertook non-statutory consultation in October – November 2023 and statutory consultation in March – April 2024, and is pursuing engagement with all persons with an interest in the relevant land to try to avoid the need for compulsory acquisition. For further details, please see section 11 below.
- 10.3.5 This approach to making the DCO Application in parallel to conducting negotiations to acquire rights in land by agreement is in accordance with paragraph 25 of the CA Guidance.
- 10.3.6 The Applicant seeks compulsory powers to acquire land and rights in land under the DCO from all relevant landowners, notwithstanding that, voluntary agreements for purchase of land and/or the grant of rights may have, or will be, entered into, for the following reasons:
- An option may be obtained by agreement prior to the DCO Application or during the application process, rather than the substantive right itself. The compulsory powers therefore provide a fallback should the voluntary agreements fail and cover instances where the person with an interest in land is unwilling to, or cannot, grant the relevant land interest or right at the time when the option is exercised.
 - Including all interests in the DCO allows all required land or rights to be obtained in the same way and through one process, potentially through General Vesting Declaration (GVD).
 - Compulsory acquisition by GVD is effective against all interests in the land, so avoiding the risk of a failure to disclose a relevant interest; the GVD is effective even against unknown interests.
 - Compulsory powers are also more readily enforceable, so reducing additional risk, cost and delay.
 - Without the powers of compulsory acquisition, the national need for the Proposed Development could not be met because the land and rights required in the land subject to the DCO may not be assembled, uncertainty as to the ability to construct, operate and maintain the Proposed Development will continue and the Applicant considers that its objectives would not be achieved.

10.4 The proposed interest in the land is legitimate, necessary and proportionate

- 10.4.1 The need for the Proposed Development is explained in the Planning Statement and compulsory acquisition of land and rights in land is

necessary to enable the Applicant to meet that need and deliver the Proposed Development.

- 10.4.2 Without the compulsory acquisition of the necessary interests in land, the delivery of the Proposed Development cannot be guaranteed. As contemplated by the PA 2008 it is a proportionate use of compulsory acquisition powers to acquire land and rights in land for the Proposed Development.
- 10.4.3 Where appropriate, the Applicant has sought to take powers to temporarily use land, rather than the compulsory acquisition of land or rights. In particular, the Applicant has included within the Order Limits no more land than is reasonably required for the purposes described in the Status of Negotiations table such that its proposed use of land, for the purpose of delivering the Proposed Development, is proportionate and justifiable.
- 10.4.4 Where lesser interests or rights are sufficient, this is identified in the Book of Reference.
- 10.4.5 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. This entitlement to compensation is provided for by the existing compensation code. Furthermore, Article 31 of and Schedule 10 to the draft DCO provide a mechanism by which an entitlement to compensation may arise in the context of the compulsory acquisition of new rights. The Applicant has the resources to pay such compensation as demonstrated in the Funding Statement.
- 10.4.6 Any dispute in respect of the compensation payable is to be determined by the Lands Chamber of the Upper Tribunal.

10.5 Clear idea of intentions of how land proposed to be acquired will be used

- 10.5.1 The CA Guidance (at paragraph 9) states that the Applicant should have *“a clear idea of how [it intends] to use the land which [it proposes] to acquire.”* This Statement sets out the purposes for which each plot of land

is proposed to be compulsorily acquired or used temporarily; this can be seen in Appendix A to this Statement.

10.6 Availability of funds for compensation

10.6.1 The CA Guidance indicates that an applicant should be able to demonstrate that there is a “*reasonable prospect*” of the requisite funds becoming available. The Funding Statement which accompanies the DCO Application sets out how the Proposed Development would be funded and demonstrates that there is a reasonable prospect of the requisite funds being available both to pay any compensation arising from the exercise of the compulsory acquisition and temporary use powers and, indeed, to construct the Proposed Development.

10.7 Justification for interfering with the human rights

- 10.7.1 In preparing the draft DCO, including the seeking of powers to acquire land compulsorily and to use land temporarily, the Applicant has had regard to the relevant provisions of the European Convention on Human Rights (see section 14 below).
- 10.7.2 The Applicant has considered the purposes for which the land is required, namely the delivery of the Proposed Development, in the context of the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and Article 8 of the Convention. The reasons why the proposed acquisition of land and interference with private property rights are considered to be legitimate and proportionate, and therefore justified, are set out in section 14 below, and are matters on which the Secretary of State will need to be satisfied in deciding whether powers of compulsory acquisition should be included in any grant of development consent for the Proposed Development.

10.8 Compelling case in the public interest

10.8.1 The Applicant is satisfied that the condition in section 122(3) of the PA 2008 is met and that there is a compelling case in the public interest for compulsory acquisition.

- 10.8.2 The need for and the benefits of the Proposed Development are set out in section 5 of this Statement and in the other application documents, including the Planning Statement. Both documents demonstrate the very strong and compelling case in the public interest for the Proposed Development to be delivered.
- 10.8.3 In particular, the Proposed Development will be a critical part of the development of the UK's portfolio of renewable energy generation and is required to decarbonise its energy supply both quickly and securely.
- 10.8.4 The Proposed Development will have a total capacity exceeding 50 MW and is anticipated to export solar electricity via an on-Site connection to the local Electricity North West ('ENW') (as Distribution Network Operator ('DNO')) grid network. The Proposed Development will contribute to delivering the government's net zero commitment and the need for a secure and reliable energy system. In addition, the Proposed Development has been sensitively designed, and will be constructed and deployed to ensure it is sustainable in terms of minimising adverse effects on, and maximising the benefits for the environment, society and the economy. Further details of this are provided in the Planning Statement.
- 10.8.5 As outlined in section 5 of this Statement the policy adopted by Government strongly emphasises that solar is a key part of the UK's strategy for low-cost decarbonisation of the energy sector. Solar schemes such as the Proposed Development are required to ensure that the UK remains on track to meet its legally binding carbon emissions reduction targets, while enhancing national security of supply.
- 10.8.6 Overall, the meaningful and timely contributions offered by the Proposed Development to UK decarbonisation clearly demonstrates that there would be substantial public benefits arising from the implementation and operation of the Proposed Development. Therefore, the Applicant considers that there is a compelling case in the public interest for compulsory acquisition.

11 Approach to acquiring land and rights in land by agreement

11.1 Status of Negotiations

- 11.1.1 Paragraph 25 of the CA Guidance stated that an applicant should seek to acquire land by negotiation wherever practicable. Further, that the power to acquire land compulsorily should only be sought if attempts to acquire by agreement fail.
- 11.1.2 The CA Guidance also recognises that where proposals would entail the compulsory acquisition of many separate plots of land, it may not always be practicable to acquire each plot of land by negotiated agreement. As the CA Guidance states, *“Where this is the case, it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset.”*
- 11.1.3 The Applicant has entered into negotiations to acquire other parties’ interests voluntarily and is progressing those discussions. The key agreements have now been concluded and the Applicant has secured the main land required for the Proposed Development. However, negotiations are not yet complete for all interests, with agreements relating to residual interests still under discussion. The current position on these negotiations is set out in the Pre-application Land and Rights Negotiations Tracker.
- 11.1.4 The Applicant has taken the cautious approach of seeking powers of compulsory acquisition (or rights of use) in respect of all parcels of land required for the Proposed Development, even where it already holds an interest in the land which is subject to works. The Applicant has taken this approach to ensure that it has the right to acquire the interests it needs in the whole of the Order Limits – even where an unidentified owner later asserts an interest in land which the Applicant believes it owns.

12 Related applications, order consents

12.1 Other consents

- 12.1.1 The DCO will be the principal consent required to allow the Proposed Development to proceed. In addition, there are other consents, licences and permissions that the Applicant will require from relevant authorities to allow certain elements of the development to proceed.
- 12.1.2 The Applicant is in discussion with all relevant bodies and is not aware of anything that is likely to prevent the grant of consent. The need for these other consents does not, therefore, present any obstacle to the implementation of the Proposed Development.
- 12.1.3 These additional consents are listed in the Consents and Agreements Position Statement **[REF: 5.4]**.

13 Special considerations affecting the land

13.1 Special Category Land – Open Space and Common Land

13.1.1 Section 131 of the PA 2008 applies to the compulsory acquisition of any land forming part of a common, open space or fuel or field garden allotment. Section 132 of the PA 2008 applies to the compulsory acquisition of any rights over land forming part of a common, open space or fuel or field garden allotment. Sections 131 and 132 of the PA 2008 make provision for Special Parliamentary Procedure (SPP) to apply where a DCO authorises the compulsory acquisition of such land or of rights over such land.

13.1.2 As a result of diligent enquiries, no evidence of any special category land has been identified within the Order Limits.

13.2 Crown Land

13.2.1 The Applicant's land referencing team have not identified any Crown land within the Order Limits.

13.3 Statutory undertakers' land

13.3.1 The draft DCO, if made, will authorise the compulsory acquisition of land and rights in statutory undertakers' land. This land is held by various statutory undertakers for the purposes of carrying out their statutory undertakings.

13.3.2 Statutory undertakers' and other apparatus owners that are known to have equipment on, in or over Order Limits are included in the Book of Reference. A list of these statutory undertakers, the nature of their interests in the Order Limits, and the extent of acquisition is set out in the Pre-application Land and Rights Negotiations Tracker and the Book of Reference. All of the statutory undertaker interests in land relate to apparatus on land, or the statutory undertaker's statutory undertaking, e.g. as highway authority.

- 13.3.3 Section 127(3) of the PA 2008 provides that a DCO may only authorise the compulsory acquisition of statutory undertaker land where a representation has been made by the statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:
- The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
 - If purchased, the land can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.
- 13.3.4 Section 127(6) of the PA 2008 provides that a DCO may only authorise the compulsory acquisition of rights over statutory undertaker land where a representation has been made by the statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:
- The rights can be acquired without any serious detriment to the carrying on of the undertaking; or
 - Any consequential detriment to the carrying on of the undertaking can be made good by the undertaker by using of other land belonging to or available for acquisition by the undertaker.
- 13.3.5 No land belonging to a statutory undertaker is proposed to be subject to compulsory acquisition powers in the draft DCO. As such the relevant tests do not need to be satisfied. However, for the avoidance of doubt, adequate protection for statutory undertakers' assets is included within the protective provisions in Schedule 10 to the draft DCO.
- 13.3.6 The Applicant considers that statutory undertakers will not suffer serious detriment to the carrying on of their undertaking as no statutory undertaker land is subject to acquisition.
- 13.3.7 Section 138 of the PA 2008 applies if a DCO 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.
- 13.3.8 For the purposes of section 138, '*relevant right*' means:
- A right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land which is vested in or belongs to statutory undertakers for the purpose of carrying on their undertaking; or

- Is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.

13.3.9 'Relevant apparatus' means:

- Apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking; or
- Electronic communications apparatus kept installed for the purposes of an electronic communications code network.

13.3.10 In accordance with section 138(4) of the PA 2008, a DCO may only include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the DCO relates.

13.3.11 Article 36 of the draft DCO includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to statutory undertakers.

13.3.12 The draft DCO does impact land in which statutory undertakers have a relevant right. This is land on which statutory undertakers retain apparatus, such as pipelines, cables, or water mains. A summary of the extent of impact on statutory undertakers is set out in Table 2 of the Pre-Application Land and Rights Negotiation Tracker. However, the exercise of such powers will be carried out in accordance with the protective provisions contained in Schedule 14 of the draft DCO with a view to safeguarding the statutory undertakers' interests, whilst enabling the Proposed Development, as authorised by the draft DCO, to proceed. Where requested, bespoke protective provisions and side agreements are also being discussed with statutory undertakers. The Applicant therefore considers that the test set out in section 138 of the PA 2008 is satisfied.

14 Justification for interference with human rights and equalities

14.1 The Human Rights Act: Relevant Convention Rights

- 14.1.1 The European Convention on Human Rights ('the Convention') was applied within UK domestic law by the Human Rights Act 1998 (the 'HRA').
- 14.1.2 The Articles of the Convention that are relevant when determining whether a DCO should be made, which includes powers of compulsory acquisition, are Article 1 of the First Protocol to the Convention, Article 6, and Article 8.
- 14.1.3 The Secretary of State must be persuaded that the purposes for which an order authorises the compulsory acquisition of land are sufficient to justify interfering with the human rights of those with an interest in the land.
- 14.1.4 Article 1 protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the conditions provided by relevant national and international laws. Any interference with possessions must be proportionate and in determining whether a particular measure is proportionate, a '*fair balance*' should be struck between the demands of the general interest and the protection of the individual's rights
- 14.1.5 Article 6 entitles those affected by powers sought for the Proposed Development to a fair and public hearing by an independent and impartial tribunal. These requirements could be secured by the availability of judicial review if the decision making is not considered to be independent within the meaning of Article 6.
- 14.1.6 Article 8 protects the right of the individual to respect for his private and family life, his home and his correspondence. No public authority may interfere with these interests except if it is in accordance with the law and is necessary in the interests of, inter alia, national security, public safety or the economic well-being of the country. As with Article 1 of the First

Protocol to the Convention, any interference if justified, must be proportionate.

14.1.7 The Proposed Development has the potential to infringe the human rights of persons who own property within the Order Limits or have rights over the land within the Order Limits. Such infringement is authorised by law provided that:

- 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
- Any interference with any Convention right is proportionate to the aim served.

14.2 Compliance with the Convention and the Human Rights Act

14.2.1 The Applicant is satisfied that, although Convention rights are likely to be engaged, the Proposed Development will not conflict with Convention rights and will be proportionate in that there is a compelling case in the public interest for the Proposed Development which outweighs the impact on individual rights. In this context, it is relevant that those affected will be entitled to compensation.

14.2.2 Regarding Article 1, First Protocol and Article 8, the Applicant has weighed up any interference with these Convention rights because of including compulsory powers within the DCO against the potential public benefits if the DCO is made. First, the Applicant considers that there would be very significant public benefit arising from the grant of the DCO. That benefit can only be realised if the DCO includes the grant of powers of compulsory acquisition and temporary use. The Applicant has concluded that the significant public benefits outweigh the effects of the DCO upon persons who own property in the Order Limits such that there would not be a disproportionate interference with their Article 8 and Article 1, First Protocol rights. The need for the Proposed Development is clear and is of national importance, as detailed in section 5 of this Statement. Second, those affected by the exercise of compulsory acquisition or temporary use powers will be entitled to compensation and the Applicant has the resources to provide such compensation.

- 14.2.3 As for Article 6, third parties have been able to make representations on the DCO Application whilst it is being prepared. In accordance with Part 5 of the PA 2008, the Applicant consulted persons set out in the categories contained in section 44 of the PA 2008. This included the known owners and occupiers of land within the Order Limits and those who might be able to make claims either under section 10 of the Compulsory Purchase Act 1965 in respect of injurious affection, or under Part 1 of the Land Compensation Act 1973 in respect of compensation for depreciation caused. The beneficiaries of restrictive covenants and other rights that would be overridden by the exercise of powers in the DCO would be capable of making claims under section 10 of the Compulsory Purchase Act 1965.
- 14.2.4 Furthermore, representations can be made by way of objections to the DCO Application in response to any notice given under section 56 of the PA 2008 ('Notifying persons of accepted application'). The PA 2008 provides for a detailed examination of any application for a DCO by an independent Examining Authority (ExA). The examination includes scrutiny of any powers of compulsory acquisition or other compulsory powers, to ensure that they are justified and proportionate.
- 14.2.5 Although the examination is a process mainly conducted in writing, where the ExA received one or more requests for a compulsory acquisition hearing from affected persons within the date specified, it must cause a hearing to be held. All affected persons are invited to these compulsory acquisition hearings and could make oral representations about the compulsory acquisition requests.
- 14.2.6 Should the DCO be made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out. In relation to disputes about compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), an independent tribunal.

14.2.7 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. This entitlement to compensation is provided for by the existing compensation code. Furthermore, Article 31 of and Schedule 8 to the draft DCO provide a mechanism by which an entitlement to compensation may arise in the context of the compulsory acquisition of new rights. The Applicant has the resources to pay such compensation as demonstrated in the Funding Statement.

14.2.8 For these reasons, the Applicant considers that the inclusion of powers of compulsory acquisition would not breach the Convention rights of those whose are affected and that it would be appropriate and proportionate to make the DCO, including the grant of powers of compulsory acquisition.

14.3 Consideration of duties under the Equality Act 2010

14.3.1 To assist the Secretary of State in discharging their duties under s149 of the Equality Act 2010, the Applicant has had due regard to the need to:

- Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

15 Conclusions

- 15.1.1 This Statement sets out why compulsory acquisition and temporary powers have been sought in the DCO Application and explains why the Applicant considers such powers to be necessary, proportionate, and justified.
- 15.1.2 The Applicant submits, for the reasons explained in this Statement, that the inclusion of powers of compulsory acquisition in the DCO for the purposes of the Proposed Development meets the conditions of section 122 of the PA 2008 as was the considerations in the CA Guidance.
- 15.1.3 The Applicant has already secured voluntary agreements for the main land required for the Proposed Development and is actively progressing others. For the remaining land where agreement cannot be reached, the acquisition of land and rights (including restrictive covenants) 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 no more than is reasonably required to facilitate or is incidental to the Proposed Development.
- 15.1.4 Furthermore, the land identified to be subject to compulsory acquisition is no more than is reasonably necessary for that purpose and is proportionate as shown in the draft DCO, the Land Plans, Works Plans, and other information both in this Statement and documents accompanying the DCO Application. The Applicant has set out clear and specific proposals for how the Site will be used. The purpose for which part of the land is required is set out in Appendix A of this Statement.
- 15.1.5 An explanation has been provided as to how it is expected that the construction of the Proposed Development and the acquisition of the land and or rights 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.

- 15.1.6 The Applicant has provided details of the need for and benefits of the Proposed Development at section 5 of this Statement and in the Planning Statement. The Proposed Development represents a timely and needed contribution to the development of the UK's low carbon infrastructure, which is needed to reach the country's decarbonisation goals, whilst also enhancing security of energy supply.
- 15.1.7 The Applicant has consulted all persons affected by the compulsory acquisition and temporary possession powers and persons who may have a claim for compensation arising from the Proposed Development. It has consulted such persons during preparation of the DCO Application and in the design of the Proposed Development to address their concerns and to ensure that any impacts are reduced or removed. The Applicant is seeking to acquire any interests in the land by agreement wherever practicable. The record of engagement and status of negotiations is set out in the Pre-application Land and Rights Negotiations Tracker.
- 15.1.8 The proposed interference with the human rights of those with an interest in the Order Limits is for a legitimate purpose, namely the Proposed Development, 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 of the Order land would decisively outweigh the private loss that would be suffered by those whose land is to be acquired.
- 15.1.9 Without the grant of compulsory acquisition and temporary possession powers, the Applicant considers that it will not be possible to construct the Proposed Development or realise the public benefits arising from it, without impediment.

Appendix A – Purpose for which land is sought

This Appendix identifies each plot within the scope of compulsory acquisition powers and the purpose for which the land is required with reference to the corresponding Work No. (see Schedule 1 to the draft DCO for work descriptions). These plots are set out on the Land Plans and the work numbers are set out on the Works Plans.

TABLE A.1

Plot Number	Related to Work No(s).
1-01	Work No.3
1-02	Work No.3
1-03	Work No.3
1-04	Work No.3, Work No.5
1-05	Work No.3, Work No.5
1-06	Work No.3, Work No.5
1-07	Work No.3, Work No.5
1-08	Work No.3, Work No.5
1-09	Work No.3, Work No.4, Work No.5
1-10	Work No.3
1-11	Work No.3, Work No.6
1-13	Work No.3, Work No.5, Work No.6
1-14	Work No.3, Work No.6
1-15	Work No.3, Work No.4, Work No.5, Work No.6
1-16	Work No.3, Work No.4, Work No.5, Work No.6
1-17	Work No.3, Work No.4, Work No.5
1-18	Work No.1, Work No.3, Work No.4, Work No.5, Work No.6
1-19	Work No.1, Work No.3, Work No.4, Work No.5, Work No.6
1-20	Work No.1, Work No.3, Work No.4, Work No.5, Work No.6
1-21	Work No.3, Work No.4, Work No.5
1-22	Work No.1, Work No.3, Work No.4, Work No.5, Work No.6
1-23	Work No.6
1-24	Work No.6
1-25	Work No.3
1-26	Work No.6
1-27	Work No.6
1-28	Work No.6
1-29	Work No.1, Work No.3, Work No.6

Plot Number	Related to Work No(s).
1-30	Work No.1, Work No.3
1-31	Work No.3
1-32	Work No.1, Work No.3, Work No.6
1-33	Work No.6
1-34	Work No.6
1-35	Work No.6
1-36	Work No.1, Work No.3, Work No.6
1-37	Work No.1, Work No.3, Work No.4, Work No.6
1-38	Work No.1, Work No.3, Work No.6
1-39	Work No.6
1-40	Work No.3
1-41	Work No.6
1-42	Work No.3
1-43	Work No.3
1-44	Work No.6
1-45	Work No.1, Work No.3, Work No.4, Work No.5, Work No.6
1-46	Work No.3
1-47	Work No.3
1-48	Work No.3
1-49	Work No.3
1-50	Work No.3
1-51	Work No.3
1-52	Work No.3
1-53	Work No.3
1-54	Work No.3
1-55	Work No.3
1-56	Work No.3
1-57	Work No.3
1-58	Work No.3
1-59	Work No.3
1-60	Work No.3
1-61	Work No.3
1-62	Work No.3
1-63	Work No.3
1-64	Work No.3
1-65	Work No.3
1-66	Work No.3

Plot Number	Related to Work No(s).
1-67	Work No.1, Work No.3, Work No.6
1-68	Work No.3, Work No.5
1-69	Work No.3, Work No.5
1-70	Work No.3
1-71	Work No.3
1-72	Work No.3, Work No.5
1-73	Work No.3, Work No.5
2-01	Work No.3
2-02	Work No.3
2-03	Work No.3, Work No.5
2-04	Work No.3, Work No.5
2-05	Work No.3, Work No.5
2-06	Work No.3, Work No.5
2-07	Work No.3, Work No.5
2-08	Work No.1, Work No.2, Work No.2A, Work No.3, Work No.4, Work No.5, Work No.6
2-09	Work No.1, Work No.3, Work No.6
2-10	Work No.3, Work No.6
2-11	Work No.3, Work No.5
4-01	Work No.3, Work No.5
4-02	Work No.3, Work No.5
4-03	Work No.3, Work No.5
4-04	Work No.3
4-05	Work No.3, Work No.5
4-06	Work No.3, Work No.5
4-07	Work No.1, Work No.3, Work No.4, Work No.5, Work No.6
4-08	Work No.1, Work No.3, Work No.4, Work No.6
4-09	Work No.1, Work No.3, Work No.5, Work No.6
4-10	Work No.1, Work No.3, Work No.6
4-11	Work No.1, Work No.3, Work No.6
4-12	Work No.3, Work No.5
4-13	Work No.3, Work No.5