Peartree Hill Solar Farm

Explanatory Memorandum

Revision 8

Planning Act 2008

Infrastructure Planning

(Applications: Prescribed Forms

and Procedure) Regulations 2009 -

Regulation 5(2)(c)

Application Document Ref: EN010157/APP/3.2
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CONTENTS

1 Summary

1.1.1 This memorandum explains the purpose and effect of each article of, and the Schedules to, the **Peartree Hill Solar Farm Draft Development Consent Order 202[ ] (the Order) [EN010157/APP/3.1 Revision 9] (the Order)**, as required by Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009[1]. Regulation 5(2)(c) requires an explanatory memorandum to explain *"the purpose and effect of provisions in the draft Order"*.

2 Purpose of the Order

2.1 Background

2.1.1 RWE Renewables UK Solar and Storage Limited (the Applicant) is applying to the Secretary of State for Energy Security and Net Zero (the Secretary of State) for a development consent order authorising the construction, operation, maintenance and decommissioning of a solar photovoltaic array electricity generating facility, battery energy storage system and associated infrastructure which would allow for the generation and export of electricity (the Proposed Development).

2.2 Nationally Significant Infrastructure Project and associated development

2.2.1 The Proposed Development is a nationally significant infrastructure project (NSIP) within sections 14(1)(a) and 15 of the Planning Act 2008 (the 2008 Act). This is because the Proposed Development consists of a generating station with a gross electrical output capacity exceeding 50MW. The Applicant, therefore, requires development consent under the 2008 Act in order to construct and operate the Proposed Development. Development consent may only be granted by order, following an application to the Secretary of State (section 37 of the 2008 Act).

2.2.2 Schedule 1 to the Order contains a list of numbered works comprising the Proposed Development. The description of the Proposed Development does not refer to an upper limit on the capacity of the generating station that development consent is being sought for. It is not considered that imposing an upper limit is

[1] S.I. 2009/2264

desirable or necessary. The Order includes reference to the means by which the parameters of the Proposed Development will be constrained and it is on this basis that the Environmental Impact Assessment has been undertaken, as set out in the **Environmental Statement [EN010157/APP/6.1]** and explained further in relation to the 'consent envelope' in section 3 of this Explanatory Memorandum. The Applicant is confident that those parameters are adequately secured in the Order.

2.2.3 An upper limit on capacity has not been included so that there is adequate flexibility for the Applicant. For example, the Applicant may take advantage of technological improvements and innovation that may emerge before construction, which would enable it to still construct the Proposed Development within the assessed parameters but increase capacity beyond that which is currently anticipated. It is in the public interest and accords with national policy to facilitate efficient and maximum generation from renewable sources, which is explained further in the Statement of Need appended to the **Planning Statement [EN010157/APP/5.5]**.The approach taken has precedent in the Cottam Solar Project Order 2024, the Gate Burton Energy Park Order 2024, The Mallard Pass Solar Farm Order 2024, Cleve Hill Solar Park Order 2020, the Little Crow Solar Park Order 2022 and the Longfield Solar Farm Order 2023. It is also reflected in NPS EN-3[2] guidance: "*AC installed export capacity should not be seen as an appropriate tool to constrain the impacts of a solar farm. Applicants should use other measurements, such as panel size, total area and percentage of ground cover to set the maximum extent of development when determining the planning impacts of an application.*"

2.2.4 As well as the NSIP itself, the Proposed Development also includes associated development, as defined in section 115(2) of the 2008 Act.

2.2.5 Recent guidance sets out that *"associated development and works proposed to be included in a DCO must be demonstrably linked and subordinate to the NSIP, and required to ensure it can be built or operated. It is not acceptable to propose associated development in a DCO which is self-contained or effectively a separate NSIP development in its own right."*[3] This guidance cross refers previous guidance which considers associated development in more detail.

2.2.6 This guidance[4] on associated development has been issued by the Secretary of State for Communities and Local Government. In this guidance associated development is described as being *"typical of development brought forward*

[2] Department for Energy Security & Net Zero (2023). National Policy Statement for Renewable Energy Infrastructure (EN-3).

[3] Department for Levelling Up, Housing and Communities (2024). Planning Act 2008: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects

[4] Department for Communities and Local Government (2013). Planning Act 2008: Guidance on associated development applications for major infrastructure projects.

alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project, for example (where consistent with the core principles above) a grid connection for a commercial power station" (paragraph 6) and "requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts. Associated development should not be an aim in itself but should be subordinate to the principal development" (paragraph 5).

2.2.7 In line with the above guidance, Works Nos. 2 to 9 are required to support the construction or operation of Work No. 1, or help address its impacts and are therefore 'associated development' to the NSIP within the meaning of section 115(2) of the 2008 Act and so can properly be authorised by the Order.

2.2.8 In order to ensure that the numbered works comprising the authorised development in Schedule 1 may be constructed efficiently and without impediment, the Order includes other works or operations (referred to in the Order as 'further associated development' and listed (a) to (s) in Schedule 1). Each item listed under 'further associated development' is required in connection with a 'numbered work'. This is a widely precedented approach and has been approved by the Secretary of State in other made DCOs, such as The Heckington Fen Solar Park Order 2025, The Gate Burton Energy Park Order 2024, The Mallard Pass Solar Farm Order 2024 and The Cottam Solar Project Order 2024.

2.2.9 The Applicant has ensured that this 'further associated development' can only be carried out where they do not give rise to materially new or materially different environmental effects as compared with the environmental statement by including a proviso in the provision. In any event, the Order requires that the Proposed Development is designed in accordance with the approved details and those details must accord with the design parameters document (see Requirement 3 below); the rights and restrictive covenants which can be acquired are limited for the plots and purposes in Schedule 8; and temporary possession powers are limited to the purposes specified in Schedule 10 for plots listed therein. These controls, amongst others, therefore, impose further limitation on the use of the further associated development powers.

2.3 Ancillary matters

2.3.1 The Order also contains several ancillary matters, i.e. provisions not consisting of development.

2.3.2 An important ancillary matter is a power to acquire land or rights over land compulsorily or by agreement, in accordance with section 120(3) of the 2008 Act,

required for the authorised development, or to facilitate, or that are incidental to the authorised development under section 122 of the Act. A justification for these powers is set out in the **Statement of Reasons [EN010157/APP/4.1]** that accompanies the application.

2.3.3 Further to providing these powers, the Order seeks to apply and modify statutory provisions that relate to the compulsory acquisition of land. Under sections 117 and 120(5) of the 2008 Act, an order containing provisions of this nature must be made by Statutory Instrument. The Order is therefore presented in that form.

2.3.4 Other ancillary matters include the temporary closing of streets, traffic regulation measures, the use of private roads and the application and disapplication of legislation relating to the Proposed Development.

3 Parameters of the Order and "consent envelope"

3.1.1 The detailed design of the Proposed Development must be in accordance with the **Design Parameters Document [EN010157/APP/5.8]**, as secured in Requirement 3 of Schedule 2 of the Order. This approach is taken to ensure suitable flexibility in the design of the Proposed Development, for example new technology can be used within that envelope, while ensuring that the development will not fall outside of the scope of the **Environmental Statement [EN010157/APP/6.1]**. The principle of using a design envelope is recognised as appropriate for a wide range of NSIPs and is described in the Planning Inspectorate's Advice Note 'Content of a Development Consent Order', specifically Paragraph 008).

3.1.2 In addition to the **Design Parameters Document [EN010157/APP/5.8]** other DCO requirements, certified documents and plans will operate to control and manage the detailed design of the Proposed Development, as well as its construction, operation (including maintenance) and decommissioning. The way in which those mechanisms work together as an envelope within which the authorised development is to be undertaken, is explained in more detail below.

3.1.3 Article 3 (Development consent etc. granted by this Order) and Schedule 2 (Requirements) operate to create a "consent envelope" within which the Proposed Development would be brought forward. The Proposed Development is described in Schedule 1 of the Order, where it is referred to as the "authorised development". The authorised development is granted consent pursuant to article 3(1).

3.1.4 In Schedule 1 (the authorised development) the Proposed Development is divided into a series of component parts, referred to as "numbered works".

3.1.5 The limits within which the authorised development may be carried out are in the areas shown on the **Works Plans [EN010157/APP/2.2]**.

3.1.6 The design of the Proposed Development is controlled via Requirement 3 (detailed design approval) of Schedule 2 of the Order which requires approval of details of the Proposed Development's design and requires that the details submitted accord with the **Design Parameters document [EN010157/APP/5.8]**. The **Design Parameters Document [EN010157/APP/5.8]** secures the parameters that are necessary to ensure that the Proposed Development is constructed, operated and decommissioned in such a way that the impacts and effects would not exceed the scenario assessed in the **Environmental Statement [EN010157/APP/6.1]**.

3.1.7 In addition to the **Design Parameters Document [EN010157/APP/5.8]** and **Works Plans [EN010157/APP/2.2]**, the design of the Proposed Development is also controlled by:

3.1.7.1. approval and implementation of the landscape and ecological management plan (Requirement 9);

3.1.7.2. approval and implementation of the rights of way and access management plan (Requirement 10).

3.1.7.3. approval and implementation of temporary fencing and other means of enclosure (Requirement 11); and

3.1.7.4. implementation of the written scheme of investigation for archaeological mitigation (Requirement 13).

3.1.8 Where the **Design Parameters Document [EN010157/APP/5.8]** does not include guidance or controls for an aspect of a numbered work, this is justified on the basis of the environmental impact assessment and having regard to the other controls in place via the measures listed above.

3.1.9 The construction phase of the Proposed Development is also controlled by:

3.1.9.1. approval and implementation of the construction environmental management plan (Requirement 4);

3.1.9.2. approval and implementation of the construction traffic management plan (Requirement 5);

3.1.9.3. approval and implementation of a soil management plan (Requirement 6);

3.1.9.4. approval and implementation of a site waste management plan (Requirement 7);

3.1.9.5. approval and implementation of temporary fencing and other means of enclosure (Requirement 11); and

3.1.9.6. implementation of the written scheme of investigation for archaeological mitigation (Requirement 13).

3.1.10 The ongoing operation and maintenance of the Proposed Development is controlled by:

3.1.10.1. approval and implementation of a soil management plan (Requirement 6);

3.1.10.2. approval and implementation of a site waste management plan (Requirement 7);

3.1.10.3. approval and implementation of a battery safety management plan (Requirement 8);

3.1.10.4. approval and implementation of the landscape and ecological management plan (Requirement 9);

3.1.10.5. approval and implementation of temporary fencing and other means of enclosure (Requirement 11);

3.1.10.6. approval and implementation of an operational noise assessment (Requirement 12); and

3.1.10.7. approval and implementation of the operational environmental management plan (Requirement 14).

3.1.11 The decommissioning of the Proposed Development is controlled by the approval and implementation of a decommissioning environmental management plan (Requirement 15).

3.1.12 The Application seeks flexibility to undertake the Proposed Development within the above envelope, in particular within the maximum areas and parameters secured via the **Works Plans [EN010157/APP/2.2]** and **Design Parameters Document [EN010157/APP/5.8]**. As set out in **Chapter 5: Approach to EIA of**

the Environmental Statement [EN010157/APP/6.1] and the individual technical chapters, the environmental impact assessment has assessed a worst case and has considered and confirmed that any scheme built within the maximum areas and parameters would have effects no worse than those assessed.

3.1.13 Any indicative development layouts that have been submitted to provide illustrative examples of the different design layouts have been considered for the Proposed Development that could be built out within the "consent envelope" (the design aspect of which is controlled primarily through the **Works Plans [EN010157/APP/2.2]** and **Design Parameters Document [EN010157/APP/5.8]**. These are provided for illustration only within the **Environmental Statement figures [EN010157/APP/6.3]** and are not sought to be secured.

4 Draft Order

4.1.1 The purpose and effect of the provisions of the draft Order are now explained in sequence. While the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009[5] (the Model Provisions) has formally lapsed, the draft Order draws on the Model Provisions, as well as precedent set by DCOs that have been made to date.

4.1.2 Several made DCOs contain articles which incorporate a provision by which the Applicant must obtain consent, agreement or approval from a third party before it may do something and that such consent, agreement or approval shall not be unreasonably withheld, as well as a longstop default provision to the effect that, if the relevant third party fails to respond, the consent, agreement or approval shall be deemed to have been given.

4.1.3 The Applicant considers this approach to be necessary to remove the possibility for undue delay and to provide certainty that the authorised development can be delivered in a timely fashion. This approach is also considered to be proportionate in that, having undertaken extensive pre-application consultation and the Order having been rigorously examined, the delivery of the authorised development should not be held up unreasonably, if it has been approved by the Secretary of State.

4.1.4 The draft Order includes, therefore, at articles 11 (street works), 13 (Power to alter layout, etc., of streets), 15 (Temporary closure or restriction of streets and public rights of way), 16 (Access to works), 18 (Traffic regulation measures), 19 (Discharge of water) and 21 (Authority to survey and investigate the land) a

[5] S.I. 2009/2265

deemed consenting regime to apply whereby if a consent etc, is required and no such consent etc is provided within 28 days of receiving an application for consent or approval, the consenting authority is deemed to have granted consent.

Part 1 – Preliminary

4.2 Article 1 – Citation and commencement

4.2.1 Article 1 sets out the name of the Order, establishing how it may be cited in subsequent legislation. It also gives the date on which the Order comes into force. This article did not appear in the Model Provisions. However, it is a standard article that is included in all DCOs.

4.3 Article 2 – Interpretation

4.3.1 The purpose of article 2(1) is to define terms used in the remainder of the Order.

4.3.2 Article 2 makes alterations to the Model Provisions to accommodate the departures from the Model Provisions elsewhere in the Order, and to add required definitions that are relevant in the context of the authorised development.

4.3.3 Definitions of particular note include:

4.3.3.1. The definition of “authorised development” makes reference to “and any other development authorised by the Order”. The inclusion of “any other development” is because the Order provides for powers to carry out limited activities beyond the Order limits. These limited activities are included for the benefit of third parties, rather than the Applicant. articles 20 (protective works to buildings) and 21 (authority to survey and investigate land) are powers that impact land within the Order limits as well as those affected by the authorised development. This wording allows the Applicant to retain flexibility to provide protective works to buildings if necessary. In relation to surveys and investigations, there is scope for movement across the Order Limits. The Applicant considers it important to extend this power to surrounding areas which could be impacted by the authorised development and would need to be included for surveys and investigations.

4.3.3.2. The definition of "commence" is defined so as to exclude "permitted preliminary works". This exclusion is required to enable the undertaker to carry out certain preparatory works prior to the submission of relevant details for approval under the requirements contained in

Schedule 2 to the Order so that certain works can be carried out without "commencing" the authorised development, in order to build the required flexibility into how the authorised development can be constructed. The works identified in the "permitted preliminary works" definition include pre-commencement activities such as surveys, monitoring and site investigations which are considered appropriate as the nature of these works means they are not expected to give rise to environmental effects requiring mitigation. The "permitted preliminary works" are consistent with those routinely permitted under DCOs prior to "commencement", and are consistent with those authorised pursuant to The Oaklands Farm Solar Park Order 2025 and The East Yorkshire Solar Farm Order 2025.However, the Applicant does recognise that prior to some of the works identified as "permitted preliminary works", there may be a requirement to submit details to the Local Planning Authority. Where this is the case, the requirement expressly prevents certain "permitted preliminary works" from being carried out until those details have been approved. This can be seen with Requirement 11 (Fencing and other means of enclosure), which ensures that written details of any fencing as part of permitted preliminary works requires approval from the local planning authority. Similarly, Requirement 13 (Archaeology) ensures that a written scheme of investigation would need to be approved ahead of any intrusive archaeological surveys (including trenching).

4.3.3.3. The definition of “commence” is tailored to the requirements of the authorised development, but these provisions are widely precedented (see for example The Gate Burton Energy Park Order 2024, The Mallard Pass Solar Farm Order 2024 and The Cottam Solar Project Order 2024).

4.3.3.4. A definition of "maintain" has been added to make clear what activities are authorised under article 5 during the operation of the authorised development; the definition does not permit the whole of the Proposed Development to be removed, replaced or reconstructed. The definition has been drafted to directly reflect the nature and context of the authorised development, which will need to be properly maintained, managed and protected throughout its operational lifetime. The drafting, therefore, reflects this operational period and the likely framework of maintenance that will be required while enabling technological and practice advancement and improvements within identified environmental performance standards. Therefore, some flexibility must be built-in to what maintenance of the authorised development will involve, particularly to keep up with changing standards and controls and advances in technology. The approach taken has precedent in the Longfield Solar Farm Order 2023, The Gate Burton Energy Park Order 2024, The Mallard Pass Solar Farm Order 2024 and The Cottam Solar Project Order 2024.

4.3.3.5. For the purposes of the authorised development, examples of the activities anticipated to be covered are listed below:

a) Maintenance and inspection: Throughout the life of the authorised development there will be a planned maintenance regime and, on occasion, the need for unplanned maintenance due to plant failures. It is anticipated that staff will attend when required for maintenance and cleaning activities;

b) Repair / Refurbish / Replace: Through the planned maintenance regime and indeed through any unplanned maintenance required due to plant failures, it is likely that some plant and equipment, particularly those with moving parts, will need to be repaired or refurbished or indeed replaced;

c) Adjust and alter: Through the planned maintenance regime, and indeed outside the planned maintenance regime, there may be a need to adjust or alter elements comprising the authorised development to respond to changing conditions;

d) Remove: Adjustment and replacement activities will require plant, equipment and material to be removed;

e) Reconstruct: If, for example, a part has to be dismantled in order to be repaired or refurbished, then that part will need to be reconstructed;

f) Improve: Technology will improve over the life of the authorised development and therefore there may be opportunities to "improve" the workings of the plant and equipment by, for example, the removal of an old part and replacing it with a new, more efficient part;

4.3.3.6. “Order land” is defined as the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference. The Byers Gill Solar Order 2025 and East Yorkshire Solar Farm Order 2025 adopt the same definition.

4.3.3.7. “Order limits” references the limits as shown on the lands plans and works plans within which the authorised development may be carried out and land acquired or used.

4.3.4 Article 2(2) provides that a broad definition of “rights over land” applies to the Order.

4.3.5 Article 2(3) provides that measurements are approximate. The purpose of this is to ensure that if, upon construction of the works, it transpires that the distances are marginally different to those listed in the Order, there is no issue over whether the works are permitted by the Order. Thus, this provision allows for a small tolerance with respect to any distances and points, although works will take place within the limits of deviation. It is commonplace to include such provision in an Act or instrument authorising nationally significant infrastructure (see, for example, article 2(3) of The Gate Burton Energy Park Order 2024, article 2(4) of The Mallard Pass Solar Farm Order 2024 and article 2(3) of The Cottam Solar Project Order 2024).

4.3.6 Article 2(4) provides that areas given in the book of reference are approximate as these are not covered by article 2(3). This is intended to clarify the status of the area measurements in the book of reference, and the purpose and effect of the term "approximately" in this context is the same as set out in paragraph 4.3.5. The term "approximately" is required to be read into all plot area measurements in the book of reference, as these measurements are given in square metres, and each measurement is rounded up to the nearest whole square metre. This is widely precedented, for example article 2(7) of The Gate Burton Energy Park Order 2024, article 2(8) of The Mallard Pass Solar Farm Order 2024 and article 2(7) of the Cottam Solar Project Order 2024.

4.3.7 Articles 2(5) and 2(6) tie references to lettered/numbered points and numbered works in the Order to the relevant plans referenced and Schedule 1 of the Order, respectively.

4.3.8 Article 2(7) clarifies that references to "Schedule", are unless otherwise stated, references to the Schedules of the Order.

4.3.9 Article 2(8) confirms that the expression "includes", when used in the Order, is to be construed without limitation.

4.3.10 Article 2(9) clarifies that references to any statutory body includes that body's successors from time to time.

4.3.11 Article 2(10) clarifies that references to "part of the authorised development" are to be construed as references to stages, phases or elements of the authorised development.

4.3.12 Article 2(11) clarifies that any references to materially new or materially different environmental effects in comparison with those reported in the **Environmental Statement [EN010157/APP/6.1]** must not be construed so as to include the avoidance, removal or reduction of an adverse environmental effect that was reported in the Environmental Statement as a result of the authorised

development. There are a number of provisions in the Order where activities are constrained to those which do not give rise to materially new or materially different environmental effects or where variations are permissible provided they do not give rise to such effects (e.g. the definition of maintain, article 5). The explanation and justification for the ability to make these variations is set out in the commentary on the relevant provision.

4.3.13 The Applicant notes that the A57 TransPennine Upgrade Development Consent Order 2022, uses the phrase *"materially new or materially worse"* environmental effects. Whilst the Applicant has not sought to replicate the drafting in that DCO, following a review of that decision article 2(11) has been added to the draft Order to make clear what the scope of *"materially new and materially different"* environmental effects includes. The Applicant is mindful that the precedented *"materially new or materially different"* drafting reflects *"wording preferred by the Secretary of State"* as confirmed in the decision letter on Great Yarmouth Third River Crossing. Accordingly, the Applicant does not wish to modify this preferred drafting (notwithstanding the A57 decision) but instead wishes to provide the interpretive and clarificatory provision for the following reasons:

4.3.13.1. The drafting confirms that where a proposed change or activity avoids, removes or reduces adverse environmental effects that were reported in the Environmental Statement, a material or non-material amendment to the Order is not required. Requiring a material or non-material amendment to the Order would introduce significant delay and therefore disincentivises appointed contractors from delivering the Proposed Development in a manner with environmentally better outcomes. The Applicant does not consider it is the Secretary of State's intention to place barriers to delivering improved environmental outcomes. It is to be noted that the Secretary of State confirmed that it was not the intention to avoid environmentally better outcomes in the correction notice issued in connection with the A19/A184 Testo's Junction Alternation Development Consent Order. In particular, the Secretary of State confirmed that:

"It is the Secretary of State's view that the recommended wording would allow the necessary scope for changes that are better for the environment providing such changes do not result in significant effects that have not already been previously identified and assessed in the Environmental Statement."

4.3.13.2. As set out in section 3 of this document, the Applicant has necessarily undertaken an environmental assessment which conforms to the "Rochdale envelope" approach (as explained in the Planning Inspectorate's Advice Note 'Content of a Development Consent Order',

specifically Paragraph 008 and *R. v Rochdale MBC ex parte Milne (No. 1) and R. v Rochdale MBC ex parte Tew [1999] and R. v Rochdale MBC ex parte Milne (No. 2) [2000])*. The purpose of such an assessment is to ensure that a reasonable worst case scenario is adopted so that mitigation measures which protect the environment on that basis are incorporated. The proposed provision (article 2(11)) in the draft Order is consistent with that approach; and the requirement to ensure an appropriately precautionary assessment should not be read as requiring the delivery of that worst case scenario. Instead, that requirement is properly understood as setting an envelope in which activity and works can be carried out.

4.3.14 Article 2(12) provides that references to the acquisition and creation of rights are to include a reference to acquiring rights in favour of third parties directly, and to any statutory undertaker for the purpose of their undertaking. This ensures that those who are intended to benefit from any compulsory acquisition of rights over land (such as statutory undertakers in respect of their apparatus, or landowners who are intended to have the benefit of replacement land or new accesses) are able to benefit from such acquisition directly. This provision is precedented in the M42 Junction 6 Development Consent Order 2020 (article 2(3)) and the Great Yarmouth Third River Crossing Development Consent Order 2020 (article 2(3)).

Part 2 – Principal Powers

4.4 Article 3 – Development consent etc. granted by this Order

4.4.1 Article 3(1) grants the development consent by giving the Applicant the power to carry out the authorised development, which is described in Schedule 1. This article makes the consent subject to the requirements that are listed in Schedule 2. This provision differs from some made Orders since it does not refer to development consent being granted "within the Order limits". Whilst the scheduled works will be carried out within the Order limits, there are limited activities which the Applicant envisions may need to take place outside of these and the Order provides for this (e.g. articles 20 (Protective works to buildings) and 21 (Authority to survey and investigate land)). These articles are routinely included in DCOs, are necessary to support the delivery of the authorised development and also serve to reduce in scope the amount of land required for temporary powers of possession and/or compulsory acquisition, since the land would otherwise need to be included within the Order limits. The approach therefore reflects the clear intention that such activities should benefit from development consent and should not be subject to a requirement for further planning approval outside the DCO process. The Applicant notes that the

Secretary of State has explicitly endorsed the removal of the phrase "within the Order limits" in the A303 Amesbury to Berwick Down Correction Order *"in recognition that the Order provides powers to carry out limited activities beyond the Order limits"*.

4.4.2 Article 3(2) states that any enactment applying to land within the Order limits has effect subject to the provisions of the Order. Article 3(2) has been included and is necessary in order to ensure that there are no acts of a local or other nature that would hinder the construction and operation of this NSIP. The Applicant has carried out a proportionate search of local legislation that applies within reasonably close proximity to land within the Order limits, but no search can be completely exhaustive and there remains the possibility that a local act or provision may have been overlooked. Including this article ensures that the construction and operation of the authorised development are not jeopardised by any incompatible statutory provisions which might exist, i.e. a provision which would be an absolute restriction that could not be dealt with unless by statutory amendment. The provision would prevent delay in this situation by ensuring that the authorised development could be constructed without impediment. Specific local enactments identified through the Applicant's proportionate search of local legislation are disapplied under article 9 (Disapplication and modification of legislative provisions) via schedule 3 in so far as the provisions still in force are inconsistent with how the powers in the Order can be exercised. Please refer to Schedule 3 where the details of the disapplication of each local legislation is provided. This is a widely precedented article (see article 3(3) of the A122 (Lower Thames Crossing) Development Consent Order 2025, article 3(2) of the London Luton Airport Expansion Development Consent Order 2025, article 3(2) of the M42 Junction 6 Development Consent Order 2020 and article 3(2) of the Boston Alternative Energy Facility Order 2023).

4.5 Article 4 –Operation of generating station

4.5.1 This permits the operation and use of the generating station comprised in the authorised development and is included pursuant to section 140 of the 2008 Act. Article 4(2) specifically preserves the need for the undertaker to obtain any other operational consent that may be needed for the generating station, in addition to the Order. It is included so that the undertaker has powers to operate the generating station.

4.5.2 The drafting by the Applicant is in keeping with recently made energy DCOs. For example, article 4 of The Gate Burton Energy Park Order 2024, article 4 of The Mallard Pass Solar Farm Order 2024, article 4 of The Cottam Solar Project Order 2024, article 4 of the Longfield Solar Farm Order 2023 and article 11 of the Little Crow Solar Park Order 2022.

4.6 Article 5 – Maintenance of the authorised development

4.6.1 This article empowers the Applicant to maintain the Proposed Development. "Maintain" is defined in article 2(1) (see para 4.3.3.4 above). Maintenance of the authorised development, within the meaning that would be authorised by this article, has been assessed in the **Environmental Statement [EN010157/APP/6.1]**, and the power is constrained, through the definition of "maintain", by the proviso that maintenance works must not give rise to any materially new or materially different environmental effects in comparison with those reported in the Environmental Statement.

4.7 Article 6 – Maintenance of drainage works

4.7.1 The purpose of this article is to make it clear that nothing in the Order or any of the authorised works affect the existing allocation of responsibility for maintenance of any works connected to the drainage of the land, unless this is agreed between the Applicant and the responsible party. Responsibility for maintenance of drainage works may sit with the Environment Agency, an internal drainage board, a Lead Local Flood Authority or a landowner. This is to avoid any confusion as to future maintenance.

4.7.2 This provision is well precedented (see article 6 of the M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022, article 5 of the M25 Junction 28 Development Consent Order 2022 and article 5 of the Boston Alternative Energy Facility Order 2023).

4.8 Article 7 – Benefit of the Order

4.8.1 Article 7overrides section 156(1) of the 2008 Act (as permitted by section 156(2)) to give the benefit of the Order to the Applicant rather than anyone with an interest in the land. It would be impracticable for a variety of landowners to implement parts of the Order in an uncoordinated manner, which might be the case if the provisions of section 156(1) of the 2008 Act were left remain unmodified.

4.8.2 The drafting by the Applicant is in keeping with recently made energy DCOs. For example, article 31 of Sunnica Energy Farm DCO 2024, article 32 (1) of The Gate Burton Energy Park Order 2024, article 34 of The Mallard Pass Solar Farm Order 2024 and article 34(1) of The Cottam Solar Project Order 2024.

4.9 Article 8 – Consent to transfer benefit of Order

4.9.1 This article makes detailed provision for the transfer of the benefit of the Order and supplements article 7. Under article 8, the consent of the Secretary of State is needed before the undertaker can transfer the benefit of the Order, but such consent is not required where:

4.9.1.1. the transferee or lessee is the holder of a licence under section 6 of the Electricity Act 1989

4.9.1.2. where the compensation provisions for the acquisition of rights or interests in land or for effects on land have been discharged or are no longer relevant; or

4.9.1.3. the transfer or grant is made to Northern Powergrid Holding Company for the purposes of Work Nos 4A, 4B and 6.

4.9.2 The drafting of article 8 is in keeping with recently made energy DCOs. For example, article 33 of The Gate Burton Energy Park Order 2024, article 35 of The Mallard Pass Solar Farm Order 2024 and article 35 of The Cottam Solar Project Order 2024.

4.9.3 The justification for the provisions in article 8 is that in such cases, the transferee or lessee will either be of a similar financial and regulatory standing to the undertaker so as to protect the provision for compensation for rights or interests in land that are compulsorily acquired pursuant to the Order, or there are no outstanding actual or potential compulsory acquisition claims. The Applicant considers that the limited exceptions to the requirement for Secretary of State approval for a transfer or grant of the benefit of the Order are reasonable, proportionate and consistent with precedent.

4.9.3.1. In the case of article 8(3)(a), the transfer or grant would be to a body holding a licence under section 6 of the Electricity Act 1989 (the 1989 Act). That is, a body subject to a wide range of regulatory and financial obligations, having a particular status and standing reflective of the highly regulated context in which it operates. For this reason, the Applicant considers that the Secretary of State can be confident that a body holding a licence under the 1989 Act would have sufficient funds to meet the compensation costs of any compulsory acquisition arising under the Order.

4.9.3.2. In the case of a transfer or grant pursuant to article 8(3)(b), the transfer or grant would be to a body in circumstances where the time limits for compensation in respect of the compulsory acquisition of land have elapsed. The concern about adequacy of funding for compulsory acquisition would not therefore arise in this case.

4.9.3.3. In the case of article 8(3)(c), the transfer would be to Northern Powergrid Holding Company for the purposes of undertaking Works Nos. 4A, 4B and 6 only. Northern Powergrid Holding Company is the parent company of Northern Powergrid (Yorkshire) plc, which is an electricity distribution licence holder under section 6 of the 1989 Act. The justification provided above, in respect of transfers or grants to a body under article 8(1)(a), therefore applies to a transfer under article 8(3)(c).

4.9.4 Article 8(4) provides that where the consent of the Secretary of State is not needed, the undertaker must still notify the Secretary of State in writing prior to the transfer or grant of the benefit of the provisions of the Order.

4.10 Article 9 – Disapplication and modification of legislative provisions

4.10.1 This article provides (pursuant to section 120(5)(a) of the 2008 Act) for the disapplication in relation to the authorised development of certain requirements which would otherwise apply under general legislation. Section 120(5)(a) provides that an order granting development consent may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order. This article is substantially the same as article 6 of the Cottam Solar Project Order 2024, the Gate Burton Energy Park Order 2024 and the Mallard Pass Solar Farm DCO 2024.

4.10.2 More specifically, this article provides for the disapplication of various consents which would otherwise be required from the statutory nature conservation body, the Environment Agency, internal drainage boards or a Lead Local Flood Authority, or under the Environmental Permitting (England and Wales) Regulations 2016, the Water Resources Act 1991 or the Land Drainage Act 1991. The following provisions are disapplied under this article:

4.10.2.1. provisions prohibiting the placing of obstructions in waterways which are not main rivers under the Land Drainage Act 1991 - a consent under section 150 of the 2008 Act is required for section 23 of the Land Drainage Act 1991 (but not sections 30 and 32) and discussions are ongoing with the drainage authorities;

4.10.2.2. byelaws made under the Land Drainage Act 1991 regulating the use and obstruction of watercourses – this disapplication prevents any inconsistency arising between the works authorised under the Order and byelaws. This is not a provision which requires consent under section 150 of the 2008 Act;

4.10.2.3. byelaws made or deemed to have been made under the Water Resources Act 1991 – a consent under section 150 of the 2008 Act is required and discussions are ongoing with the Environment Agency as the appropriate agency (as defined in the Water Resources Act 1991);

4.10.2.4. provides for a disapplication in respect of the temporary possession provisions of the Neighbourhood Planning Act 2017. This is required as the relevant sections of the Neighbourhood Planning Act 2017 have not been brought into force, subsidiary regulations to that Act have not yet been made, and there is therefore no certainty as to the requirements of the new temporary possession regime. As such, this enables the temporary possession regime created by this Order to be applied; and

4.10.2.5. requirements for an environmental permit for the carrying on of flood risk – a consent under section 150 of the 2008 Act is required and the Environment Agency has given this consent on the basis that Protective Provisions for the Environment Agency are included in the Order.

4.10.3 In addition, the Applicant has conducted a review of any local legislation that might conflict with the powers and rights sought in the Order. The Applicant has included a list of the historic legislation that it seeks to disapply in Schedule 3, which relates to matters in the vicinity of the Order limits. This list has been prepared taking a precautionary approach, because in some cases it was difficult to conclusively determine whether or not the provisions of the legislation were relevant to the Order, particularly in cases where plans were not available in respect of the historic legislation. Explanations justifying the disapplication of the local legislation and byelaws listed in Schedule 3 can be found at Appendix 1. Article 9 disapplies the legislation listed in Schedule 3 in so far as the provisions still in force are inconsistent with how the powers in the Order can be exercised. The Applicant considers that, due to the importance of NSIPs, it is expedient to disapply these provisions in order to ensure that the Proposed Development can be implemented as intended in the Order.

4.10.4 Article 9 also applies section 9 of the Forestry Act 1967 to any felling required as a result of the authorised development. Section 9(1) of the 1967 Act provides that a Forestry Commission licence is required for felling growing trees. Section 9(4)(d) disapplies the requirement from felling required to implement development authorised by a planning permission – but not to development authorised by a DCO. Paragraph (3) of article 9 extends the exception to any trees felled as a result of the authorised development.

4.10.5 Paragraph (4) in effect disapplies the Community Infrastructure Levy Regulations 2010, by making clear that any building comprised in the authorised development is to be deemed to be of a type that does not trigger liability for payment of the Community Infrastructure Levy.

4.10.6 The Applicant has produced an **Other Consents and Licences Statement [EN010157/APP/5.9]** as part of this application. This sets out in greater detail the proposed approach to obtaining the other consents required for the Proposed Development.

4.11 Article 10 – Defence to proceedings in respect of statutory nuisance

4.11.1 Section 158 of the Act confers statutory authority for the purposes of a defence in statutory nuisance generally, subject to any contrary provision made by a particular DCO. This article is such a contrary provision, amending the terms of the defence in the case of a nuisance falling within paragraph (d) or (g) of section 79(1) of the Environmental Protection Act 1990, which relates to dust, steam, smell, noise created in the course of carrying out construction, use, maintenance or decommissioning of the authorised development or which is an unavoidable consequence of the authorised development.

4.11.2 The defence is available if the nuisance relates to:

4.11.2.1. the construction, maintenance or decommissioning of the authorised development, and is in accordance with any controls imposed by the local authority under the Control of Pollution Act 1974, or cannot reasonably be avoided; or

4.11.2.2. the construction, maintenance and decommissioning of the authorised development and cannot reasonably be avoided.

4.11.3 This article, excluding paragraph (2) has precedent in recent DCOs, for example article 7 of the Cottam Solar Project Order 2024, the Gate Burton Energy Park Order 2024 and the Mallard Pass Solar Farm DCO 2024.

4.11.4 Paragraph (2) confirms that compliance with the controls and measures described in the construction environment management plan and decommissioning environmental management plan approved under Schedule 2 will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided. This provision is necessary to clarify the scope of the defence of statutory authority arising from the grant of the Order. The construction environment management plan and decommissioning environmental

management plan will reflect the set of appropriate measures and controls contained in the **Outline Construction Environmental Management Plan [EN010157/APP/7.2]** and **Outline Decommissioning Environmental Management Plan [EN010157/APP/7.4]** as endorsed by the Secretary of State (if consent is granted). It is not reasonable or appropriate for there to be a claim of statutory nuisance circumstances where there is compliance with plans which have been approved, and are intended to manage matters related to statutory nuisances.

4.11.4.1. The measures considered relevant in relation to controlling the potential for nuisance arising from dust are set out in the Air Quality section of the Outline CEMP [EN010157/APP/7.2] and those in the Air Quality section of the Outline DEMP [EN010157/APP/7.4].

4.11.4.2. The measures considered relevant in relation to controlling the potential for nuisance arising from noise are set out in the Noise and vibration section of the Outline CEMP [EN010157/APP/7.2] and those in the Noise and vibration section of the Outline DEMP [EN010157/APP/7.4].

4.11.5 The Draft DCO [EN010157/APP/3.1], via Requirement 4 and 15 of Schedule 2, ensures that the final versions of these plans must be substantially in accordance with the outline versions and ensures that approval is required to be obtained from the local planning authority before commencement of construction. As such, the measures to control these nuisances will be set out in a plan that is approved by the local authority. The Applicant does not consider it reasonable or appropriate for potential claims in respect of statutory nuisance circumstances where the Applicant has complied with plans which have been approved by the local planning authority, and which provide appropriate controls for dust and noise impacts.

4.11.6 Paragraph (2) is precedented in article 44(2) of the Boston Alternative Energy Facility Order 2023 and article 41(2) of the Southampton to London Development Consent Order 2020) and is necessary to clarify the scope of the defence of statutory authority arising from the grant of the Order.

Part 3 – Streets

4.12 Article 11 – Street Works

4.12.1 This allows the undertaker to carry out certain works to a street for the purposes of the authorised development. It is necessary because implementation of the authorised development will require works to be undertaken to streets. The

authority given by this article is a statutory right for the purposes of sections 48(3) and 51(1) of 1991 Act. Certain provisions of the 1991 Act apply to works carried out under this article, subject to the provisions of article 12 (application of the 1991 Act). Article 11 is based on article 8 of the Model Provisions.

4.12.2 Article 11 is as substantially found in article 8 of the Cottam Solar Project Order 2024, the Gate Burton Energy Park Order 2024 and the Mallard Pass Solar Farm DCO 2024.

4.13 Article 12 - Application of the 1991 Act

4.13.1 This provides for the application of the 1991 Act. Although not included in the model provisions, it is as substantially found at article 10 of the Awel y Môr Offshore Wind Farm Order 2023, article 9 of the Hornsea Four Offshore Wind Farm Order 2023, article 15 of The Sizewell C (Nuclear Generating Station) Order 2022 and article 11 of The Boston Alternative Energy Facility Order 2023.

4.13.2 Article 12 modifies the application of the New Roads and Street Works Act 1991 (the 1991 Act) to works carried out under the powers of the Order. This is required because street works will be carried out under Order powers subject to the provisions and requirements of the Order and not, for instance, under Highways Act 1980 powers.

4.13.3 Paragraph (1) provides that works carried out under the powers of the Order which match the description of "major highway works" in the 1991 Act will be treated as major highways works for the purposes of the 1991 Act. The effect of this is to clarify that the provisions for sharing the burden of dealing with apparatus in the street (under sections 84 and 85 of the 1991 Act), which would normally apply only to major works carried out by the highway authority, will apply in respect of the works authorised by the Order irrespective of who in fact carries them out.

4.13.4 “Major Highways Works” are defined at section 86 of the 1991 Act. The definition includes, at sub-sections 86(3)(b) and (f), works undertaken under powers conferred by sections 64 and 184 the Highways Act 1980. As that would not be relevant in this context (where the works will be undertaken under the powers of the Order), these sub-sections are omitted from paragraph (1)(a). Works equivalent to works undertaken under those sections of the Highways Act 1980, but carried out under powers conferred by the Order, are included through paragraph 1(b). The effect is that any works which would be “major highway works” under the 1991 Act if carried out by a highway authority in relation to one of its streets are also “major highway works” if carried out under the powers of the Order regardless of who carries them out.

4.13.5 Paragraph (3) provides that certain provisions of the 1991 Act listed in that paragraph will not apply. The disapplication of these provisions (which are designed primarily to regulate the carrying out of street works by utility companies in respect of their apparatus) is appropriate given the scale of works proposed under the Order, the specific authorisation given for those works by the Order and the specific provisions in the Order which regulate the carrying out of the Order works.

4.13.6 Paragraphs (4) to (6) apply certain provisions of the 1991 Act (listed in paragraph (5)) to any streets which are temporarily stopped up under the Order. This is for two reasons: first, it prevents any confusion as to whether works in respect of a temporarily stopped-up street are "street works" for the purposes of the 1991 Act and, secondly, it simplifies the implementation of the works by providing for a single process in respect of streets which are closed and those which are not.

4.13.7 Paragraph 7(a) of article 12 provides that nothing in article 14 shall affect the ability of the local highway authority (under s.87 of the 1991 Act) to declare a street in its area a maintainable highway, which would make maintenance of the street (once completed) the responsibility of the local highway authority, and would mean that the 1991 Act would apply to street works carried out in that street.

4.13.8 Paragraph 7(b) of article 12 provides that the undertaker will not be under the duties that apply to a "street authority" for the purposes of the 1991 Act by virtue of being responsible for the maintenance of a street under article 14.

4.13.9 Paragraph 7(c) makes it clear that the maintenance obligations imposed by article 12 do not override the provisions of the 1991 Act that govern procedures for street works, i.e. works in streets involving the placing of or alteration to apparatus in the street. After the implementation of the Order it is appropriate that the 1991 Act should govern such works as it is specifically designed to ensure a fair and efficient procedure for the various parties affected by such works.

4.14 Article 13 – Power to alter layout, etc., of streets

4.14.1 This allows the undertaker to alter the layout of or carry out any works in a street. Schedule 4 then sets out the alterations to streets. This article is necessary because, in order to construct, operate, maintain and decommission the authorised development, the undertaker will need to alter street layouts and establish suitable accesses to ensure that the authorised development can be accessed effectively while ensuring there is minimal disruption to the local highway network.

4.14.2 Article 13 is as substantially found in article 9 of the Longfield Solar Farm Order 2023, The Gate Burton Energy Park Order 2024, The Mallard Pass Solar Farm Order 2024, The Cottam Solar Project Order 2024 and The Sunnica Energy Farm Order 2024.

4.15 Article 14 - Construction and maintenance of altered streets

4.15.1 The standard position in respect of maintenance of streets is that highways are to be maintained by street authority in respect of highways maintainable at the public expense, or whichever body is responsible for the maintenance of the street in respect of streets which are not maintainable at the public expense. The definition of 'street authority' is set out at section 49 of the New Roads and Street Works Act 1991 and sets out that the street authority for highways is the highway authority, and for streets that are not highways, the street authority is the body or person liable to maintain or repair the street.

4.15.2 This article reflects that position and provides that any street constructed, altered or diverted under the Order must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed, will be the responsibility of the street authority (paragraph (1)). The purpose of this article is to define who will be responsible for the maintenance of altered streets following the carrying out of works and it is required to provide certainty as to who will be responsible for such maintenance.

4.15.3 Paragraph (4) mirrors the defence in section 58 of the Highways Act 1980 where the undertaker is subject to an action for damages and has taken such care as was reasonably required in the circumstances to secure that the street was not dangerous to traffic.

4.15.4 Article 14 is as substantially found in article 10 of the following made DCOs: The Gate Burton Energy Park Order 2024, The Cottam Solar Project Order 2024, The Sunnica Energy Farm Order 2024 and The Mallard Pass Solar Farm Order 2024.

4.16 Article 15 – Temporary closure or restriction of streets and public rights of way

4.16.1 This article allows for the temporary closure, alteration, diversion or restriction of the use of streets for the purposes of, or in connection with, the construction, operation, maintenance and decommissioning of the authorised development. It is required because the use of certain streets will become incompatible with the carrying out of the authorised development at certain stages.

4.16.2 Access for pedestrians must be provided, and consent to any such closing or restriction must be sought from the street authority. Paragraph (1) relates to streets in Part 1 of Schedule 5 and the public rights of way in Part 2 of Schedule 5 and Paragraph (2) provides a general power.

4.16.3 Paragraph (3) confers a power on the Applicant where the use of a street, within the Order limits, has been temporarily closed, altered, diverted or restricted under this article to use it as a temporary working site. This provision is in keeping with a number of made DCOs including article 11(6) of The Sunnica Energy Farm Order 2024 and article 11(6) of The Mallard Pass Solar Farm Order 2024.

4.16.4 Paragraph (4) states that reasonable access for pedestrians going to or from properties abutting a temporarily closed, altered, diverted or restricted street must be provided. This provision has precedent in a number of made DCOs including article 11(2) of The Gate Burton Energy Park Order 2024, article 11(2) of The Mallard Pass Solar Farm Order 2024 and article 11(2) of The Cottam Solar Project Order 2024.

4.16.5 Paragraph (5) confirms that the Applicant must not temporarily close, alter, divert or restrict any street or public right of way without the consent of the street authority (such consent not to be unreasonably withheld or delayed). This provision has precedent in a number of made DCOs including article 11(4) of The Gate Burton Energy Park Order 2024, article 11(4) of The Mallard Pass Solar Farm Order 2024 and article 11(4) of The Cottam Solar Project Order 2024.

4.16.6 Paragraph (6) provides a right to compensation for any person suffering loss due to the suspension of a private right of way under this article. There is precedent for this in article 11 of The Gate Burton Energy Park Order 2024, The Mallard Pass Solar Farm Order 2024, The Cottam Solar Project Order 2024.

4.16.7 Paragraph (7) enables the temporarily stopping up, prohibition of the use, restriction of use, alteration or diversion, of any public rights of way added to the definitive map and statement (within the meaning of the Wildlife and Countryside Act 1981) on or after the date of the close of the examination into the application for the Order. The power is appropriately limited because it only applies to public rights of way that are within the Order limits and to new public rights of way that were not recognised in the definitive map and statement throughout the application or Examination process. The wording aligns with made DCO precedent. For example, it is used to protect against the risk of new Tree Preservation Orders in The Gate Burton Energy Park Order 2024 (article 11).

4.16.8 Paragraph (8) imposes a time limit of 28 days after which a street authority which fails to respond to an application for consent is deemed to have granted consent, so as not to delay the Proposed Development unnecessarily. This provision has

been used in other DCOs (see National Grid (North London Reinforcement Project) Order 2014, article 12 of the A19/A184 Testo's Junction Alteration Development Consent Order 2018, article 16 of The A47/A11 Thickthorn Junction Development Consent Order 2022, article 16 of The A47 Wansford to Sutton Development Consent Order 2023 and article 10 of the Cleve Hill Solar Park Order 2020). This approach is considered justified as the works proposed under paragraph (5) are temporary in nature and, this provision will provide greater flexibility and certainty in delivering the authorised development.

4.17 Article 16 – Access to works

4.17.1 This article is a Model Provision which gives the undertaker powers to form new or to improve existing means of access for the purposes of the authorised development, as set out in Schedule 6 to the Order. This article is necessary because the undertaker will need to create or improve existing means of access for the purposes of the authorised development. The article also provides that other means of access or works can also be provided in other locations reasonably required for the authorised development with the approval of the local planning authority. This approach is broadly precedented by article 12 of The Gate Burton Energy Park Order 2024, article 13 of The Mallard Pass Solar Farm Order 2024 and article 13 of The Cottam Solar Project Order 2024.

4.18 Article 17 – Use of private roads

4.18.1 This article authorises the temporary passage by the Applicant – in common with other permitted users – of private roads within the Order limits by persons or vehicles, for the purposes of, or in connection with, the construction and maintenance of the authorised development, without the need for the Applicant to take temporary possession of the land under article 33 (Temporary use of land for carrying out the authorised development) of the Order.

4.18.2 This article therefore creates a power to "use" a private road for a temporary period that is proportionate to the limited nature of the use, rather than extinguishing, suspending or permanently interfering with the private rights of a landowner (through the acquisition of a permanent right). This is akin to the powers for temporary use under article 33 (temporary use of land for carrying out the authorised development) of the Order; however, it is distinguished because the Applicant does not require the exclusive use and possession of the private roads while exercising this power.

4.18.3 Paragraph (2) provides that the Applicant will be liable to compensate any person who has suffered loss or damage as a result of the exercise of this power. Paragraph (3) is included to clarify that any dispute as to a person's entitlement

to compensation, or as to the amount of such compensation, is to be determined under Part 1 of the Land Compensation Act 1961.

4.18.4 There is precedent for this article, for example in the Port of Tilbury (Expansion) Order 2019 (article 16) and the Lake Lothing (Lowestoft) Third Crossing Order 2020 (article 14). The Applicant is aware the Secretary of State removed this power in The Gate Burton Energy Park Order 2024, however the Applicant requires this power as it is likely to require the use of Carr Lane which is a private road within the Order limits. Should this power not be included in the Order, the Applicant would be required to reach agreement with landowners which could act as an impediment to the implementation of the Proposed Development or the Applicant would be required to use compulsory acquisition powers in circumstances where only temporary and non-exclusive use rights are required.

4.19 Article 18 - Traffic regulation measures

4.19.1 This article provides the undertaker with powers to place temporarily traffic signs and signals and other temporary traffic regulation measures for the purposes of safety and in relation to the authorised development. The inclusion of this power is justified as it allows a degree of flexibility to respond to changing conditions on the road network over the lifetime of the authorised development. As introduced in paragraph (1), Schedule 7 (traffic regulation measures) sets out specific traffic regulation measures that the Applicant may make. The general power in paragraph (2) is appropriately regulated, via paragraph (4) as it may only be exercised with the consent of the traffic authority concerned, following consultation with the relevant chief officer of the police. The article is not in the general Model Provisions but is common in orders granting permission for infrastructure projects where it is necessary in the interests of public safety during construction of the authorised development for the undertaker to put in place some temporary restrictions on road usage. The powers under this article are provided for in section 120(5)(a) of the 2008 Act. For example, similar provision is contained within article 14 of The Gate Burton Energy Park Order 2024, article 15 of The Mallard Pass Solar Farm Order 2024 and article 15 of The Cottam Solar Project Order 2024.

Part 4 – Supplementary Powers

4.20 Article 19 – Discharge of water

4.20.1 This article is standard across DCOs and reflects the approach adopted in article 14 of the Model Provisions. It establishes statutory authority for the Applicant to discharge water and trade effluent into a sewer, watercourse or drain in connection with the carrying out or maintenance of the Proposed Development.

4.20.2 This statutory authority is subject to the Applicant obtaining the consent of the owner of the sewer, watercourse or drain, but that consent cannot be withheld unreasonably under paragraph (3) and (4)(a). This provision is precedented in recently made solar DCOs including in article 18(3) and (4)(a) and article 20(3) of the Byers Gill Solar Order 2025 and article 14(1)(3) and (4)(a) and article 16(4) of the Heckington Fen Solar Park Order 2025.

4.20.3 Paragraph (9) states that a person who fails to notify the undertaker of their decision in respect of an application for consent within 28 days of the application being made is deemed to have given consent. This time limit is considered necessary to remove the possibility for delay and provide certainty that the authorised development can be delivered by the undertaker in a timely fashion. As an NSIP, the authorised development should not be at risk of being held up due to a failure to respond to an application for consent.

4.20.4 This article is precedented in made DCOs including article 18(10) of the Byers Gill Solar Order 2025, article 14(10) of the Heckington Fen Solar Park Order 2025, article 15 of The Gate Burton Energy Park Order 2024, article 16 of The Mallard Pass Solar Farm Order 2024 and article 16 of The Cottam Solar Project Order 2024.

4.21 Article 20 - Protective work to buildings

4.21.1 The purpose of this article (which is included in the model provisions and the majority of made orders to date) is to allow the undertaker to undertake protective works such as underpinning to buildings affected by the authorised development and to set out the procedure that will apply in those circumstances. The power has been included to embrace currently unforeseen circumstances, in which there may be a need to carry out protective works in relation to land which may be affected by the Proposed Development. This could arise in an emergency, for example, during construction a solar panel could fall from a delivery vehicle. This power would permit the Applicant to enter the land where the panel had fallen, retrieve the panel and repair any damage caused. If the phrase “within the Order limits” was included then on strict application of the article, the Applicant would be confined in what they could do to remedy this situation. The power will ensure that the Applicant can take appropriate action to avoid or reduce potential adverse impacts on land and buildings even where those are located outside the Order Limits. The powers therefore operate for the benefit and protection of such buildings.

4.21.2 Article 20(12) applies section 13 of the Compulsory Purchase Act 1965, thereby providing an enforcement mechanism (by way of a warrant) where entry onto, or possession of, land under the article is refused.

4.21.3 This is another standard provision with broad precedent and is broadly similar to article 16 of The Gate Burton Energy Park Order 2024, article 17 of The Mallard Pass Solar Farm Order 2024 and article 18 of The Cottam Solar Project Order 2024.

4.22 Article 21 - Authority to survey and investigate the land

4.22.1 This article gives the Applicant the power to enter certain land for the purpose of surveying and investigating. This enables the Applicant to assess the effects of the authorised development on land outside the Order limits and also assess the effects of land outside the Order limits on the authorised development. The effect of providing such a power over land outside of the Order is to remove the necessity to compulsorily acquire that land or rights over that land and thus reduce the land brought within the Order limits.

4.22.2 Protection is given in the article to rights of landowners. The article provides that the Applicant must give no less than 14 days' notice before exercising the powers of entry, and that compensation is payable for any loss or damage. Paragraph (7) clarifies that the provisions of the Compulsory Purchase Act 1965 will apply to the refusal by the owner of the land to grant the Applicant access to enter land for the purpose of surveying and investigating it.

4.22.3 The power has been included to embrace currently unforeseen circumstances, in which there may be a need to carry out surveys in relation to land which may be affected by the Proposed Development. The power will ensure that the Applicant can take appropriate action to avoid or reduce potential adverse impacts on land and buildings even where those are located outside the Order Limits. The powers therefore operate for the benefit and protection of such land.

4.22.4 This is another standard provision with broad precedent such as article 17 of The Gate Burton Energy Park Order 2024, article 18 of The Mallard Pass Solar Farm Order 2024 and article 19 of The Cottam Solar Project Order 2024.

Part 5 – Powers of Acquisition

4.23 Article 22 – Compulsory acquisition of land

4.23.1 This article authorises the acquisition of land by compulsory acquisition. It grants the power to acquire such of that land as is required for the Proposed Development. The power of acquisition over the Order land is qualified and restricted by sub-paragraph (2), in the case of parcels of land specified in the

Order where only rights are required (article 25), acquisition of subsoil only (article 29), rights under or over streets (article 32), where possession of land parcels as specified in the Order may be taken temporarily only (article 33) or where land is subject to crown rights (article 40). It is also qualified and restricted by reference to article 24 (time limit for exercise of authority to acquire land compulsorily).

4.23.2 The provision is necessary to secure the delivery of the Proposed Development as set out in more detail in the **Statement of Reasons [EN010157/APP/4.1]** accompanying the application.

4.23.3 This is another standard provision with broad precedent such as article 17 of The Sunnica Energy Farm Order 2024 and article 19 of The Mallard Pass Solar Farm Order 2024.

4.24 Article 23 – Compulsory acquisition of land – incorporation of the mineral code

4.24.1 This article incorporates Parts 2 and 3 of Schedule 2 of the Acquisition of Land Act 1981. This means that where the Applicant acquires 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. Such an article is included in the Model Provisions (article 19) and is necessary to exempt mines and mineral interests from compulsory acquisition under the Order.

4.24.2 This is another standard provision with broad precedent such as article 21 of The Mallard Pass Solar Farm Order 2024 and article 47 of The Cottam Solar Project Order 2024.

4.25 Article 24 - Time limit for exercise of authority to acquire land compulsorily

4.25.1 This article gives the Applicant five years to issue “notices to treat” or to execute a “general vesting declaration” to acquire the land that is subject to the power of compulsory acquisition. These are the two main procedural methods by which the process of acquiring land is undertaken should this Order be made.

4.25.2 The article also sets a 5 year time limit on the power of the Applicant to take temporary possession of land under article 33 , although it does not prevent them remaining in possession of land after that time if it took possession within the 5 year limit (this has consistently been approved by the Secretary of State, see for example article 24 of The National Grid (Yorkshire Green Energy Enablement

Project) Development Consent Order 2024, article 19 of The Gate Burton Energy Park Order 2024, article 20 of The Mallard Pass Solar Farm Order 2024 and article 21 of The Cottam Solar Project Order 2024. This article was also included in the Model Provisions as article 20.

4.26 Article 25 - Compulsory acquisition of rights and imposition of restrictive covenants

4.26.1 This article provides for the undertaker to acquire such rights over the Order land, or impose restrictive covenants affecting the Order land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, as may be required for any purpose for which that land may be acquired under article 22 by creating them as well as acquiring rights already in existence. This would allow the Applicant, where appropriate, to reduce the area of outright acquisition and rely on the creation and acquisition of rights/restrictive covenants instead. A provision of this kind is usual in Transport and Works Act orders and Hybrid Bills and has been followed in a number of DCOs for example article 20 of The Gate Burton Energy Park Order 2024, article 22 of The Mallard Pass Solar Farm Order 2024 and article 22 of The Cottam Solar Project Order 2024.

4.26.2 Paragraph (1) allows the Applicant to acquire existing rights or impose restrictive covenants and create new rights over any of the Order land.

4.26.3 Paragraph (2) provides that for the land described in column 1 of Schedule 8, the Applicant's powers of compulsory acquisition are limited to the acquisition of such rights, and the imposition of such restrictive covenants, as may be required for or in connection with the authorised development for the purposes set out in column 2 of Schedule 8.

4.26.4 Paragraph (3) sets out protection for statutory undertakers. It is necessary for where the Applicant acquires rights or restrictions for others. For example, this could be in relation to utilities that may need to be diverted or in relation to Work No. 6 at the Creyke Beck Substation. This particular provision is based on article 26(3) of the Lake Lothing (Lowestoft) Third Crossing Order 2020.

4.26.5 Paragraph (4) introduces Schedule 9, which modifies the compulsory purchase and compensation provisions under general legislation and provides that powers under paragraph (1) to acquire the rights and to impose the restrictive covenants for the benefit of statutory undertakers or for the benefit of any other person do not preclude the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land. This particular provision is based on article 26(4) of the Lake Lothing (Lowestoft) Third Crossing Order 2020.

4.26.6 Paragraph (5) also refers to Schedule 9, which modifies the compulsory purchase and compensation provisions under general legislation. The modifications do not affect the entitlement to compensation, but generally ensure that the compensation code applies equally to the additional categories of acquisition covered by the Order – the creation of new rights and the imposition of restrictive covenants in particular. This is a consequence of the extension of land acquisition powers to these categories and is commonplace in Transport and Works Act orders and DCOs, such as the article 20(3) of The Gate Burton Energy Park Order 2024, article 22(3) of The Mallard Pass Solar Farm Order 2024 and article 22(3) of The Cottam Solar Project Order 2024.

4.26.7 For the purpose of section 126(2) of the 2008 Act, the relevant compensation provisions are modified only to the extent necessary to ensure that they apply properly to the acquisition of rights, and not to affect the amount of compensation to which landowners would be entitled. The schedule is heavily precedented and reflects the drafting in Schedule 10 of The Gate Burton Energy Park Order 2024, The Mallard Pass Solar Farm Order 2024 and The Cottam Solar Project Order 2024 with the exception of the final paragraph which amends the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017 (the 2017 Regulations) (see further article 26 below).

4.26.8 Paragraph (5) also provides that, where the Applicant needs only to acquire rights over land, it shall not be obliged to acquire any greater interest in that land.

4.27 Article 26 – Private rights over land

4.27.1 In order for it to be possible to implement the Proposed Development, provision is needed for the extinguishment of private rights and restrictions in the Order land that would be incompatible with that implementation. Article 26 supplies that provision and is substantially the same as article 21 of The Gate Burton Energy Park Order 2024, article 23 of The Mallard Pass Solar Farm Order 2024 and article 23 of The Cottam Solar Project Order 2024.

4.27.2 Paragraph (1) provides for the extinguishment of private rights and restrictions over Order land subject to compulsory acquisition under the Order, from the moment of acquisition (whether compulsorily, by agreement or through grant of a lease of the land) or occupation of that land.

4.27.3 Paragraph (2) provides for the extinguishment of existing private rights over land that is subject to the compulsory acquisition of new rights (but where the underlying land is not subject to powers of compulsory acquisition), if the exercise of those existing rights is inconsistent with the implementation of the Proposed Development, from the date of acquisition of the right or occupation of the underlying land.

4.27.4 Paragraph (3) provides that rights and restrictions over Order land that is already owned by the Applicant are also extinguished, at the point that any activity authorised by the Order interferes with or breaches those rights.

4.27.5 Paragraph (4) provides for the temporary suspension of private rights and restrictions over Order land that is not acquired but is occupied temporarily by the Applicant in order to construct the Proposed Development, in so far as their continuance would be inconsistent with the purpose for which temporary possession was taken. The suspension is for the duration of the occupation. Paragraph (4) is necessary because if private rights and restrictions over Order land are inconsistent with the purpose for which temporary possession was taken, i.e. in order to construct the Proposed Development, they will need to be temporarily suspended to avoid unnecessary delays to construction. The suspension of rights will only be for the duration of the temporary occupation. The wording in paragraph (4) is required to demonstrate that suspension is only necessary where there are inconsistencies.

4.27.6 Paragraphs (5) and (6) of this article make provision for compensation and for circumstances where rights are preserved. The wording in paragraph (5) provides compensation for anyone who suffers loss resulting from a suspension of rights under paragraph (4) in accordance with section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act. This provides a systematic and authorised approach for the provision of compensation which would help to avoid any disputes.

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4.27.7 Precedent of paragraphs (4) and (5) can be found in recently made solar DCOs including article 24 paragraphs (3) and (4) of the Tillbridge Solar Order 2025, article 24 paragraphs (3) and (4) of the Byers Gill Solar Order 2025, article 20 paragraphs (3) and (4) of the Oaklands Farm Solar Park Order 2025 and article 23 paragraph (3) and (4) of the East Yorkshire Solar Farm Order 2025.

4.27.8 Paragraph (9) sets out a list of matters deemed to be private rights to provide certainty as to the scope of the article. The list of deemed private rights is broad in order to ensure that any right which could potentially interfere with the implementation of the Proposed Development can be extinguished. This list appears in article 21(8) of The Gate Burton Energy Park Order 2024, article 23(8) of The Mallard Pass Solar Farm Order 2024 and article 23(8) of The Cottam Solar Project Order 2024.

4.28 Article 27 - Power to override easements and other rights

4.28.1 This article provides a power to override easements and other rights and reflects the terms of section 120(3) and (4), and paragraphs 2 and 3 of Part 1 of Schedule 5 to the 2008 Act. It provides that land vested in the undertaker is 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. It also provides for the situation where access to the land for the purposes of the authorised development occurs before vesting.

4.28.2 Sections 203 to 205 of the Housing and Planning Act 2016 relate to the power (in section 203) to override easements and other rights, and to the provision of compensation for such interference (section 204). The implications of this power are wide-ranging – for instance, the power applies in respect of all types of interests and rights, in cases where there is planning consent (the definition of which includes development consent under the 2008 Act, as per section 205) for the works causing the interference, and the land has been appropriated or acquired, or could be acquired compulsorily, in connection with those consented works. Notwithstanding the above, the inclusion in the Order is necessary because this article authorises interference with easements and other rights not only where necessary in connection with the carrying out of building or maintenance work (as is the case where section 203 of the Housing and Planning Act 2016 applies) but also in connection with the exercise of any power authorised by the Order.

4.28.3 The power in this article is necessary and proportionate to enable the delivery of the authorised development while ensuring that provision is made for compensation to be paid to affected persons whose interests in or rights over land may be subject to interference arising therefrom. The drafting is precedented (see, for example, article 29 of the Lake Lothing (Lowestoft) Third Crossing Order 2020 and article 27 of the Riverside Energy Park Order 2020 and is substantially the same as article 24 of The Longfield Solar Farm Order 2023, article 24 of The Gate Burton Energy Park Order 2024, article 26 of The Mallard Pass Solar Farm Order 2024 and article 26 of The Cottam Solar Project Order 2024).

4.29 Article 28 – Application of the 1981 Act

4.29.1 This article applies (with minor modifications to make the provisions appropriate to the context of acquisition under powers in a DCO) the provisions of the Compulsory Purchase (Vesting Declarations) Act 1981 (the 1981 Act) to compulsory acquisition under the Order so that the Applicant has the option of acquiring Order land that is subject to the powers of compulsory acquisition by vesting declaration.

4.29.2 Vesting declarations are one of two ways of acquiring land that is subject to compulsory purchase. The other method involves serving a notice to treat on the land owner to commence the process of establishing the acquisition price, after which title in the land is transferred. The date on which title will transfer is uncertain under the notice to treat method.

4.29.3 A vesting declaration, in contrast, sets the date on which title in the land is transferred to the acquiring authority. Compensation is negotiated or determined and paid later. Vesting declarations, therefore, allow title in the land to pass to the acquirer more quickly than using the notice to treat method, and also allow several parcels to be acquired at once. Their use is subject to serving notices and observing time limits as required by the 1981 Act (as amended by the Housing and Planning Act 2016).

4.29.4 The modifications ensure consistency with the 5 year period sought under the Order for acquisition of rights. It further ensures that the appropriate references are made to the Act. The modifications are based in large part on previous DCOs, and following amendments to the 1981 Act in the Housing and Planning Act 2016, the High Speed Rail (London - West Midlands) Act 2017. This approach is precedented in numerous DCOs including the Drax Power (Generating Stations) Order 2019 (article 24), the Cleve Hill Solar Park Order 2020 (article 20) and the Cottam Solar Project Order 2024 (article 24).

4.29.5 Paragraphs (3), (5) (11), (12) and (13) are intended to facilitate the compulsory acquisition of rights for the benefit of a third party such as a statutory undertaker. These provisions are not contained in the Model Provisions but are simply consequential amendments intended to provide confirmation that the 1981 Act can be used to acquire rights and land on behalf of third parties, without the need to acquire the land or rights in favour of the Applicant and then transfer such land or rights to a third party, thereby causing a delay to any transfers of land or rights to those who are intended to benefit from such acquisition. This approach is precedented in article 33 of The Cambridge Waste Water Treatment Plant Relocation Order 2025 and article 31 of The A122 (Lower Thames Crossing) Development Consent Order 2025.

4.30 Article 29 - Acquisition of subsoil only

4.30.1 This article allows the Applicant to acquire land below the surface rather than having to acquire all of the land.

4.30.2 The purpose of this article is to give the Applicant the flexibility to minimise so far as is possible the extent of interests to be acquired, with consequently less impact on affected landowners, and lower payments of compensation. This too is a standard provision used in many DCOs (see for example article 21 of The Cleve

Hill Solar Park Order 2020, article 23 of The Longfield Solar Farm Order 2023, article 23 of The Gate Burton Energy Park Order 2024, article 25 of The Mallard Pass Solar Farm Order 2024 and article 25 of The Cottam Solar Project Order 2024).

4.31 Article 30 - Modification of Part 1 of the Compulsory Purchase Act 1965

4.31.1 This article modifies the provisions of Part 1 of the Compulsory Purchase Act 1965 (the 1965 Act), as amended by the Levelling-up and Regeneration Act 2023 and as applied to the Order by section 125 of the 2008 Act. In accordance with section 126(2) of the 2008 Act, these provisions are modified only to the extent necessary to ensure that they apply properly to the compulsory acquisition powers authorised by the Order. These modifications have broad precedent in article 26 of the Southampton to London Pipeline Development Consent Order 2020, article 29 of the Riverside Energy Park Order 2020, article 22 of the Cleve Hill Solar Park Order 2020, article 25 of The Gate Burton Energy Park Order 2024, article 27 of The Mallard Pass Solar Farm Order 2024, article 27 of The Cottam Solar Project Order 2024 and article 29 of The London Luton Airport Expansion Development Consent Order 2025.

4.32 Article 31– Modification of the 2017 Regulations

4.32.1 This article modifies the Compulsory Purchase of Land (Vesting Declaration) (England) Regulations 2017 to ensure that the interests and rights in land which are intended to benefit a third party, such as a statutory undertaker whose apparatus may be re-located in order to construct the Proposed Development, will vest in that third party instead of the Applicant, which would otherwise be the acquiring authority in respect of those interests and rights.

4.32.2 The amendments to these regulations, as well as the changes described in paragraph 4.29.5 above, confirm the position that notwithstanding references in the 1981 Act and 2017 Regulations to vesting land “in themselves” (i.e., in the Acquiring Authority), land and rights can be acquired by the Applicant in favour of any third party identified directly. This is a drafting change which confirms the ability for the Applicant to acquire such rights and land (where such powers of acquisition are not transferred to another person to acquire rights/land directly), and is not a substantive change to the rights or land sought for permanent acquisition.

4.32.3 This article, as well as the changes to the 1981 Act, are justified for the Proposed Development because the Applicant is proposing to vest land and rights in third parties, for example rights in relation to utilities assets to statutory undertakers.

In the absence of these provisions, the transfer of the land to those third parties would be delayed requiring first the acquisition of the land and rights by the Applicant, registration at the Land Registry and then the subsequent transfer to the relevant third party and further registration at the Land Registry. Such a delay could give rise to unintended and undesirable consequences, for example, preventing statutory undertakers accessing their assets. It also imposes an administrative burden. The Applicant notes the Secretary of State has previously endorsed the principles of vesting land directly in third parties (see, for example, article 30(2) of the Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015, article 30(2) of the Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013) and article 32 of The A122 (Lower Thames Crossing) Development Consent Order 2025.

4.33 Article 32 – Rights under or over streets

4.33.1 The purpose of this article is to allow the Applicant to appropriate and use land above or below streets within the Order land, without having to acquire the street or any right or easement in it. The exercise of this power, without full acquisition, is prohibited in the circumstances set out in paragraph (3). Compensation is payable for any loss or damage caused to an owner or occupier of land affected by the power of appropriation where no acquisition has taken place.

4.33.2 This article was included in the Model Provisions and the majority of DCOs made to date. It is considered that the article remains necessary for the authorised development, notwithstanding the effect of the Housing and Planning Act 2016, and it was retained in recent DCOs (see, for example, article 32 of the M42 Junction 6 Development Consent Order 2020, article 30 of the Riverside Energy Park Order 2020, article 26 of The Longfield Solar Farm Order 2023, article 26 of The Gate Burton Energy Park Order 2024, article 28 of The Mallard Pass Solar Farm Order 2024 and article 28 of The Cottam Solar Project Order 2024).

4.34 Article 33 - Temporary use of land for carrying out the authorised development

4.34.1 The purpose of this article is, inter alia, to allow land to be occupied temporarily while the works are carried out.

4.34.2 The inclusion of this article is important to ensure that the authorised development can be carried out efficiently and expeditiously following the making of the Order. The Applicant is entitled either to occupy and use land pending its permanent acquisition, or to temporarily occupy and use land in Schedule 10, with provision made for the restoration of the land (subject to exceptions listed in paragraph (5)

and the payment of compensation to the affected landowners and occupiers for any loss or damage arising. These powers are considered to be reasonable given the status of the authorised development as an NSIP.

4.34.3 Similar temporary possession provisions have been included in a large number of made DCOs, including (most recently) The Longfield Solar Farm Order 2023 (article 27), the Boston Alternative Energy Facility Order 2023 (article 33), The Sunnica Energy Farm Order 2024 (article 26), The Gate Burton Order 2024 (article 27) and The Mallard Pass Solar Farm Order 2024 (article 29) and The Cottam Solar Project Order 2024 (article 29).

4.34.4 More particularly, paragraph (1)(a)(i) allows the land set out in Schedule 10 to be used temporarily and prevents the Applicant 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. In line with this, paragraph (1)(e) confirms that the authorised development as listed in Schedule 1 can be undertaken on land that has been temporarily occupied.

4.34.5 Paragraph (1)(a)(ii) allows for the temporary occupation of any of the Order land that is subject to the powers of permanent acquisition, but in respect of which no process for acquisition has yet been commenced. The rationale for this is that it reduces the amount of land that is required to be subject to outright acquisition. Thus, article 22 with article paragraph (1)(a)(ii) make it possible for the Applicant to occupy land temporarily initially and only proceed to acquire permanently that part which is necessary for the authorised development as constructed. The benefits of this are lesser impacts on landowners and lower costs to the Applicant, which is in the public interest. In line with this, paragraph (1)(e) confirms that the authorised development as listed in Schedule 1 can be undertaken on land that has been temporarily occupied.

4.34.6 Paragraph (2) requires the Applicant to provide a notice 14 days before taking temporary possession of land. This 14 day period is proportionate and ensures that the Proposed Development can be delivered expeditiously, reducing impacts on local communities whilst balancing the need to provide appropriate notice to persons with interest in land.

4.34.7 Paragraph (3) is provided to ensure that the Applicant is not inhibited from taking temporary possession of land in circumstances where there is a danger to the authorised development, the public or the surrounding environment. This provision has been included in made temporary possession articles (see, for example, article 31(4) of The Southampton to London Pipeline Development Consent Order 2020 and article 33(3) of The Boston Alternative Energy Facility Order 2023).

4.34.8 Paragraph (5) sets out that the Applicant must before giving up temporary possession remove all temporary works and restore the land subject to temporary possession to the reasonable satisfaction of the owners except that it is not required to carry out any of the activities listed in paragraphs (5)(a) to (f). Paragraph (5) is precedented (see, for example substantially similar wording at article 24(4) of the Cleve Hill Solar Park Order 2020 and article 27(5) of the Longfield Solar Farm Order 2023).

4.34.9 Under paragraph (8), any dispute as to the satisfactory removal of temporary works and restoration of land under paragraph (5) does not prevent the Applicant from giving up possession of the land. This provision is considered to be reasonable as it clarifies that the Applicant is able to give up possession of land, and bring to an end any obligations associated with that possession, without affecting any duty on the Applicant to undertake restorative work on land in the event that a dispute under paragraph (5) is resolved in a landowner's favour.

4.34.10 Paragraph (10) clarifies that, whilst the Applicant is precluded from exercising its powers under article 23 to acquire the land specified in Schedule 10.

4.34.11 Paragraph (11) clarifies that the Applicant is not required to acquire any land, or interest in land, that it takes temporary possession of under this article.

4.34.12 Paragraph (13) makes clear that the power in this article can be exercised on more than one occasion. This change is intended to clarify the intention behind the model provision rather than to expand its scope.

4.35 Article 34 - Temporary use of land for maintaining the authorised development

4.35.1 This article provides that the Applicant may take temporary possession of land within the Order limits 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 from the date of final commissioning other than for landscaping and ecological works where the maintenance period is the period approved under the landscape and ecological plan in the requirements under Schedule 2 of the DCO. Provision is made for service of notices and compensation. This power does not apply with respect to houses, gardens or any other buildings for the time being occupied. Under paragraph (6), all temporary works must be removed before the Applicant gives up possession under this article and the land must be restored to the reasonable satisfaction of the owners.

4.35.2 Provision is made for giving notice and compensation (paragraphs (3), (4), (7), (8) and (9)). The timeframes stipulated in sub-paragraphs (4)(a) and (b) are well precedented in recently made solar DCOs including article 30(4)(a) and (b) of the Tillbridge Solar Order 2025, article 30(4)(a) and (b) of Byers Gill Solar Order 2025 and article 39(4)(a) and (b) of the East Yorkshire Solar Farm Order 2025. The modified wording inserted into the Stonestreet Green Solar Order 2025 is not precedented in these solar DCOs.

4.35.3 This article is required to enable the Applicant to carry out maintenance during the maintenance period and is appropriate as it would impose a lesser burden than permanently acquiring interests and rights in land to achieve the same purpose.

4.35.4 The maintenance period in paragraph 12 has been adapted from the model provision to apply to the period 5 years beginning with the date of final commissioning as opposed to the date on which the authorised development is opened for use as this is more appropriate for this type of development. It also alters the maintenance period landscaping and ecological works to bring it in line with the maintenance period approved under the landscape and ecological plan in the requirements under schedule 2 of the Order. Similar wording has been used in other made Orders for generating stations, including the Hirwaun Generating Station Order 2015 (article 27(11)), the Progress Power (Gas Fired Power Station) Order 2015 (article 28(11)), the Wrexham Gas Fired Generating Station Order 2017 (article 27(11)), the Riverside Energy Park Order 2020 (article 32(11)), The Gate Burton Energy Park Order 2024 (article 28(11)), The Mallard Pass Solar Farm Order 2024 (article 30(11)) and The Cottam Solar Project Order 2024 (article 30(11)).

4.36 Article 35 – Statutory undertakers

4.36.1 This article provides the Applicant with statutory authority to acquire interests and rights over land owned by statutory undertakers (i.e. utilities such as electricity and gas companies). It also allows the Applicant to extinguish rights or restrictions for the benefit of land that statutory undertakers have over the Order land, and to remove, relocate or reposition their apparatus.

4.36.2 Additionally, this article provides the Applicant with the power to construct the Proposed Development so as to cross under or over statutory undertakers' apparatus and to construct any necessary track or roadway, together with the right to maintain or remove the same, and to install service media under or over existing apparatus.

4.36.3 The drafting is based on article 31 of the Model Provisions and substantially similar to article 29 of Gate Burton Energy Park Order 2024, article 31 of The

Mallard Pass Solar Farm Order 2024 and article 31 of The Cottam Solar Project Order 2024) but the article also seeks at paragraphs (c) and (d), in common with other DCOs (see, for example, article 31(c) and (d) of the Thorpe Marsh Gas Replacement Pipeline Order 2016), the power to:

a) construct the authorised development so as to cross under or over statutory undertakers' apparatus; and

b) construct over existing apparatus belonging to statutory undertakers any necessary track or roadway, together with the right to maintain and/or remove the same, and install such service media under or over the existing apparatus needed in connection with the authorised development.

4.36.4 This power is sought to ensure that the Applicant is able to erect all necessary above ground installations, site compounds and storage areas in connection with the construction of the authorised development.

4.36.5 Diligent inquiries have been made to identify all relevant rights and statutory undertakers' apparatus. However, it is still possible that new rights or apparatus may be discovered during the course of the construction of the authorised development. On this basis, a general power for the extinguishment of rights and removal or relocation of apparatus belonging to statutory undertakers over or within the Order limits is required.

4.36.6 This article is subject to Schedule 12 which contains provisions for the protection of certain statutory undertakers to ensure their continued ability to carry out their functions despite the interference with their rights/apparatus required to facilitate the Proposed Development.

4.37 Article 36 – Apparatus and rights of statutory undertakers in closed streets

4.37.1 This article governs what happens to statutory utilities' apparatus (pipes, cables, etc.) under streets that are closed by the Order. This article is required because, without it, the statutory undertaker would not have access to the apparatus, since there would no longer be a right of way along the street. Similar wording has been used in other made Orders for generating stations, for example article 30 of The Gate Burton Energy Park Order 2024, article 32 of The Mallard Pass Solar Farm Order 2024 and article 32 of The Cottam Solar Project Order 2024.

4.38 Article 37 – Acquisition of wayleaves, easements and other rights

4.38.1 This article explains that Schedule 11 (Acquisition of wayleaves, easements and other rights) shall have effect. This is similar to the approach in article 23(4) and Schedule 10 of the Tillbridge Solar Order 2025.

4.39 Article 38- Recovery of costs of new connections

4.39.1 This article (which reflects the Model Provisions) provides that if a gas, water, electricity or sewerage undertaker's or public communications provider's apparatus is removed thereby interrupting the service to owners or occupiers of premises, their costs incurred in obtaining a new service can be recovered from the undertaker. This has been used in other made Orders for generating stations, for example article 31 of The Gate Burton Energy Park Order 2024, article 33 of The Mallard Pass Solar Farm Order 2024 and article 33 of The Cottam Solar Project Order 2024.

4.40 Article 39 – Special Category Land

4.40.1 Under Section 132 of the 2008 Act an order granting development consent is subject to Special Parliamentary Procedure when it authorises compulsory acquisition of a right over land to which Section 132 applies. The exception is if the Secretary of State is satisfied that certain tests under Section 132(2) are met.

4.40.2 Under Section 132 of the 2008 Act, as amended by section 24 of the Growth and Infrastructure Act 2013, an order granting development consent shall not be subject to Special Parliamentary Procedure if the Secretary of State is satisfied that the special category land when burdened with the order rights will be no less advantageous to affected persons than it was before the imposition of the order rights.

4.40.3 Under the terms of the Order, land in the East Riding of Yorkshire identified in the **Book of Reference [EN010157/APP/4.2]** and on the **Special Category Land Plans [EN010157/APP/2.5]** and numbered 13-6,13-8,14-1 and 14-3 form part of a special category of land subject to protection under Section 132 of the 2008 Act. Further justification on this is provided within the **Statement of Reasons [EN010157/APP/4.1],** which explains that the Applicant considers the rights proposed to be acquired over the area of special category land identified are of limited impact, and as a result the Applicant considers that the Secretary of State can so certify that the order shall not be subject to Special Parliamentary Procedure.

4.40.4 This article is substantially the same as article 31 of The National Grid (Richborough Connection Project) Development Consent Order 2017, article 33 of The Southampton to London Pipeline Development Consent Order 2020 and

article 41 of The National Grid (Bramford to Twinstead Reinforcement) Order 2024.

4.41 Article 40 Crown Rights

4.41.1 This article reflects the terms of section 135 of the 2008 Act and is also precedented in article 37 of the Awel y Môr Offshore Wind Farm Order 2023, article 45 of The Gate Burton Energy Park Order 2024 and article 48 of The Cottam Solar Project Order 2024.

Part 6 – Miscellaneous and General

4.42 Article 41 - Application of landlord and tenant law

4.42.1 This article governs the leasing of land by the Applicant to any other person. It allows the terms of the lease to override any statutory provisions relating to landlord and tenant law. This article is a Model Provision which is included in numerous made DCOs. For example, article 34 of The Gate Burton Energy Park Order 2024, article 36 of The Mallard Pass Solar Farm Order 2024 and article 36 of The Cottam Solar Project Order 2024).

4.43 Article 42 – Operational land for purposes of the 1990 Act

4.43.1 This article is a Model Provision which is included in numerous made DCOs and has the effect of ensuring that the land on which the authorised development is constructed will be "operational land" under section 264(3)(a) of the 1990 Act. The effect is to ensure that planning rights attaching to the undertaker in relation to operational land have effect as they would do if planning permission had been granted for the authorised development.

4.43.2 This article is as found in in article 35 of the Longfield Solar Farm Order 2023, article 13 of The Little Crow Solar Park Order 2022, article 35 of The Gate Burton Energy Park Order 2024, article 37 of The Mallard Pass Solar Farm Order 2024 and article 37 of The Cottam Solar Project Order 2024.

4.44 Article 43 – Planning permission

4.44.1 Article 43 establishes that works done pursuant to a planning permission granted within the Order limits, which are required in connection with the authorised development, shall not constitute a breach of the Order. Equally, works done

pursuant to the Order shall not constitute a breach of planning permission. The rationale for this article arises from the Supreme Court's decision in *Hillside Parks Ltd v Snowdonia National Park Authority [2022] UKSC 30*. That case determined that where there was an overlap in planning permissions, then it is unlawful to carry out development under the second permission where the development permitted by the first permission would make it physically impossible to carry out development under the second permission.

4.44.2 This article is required to allow the Order and other local planning permissions to coexist without creating enforcement conflicts. Without it, work approved under the Order could be halted or penalised under conflicting permissions, creating risk and delay for both the developer and planning authorities. This is particularly necessary for the Proposed Development because there are a number of overlapping planning permissions near Creyke Beck substation, and the Applicant does not wish there to be a risk of enforcement action. There are also two existing planning permissions granted to Albanwise Ltd for Field House Solar Farm under reference number 22/00824/STPLF and Carr Farm Solar Farm under reference number APP/E2001/W/25/3360978 which are adjacent to the Proposed Development. The Applicant does not want to risk enforcement conflict with Field House Solar Farm and Carr Farm Solar Farm planning permissions, and article 43 helps to avoid this risk. Requirement 16 (Interaction with Field House Solar Farm and Carr Farm Solar Farm) refers to article 43 in paragraph (3) to ensure that the additional layer of protection provided by article 43 applies to the interaction of the Proposed Development with these two neighbouring developments.

4.44.3 Paragraph (1) is precedented in article 7 of the M5 Junction 10 Development Consent Order 2025, article 8 of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024, article 8 of the North Lincolnshire Green Energy Park Order 2025, and article 10(1) of the National Grid (Bramford to Twinstead Reinforcement) Order 2024. This article avoids unintended incompatibility between the Order and any further planning permissions sought.

4.44.4 Paragraph (2) has a general application and reflects the terminology used by the Supreme Court in the Hillside decision and confirms that planning permissions which conflict with the Proposed Development can proceed without the risk of enforcement action being taken notwithstanding any incompatibility between the Proposed Development and the development authorised under a planning permission. It is considered this is necessary to confirm that overlapping developments are not prevented. The drafting of paragraph (2) is substantially similar to article 10(2) of the Bramford to Twinstead Reinforcement Order 2024, article 45(3) of the London Luton Airport Expansion Development Consent Order 2025, and article 56(3) of the A122 (Lower Thames Crossing) Development Consent Order 2025.

4.44.5 Paragraph (3) deals with the converse situation and confirms that development under a planning permission is not to prevent activity authorised under the Order. The drafting of paragraph (3) of article 43 is based on article 10(3) of the Bramford to Twinstead Reinforcement Order 2024 and article 56(4) of the Lower Thames Crossing Development Consent Order 2025.

4.44.6 Paragraph (4) has been added to require the undertaker, where it identifies an inconsistency between permissions referred to in paragraphs (2)-(3), to notify the relevant local planning authority about the inconsistency and how it proposes to proceed. This ensures that the local planning authority has sufficient sight of article 43 being engaged, and should it disagree with the existence of an inconsistency it could engage with the matter accordingly (e.g. via discussions with the undertaker, and ultimately enforcement action).

4.44.7 Paragraph (5) sets out the definitions relevant to this article and in particular clarifies the definition of "planning permission" includes a planning permission granted under article 3 (permitted development) and Classes F, G, I, J, K, L, M and N of Part 8 (Transport related development) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015.

4.44.8 The Applicant stresses the need for this provision for the reasons given above, and highlights that removal would have a potential adverse effect on both the Proposed Development, and the Albanwise developments (Field House Solar Farm and Carr Farm Solar Farm). It is for this reason that Requirement 16, which deals with the interface, expressly and for the avoidance of doubt refers to these provisions. The Applicant notes, as set out in the precedent listed above, recently consented DCOs now have articles intended to address this very issue, with endorsement from the Secretary of State, and so it is clear that the problem is widely accepted.

4.45 The Applicant notes that the recently published, Nuclear Regulatory Review 2025[6] produced by a Taskforce led by John Fingleton, recommended that model provisions for DCO drafting should be reinstated to help solve common problems occurring in the consenting of NSIPs. One of the model provisions included in the Review, is a planning permission article to avoid issues of

[6] Nuclear Regulation Review 2025

conflict with overlapping planning permissions. The Review specifically refers to the Hillside Parks Supreme Court ruling and explains that recently consented DCOs now have features intended to address this. On 26 November 2025[7], the Prime Minister fully endorsed the recommendations of the Review, accepting "the principle of all the recommendations it has set out". The Applicant therefore considers the inclusion of article 43 in the Draft DCO [EN010157/APP/3.1 Revision 10] entirely appropriate and necessary to align with the current industry approach and to ensure that the Proposed Development and Field House Solar Farm and Carr Farm Solar Farm can be constructed without any enforcement risk. Article 44 - Felling or lopping of trees and removal of hedgerows

4.45.1 This article allows any tree or shrub that is near any part of the authorised development to be felled or lopped, or have its roots cut back, if it is considered to obstruct the construction, operation, maintenance or decommissioning of the authorised development, endanger anyone using it or obstruct or interfere with the passage of vehicles. Compensation is payable for any loss or damage caused. This power is subject to article 45 (Trees subject to tree preservation orders).

4.45.2 The article is included to ensure that the undertaker has adequate powers to construct, operate, maintain and decommission the authorised development. The undertaker does not have any other statutory powers available to it in order to fell or lop trees or shrubs and so the article is considered necessary to ensure that trees or shrubs do not obstruct the construction, operation, maintenance and decommissioning of this nationally significant infrastructure.

4.45.3 The article also allows the undertaker to remove those hedgerows specified in Schedule 13 (hedgerows to be removed) and as shown on the tree preservation

[7] Prime Minister's strategic steer to the nuclear sector following the 2025 Nuclear Regulatory Taskforce's Review

order and hedgerows plan along with the specific purpose of each removal. Part 1 of Scheduled 13 identifies those sections of hedgerow to be removed and then replaced/ reinstated whilst Part 2 lists those sections of hedgerow to be removed only.

4.45.4 Alongside that specific power, the article also allows for a generic power for any hedgerows within the Order limits to be removed where required for the purposes of the authorised development, to allow for construction flexibility.

4.45.5 The article is considered necessary to ensure that trees or shrubs do not obstruct the construction, operation, maintenance and decommissioning of this nationally significant infrastructure, in particular in order to maintain sight lines for construction traffic. It should be noted in this regard that sub-paragraph (7) provides that the Applicant may not fell or lop a tree within the extent of the publicly maintainable highway without the prior consent of the highway authority.

4.45.6 Similar wording has been used in other made DCO's (see, for example, article 36 of the Longfield Solar Farm Order 2023, article 36 of The Gate Burton Energy Park Order 2024, article 38 of The Mallard Pass Solar Farm Order 2024 and article 38 of The Cottam Solar Project Order 2024).

4.46 Article 45 – Trees subject to tree preservation orders

4.46.1 This article provides that the undertaker may fell or lop or cut back the roots of any tree which is subject to a to tree preservation order (TPO) to prevent it obstructing or interfering with the construction, maintenance, or operation of the authorised development or from constituting a danger to persons using the authorised development. Compensation is provided if loss or damage is caused. The effect of the article is that the works it permits, if carried out to a tree protected by a TPO, are deemed to have consent, and its inclusion is therefore consistent with the purpose of DCOs being to wrap up all of the required consents for a project. The article is a model provision included in numerous made DCOs, substantially found in article 37 of the Longfield Solar Farm Order 2023.

4.47 Article 46 - Certification of documents, etc.

4.47.1 This article provides for various plans and other documents to be certified by the Secretary of State as true copies of those documents referred to in the Order. The documents in question (with their reference and revision numbers) are listed in Schedule 14. A form of this article is included in the Model Provisions and in the majority of DCOs made to date.

4.48 Article 47 - Service of notices

4.48.1 This article governs how any notices that may be served under the Order are deemed to have been served properly. In particular, it allows service by email with the consent of the recipient, and deals with the situation of service on an unknown landowner.

4.48.2 The provision is useful because it provides clarity on the issue. It is noted that the service of notice provisions under sections 229 and 230 of the 2008 Act apply to notices served under that Act rather than notices served under a DCO made under that Act. This article has precedent in a number of orders, for example, the Little Crow Solar Park Order 2002 (article 15), the Longfield Solar Farm Order 2023 (article 41), the Boston Alternative Energy Facility Order 2023 (article 48), The Gate Burton Energy Park Order 2024 (article 42), The Mallard Pass Solar Farm Order 2024 (article 42) and The Cottam Solar Project Order 2024 (article 44).

4.49 Article 48 - Arbitration

4.49.1 This article governs what happens when two parties disagree in the implementation of any provision of the Order. The parties must first use reasonable endeavours to settle any difference through negotiations undertaken in good faith but if this does not resolve matters, then the matter is to be settled by arbitration, and if the parties cannot agree on who the arbitrator should be, this is decided by the President of the Institution of Civil Engineers. Paragraph (4) of the Order ensures that decisions made by the Secretary of State is not subject to arbitration.

4.49.2 The Applicant has sought not to be prescriptive about the procedures to be followed in circumstances where there is a reference to arbitration. The Arbitration Act 1996 would apply to arbitration proceedings, and this enables an arbitrator to manage proceedings as they see appropriate, without their discretion being fettered by a one size fits all approach mandated by the Development Consent Order. The current drafting affords flexibility to the arbitrator and the parties to establish a dispute resolution procedure that is appropriate and proportionate to the matter in dispute. An appointed arbitrator would be competent to make decisions depending on the facts of the case.

4.49.3 Paragraphs (1) and (3) have broad precedence in The Southampton to London Pipeline Development Consent Order 2020 and The Thurrock Flexible Generation Plant Development Consent Order 2022.

4.49.4 Paragraph (4) is precedented in Section 40(2) in The Gate Burton Energy Park Order 2024.

4.50 Article 49 – Requirements, appeals, etc.

4.50.1 This article provides a formal process in relation to the requirements and means that the undertaker has a right of appeal to the Secretary of State if an application is made to discharge a requirement and that application is refused or not determined. This approach is precedented, see article 18 of the Little Crow Solar Park Order 2022 and article 43 of the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.

4.51 Article 50 – Protective provisions

4.51.1 This article provides that Schedule 12 (protective provisions) has effect.

4.52 Article 51 – Funding

4.52.1 This article provides that the undertaker may not exercise a number of powers prior to it putting into place a guarantee or security equal to its potential liability to compensation payable under the Order which is approved by the Secretary of State. This article is as found in article 39 of the Cleve Hill Solar Park Order 2020, article 31 of the Awel y Môr Offshore Wind Farm Order 2023, article 43 of the Longfield Solar Farm Order 2023, article 44 of The Gate Burton Energy Park Order 2024, article 44 of The Mallard Pass Solar Farm Order 2024 and article 46 of The Cottam Solar Project Order 2024.

4.53 Article 52 – No double recovery

4.53.1 This article provides that compensation is not payable both under this Order and other compensation regimes for the same loss or damage. In addition, the article provides that there is not to be double recovery under two or more different provisions of this Order.

4.53.2 The article follows the well-established principle of equivalence in compulsory purchase compensation, namely that a claimant is to be compensated for no more and no less than their loss.

4.53.3 This article has precedent in the National Grid (Richborough Connection Project) Development Consent Order 2017 (article 47), the North London Heat and Power Generating Station Order 2017 (article 35), the M25 Junction 28 Development Consent Order 2022 (article 49), the Sizewell C (Nuclear Generating Station)

Order 2022 (article 46), the Boston Alternative Energy Facility Order 2023 (article 51) The Gate Burton Energy Park Order 2024 (article 39), and The Cottam Solar Project Order 2024 (article 41).

5 Schedules

5.1.1 **Schedule 1 (Authorised development)** specifies numbered works comprised in the authorised development (the NSIP) for which development consent is sought and other associated development works. The works should be read alongside the **Works Plans [EN010157/APP/2.2]**. The Schedule relates to article 3.

5.1.2 **Schedule 2 (Requirements)** contains draft requirements corresponding to conditions which, under section 120(2) of the Act, could have been imposed on the grant of planning permission for the authorised development had it not fallen within the regime of the Act. The requirements have a similar purpose to planning conditions. These requirements are of a standard nature and widely precedented amongst DCOs. Whilst the specific drafting of requirements may vary, the purpose of these requirements remains aligned with those in made solar DCOs, for example Schedule 2 of The Stonestreet Green Solar Order 2025, Schedule 2 of The Byers Gill Solar Order 2025 and Schedule 2 of The Tillbridge Solar Order 2025. Further explanation of requirements 2 and 16 is set out below as these are the two requirements that are less widely precedented.

5.1.3 Requirement 1: Interpretation – This requirement defines the terms used in the remainder of the Schedule.

5.1.4 Requirement 2: Time limits – This requirement is based upon the model provisions and places a limit of 5 years for the Authorised Development to begin. “Begin” is defined in requirement 1 as “means to carry out any material operation (as defined in section 155 (when development begins) of the 2008 Act) forming part, or carried out for the purposes, of the authorised development”. Requirement 2 uses the term 'begin', rather than 'commence', so that any material operation (as defined in section 155 of the 2008 Act) is sufficient for the purposes of satisfying this time limit including any "material operation" carried out under the defined “permitted preliminary works” referred to in the definition of commence in Article 2. Sub-paragraph (1) is precedented in Schedule 2, Requirement 2 to The A122 (Lower Thames Crossing) Development Consent Order 2025 and Schedule 2, Requirement 4 to The London Luton Airport Expansion Development Consent Order 2025.

5.1.5 Sub-paragraphs (2) and (3) are precedented in the recent National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 (Schedule 3, Requirement 2). The Applicant acknowledges that this project is of

a different nature and geographical scale to the Authorised Development, which arguably increases the chances of a legal challenge. However, in the absence of a legal challenge, the sub-paragraphs (2) and (3) are not engaged and the usual 5-year time limit applies.

5.1.6 There have been a number of challenges to the grant of DCOs for Nationally Significant Infrastructure Projects (NSIPs), which delay the ability of undertakers to commence construction free of the risk of legal challenge. The Applicant notes that the risk of legal challenge is viewed as a significant cause of delay in bringing forward NSIPs as recognised by the commissioning of Lord Banner KC in February 2024 to review this problem. His report was published in October 2024[8] and contained various recommendations for reform. Some of the reforms recommended by the Banner review have been included in the Planning and Infrastructure Bill currently completing its parliamentary passage.

5.1.7 The Applicant notes that an amendment to the Manston Airport Development Consent Order 2022 was sought via a non-material change application to lengthen time limits in their Order as although the Order was made in 2022, it was subject to legal challenges until May 2024. This incurred further delay, expense and added further pressure to the resources of the planning system.

5.1.8 Without the wording in sub-paragraphs (2) and (3) of Requirement 2 of the Draft DCO [EN010157/APP/3.1 Revision 9], the five year time limit would continue to run whilst any challenge is ongoing. The Applicant does not consider that it should be penalised, under Requirement 2, where a legal challenge is ultimately dismissed but potentially significant time has been incurred in legal proceedings (especially where there is an appeal). The Applicant does not consider that to implement the Proposed Development under the shadow of legal proceedings is a reasonable answer to the risk against which paragraphs (2) and (3) of Requirement 2 seeks to protect.

5.1.9 Requirement 3: Detailed design approval – This requirement stipulates the details that must be submitted to and approved by the local planning authority before any part of the works can commence. The details submitted must be in accordance with design parameters document unless a variation to the design parameters document has been demonstrated to the satisfaction of the local planning to not give rise to any materially new or materially different environmental effects in comparison with those reported in the Environmental Statement. The authorised development must be carried out in accordance with the approved details.

5.1.10 Requirement 4: Construction environmental management plan (CEMP) - Under this requirement, no part of the authorised development may commence until the

[8] Independent review into legal challenges against Nationally Significant Infrastructure Projects - GOV.UK

undertaker has carried out consultation with the Environment Agency and Natural England (in relation to measures associated with bentonite breakout) and submitted the CEMP to the local planning authority and received approval for a CEMP for that part, which are substantially in accordance with the Outline CEMP. The construction of the authorised development must be in accordance with the CEMPs as approved.

5.1.11 Requirement 5: Construction traffic management plan (CTMP) – Under this requirement, no part of the authorised development may commence until the undertaker has, following consultation with Hull City Council and National Highways, submitted to the local planning authority and received approval for a CTMP for that part which is in substantial accordance with the outline CTMP.

5.1.12 Requirement 6: Soil Management – Under this requirement no part of the authorised development may commence until a soil management plan, substantially similar to the outline soil management plan. for that part has been submitted to and approved by the local planning authority. The construction of any phase of the authorised development must be carried out in accordance with the approved soil management plan for that part.

5.1.13 Requirement 7: Site Waste - under this requirement no part of the authorised development may commence until a site waste management plan, substantially similar to the outline site waste management plan, for that part has been submitted to and approved by the local planning authority.

5.1.14 Requirement 8: Battery safety management plan (BSMP) – Under this requirement, prior to the commencement of any part of the authorised development which includes Work No.2 a BSMP for that part must be submitted to the local planning authority following consultation by the undertaker with the Humberside Fire and Rescue service and the Environment Agency. Any BSMP must be in substantial accordance with the outline BSMP.

5.1.15 Requirement 9: Landscape and ecological management plan (LEMP) – Under this requirement, no part of the authorised development may be commenced until the undertaker has, following consultation with the Environment Agency, Natural England and Historic England, submitted to the local planning authority and received approval for a written LEMP for that part which is in substantial accordance with the outline LEMP. Any LEMP must be implemented as approved and maintained throughout the operation of the relevant part of the authorised development to which the LEMP relates.

5.1.16 Requirement 10: Public rights of way– No part of the authorised development may be commenced until a rights of way and access management plan for any part of the authorised development that requires public footpath to be temporarily

closed or restricted within that part, has been submitted to and approved by the local planning authority. The plan must be substantially in accordance with the outline rights of way and access management plan. The rights of way and access management plan must be implemented as approved.

5.1.17 Requirement 11: Fencing and other means of enclosure - The undertaker is required to obtain the written approval from the local planning authority for any proposed permanent and temporary fences, walls, or other means of enclosure, for each part prior to commencement of the part in question of the authorised development. Any construction site must remain securely fenced in accordance with the approved details at all times during construction of the authorised development. Any temporary fencing must be removed on completion of the part of construction of the authorised development for which it was used. In the event that temporary fences, walls or other means of enclosure are required for the permitted preliminary works, no permitted preliminary works may take place until written details of all proposed temporary fences, walls or other means of enclosure required for such works have been submitted to and approved by the local planning authority. Any approved permanent fencing must be completed the date of final commissioning of the authorised development.

5.1.18 Requirement 12: Operational noise - No part of Works Nos. 1 or 2 may commence until an operational noise assessment containing details of how the design of that numbered work has incorporated mitigation measures to ensure the operational noise rating levels as set out in the environmental statement are to be complied with for that part has been submitted to and approved by the local planning authority. The approved mitigation measures must be implemented as approved and maintained for the period specified in the assessment.

5.1.19 Requirement 13: Archaeology - This requirement stipulates that no part of the authorised development may commence until a written scheme of investigation of areas of archaeological interest within that part has been submitted to and approved by the local planning authority. Any archaeological works or programme of archaeological investigation must be carried out in accordance with the approved scheme. Any written scheme of investigation submitted for approval must be substantially in accordance with the archaeological management strategy

5.1.20 Requirement 14: Operational environmental management plan (OEMP) – Prior to the date of final commissioning, an OEMP must be approved by the local planning authority. The OEMP must be substantially in accordance with the outline OEMP. The operation of the authorised development must be carried out in accordance with the approved OEMP. Paragraph (3) of this requirement stipulates that "*the operation of the authorised development must be carried out in accordance with the approved OEMP*". This therefore implies that the OEMP

will be maintained through the operation of the authorised development. This wording is precedented in the Byers Gill Solar Order 2025 and the East Yorkshire Solar Farm Order 2025.

5.1.21 Requirement 15: Decommissioning and restoration – This requirement provides that within 3 months of the date that the undertaker decides to decommission any part of the solar farm works and grid connection works, the undertaker must submit to the local planning authority for its approval a decommissioning plan for that part which substantially accords with the outline decommissioning environmental management plan. Decommissioning will commence no later than 40 years following the date of final commissioning of the authorised development. Paragraph (2) makes clear that if decommissioning was to take place sooner than the 40- year period from the date of commissioning, there would be a requirement to submit and implement a decommissioning plan within 3 months of that intended date.

5.1.22 Requirement 16: Interaction with Field House Solar Farm and Carr Farm Solar Farm – This requirement ensures there is no conflict between the Proposed Development and the neighbouring solar developments, Field House Solar Farm and Carr Farm Solar Farm. This requirement ensures that the interface of these projects is properly managed so that all three developments can be constructed and operate efficiently. This requirement includes a commitment to ensure that the route of a relevant access to and from the authorised development, on plot 2A-5, does not require the removal of any above ground infrastructure constructed pursuant to the Field House Solar Farm planning permission.

5.1.23 This approach to managing interfacing projects is precedented in The Thurrock Flexible Generation Plant Development Consent Order 2022 which provided assurance to National Highways in relation to their Lower Thames Crossing scheme and The Portishead Branch Line (MetroWest Phase 1) Order 2022 which included a co-operation requirement with National Grid.

5.1.24 Requirement 17: Requirement for written approval - This requirement provides that where any approval, agreement or confirmation of the local planning authority or another person is required under these requirements, then such approval, agreement or confirmation must be provided in writing.

5.1.25 Requirement 18: Amendments to approved details - This requirement allows details which have been submitted and approved by the local planning authority to be amended/varied in writing by the local planning authority. The amendment or variation must always be in accordance with the principles and assessment undertaken in the ES and must not give rise to any materially new or different environmental effects from those assessed in the original ES. The purpose of this provision is to allow flexibility in the detailed design stage, such that amendments

to approved details can be sought in specific circumstances. However, this flexibility is subject to strict parameters, in that it only applies to the extent the local planning authority is satisfied that the subject matter of the approval is unlikely to result in materially new or materially different effects to those assessed in the Environmental Statement. A change within the ambit of Requirement 17 would not engage the procedures for making any post-consent (material or non-material) amendments to projects as set out in the guidance 'Planning Act 2008: changes to Development Consent Orders', since it would be a change which was within the scope of the Development Consent Order. A change outside the scope of Requirement 18 would engage those procedures. This type of provision has now become highly precedented and a version of this provision is contained in a number of recent solar DCOs, for example Requirement 3 of The West Burton Solar Project Order 2025 and Requirement 5 of the Longfield Solar Farm Order 2023.

5.1.26 Requirement 19: Anticipatory steps towards compliance with any requirements - provides that any steps taken before the Order comes into force that were intended to be steps towards compliance with any provision of Schedule 2 may be taken into account for determining compliance with that provision as if they had been taken after the Order came into force. The Applicant's intention is to be able to consult local authorities on draft control documents prior to the Order being made. The Applicant wishes to commence construction of the Proposed Development as soon as practicable once the Order is made (should it be) and therefore this Requirement would facilitate the Applicant getting on site as soon as possible subject to all other requirements in the Order being met. The intention of the provision is to ensure that steps taken towards compliance with a requirement, such as drafting of control plans and consultation with statutory bodies on draft documents, can be taken into account when determining compliance with a requirement. To require the Applicant to re-run a consultation exercise, for example, would serve no useful purpose if consultation carried out prior to the Order being made is just as valid for the purposes of the Order as made. This provision therefore affords an appropriate degree of discretion to local planning authorities to make sensible and proportionate decisions in circumstances such as this. This has precedence in The Southampton to London Pipeline Development Consent Order 2020 (schedule 2, requirement 21), The Thurrock Flexible Generation Plant Development Consent Order 2022 (schedule 2, requirement 23) and The M25 Junction 28 Development Consent Order 2022 (schedule 2, requirement 23).

5.1.27 Requirement 20: Consultation – Under this requirement, where the Applicant is required by Schedule 2 to consult with another party prior to discharging a requirement, the undertaker must provide such other party with not less than 21 business days for any response to consultation. Any details submitted to the planning authority for approval must be accompanied by a summary report setting out the consultation responses and any responses to them.

5.1.28 Part 2 of Schedule 2 (Procedure for discharge of requirements) applies to any consent, agreement or refusal which needs to be obtained under the Requirements set out in Part 1 of Schedule 2 or under any other provision of the Order. It clarifies the procedure which applies in respect of these additional consents. This Schedule relates to article 3.

5.1.29 **Schedule 3 (Legislation to be disapplied)** a list of the local legislation that the Order will disapply insofar as the provisions (in that local legislation) still in force are inconsistent with the powers contained in the Order, pursuant to article 9. A list of explanations justifying the disapplication of the local legislation listed in Schedule 3 can be found at Appendix 1.

5.1.30 **Schedule 4 (Alteration of streets)** This Schedule lists the streets which will be altered pursuant to the power contained in article 13 (power to alter layout, etc. of streets).

5.1.31 **Schedule 5 (Streets and public rights of way to be temporarily closed or restricted)** This Schedule sets out the streets (part 1) and public rights of ways (part 2) which are subject to temporary closure, or restriction under article 15.

5.1.32 **Schedule 6 (Access to works)** This Schedule sets out where new permanent accesses to works will be formed and laid out under article 16.

5.1.33 **Schedule 7 (Traffic Regulation Measures)** This Schedule contains details of the streets that are subject to temporary traffic regulation measures pursuant to article 18 and contains the details of the nature of the measures for each affected street. Part 1 sets out the traffic signal and banksperson control areas. Part 2 sets out temporary speed limits. Part 3 details dedicated left turn movements for heavy goods vehicles (entry and exit).

5.1.34 **Schedule 8 (Land in which only new rights etc. may be acquired)** This Schedule sets out the areas of land over which only new rights may be acquired or restrictive covenants imposed by the undertaker and the nature of the rights or restrictions. The plot numbers in column 1 of that table correlate to the **Land Plans [EN010157/APP/2.4]**, column (2) explains the purposes for which rights over land may be acquired or the restrictive covenants imposed. The Schedule relates to article 25 (Compulsory acquisition of rights and imposition of restrictive covenants).

5.1.35 **Schedule 9 (Modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants)** This Schedule modifies existing compensation legislation including the Land Compensation Act 1973 and the Compulsory Purchase Act 1965. This has been updated to reflect any necessary changes arising as a result of the

Housing and Planning Act 2016. The Schedule relates to article 25 (Compulsory acquisition of rights).

5.1.36 **Schedule 10 (Land of which temporary possession may be taken)** This Schedule sets out the land referred to in article 33 which the Applicant may temporarily occupy and the purpose for which that temporary occupation may be taken.

5.1.37 **Schedule 11 (Acquisitions of wayleaves, easements and other rights)** This Schedule makes provision for the undertaker to act on behalf of statutory undertakers in acquiring wayleaves, easements or other rights for the diversion or relocation of electricity, gas, water, sewerage or telecommunication apparatus. It relates to article 37 (Acquisition of wayleaves, easements and other rights).

5.1.38 The drafting itself draws upon the drafting of equivalent powers which benefit electricity, gas, water, sewerage and telecoms undertakers under the Electricity Act 1989, the Gas Act 1986, the Water Industry Act 1991 and the Communications Act 2003. These existing statutory powers have been adapted only insofar as necessary to enable the undertaker to act on behalf of such statutory undertakers in seeking wayleaves through a compulsory process should they be needed in future. Save for the fact that all consideration or compensation due to land owners is required to be payable by the undertaker (rather than the relevant statutory undertaker), the processes involved are otherwise unchanged, and continue to reflect the statutory requirements and safeguards on the use of such powers. Experience has shown that statutory undertakers can be reluctant to exercise their own powers to acquire easements or wayleaves even where this would facilitate the undertaker's delivery of a project, due to the time, expense and compensation involved. The proposed article 37 and schedule 11 would provide an option which may be useful in some circumstances to both the undertaker and the relevant statutory undertaker, and may only be exercised where the relevant statutory undertaker gives their consent to the undertaker. It would facilitate the timely and efficient implementation of the authorised development, and the diversion or relocation of utilities where required, both of which are in the public interest.

5.1.39 This drafting is precedented in Article 44 and Schedule 18 of The Sizewell C (Nuclear Generating Station) Order 2022 and an equivalent, similar Schedule has been included in Schedule 10 of the recently made Tillbridge Solar Order 2025.

5.1.40 **Schedule 12 (Protective provisions)** sets out the provisions for the protection of statutory undertakers affected by the authorised development, as referred to in article 50. Part 1 provides protection for the electricity, gas, water and sewerage undertakers. Part 2 provides protection for operators of electronic communications code networks. Part 3 provides protection for the drainage

authorities. Part 4 provides protection for the Environment Agency. Part 5 provides protection for National Gas Transmission PLC. Part 6 provides protection for National Grid Electricity Transmission PLC. Part 7 for the protection of railway interests. Part 8 for the protection of Northern Powergrid.

5.1.41 **Schedule 13 (Hedgerows to be removed)** lists the hedgerows that the Applicant is allowed to remove, pursuant to article 44. Part 1 identifies those sections of hedgerow to be removed and then replaced/ reinstated whilst Part 2 lists those sections of hedgerow to be removed only. The Applicant has set out the purpose for specific tree removals and their impacts in the **Arboricultural Impact Assessment [EN010157/APP/6.4]** at Table 2: Tree removals and impacts.

5.1.42 **Schedule 14 (Documents to be certified)** lists the documents and plans to be submitted with the application and to be certified by the Secretary of State. The list is subject to change. This Schedule relates to article 46 (Certification of documents, etc.).

6 Appendix 1

1 Appendix 1 sets out the explanations justifying the disapplication of local legislation cited in Schedule 3. Article 9 of the Order provides the powers for the Applicant to disapply the following legislation.

1.1 **East Riding Drainage Act 1798** (ERDA) – The ERDA regulates land drainage in East Yorkshire and aims to improve low-lying lands in areas of Beverley. The commissioners have powers to access land necessary to carry out duties, impose drainage rates and create byelaws. The ERDA covers the River Hull which intersects the Order limits. The commissioners' powers in these areas could conflict with the powers in the Order and interfere with the construction, operation and maintenance of the Proposed Development and cause increased costs and delays to the implementation of the Proposed Development. Accordingly, it is considered appropriate to disapply the ERDA. It is noted that the Order contains protective provisions for drainage authorities.

1.2 **Beverley and Skidby Drainage Act 1808** (BSDA) – The BSDA was created to improve drainage in the Beverley and Skidby areas of East Yorkshire, giving powers to commissioners to control water levels, prevent flooding, and help drain farmland effectively. The BSDA applies to "land around Beverley", which could include areas like Routh, Long Riston and Tickton, and various parts within or around the Order Limits near the River Hull. The BSDA gives commissioners the power to inspect, repair, and improve drainage systems, create new drainage works, and enter private land to carry out maintenance. They can impose drainage

rates on landowners benefiting from the improvements, create and enforce rules to regulate drainage, and compel landowners to carry out necessary drainage works. These powers may interfere with the Proposed Development's construction, operation and maintenance, and could cause increased costs and delays to the implementation of the Proposed Development. Accordingly, it is considered appropriate to disapply the BSDA. It is noted the Order contains protective provisions for drainage authorities.

1.3 **Holderness Drainage Act 1832** (HDA) – The HDA permits drainage authorities to manage and improve watercourses, prevent flooding, and regulate drainage in Holderness. The authorities have power to access land necessary to carry out duties, impose drainage rates, and create byelaws. Tickton, Routh and Long Riston are areas covered by the HDA, where the Proposed Development is situated. The HDA also mentions the River Hull, which runs through the Order limits. The commissioners' wide powers in these areas where the Proposed Development is located may interfere with construction, operation and maintenance, and cause increased costs and delays to the implementation of the Proposed Development. Therefore, as there is likely to be competing powers, the HDA should be disapplied. It is noted that the Order contains protective provisions for drainage authorities.

1.4 **Beverley Commons Act 1836** (BCA) – The BCA controls how common lands around Beverley are used and managed. The pasture masters are responsible for managing the common lands, imposing fines for misuse, overseeing maintenance and improvements, and ensuring that local people's rights to use the land are respected and properly enforced. The common land covered by the BCA in Figham is within the Order limits. The pasture masters' powers within the Order limits could interfere with the construction, operation and maintenance of the Proposed Development and cause increased costs and delays to the implementation of the Proposed Development. Accordingly, it is considered appropriate to disapply the BCA. Works within Figham Common will be controlled by the provisions within the Order, in particular, via the **Outline Construction Environmental Management Plan [EN010157/APP/7.2 Revision 3]**.

1.5 **Beverley and Barmston Drainage Act 1880** (BBDA) – The BBDA establishes a framework for managing and maintaining drainage systems in the Beverley and Barmston areas, granting powers to commissioners to levy drainage rates, maintain infrastructure, enforce byelaws, and prevent flooding. The BBDA gives commissioners powers over the River Hull area, which pass within and just outside the Order limits of the Proposed Development. If there is an overlap these powers could interfere with the construction, operation and maintenance of the Proposed Development and therefore cause increased costs and delays to the implementation of the Proposed Development. The BBDA also provides that it is illegal to let dirt or debris fall into the River Hull which may happen unavoidably during construction leading to fines or work stoppages. Therefore, it is considered

appropriate to disapply the BBDA. It is noted that the Order contains protective provisions for drainage authorities and the **Outline Construction Environmental Management Plan [EN010157/APP/7.2 Revision 3]** contains measures to minimise the impact on waterways at table 5-1.

1.6 **Kingston-upon-Hull Corporation Act 1901** (KHCA 01) – The KHCA 01 grants powers to the Corporation to carry out certain street works to construct bridges over the river Hull and to lay down tramways. It also confers further broad powers to the Corporation in regard to the water supply to Kingston-upon-Hull. The KHCA 01 refers to Cottingham which is close to the Order limits on the southern boundary. The Corporation's powers to construct and lay down drains, sewers and watercourses on lands in Cottingham could interfere with the construction and maintenance of the Proposed Development and as such the KHCA 01 should be disapplied. It is noted that the Draft DCO contains protective provisions for water undertakers.

1.7 **Holderness Water Act 1908** (HWA) – The HWA provides powers to manage and improve water supply and drainage systems in Holderness, including constructing infrastructure, accessing land, imposing charges, borrowing funds, and enforcing regulations. The HWA covers "rural districts of Beverley, Sulcoates, and Driffield," which could include Routh, Long Riston and Tickton, areas where the Proposed Development is situated. These powers could interfere with the construction, operation and maintenance of the Proposed Development, and could cause increased costs and delays to the implementation of the Proposed Development. As such, the HWA should be disapplied. It is noted that the Order contains protective provisions for water undertakers and drainage authorities.

1.8 **Kingston-upon-Hull Corporation Act 1911** (KHCA 11) – The KHCA 11 confers powers on the Corporation in relation to tramway works and water undertakings. The Kingston-upon-Hull borough in which the KHCA 11 operates, includes Cottingham which is close to the Order limits on the southern boundary. The powers of the Corporation to carry out works including the laying of pipes and other apparatus in public streets could interfere with construction and maintenance of the Proposed Development. As such, the KHCA 11 should be disapplied.

1.9 **Kingston-upon-Hull Corporation Act 1922** (KHCA 22) – The KHCA 22 grants the Corporation wide powers over land in the Kingston-upon-Hull borough which includes Cottingham, which is close to the Order limits on the southern boundary. The powers of the Corporation to enter and use any land and to carry out any works in Cottingham permitted by the KHCA 22, could interfere with construction and maintenance of the Proposed Development. As such, the KHCA 22 should be disapplied.

1.10 **Kingston-upon-Hull Corporation Act 1926** (KHCA 26) – The KHCA 26 grants Kingston-upon-Hull Corporation broad powers to manage and improve public infrastructure, including water supply, sewerage, land development, and public health, with the power to collect rates, enforce regulations, and oversee construction projects. Tickton, Eske, Routh and Long Riston, where the Proposed Development is situated, are areas in the KHCA 26 where the Corporation is responsible for supplying water. The Corporation have the power to maintain the water supply such as building or maintaining water infrastructure, levy charges and access land where water network is underneath. The Corporation's powers may interfere with construction, operation and maintenance, and cause increased costs and delays to the implementation of the Proposed Development, as such the KHCA 26 should be disapplied. It is noted that the Order contains protective provisions for water undertakers.

1.11 **The Urban District of Hornsea Nuisance Byelaws 1926** – These byelaws prevent nuisances arising from snow, filth, dust, ashes and waste and stipulate restrictions on the keeping of animals on certain premises. They operate in the Urban District of Hornsea which is now part of the East Riding of Yorkshire, the administrative area in which the Proposed Development is situated. Byelaws numbers 5 and 7(a) and (b) could interfere with the construction of the Proposed Development because they prohibit dust falling on public roads or footpaths when it is being moved and compel those moving substances including dust to take necessary precautions to prevent this. Constructions vehicles may need to remove substances from the site during construction which could generate dust and there is a risk that some loose dust could unavoidably fall from vehicles. The preferred approach is therefore, to disapply the byelaws. It is noted that the **Outline Construction Environmental Management Plan [EN010157/APP/7.2 Revision 3]** contains measures to prevent the escape of materials during transport at table 5-1.

1.12 **Administrative County of the East Riding of Yorkshire Good Rule and Government of the County - Uprooting Plants 1930** – These byelaws prohibit the uprooting of plants growing on common land to which the public have access and other areas of public rights of way. Figham Common is common land located within the Order limits. Therefore, these byelaws, particularly byelaw number 2 which imposes the prohibition, may interfere with the Proposed Development's construction if plants in public areas covered by the Order Limits and/or Figham Common need to be uprooted. The byelaws should therefore be disapplied. The **Outline Construction Environmental Management Plan [EN010157/APP/7.2 Revision 2]** and **Outline Landscape and Ecological Management Plan** [**EN010157/APP/7.5 Revision 4]** will control the works within the Order Limits including Figham Common.

1.13 **Kingston-upon-Hull Corporation Act 1930** (KHCA 30) – The KHCA 30 grants the Corporation powers to manage and expand water supply and sewerage

systems, acquire land, improve public health, create byelaws, and collect rates to support the city's ongoing development and infrastructure improvements. The Corporation have the power to maintain water lines in the “rural district of Beverley”, which could include Tickton, Routh and Long Riston, where the Proposed Development is situated. The Corporation’s powers could interfere with construction, operation and maintenance, and could cause increased costs and delays to the implementation of the Proposed Development. The powers granted by the KHCA 30 to carry out works expire 10 years after passing the legislation, however there is provision for the Corporation to make changes to works such as extending, enlarging, altering and laying additional pipes, which could impede on the Proposed Development if works need to be done within the Order Limits. Therefore, the KHCA 30 should be disapplied.

1.14 **Haltemprice Urban District Council** - **Pleasure Grounds and Open Spaces 1951** – These byelaws are generally incompatible with the Proposed Development due to their prohibition on damage to trees, plants, fences, park infrastructure and restriction of nuisances in public parks, open spaces and recreation grounds within the Haltemprice district which was absorbed into the Borough of Beverley and then into the East Riding of Yorkshire. There are no public parks within the Order limits but there is an interface with Figham Common which is covered by these byelaws. In particular, byelaws numbers 5, 7, 9 and 11 in relation to damage to walls, fences, railings, prohibitions on putting up notices/signs, and on removing shrubs or turf, could cause an impediment to the construction of the grid connection. The byelaws should therefore be disapplied.

1.15 **The County of York, East Riding (Removal of Mud Etc. from Wheels of Vehicles) Byelaw 1952** – These byelaws, in particular byelaw number 2, compel a person in charge of a vehicle to remove any mud, clay, limestone and similar material from the wheels of their vehicle before entering onto a highway. These byelaws operate within East Riding of Yorkshire, the administrative area in which the Proposed Development is situated. These byelaws therefore could be problematic in instances where transport and construction vehicles carrying materials for the Proposed Development enter or leave the site with mud on their wheels. As this could be deemed an offence, these byelaws should be disapplied. It is noted that the **Outline Construction Environmental Management Plan [EN010157/APP/7.2 Revision 3]** contains measures to minimise the risk of debris entering the road at paragraph 4.6.4 and table 5-1.

1.16 **The County Council of York, East Riding - The County of York, East Riding (Dropping of Water and Loose Substances from Vehicles on Highways) Byelaw 1961** – These byelaws, in particular byelaw number 2, prevents water or loose substances such as wet sand or gravel being dropped from vehicles onto public highways. The byelaws operate within East Riding of Yorkshire, the administrative area in which the Proposed Development is situated. Construction vehicles may need to remove gravel / sand from the site during construction and

there is a risk that some loose substances unavoidably fall from the vehicles. The preferred approach is therefore, to disapply the byelaws. It is noted that the **Outline Construction Environmental Management Plan [EN010157/APP/7.2 Revision 3]** contains measures to minimise the risk of debris entering the road at table 5-1.

1.17 **The County Council of York, East Riding -The County of York, East Riding (Protection of Safety Lamps and Barriers) Byelaw 1965** – These byelaws prohibit the tampering of lamps, reflectors or other apparatus used for giving warning or lighting in the streets. They operate within East Riding of Yorkshire, the administrative area in which the Proposed Development is situated. As part of the construction of the Proposed Development, there may be temporary or permanent movement of street lighting. Whilst this is most likely to be on private land as opposed to public streets, the Applicant has taken a precautionary approach and sought for these byelaws to be disapplied.

1.18 **Kingston-upon-Hull Corporation Act 1967** (KHCA 67) – The KHCA 67 grants the Corporation power to construct bridges across the river Hull and to carry out other works on land within the Kingston-upon-Hull borough for improvement purposes. The river Hull intersects the Order limits and there are other smaller watercourses which lie within the Order limits which the Corporation has powers over. These powers include fencing open drains and watercourses and could interfere with construction and maintenance of the Proposed Development and conflict with the provisions of the Order. The KHCA 67 is therefore, disapplied.

1.19 **Associated British Ports Act 1987** (ABPA) – The ABPA provides power to Associated British Ports (ABP) to manage and regulate ports, including making byelaws for the Humber area. The River Hull is caught under the Humber area and intersects the Order limits. Therefore, any byelaws ABP made relating to the River Hull may conflict with powers of construction, operation or maintenance under the Order. The ABPA also requires the Secretary of State to notify ABP if the ABPA is modified by another law, which may create conflicting powers or opposition by ABP following the affording of powers under the Order. Accordingly, the Applicant is seeking to disapply the ABPA.

1.20 **Beverley Pasture Masters - Byelaws 1987** – These byelaws regulate the management and use of common pasture land in Beverley. The byelaws reference Figham Common which is within the Order limits of the Proposed Development. The specific byelaws which could be an impediment to the construction, operation and maintenance of the Proposed Development are numbers 19, 29, 31 and 36. These byelaws prohibit damage to common pastures, advertising on common pastures, driving vehicles on common pastures or erecting any structures including posts or fences. These restrictions could interfere with construction or maintenance activities for the Proposed Development and should therefore, be disapplied.

1.21 **Beverley Pasture Masters Byelaws 2004** – These byelaws regulate the management and use of common pasture land in Beverley. Figham Common is likely caught as a common area under these byelaws which is within the Order limits of the Proposed Development. The specific byelaws which could be an impediment to the construction, operation and maintenance of the Proposed Development are numbers 12, 13, 14 and 15. These byelaws prohibit damage to common pastures, advertising on common pastures, driving vehicles on common pastures or erecting any structures including posts or fences. These restrictions could interfere with construction or maintenance activities for the Proposed Development and should therefore, be disapplied.

1.22 **Beverley and North Holderness Internal Drainage Board Byelaws 2021** – The Beverley and North Holderness Internal Drainage Board (IBD) have one set of byelaws which include a number of relevant byelaws which need to be disapplied. These byelaws allow the Board to regulate the management of watercourses and prohibit certain activities which could come into conflict with works activities for the Proposed Development. The byelaws relate to watercourses within the Borough of Holderness which became part of the East Riding of Yorkshire, the administrative area in which the Proposed Development is situated. There are numerous watercourses within the Order limits which are likely to be subject to these byelaws. The byelaws which could be particularly problematic are numbers 5, 10, 14, 17 and 24. These prohibit diversion or stopping ups of watercourses, any obstructions from being within 9 meters of the edge of a watercourse, the driving of vehicles on watercourse banks and any damage to property of the Board. The construction and maintenance of the Proposed Development could risk breaching some of these prohibitions and conflict with the provisions within the Order including the protective provision for the benefit of the IDB. Accordingly, it is considered necessary to disapply these byelaws.

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