

Rosefield Solar Farm

Written Summary of Applicant's Oral Submissions at Issue Specific Hearing 2 (ISH2)

EN010158/APP/8.17
Deadline 3
May 2026
Rosefield Energyfarm Ltd

Infrastructure Planning (Examination
Procedure) Rules 2010

Planning Act 2008



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1. Written Summary of Applicant's Oral Submissions at Issue Specific Hearing 2 (ISH2) on 22 May 2026

1.1. Introduction

- 1.1.1. This note summarises the oral submissions made by Rosefield Energyfarm Limited (the **Applicant**) at Issue Specific Hearing 2 (**ISH2**) held on 22 May 2026 in relation to the application for development consent (**Application**) for the Rosefield Solar Farm (the **Proposed Development**).
- 1.1.2. Where the Examining Authority (the **ExA**) requested further information from the Applicant on specified matters, or the Applicant undertook to provide further information during the course of ISH2, that further information is either set out in this document, provided as part of the Applicant's Deadline 3 submissions or where flagged, will form part of the Applicant's Deadline 4 submissions.
- 1.1.3. This note does not purport to summarise the oral submissions of other parties, and summaries of submissions made by other parties are only included where necessary to give context to the Applicant's submissions, or where the Applicant agreed with the submission(s) made and so made no further submissions (this is noted within the document where relevant).
- 1.1.4. The structure of this note follows the order of the items listed in the detailed agenda published by the ExA on 12 May 2026 [\[EV8-001\]](#) (the **Agenda**). Numbered agenda items referred to are references to the numbered items in the Agenda. The Applicant's substantive oral submissions commenced at Item 3 of the Agenda. Therefore, this note does not address Items 1 and 2 on the Agenda as these were procedural and administrative in nature.
- 1.1.5. Section 3 sets out the Action Points from ISH2 in accordance with the ExA's list of actions [\[EV8-004\]](#) and the Applicant's response to them.

2. Written summary of the Applicant's oral submissions

#	Agenda item	Written summary of the Applicant's oral submissions
1.	Introductions, arrangements and purpose of the hearing	The Examining Authority (ExA) introduced the hearing and made some preliminary remarks.
2.	Purpose of the issue of the specific hearing	<p>The purpose of the hearing is to address matters raised by the ExA following its consideration of the application documents.</p> <p>The following parties introduced themselves during ISH2:</p> <p>The Applicant</p> <ul style="list-style-type: none"> • Amy Stirling, Partner at Pinsent Masons LLP (solicitors for the Applicant) • Elisabeth Sandbach, Senior Associate at Pinsent Masons LLP <p>Buckinghamshire Council</p> <ul style="list-style-type: none"> • Daniel Kozelko, Barrister at 39 Essex Chambers (Counsel for Buckinghamshire Counsel) • Zenab Hearn, Planning Officer at Buckinghamshire Council
3.	The purpose and overall structure of the draft Development Consent Order ("dDCO")	<p><u>Applicant's overall approach for the dDCO</u></p> <p>The ExA requested that the Applicant provide an overview of the dDCO and any recent amendments to it.</p> <p>Elisabeth Sandbach, on behalf of the Applicant, explained that the base document and main influence for the dDCO [REP2-004] is The Springwell Solar Farm Order 2026. There are two key reasons for this – firstly, Springwell represents the most recently consented solar DCO and so is the best reflection of the Secretary of State's (SoS) current policy preferences for solar DCO consenting. Secondly, Springwell was recently promoted by EDF (noting that the Applicant is part of EDF's corporate group) and using this as a basis for the Rosefield dDCO ensures consistency across EDF's development portfolio.</p>

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Ms Sandbach added that, in accordance with paragraph 2 of the Ministry of Housing, Communities and Local Government's (MHCLG) guidance on "Content of a Development Consent Order required for Nationally Significant Infrastructure Projects" (April 2024), and section 2.1 of PINS "Advice Note 15: drafting Development Consent Orders" (March 2025), the dDCO has been submitted and validated as a draft statutory instrument, and the Applicant has otherwise complied with this guidance and advice in terms of its approach to drafting.

Ms Sandbach then explained the key components of the Proposed Development. The Proposed Development comprises a solar PV electricity generating station and associated development, including a battery energy storage system (BESS), substations and grid connection infrastructure. The solar photovoltaic generating station (Work No. 1) constitutes "development for which development consent is required" (a generating station with capacity of more than 50MW – the megawatt threshold under the Planning Act 2008 (PA 2008) at the time the Application was submitted) and is therefore the NSIP component of the Proposed Development. The BESS and associated development (Work Nos. 2 to 10) are "associated development" for the purposes of section 115 of the PA 2008, and having regard to the policy and criteria set out in MHCLG's separate April 2013 guidance on "Associated development applications for major infrastructure projects".

Ms Sandbach added that the **dDCO [REP2-004]** includes various provisions to enable the construction, maintenance, operation and decommissioning of the Proposed Development. This reflects the integrated consenting objective of the PA 2008 regime. The provisions have been drafted to accord with the wide-ranging powers at section 120 of the PA 2008, but also the limitations, requirements and exceptions imposed by section 120(8) and sections 122 to 152 so far as these are relevant to the Proposed Development. All powers provided for within the Order come within the scope of section 120 of, and Schedule 5 to, the PA 2008.

Ms Sandbach explained that the **dDCO [REP2-004]** follows a standard structure of the articles, which provide development consent for the Proposed Development and provide the undertaker with a suite of powers covering a range of matters such as street works, discharge of water, and powers of compulsory acquisition. The articles also contain various general provisions covering matters such as benefit of the powers within the dDCO. The Applicant's dDCO contains 48 operative provisions, or articles (noting that article 21 is not used since the 'Removal of Human Remains Article' was removed at Deadline 2 so the articles still number up to 49).

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Ms Sandbach explained that the **dDCO [REP2-004]** contains 16 Schedules, which cover standard matters and are generally in accordance with the MHCLG guidance. Ms Sandbach explained that Schedule 1 (Authorised Development) provides the description of the authorised development. This includes the works packages (Work Nos. 1 to 10), which correspond with the **Works Plans [REP1-005]**. Schedule 2 (Requirements) contains 18 Requirements, which are controls that apply to the Proposed Development, similar to planning conditions. Schedule 3 (Legislation to be disapplied) identifies local legislation to be disapplied where inconsistent with the powers conferred by the **dDCO [REP2-004]**. Ms Sandbach explained that Schedules 4 to 8 address matters relating to street works and alterations, public rights of way, access to works, and streets subject to traffic regulation measures. Schedule 9 (Land in which only new rights etc. may be acquired) sets out details of the land over which new rights may be acquired, whilst Schedule 10 (Modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) provides for amendments to legislation to ensure that appropriate compensation is payable where such rights are acquired. Schedule 11 (Land of which temporary possession may be taken) identifies land over which temporary possession may be taken. Schedule 12 (Hedgerows to be removed) details the hedgerows to be removed as part of the Proposed Development. Schedule 13 (Documents and plans to be certified) lists the documents and plans to be certified by the Secretary of State. Schedule 14 (Arbitration rules) sets out the rules of arbitration applicable to disputes under the **dDCO [REP2-004]**. Schedule 15 (Protective provisions) contains protective provisions for statutory undertakers and their apparatus. Schedule 16 (Procedure for discharge of requirements) sets out the procedure for the discharge of Requirements contained in Schedule 2 (Requirements).

Summary of recent amendments made to the dDCO

Ms Sandbach then provided a summary of recent amendments to the **dDCO [REP2-004]**. Ms Sandbach explained that the Applicant continues to update the **dDCO [REP2-004]** as the Examination progresses, particularly in response to engagement with stakeholders and the ExA's questions. The **dDCO [REP2-004]** is currently at Revision 4, with all changes since submission tracked in the **Schedule of Changes to the dDCO [REP2-079]**, which is updated alongside each revision:

- Advanced planting has been added to the list of permitted preliminary works to enable early planting proposed in the **Outline Landscape and Ecological Management Plan (oLEMP) [REP2-067]**.

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		<ul style="list-style-type: none">• Article 6 (Disapplication and modification of statutory provisions) has been amended to limit its application to existing and approved developments.• Article 21 (Removal of human remains) has been removed from the dDCO [REP2-004].• Work No. 2B(ii) of Schedule 1 (Authorised Development) has been updated following engagement with the Environment Agency to reflect that the Applicant is no longer proposing to culvert a watercourse.• Requirement 8 (Fencing and other means of enclosure) has been updated to distinguish between temporary and permanent fencing.• Requirement 14 (Operational noise) has been amended to include reference to the operational noise limits contained in Environmental Statement Volume 2 Chapter 13 - Noise and Vibration [REP1-040].• Ms Sandbach further explained that Schedule 14 (Arbitration) has been amended in respect of confidentiality, to provide that arbitration hearings and documentation will be open and accessible to the public as a starting point, subject to potential private hearings where commercially sensitive matters arise.• Ms Sandbach also noted more general amendments, including the removal of land from the Order land (including an Anglian Water Services plot), the addition of requirement consultees (including bodies such as Natural England and the local highways authority), and updates to reflect drafting in recently made Development Consent Orders to anticipate the SoS's approach.

The role of the Explanatory Memorandum

Ms Sandbach then addressed the role of the **Explanatory Memorandum [REP2-006]**. Ms Sandbach explained that the purpose of the **Explanatory Memorandum [REP2-006]**, as set out in section 1 of Advice Note 15, is to provide a plain English aid to the **dDCO [REP2-004]** to assist the ExA, Interested Parties and the SoS in understanding what is proposed. The Applicant is required to submit an Explanatory Memorandum pursuant to Regulation 5(2)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

Ms Sandbach explained that the **Explanatory Memorandum [REP2-006]** justifies each article and requirement within the **dDCO [REP2-004]** and explains why each power is included and appropriate for the Proposed Development. She noted that, although no longer required, the Applicant has had regard to the model provisions in the Infrastructure Planning (Model Provisions) Order 2009 in order to identify and explain variations from those provisions.

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The justifications in the **Explanatory Memorandum [REP2-006]** have been prepared having regard to the MHCLG guidance and Advice Note 15, which require that the extent of justification is proportionate. Where drafting has been derived from made DCOs, including the Springwell Solar Farm Order 2026, this is explained in the Explanatory Memorandum. However, Ms Sandbach emphasised that the **Explanatory Memorandum [REP2-006]** does not rely on precedent alone and instead provides a proportionate explanation of why the provisions are appropriate in the specific circumstances of the Proposed Development.

Ms Sandbach explained that the **Explanatory Memorandum [REP2-006]** is structured as follows: section 1 provides an overview of the Proposed Development, the Applicant and the site; section 2 sets out the purpose and structure of the document; section 3 explains the purpose of the Order; section 4 summarises the articles and their justification; section 5 summarises the schedules and their role and justification; and section 6 contains references cited.

Ms Sandbach noted that, in response to the ExA's First Written Questions (ExQ 1.12.1), the Applicant provided updates to the **Explanatory Memorandum [REP2-006]** at Deadline 2. These amendments included strengthening the justifications for the provisions having regard to the specific circumstances of the Proposed Development and the SoS's policy approach, providing further explanation of permitted preliminary works and the controls securing environmental mitigation, including additional detail on the disapplication of legislation under article 6 (Disapplication and modification of statutory provisions), and further explaining the operation of various articles.

Novel provisions

Ms Sandbach then addressed the novel provisions contained within the **dDCO [REP2-004]**. Ms Sandbach explained that article 6 (Disapplication and modification of statutory provisions) is a somewhat novel provision, reflecting the absence of a settled approach by the SoS to address the risk of overlapping and inconsistent planning permissions following the Supreme Court's decision in *Hillside Parks Ltd v Snowdonia National Park Authority [2022]*. Ms Sandbach explained that the Hillside judgment established that where development carried out under a second permission overlaps with and is incompatible with a first permission, further development under the first permission would be rendered unlawful. She noted that, whilst promoters have sought to address this risk through drafting, the SoS has in some cases removed such provisions on the basis of ambiguity.

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However, there are examples of similar provisions being included in made Orders. Ms Sandbach referred to examples of made Orders where similar provisions have been included, including the A122 (Lower Thames Crossing) Development Consent Order 2025, the London Luton Airport Expansion Development Consent Order 2025, and the Longfield Solar Farm Order 2023 (as amended, following a non-material change). Ms Sandbach explained that the Applicant has adopted the approach taken in the Longfield Solar Farm Order 2023 following a non-material change, whereby the relevant “existing or approved developments” are expressly defined by reference to the cumulative effects assessment. These comprise planning permissions or applications under the Town and Country Planning Act 1990 within the Order limits. Two such developments have been identified: the East Claydon BESS (approved on 11 September 2025) and the East Claydon Green Grid Park (pending determination). Ms Sandbach noted that this approach narrows the scope of the provision and seeks to strike an appropriate balance.

Ms Sandbach then explained that Article 9 (Application of the permit scheme) is another novel provision. She noted that, whilst the **dDCO [REP2-004]** includes street works powers, Buckinghamshire Council operates its own permit scheme under the Traffic Management Act 2004. Article 9 therefore provides a hybrid approach. Ms Sandbach explained that Article 9 confirms that the permit scheme applies (with modifications) to street works carried out under the Order, with provisions addressing refusal of permits, the imposition of conditions and a right of appeal. Whilst jurisdictionally specific in nature, she noted that this approach has precedent in other made DCOs, including the Viking CCS Carbon Dioxide Pipeline Order 2025, the Southampton to London Pipeline Development Consent Order 2020, and more recently the Springwell Solar Farm Order 2026. Ms Sandbach confirmed that the Applicant will liaise with Buckinghamshire Council in relation to the operation of this article and any associated controls.

Finally, Ms Sandbach addressed the interaction between permitted preliminary works (PPWs) and commencement of the authorised development. She explained that the definition of PPWs includes highway works (Work No. 9), which facilitates access to the other work numbers. She noted that including Work No. 9 as a PPW reflects the Applicant's experience from the implementation of another made solar DCO and has precedent in The Springwell Solar Farm Order 2026. Ms Sandbach explained that the Applicant has carefully considered each requirement in Schedule 2 (Requirements) to ensure that, where appropriate, particular and relevant PPWs are captured within the definition of commencement for that Requirement where mitigation or

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management measures are required. She confirmed that PPW are also included for the purposes of the time limit for commencement under Requirement 1 (Commencement of the authorised development) of Schedule 2.

Post-hearing note: *The drafting of Requirement 1 sub-paragraph (2) gives the Applicant flexibility, ensuring that PPWs are also considered to be a 'material operation' which can 'commence' the development within the 5-year time limit, therefore preventing the Order from expiration.*

4. Articles and Requirements	The ExA queried whether the words “any part of” should be included prior to the words “authorised development” within the definition of “date of final commissioning” contained within article 2(1) (Interpretation) of the dDCO [REP2-004] .
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Ms Amy Stirling, on behalf of the Applicant, explained that the Applicant does not consider it necessary to include the words “any part of”. She explained that the definition of the “date of final commissioning” is intended to refer to completion of commissioning of the Proposed Development as a whole, and where a different approach is required, this is addressed within the specific provisions where the term is used.

By way of example, Ms Stirling referred to Requirement 2(6), which requires notification of the date of final commissioning in respect of each phase of Work No. 1. She explained that including “any part of” within the definition would result in duplication in such provisions. Ms Stirling further noted that, in the context of decommissioning, Requirement 18 (Decommissioning and restoration) operates by reference to completion of the development as a whole. She therefore noted that the issue is appropriately addressed on a case-by-case basis within the drafting, rather than through amendment to the primary definition.

The ExA turned to the definition of “maintain” and, with reference to ExQ1.12.9, queried whether the definition should include wording to the effect that maintenance works should not give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement. The ExA noted that similar wording has been included in other made Orders, including the Tillbridge Solar Order 2025 and the Oaklands Farm Solar Park Order 2025.

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Ms Sandbach, on behalf of the Applicant, explained that Article 5(3) of the **dDCO [REP2-004]** provided the appropriate control, where the article does not authorise the carrying out of works which are likely to give rise to any materially new or materially different environmental effects not assessed in the Environmental Statement. She explained that the Applicant considers this provision appropriately constrains the power to maintain.

Post hearing note: *the Applicant confirms that, as explained during the hearing, Article 5 provides the power to maintain the authorised development. In accordance with Article 5(3), that power is expressly limited so as not to authorise “the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement”. Any maintenance activities that did give rise to materially new or different environmental effects would be outwith the undertaker’s power to maintain the authorised development, and therefore a breach of the consent granted by the DCO (if made). This operative provision therefore means that there is no requirement for the definition of “maintain” in Article 2(1) to be amended to include reference to the authorised development not giving rise to any material new or materially different environmental effects.*

Mr Daniel Kozelko, Counsel on behalf of Buckinghamshire Council, queried whether the use of the term “likely” reflects the correct test, noting that this is the test used to establish whether an environmental effect arises in the first instance. Ms Stirling responded and noted that the use of the term “likely” reflects a “belt and braces” approach. She explained that the relevant authority will be required to consider whether the proposals give rise to any new, materially different likely significant environmental effects under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, which continue to apply at the discharge stage.

The ExA then turned to the definition of “Order land” and queried whether this should be defined as “land which is required for, or is required to facilitate, or is incidental to, or is affected by the authorised development” in line with the Fenwick Solar Farm Order 2026. Ms Sandbach confirmed that the Applicant would consider updating this definition, and this was taken as **Action Point 1**.

Post hearing note: *Following the ExA’s request, for clarity, the Applicant has updated the definition of “Order land” in the **dDCO [EN010158/APP/3.1.5]** to align with that contained within the Fenwick Solar Farm Order 2026.*

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The ExA then turned to the definition of “permitted preliminary works” and queried whether the extent of works included within the definition and whether it had been adequately demonstrated that such works would not give rise to environmental effects requiring control through Requirements. The ExA referred to ExQ 1.12.11 and noted that certain permitted preliminary works, such as surveys and site investigations, are described as non-intrusive and therefore unlikely to give rise to environmental effects but queried whether other works included within the definition, such as Work No. 9, could give rise to environmental effects, and sought clarification as to the Applicant’s position that such effects would be controlled through the Requirements, including with the agreement of the relevant planning authority.

Ms Sandbach explained that relevant permitted preliminary works are expressly “added back in” to specific Requirements so as to control when those Requirements are triggered. By way of example, Ms Sandbach referred to Requirement 7 (Landscape and Ecological Management Plan (LEMP)), which provides that no part of the authorised development may commence until a LEMP has been submitted to and approved by Buckinghamshire Council (in consultation with the relevant consultees). She explained that the drafting then clarifies that, for the purposes of that Requirement, “commence” includes specified permitted preliminary works. This ensures that those works cannot be carried out until the LEMP has been approved, and therefore are appropriately controlled. Ms Sandbach confirmed that this approach is intended to ensure that permitted preliminary works which have the potential to give rise to environmental effects are appropriately captured by, and subject to, the relevant Requirements.

Mr Kozelko confirmed that Buckinghamshire Council had no objection to this approach.

The ExA moved to article 8 (street works) and noted that the provision refers to the New Roads and Street Works Act 1991. The ExA queried whether the article should include an express notice provision requiring advance notice to be given to the street authority (for example, a specified notice period prior to the commencement of works). Ms Sandbach responded and explained that the Applicant does not consider an express notice provision to be necessary, as the permit scheme provided for under article 9 (Application of the permit scheme) contains the relevant notice provisions.

The ExA queried whether article 10 (Power to alter layout, etc., of streets) should also include a notice provision.

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Ms Stirling confirmed that the Applicant would need to consider the drafting in more detail, including whether such a provision should be included or whether consistency with the Council's permit scheme under article 9 would be more appropriate. She confirmed that the Applicant would take the point away and consider it further.

Post hearing note: *the Applicant has reviewed articles 9 and 10 alongside the Council's permit scheme and considers that works undertaken pursuant to article 10 would be subject to the requirements of the permit scheme. It is therefore appropriate that article 9 applies to these works, and this has been reflected in the updated **dDCO [EN010158/APP/3.1.5]** submitted at Deadline 3. In this context the Applicant does not consider it necessary for separate notice provisions to be incorporated into article 10.*

The ExA moved on to article 12 (Temporary prohibition or restriction on use of streets and public rights of way) and noted Buckinghamshire Council's position that there should be certainty that streets and/or public rights of way are returned to the same condition as before the temporary works. Ms Sandbach responded that the Applicant's position is that this is addressed through existing controls, including the **Outline Rights of Way and Access Strategy [REP2-071]** and the **Outline Construction Traffic Management Plan [REP2-065]**. She confirmed that the Applicant would continue to review the point and respond further at Deadline 3.

Mr Kozelko confirmed that it is Buckinghamshire Council's position that this provision should be expressly included within the **dDCO [REP2-004]**, or alternatively within the management plans, in order to provide certainty.

Ms Stirling reiterated that the commitments secured through the **Outline Rights of Way and Access Strategy [REP2-071]** and the **Outline Construction Traffic Management Plan [REP2-065]** already require restoration of streets and public rights of way. She explained that, within the structure of the **dDCO [REP2-004]**, the powers are granted up front and then incrementally constrained through the requirements and management plans, and the Applicant considers that these controls already provide the necessary restriction. Including an express provision within the article could therefore result in duplication. However, she confirmed that, as a matter of principle, the Applicant is committed to restoring streets and public rights of way, and that this is ultimately a point of drafting on which an agreed position could be reached.

Post hearing note: *the Applicant has reviewed the **Outline Rights of Way and Access Strategy [REP2-071]** and the **Outline Construction Traffic Management Plan [REP2-065]** and notes that:*

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		<ul style="list-style-type: none">• The Outline Rights of Way and Access Strategy [REP2-071], at paragraphs 4.2.2 and 6.3.4, states that “temporarily diverted PRow will be reinstated to their original route and to at least their original condition following track and cable trench construction activities”.• The Outline Construction Traffic Management Plan [REP2-065], at section 4.7, states that a wear and tear agreement with Buckinghamshire Council is suggested. Paragraph 4.7.11 provides that “upon completion of construction activities, a follow-on condition review will be undertaken and a defects list prepared. Works required to reinstate the road back to its original condition will be undertaken at the Applicant’s expense following a review by Buckinghamshire Council”.• The Outline Construction Traffic Management Plan [REP2-065] also includes specific commitments at section 3.4 Road Reconstruction in relation to Snake Land/Fiddlers Field and section 3.5 Road Improvement Works which are focused on works at Granborough Road. <p>However, for the avoidance of doubt and acknowledging that the restoration provisions in the Outline CTMP [REP2-065] are provided in the context of specific works, the Applicant will update its Outline CTMP at Deadline 4 to include a broader commitment confirming that it will restore the condition of streets following use under Article 12.</p> <p>The ExA then turned to article 14 (Use of private roads) and noted that the provision confers wide powers over private roads within the Order limits. The ExA queried whether this power should instead be restricted to those roads specifically identified in the application documents, and asked the Applicant to explain the need for the broader power.</p> <p>Ms Sandbach explained that article 14 provides a power to use private roads on a temporary basis, and that this is proportionate given the limited nature of the interference, as it does not extinguish, suspend or permanently affect private rights. She acknowledged that other DCOs identify specific private roads. She confirmed that the Applicant would be amenable to updating the Streets, Rights of Way and Access Plans [REP1-006] to provide greater clarity and reassurance to owners of private roads within the Order limits.</p>

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		<p>The ExA asked for the updated plans to clearly show whether the Proposed Development would be using the relevant private roads. Ms Sandbach confirmed that this would be addressed for Deadline 3 or, given time constraints, at Deadline 4. This informed Action Point 6.</p> <p><i>Post hearing note: The Applicant will update its Streets, Rights of Way and Access Plans [REP1-006] to show existing private roads for Deadline 4.</i></p> <p>The ExA then turned to Article 16 (Agreements with street authorities) and noted that Buckinghamshire Council had proposed additional wording in response to ExQ 1.12.9. The ExA queried whether this wording had been agreed, noting that the Council or the Applicant may wish to comment further on the point.</p> <p>Ms Sandbach confirmed that there has been ongoing engagement between the parties' respective highways consultants, with further discussions being arranged to resolve the matter. She explained that, in the meantime, the Applicant had proposed amended wording in the Outline Construction Traffic Management Plan [REP2-065] to confirm that appropriate financial security will be provided for the works, in line with standard practice and that this was with Buckinghamshire Council for review.</p> <p><i>Post hearing note: as agreed during ISH2, the Applicant will provide an update to the Outline Construction Traffic Management Plan [REP2-065] at Deadline 4.</i></p> <p>The ExA then noted article 22 (Compulsory acquisition of land) and queried whether an additional paragraph should be included to confirm that compulsory acquisition powers do not extend to mines and minerals.</p> <p>Ms Sandbach explained that the inclusion of an additional paragraph is not considered necessary, as article 48 (Compulsory acquisition of land – incorporation of the mineral code) already achieves this. She explained that incorporation of the Mineral Code ensures that, where land is compulsorily acquired, the undertaker does not acquire rights to mines and minerals.</p> <p>The ExA asked Buckinghamshire Council for comment. Mr Kozelko confirmed that Buckinghamshire Council had no current concerns but would review the position.</p>

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The ExA then referenced article 23 (Time limit for exercise of authority to possess land temporarily or to acquire land compulsorily). The ExA noted that extended periods in the event of legal challenge have appeared in some recent DCOs, but queried whether this approach is justified in this case, particularly given the stated urgency for the Proposed Development and recent legislative proposals aimed at reducing the scope and duration of legal challenges. The ExA asked the Applicant to explain the justification for the inclusion of these provisions.

Ms Stirling explained that this approach has been accepted by the SoS in recent DCOs, including the Springwell Solar Farm Order 2026. She explained that the purpose of the provision is to prevent the DCO being frustrated by legal challenge, which is outside the Applicant's control. Ms Stirling stated that, given the critical national priority of the Proposed Development and the likelihood of high-profile projects attracting objections and potential legal challenge, extending the time period in such circumstances is considered justified. She added that the Applicant therefore considers the approach to be both warranted and supported by recent precedent.

The ExA turned to Buckinghamshire Council for comment. Mr Kozelko added that such provisions are relatively standard and may now also be addressed through recent amendments to planning legislation, which provide additional time where a judicial review has been brought.

Ms Stirling added that the Applicant will keep the position under review and consider whether the drafting remains necessary, noting that there have been recent announcements regarding changes to judicial review processes for DCOs, including a proposed requirement for parliamentary approval. She explained that this is an evolving area and, for the time being, the Applicant considers it appropriate to include the provision clearly on the face of the **dDCO [REP2-004]** for transparency.

Post hearing note: as agreed during ISH2, the Applicant will provide an update on this matter at Deadline 4.

The ExA then moved to article 31 (Temporary use of land for constructing the authorised development) and queried why the power at article 31(1)(a)(ii) is required to enter “any other Order land” where such land is not identified in Schedule 11 (Land of which temporary possession may be taken), noting that the Applicant already has a degree of flexibility under the drafting.

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		<p>Ms Sandbach explained that the inclusion of the power allows the Applicant to exercise temporary possession powers across all the Order land, including land not listed in Schedule 11, in order to minimise the need for compulsory acquisition, particularly of rights. She referred to the Statement of Reasons [REP1-010] and explained that this enables entry onto the Order land for the purposes of activities such as site preparation in advance of the vesting of rights.</p> <p>Ms Sandbach gave the example of the cable corridor, where temporary possession may be used to undertake construction and micro-siting works to identify the precise location required, before subsequently acquiring a narrower permanent easement. She explained that this approach ensures that only the minimum land and rights necessary are permanently acquired and noted that this is a well-established and commonly adopted approach.</p> <p>Whilst noting that some flexibility is necessary to undertake detailed design, the ExA queried whether the area over which temporary use is required could be more precisely delineated (rather than applying to the entirety of the Order land).</p> <p>Ms Stirling explained that temporary possession is a lesser interference with landowners' rights compared to freehold acquisition or permanent acquisition of rights. She explained that it is not possible at this stage to identify with precision the areas where temporary possession may be required, due to the need for detailed design.</p> <p>Ms Stirling explained that, once detailed design is complete and the construction corridor is confirmed, the Applicant would be required to give advance notice to the relevant landowners before taking temporary possession of specific areas of land to carry out construction works, after which only the minimum land required would be subject to permanent acquisition of an easement. She noted that, without this power, the Applicant would need to permanently acquire an easement over the entire plot(s) in order to ensure sufficient construction working flexibility, which would result in greater interference with landowners' interests. She noted that landowners would also be entitled to compensation under the provisions of the dDCO [REP2-004].</p> <p>The ExA further suggested that, even at this stage, it may be possible to define a corridor within which the cable route could be delivered, with a reasonable degree of certainty, while still allowing sufficient flexibility for detailed design.</p>

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Ms Stirling stated that she was not aware of any DCO project which, at this stage, would be able to identify the specific location of the cable route within the Order limits so as to restrict temporary possession powers in that way. She indicated that, if that level of precision were possible, the Order limits themselves would be drawn more narrowly.

The ExA clarified that, whilst the precise location may not be known at this stage, it would be expected that a wider corridor could be defined within which the cable could feasibly be delivered, allowing sufficient flexibility for detailed design.

Ms Stirling confirmed that the Order limits represent the extent to which the Applicant is currently able to identify the location of the relevant infrastructure. The Applicant agreed to provide a note on this, as per Action Point 9.

Post hearing note: *In response to the ExA's request for a note per Action Point 9 regarding justification for the powers sought under article 31 and the Applicant's inability to further delimit the areas of land of which temporary use may be required at this stage, the Applicant reiterates that article 31(1)(a)(ii) allows temporary possession to be taken for an expressly time-limited period whilst the Proposed Development is under construction, with article 32 providing an equivalent power for maintenance. All of the land affected by these articles is either (a) specified in schedule 11) or (b) otherwise subject to powers of compulsory acquisition under other provisions of the DCO (i.e. compulsory acquisition of freehold under article 22 or compulsory acquisition of permanent rights under article 24) which are more onerous powers than temporary use powers. In accordance with article 31(8) and article 32(3) owners and occupiers of the land would receive advance notice of any temporary use.*

*The applicant is unable to narrow the geographical extent of these powers beyond the Order limits at this stage, as discussed during ISH2, on the basis that detailed design work has not yet been undertaken which means the Applicant has not identified, within the confines of the Order limits and the limitations of the Works packages, precisely where infrastructure will be located. This means it is not possible to identify exactly a refined area the Applicant would take temporary possession of land for construction, and then within that refined area, where the permanent acquisition would be. The Applicant is confident that the extent of the powers of temporary use sought under article 31(1)(a)(ii) (being limited to the Order limits) represents the minimum reasonably required for the construction of the Proposed Development (and likewise under article 32 for maintenance). The Applicant refers the ExA to its response to **Action Point 9** following the **CAH1 [REP1-107]** for more technical information on the*

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approximate widths sought for the swathes for the cabling corridors, working widths and the permanent easement width.

The ExA sought input from Buckinghamshire Council.

Mr Kozelko confirmed that this aligns with the Council's understanding, namely that the extent of the Order limits reflects the level of design certainty currently available and, if greater precision were possible, the Order limits would be more tightly drawn. Mr Kozelko also sought confirmation that the temporary possession power could only be exercised in respect of land which is otherwise subject to compulsory acquisition powers.

Ms Stirling confirmed that the temporary possession power applies to land which is otherwise subject to freehold acquisition or permanent acquisition of rights. She noted that there are some areas subject to temporary possession only, but these are specifically identified in a separate schedule and were not the subject of this discussion.

Mr Kozelko confirmed that, on that basis, the exercise of temporary possession powers would be less onerous than the alternative compulsory acquisition powers available.

The ExA then turned to article 37 (Consent to transfer the benefit of the Order) and noted that the provision allows for the transfer of the benefit of the Order. The ExA queried how the transfer of any less than the entirety of the Order could be justified and invited the Applicant to explain this approach.

Ms Stirling gave the example of offshore wind projects, where the cable assets would need to be transferred to an OFTO (offshore transmission owner), whilst the generating station would remain with the generating entity. In the case of a solar project such as the Proposed Development, it is feasible that the BESS for example may be transferred to a separate special purpose vehicle, to be operated independently. If that were to arise, the transferee would need to remain subject to all relevant provisions, controls and requirements within the **dDCO [REP2-004]** insofar as they relate to the transferred works. Given that only one solar NSIP has been constructed to date, this situation has not yet commonly arisen, but it is very commonplace in the context of offshore wind.

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		<p>The ExA observed that, as drafted, the provision would allow the Applicant to transfer multiple parts of the Proposed Development separately, and queried whether any limitation should be imposed.</p> <p>Ms Stirling suggested that there would not be any planning purpose for such a limitation, given that any transfer would remain subject to the controls within the dDCO [REP2-004].</p> <p>The ExA sought input from Buckinghamshire Council.</p> <p>Mr Kozelko noted that Buckinghamshire Council's role in this respect is limited, with such matters primarily governed by the SoS in accordance with the DCO. He explained that Buckinghamshire Council had not identified any concerns with the provision and that it is not an article which directly affects the Council's interests, but confirmed that any concerns would be raised in writing if they arise.</p> <p>The ExA then turned to article 41 (Trees subject to tree preservation orders) and queried why there is no requirement to obtain the approval of the local planning authority under this article. The ExA also queried how the exclusion of the duty to replace trees (under section 206 of the Town and Country Planning Act 1990) can be justified.</p> <p>Ms Stirling explained that no separate approval from the local planning authority is required because the dDCO [REP2-004] would take precedence. She noted that there are currently no known trees within the Order limits subject to a Tree Preservation Order (TPO) which would need to be removed.</p> <p>Ms Stirling further explained that, if a TPO were to be made after the DCO is made (which is unlikely, given the maturity that the tree would need to reach), the Applicant considers that the DCO would have already effectively granted the statutory authority for the undertaker to remove the relevant tree, and it should not be necessary to seek separate consent from the local planning authority.</p> <p>In relation to replanting in the event of removal of a TPO-protected tree, Ms Stirling acknowledged the ExA's point, and indicated that the Applicant would consider whether it would be appropriate to make provision for this in the Outline Landscape and Ecological Management Plan [REP2-067], noting some uncertainty as to how a like-for-like replacement would be provided.</p>

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Post hearing note: *the Applicant has reviewed the **Outline Landscape and Ecological Management Plan [REP2-067]** and notes that paragraph 4.3.21 states that “Whilst no removals of trees subject to a Tree Preservation Order (TPO) are proposed, where an individual tree subject to a TPO must be removed (e.g. due to its dead or dangerous condition) and the relevant planning authority requires replacement, a new tree of equivalent species and ultimate size will be planted in the same place or as near as reasonably practicable to the position of the removed tree, subject to operational requirements. ... The final species and planting location will be agreed in advance with the relevant planning authority”. However, the Applicant notes that this paragraph is only provided in the context of ‘Permitted Preliminary Works – Vegetation Removal’. Therefore, for the avoidance of doubt, the Applicant will update its **Outline Landscape and Ecological Management Plan at Deadline 4** to secure that TPO-protected trees which are removed during the operational (including maintenance) phase would also be replanted.*

Mr Kozelko confirmed that this aligned with Buckinghamshire Council’s understanding, namely that any such trees would be identified through the **Outline Landscape and Ecological Management Plan [REP2-067]** and appropriate measures secured through the detailed LEMP. He noted that the removal of the statutory duty would not prevent the Council from securing appropriate replacement planting.

The ExA moved to Requirement 8 (Fencing and other means of enclosure) of Schedule 2 (Requirements) and noted that the provision had been updated at Deadline 2. The ExA queried whether the Requirement should include a provision requiring the Applicant to complete fencing and other means of enclosure to a standard approved by the relevant planning authority.

Ms Sandbach noted that Requirement 8(4) requires that the written details accord with the relevant design commitments, and that sub-paragraphs (5), (6) and (7) state that any construction site must be securely fenced in accordance with the approved details (for which the approving body is Buckinghamshire Council). The Applicant therefore considered that previous comments on this Requirement had been addressed.

Mr Kozelko queried whether the drafting currently secures that all fencing (including permanent fencing) must accord with approved plans, or whether the control is limited to construction fencing only.

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		<p>Ms Sandbach referred to Requirement 8(7), explaining that it requires any permanent fencing “approved under sub-paragraph (2)” must be completed prior to the date of final commissioning of the relevant part of the authorised development and maintained for the operational lifetime.</p> <p>Mr Kozelko noted a difference as compared to the wording of sub-paragraph (5), which includes the phrase “in accordance with the approved details”, and queried whether that wording could be copied across, even if it may already be implicit.</p> <p>Ms Sandbach confirmed that the drafting in sub-paragraphs (6) and (7) could be amended to include the suggested wording.</p> <p><i>Post hearing note:</i> <i>The Applicant has updated the drafting at sub-paragraphs (6) and (7) of the dDCO [EN010158/APP/3.1.5] submitted at Deadline 3 to include the phrase “in accordance with the approved details”.</i></p> <p>The ExA moved to Requirement 13 (Construction Traffic Management Plan) and queried whether National Highways should be included as a consultee, noting its role as a highway authority.</p> <p>Ms Sandbach explained that traffic impacts on both Oxfordshire County Council’s and National Highways’ networks are not assessed as significant. However, she confirmed that the Applicant is content to include National Highways as a consultee, for completeness.</p> <p><i>Post hearing note:</i> <i>The Applicant has updated Requirement 13 of the dDCO [EN010158/APP/3.1.5] at Deadline 3 to include National Highways as a consultee.</i></p> <p>The ExA referred to Requirement 14 (Operational Noise) and noted that the Outline Construction Environmental Management Plan [REP2-059] specifies core working hours of 7:00am to 7:00pm Monday to Friday and 7:00am to 12:00pm on Saturdays, and highlighted the inclusion of an additional hour either side of those core hours for travel to and from the Site. The ExA sought confirmation that Buckinghamshire Council is content with both the core working hours and the hour either side, and content that the associated noise impacts are adequately controlled.</p>

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		<p>Mr Kozelko noted that no concerns had been raised to date but that this would be checked. He noted his understanding that the extended hours for travel were intended to avoid peak highway periods.</p> <p>The ExA asked for confirmation of the types of works that would be carried out outside the core working hours.</p> <p>Ms Sandbach explained that these works are set out and secured in the Outline Construction Environmental Management Plan [REP2-059]. She identified two categories of such works:</p> <p>First, abnormal or emergency construction traffic movements (as set out in paragraph 2.9.2), for which specific noise mitigation measures would be implemented. She explained that these measures (set out in section 3) include avoiding vehicle movements over irregular surfaces, prohibiting the use of vehicle horns, using low-noise reversing systems and ensuring vehicles are shut down when not in use.</p> <p>Second, certain construction activities such as trenchless techniques (including HDD) and abnormal indivisible load deliveries, which may need to take place during evenings, Sundays, bank holidays or at night. She explained that such works would be agreed with the local planning authority in advance, and that the Outline Construction Environmental Management Plan [REP2-059] secures further controls (section 2.12) where nighttime working is required. They include notifying nearby residents, ensuring noise levels from HDD plant do not exceed 45dB at the nearest sensitive receptor, and the use of acoustic mitigation measures such as screening or temporary barriers where necessary.</p> <p>The ExA sought comments from Buckinghamshire Council. Mr Kozelko confirmed it was content that sufficient controls are in place as they can be secured through the detailed CEMP.</p> <p>The ExA asked for the Applicant's justification for use of the word "substantially" in various places within the Requirements.</p> <p>Ms Sandbach explained that the use of the term "substantially" in requiring final plans to be substantially in accordance with the outline plans is standard and widely accepted in DCO drafting. She explained that it provides the necessary flexibility to respond to issues arising at the detailed design stage or other relevant circumstances, whilst still enabling the relevant planning authority to withhold approval where proposals are inappropriate or</p>

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inadequate. Ms Sandbach stated that this approach strikes the necessary balance between securing the measures within the outline management plans (which are sufficiently detailed to provide comfort to stakeholders), whilst also preserving the necessary flexibility should circumstances change at detailed design (for example if measures were no longer considered the most appropriate or effective).

She further explained that Schedule 16 (Procedure for discharge of Requirements) provides the necessary controls against departing too far from the outline plans, because the undertaker needs to confirm that any detailed plan submitted for approval does not give rise to new or materially different environmental effects compared to those assessed in the Environmental Statement.

The ExA sought comment from Buckinghamshire Council. Mr Kozelko confirmed that the use of the term “substantially” is standard in DCO drafting, particularly in recent Orders. He confirmed that Buckinghamshire Council has no concerns with this approach.

Ms Stirling noted that this point has been raised by the Environment Agency, who were not in attendance. She indicated that this is likely to be a matter on which the parties “agree to disagree”. She noted that the ExA may determine whether or not to recommend use of this wording in its recommendation to the SoS, but confirmed that the Applicant does not currently intend to amend the wording during Examination.

The ExA moved on to Schedule 16 (Procedure for the discharge of Requirements) and raised concern that the deemed consent provision, as currently drafted, could be satisfied by an email to a public body, which seemed open to misunderstanding.

Mr Kozelko explained that further engagement between Buckinghamshire Council and the Applicant is required on this Schedule, noting that Buckinghamshire Council also has concerns regarding some of the time limits provided.

Ms Stirling suggested that the parties seek to agree a position and reflect this in the dDCO for Deadline 4.

Post hearing note: the Applicant will seek to agree these matters with the Council and provide an update, and/or updated iteration of the dDCO, at Deadline 4.

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The ExA sought input from any Interested Parties.

Mr Kozelko raised a further point in relation to Article 6(1)(e) (Disapplication and modification of statutory provisions), specifically the Council's proposed disapplication of section 106 of the Water Industry Act 1991 (right to connect to public sewers). He noted that article 18 (Discharge of water) provides a bespoke and narrower regime, and suggested that the Applicant may therefore wish to reconsider disapplying section 106. Mr Kozelko acknowledged that disapplication of section 106 is not standard in DCOs, but noted that this is relevant to a ground of the live Gatwick DCO judicial review.

Ms Stirling confirmed that the Applicant's position is to await the outcome of the judicial review before determining whether any amendment to the drafting is required. She noted that this remains the current position (and that such a disapplication is not standard in DCOs), but that the matter will be kept under review.

Mr Kozelko raised a further query in relation to Requirement 18 (Decommissioning and restoration). He sought clarification as to what would happen in circumstances if the undertaker were to cease to exist (for example, through liquidation). He noted that this is understood to be standard drafting, and that the point was raised primarily for clarification.

Ms Stirling noted that requests for decommissioning security to be secured within the **dDCO [REP2-004]** are not uncommon, but that concern regarding the undertaker ceasing to exist is more novel, and that this is something the Applicant would need to take away for further consideration. Ms Stirling noted however that if the undertaker were to merely disappear, security would be dealt with under the land agreements and would not need to be secured on the face of the DCO. The Applicant confirmed it would provide its view on this for Deadline 4.

Post hearing note: as agreed during ISH2, the Applicant will provide an update on this matter for Deadline 4.

5.	Protective Provisions	The ExA requested an update in respect of the current position in relation to Protective Provisions.
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Ms Sandbach, on behalf of the Applicant, provided an update on the status of negotiations with statutory undertakers as follows:

- Anglian Water Services Limited – Ms Sandbach explained that discussions regarding decommissioned and redundant pipes have taken place and the Applicant confirmed on 6 May 2026 that the issue is considered resolved, with Anglian Water's confirmation awaited. The Applicant is confident that agreement will be reached before the end of the Examination.
- National Grid Electricity Distribution (East Midlands) Plc (and National Grid Electricity Distribution plc) – Ms Sandbach explained that Protective Provisions are agreed and the Applicant is progressing internal approvals for execution of the relevant commercial agreement.
- National Grid Electricity Transmission – Ms Sandbach explained that comments were received on 19 May 2026 together with a draft side agreement, which is under review. The outstanding matters relate to amendments to defined terms, and a draft interface agreement is also awaited. The Applicant considers these provisions to be close to agreement and expects they (and related agreements) will be finalised before the end of the Examination.
- Openreach Limited – Ms Sandbach noted that negotiations are ongoing and progressing, and the Applicant is awaiting an update from Openreach.
- Statkraft UK (on behalf of East Claydon Energy Limited) – Ms Sandbach explained that a draft interface agreement was received on 30 April 2026 and is under review. She noted that both parties are seeking to acquire rights in the same area and expressed confidence that agreement will be reached before the end of Examination.
- Thames Water Utilities Limited – Ms Sandbach confirmed that comments on the Applicant's draft provisions have recently been received and are under review.
- UK Power Networks Limited – Ms Sandbach noted that an update has been requested from UKPN and the Applicant is awaiting a response on the draft commercial agreement.
- Environment Agency, Buckingham and River Ouse Internal Drainage Board, GIGACLEAR, Scottish and Southern Energy Power Distribution Limited and Vodafone – there has been no change since Deadline 2, with Protective Provisions either agreed or not required.

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		The ExA invited National Grid and Statkraft UK to comment on the progress of Protective Provisions. Both parties confirmed agreement with the Applicant's summary.
6.	Consents, Licences and other agreements	<p>The ExA then requested an update in respect of consents, licences and other agreements.</p> <p>Ms Sandbach referred to the Schedule of Other Consents and Licences [REP1-014], which summarises the additional consents and licences likely to be required. She explained that many of these would be obtained post-consent and confirmed that there are no substantive updates at this stage. Ms Sandbach confirmed that the Schedule of Other Consents and Licences [REP1-014] would continue to be kept under review, and that Statements of Common Ground would also be used to provide updates where relevant to individual stakeholders.</p>
7.	Review of actions arising	<p>Ms Stirling, on behalf of the Applicant, summarised the actions arising from the hearing.</p> <p><i>Post hearing note: a summary of the actions, together with the Applicant's responses, are provided in section 3 below.</i></p>
8.	Closing	N/A.

3. Response to Action Points from ISH2

This table sets out the list of action points that arose during ISH2 (as subsequently provided in writing as **[EV8-004]**) and the Applicant's response to them.

#	Action Point	Directed to	DL	Applicant's Response
1.	Applicant to provide commentary on excluding definition of materially new or materially different to likely significant effects [sic].	Applicant	3	The Applicant understands that this action relates to the definition of "maintain" in Article 2(1). The Applicant confirms that, as explained during the hearing, Article 5 provides the power to maintain the authorised development. In accordance with Article 5(3), that power is expressly limited so as not to authorise "the carrying out of any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement". Any maintenance activities that did give rise to materially new or different environmental effects would be outwith the undertaker's power to maintain the authorised development, and therefore a breach of the consent granted by the DCO (if made). This operative provision therefore means that there is no requirement for the definition of "maintain" in Article 2(1) to be amended to include reference to the authorised development not giving rise to any material new or materially different environmental effects.
2.	Applicant to consider whether to include Fenwick Solar Farm (DCO) drafting for Order land definition.	Applicant	3	Following the ExA's request, for clarity, the Applicant has updated the definition of "Order land" in the dDCO [REP2-004] to align with that contained within the Fenwick Solar Farm Order 2026.
3.	Buckinghamshire Council to consider whether article 9 (permit scheme) provides suitable notice for the powers under article 8.	Buckinghamshire Council	3	N/A

#	Action Point	Directed to	DL	Applicant's Response
4.	Applicant to consider whether to include notice provision in article 10.	Applicant	3	<p>The Applicant has reviewed Articles 9 and 10 alongside the Council's permit scheme (available here: Permit scheme for road works and street works Buckinghamshire Council) and considers that works undertaken pursuant to Article 10 would be subject to the requirements of the permit scheme (i.e. constitute activities requiring a permit). It is therefore appropriate that Article 9 applies to these works, and this has been reflected in the updated dDCO [EN010158/APP/3.1.5] submitted at Deadline 3.</p> <p>In this context, the Applicant does not consider it necessary for separate notice provisions to be incorporated into Article 10 because the Council would be made notified of the works upon permit application.</p>
5.	Applicant to consider whether the outline rights of way and access strategy and outline construction traffic management plan (oCTMP) cover restoration under article 12 or to include drafting.	Applicant	3	<p>The Applicant has reviewed the Outline Rights of Way and Access Strategy [REP2-071] and the Outline Construction Traffic Management Plan [REP2-065] and notes that:</p> <ul style="list-style-type: none"> • The Outline Rights of Way and Access Strategy [REP2-071], at paragraphs 4.2.2 and 6.3.4, states that "<i>temporarily diverted PRow will be reinstated to their original route and to at least their original condition following track and cable trench construction activities</i>". • The Outline Construction Traffic Management Plan [REP2-065], at section 4.7, states that a wear and tear agreement with Buckinghamshire Council is suggested. Paragraph 4.7.11 provides that "<i>upon completion of construction activities, a follow-on condition review will be undertaken and a defects list prepared. Works required to reinstate the road back to its original condition will be undertaken at the Applicant's expense following a review by Buckinghamshire Council</i>". • The Outline Construction Traffic Management Plan [REP2-065] also includes specific commitments at section 3.4 Road Reconstruction in relation to Snake Land/Fiddlers Field and section 3.5 Road Improvement Works which are focused on works at Granborough Road. <p>However, for the avoidance of doubt and acknowledging that the restoration provisions in the Outline CTMP [REP2-065] are provided in the context of specific works, the Applicant</p>

#	Action Point	Directed to	DL	Applicant's Response
				will update its Outline CTMP at Deadline 4 to include a broader commitment confirming that it will restore the condition of streets following use under Article 12.
6.	To update streets, access and rights of way plans to show existing private roads.	Applicant	3	The Applicant will submit updated plans at Deadline 4.
7.	Applicant to provide updated oCTMP regarding s278 and financial security.	Applicant	4	As agreed during ISH2, the Applicant will provide an update to the Outline Construction Traffic Management Plan [REP2-065] at Deadline 4.
8.	Applicant to consider whether extension of compulsory acquisition powers in event of judicial review is required in light of recent DCO changes.	Applicant	4	As agreed during ISH2, the Applicant will provide an update on this matter at Deadline 4.
9.	Preston Farms to consider article 23(2) further and take necessary advice on whether they have comments or concerns.	Preston Farms / TCS Biosciences	4	N/A
10.	Applicant to provide a note (in written summary of oral hearing) on the extent of temporary	Applicant	3	In response to the ExA's request for a note per Action Point 9 regarding justification for the powers sought under article 31 and the Applicant's inability to further delimit the areas of land of which temporary use may be required at this stage, the Applicant reiterates that article 31(1)(a)(ii) allows temporary possession to be taken for an expressly time-limited period whilst the Proposed Development is under construction, with article 32 providing an

#	Action Point	Directed to	DL	Applicant's Response
	possession powers sought and justification over freehold and permanent acquisition.			<p>equivalent power for maintenance. All of the land affected by these articles is either (a) specified in schedule 11) or (b) otherwise subject to powers of compulsory acquisition under other provisions of the DCO (i.e. compulsory acquisition of freehold under article 22 or compulsory acquisition of permanent rights under article 24) which are more onerous powers than temporary use powers. In accordance with article 31(8) and article 32(3) owners and occupiers of the land would receive advance notice of any temporary use.</p> <p>The applicant is unable to narrow the geographical extent of these powers beyond the Order limits at this stage, as discussed during ISH2, on the basis that detailed design work has not yet been undertaken which means the Applicant has not identified, within the confines of the Order limits and the limitations of the Works packages, precisely where infrastructure will be located. This means it is not possible to identify exactly a refined area the Applicant would take temporary possession of land for construction, and then within that refined area, where the permanent acquisition would be. The Applicant is confident that the extent of the powers of temporary use sought under article 31(1)(a)(ii) (being limited to the Order limits) represents the minimum reasonably required for the construction of the Proposed Development (and likewise under article 32 for maintenance). The Applicant refers the ExA to its response to Action Point 9 following the CAH1 [REP1-107] for more technical information on the approximate widths sought for the swathes for the cabling corridors, working widths and the permanent easement width.</p>
11.	Applicant to consider any updates to the outline landscape and ecological management plan which means if any tree subject to a tree preservation order is	Applicant	3	<p>The Applicant has reviewed the Outline Landscape and Ecological Management Plan [REP2-067] and notes that paragraph 4.3.21 states that “<i>whilst no removals of trees subject to a Tree Preservation Order (TPO) are proposed, where an individual tree subject to a TPO must be removed (e.g. due to its dead or dangerous condition) and the relevant planning authority requires replacement, a new tree of equivalent species and ultimate size will be planted in the same place or as near as reasonably practicable to the position of the removed tree, subject to operational requirements. ... The final species and planting location will be agreed in advance with the relevant planning authority</i>”.</p>

#	Action Point	Directed to	DL	Applicant's Response
	removed it can be replaced.			However, the Applicant notes that this paragraph is only provided in the context of 'Permitted Preliminary Works – Vegetation Removal'. Therefore, for the avoidance of doubt, the Applicant will update its Outline Landscape and Ecological Management Plan at Deadline 4 to secure that TPO-protected trees which are removed during the operational (including maintenance) phase would also be replanted.
12.	Applicant to update requirement 8(6) and 8(7) to incorporate wording (5) "accordance" wording [sic].	Applicant	3	The Applicant has updated the drafting at sub-paragraphs (6) and (7) of the dDCO [EN010158/APP/3.1.5] submitted at Deadline 3 to include the phrase " <i>in accordance with the approved details</i> ".
13.	Buckinghamshire Council to check if they are content with working hours outlined in the oCTMP.	Buckinghamshire Council	4	N/A.
14.	Applicant and Buckinghamshire Council to discuss and seek to agree schedule 16 wording on discharge of requirements.	Applicant and Buckinghamshire Council	4	The Applicant will seek to agree these matters with the Council and provide an update, and/or updated iteration of the dDCO, at Deadline 4.
15.	Applicant to consider what would occur for the purposes of the decommissioning article 18 if the undertaker was	Applicant	4	As agreed during ISH2, the Applicant will provide an update on this matter for Deadline 4.

#	Action Point	Directed to	DL	Applicant's Response
	dissolved/ no longer existed.			



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