POWER FOR GOOD

Steeple Renewables Project

Closing Submissions

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1 CONTENTS

2 INTRODUCTION

2.1 The Applicant has prepared this document in response to the Rule 8(3) and 9 letter [PD-004] which requested that the Applicant submit closing submissions at Deadline 6. This document is intended to supplement existing submission documents in order to assist the Examining Authority (**ExA**) and the Secretary of State (**SoS**) in their reporting and decision making on the application for a Development Consent Order (**DCO**) for the Steeple Renewables Project (the **Scheme**). The Scheme requires a DCO as it is a nationally significant infrastructure project (**NSIP**) within the meaning of the Planning Act 2008 (the **Act**).

2.2 This document does not introduce new matters, rather it seeks to bring together in one place a summary of the Applicant's final position in respect of the principal planning issues that have been considered through the course of the Examination – particularly where, despite an extensive process of discussion,

collaboration and negotiation there are matters of remaining disagreement between the Applicant and key stakeholders. This document does not, therefore, seek to cover every matter that may be relevant to the decision making, , it does not follow the Rule 6, Annex C, initial assessment of principal issues. It does not go through each individual point of disagreement which are addressed in the Statements of Common Ground (**SoCGs**). It highlights the Applicant's position on those key matters, both agreed and disagreed, which are considered to be most directly relevant and material to the ExA's consideration of the Scheme's accordance with national and other relevant policy.

3 BACKGROUND TO THE EXAMINATION

3.1 The application (the **Application**) for the Scheme was submitted by the Applicant to the Planning Inspectorate on 14 May 2025 pursuant to section 37(2) of the Act. The Planning Inspectorate accepted the Application on the 11 June 2025 [PD-002]. On 6 August 2025, the Planning Inspectorate appointed Max Wiltshire and Andrew Robinson to the panel serving as the ExA for the Application [PD-001]. By issue of a rule 6 letter [PD-003], a preliminary hearing was held on 11 November 2025, and examination started upon closing of that hearing. With the issue of the Rule 8 letter [PD-004], the ExA set out the timetable for examination including determining that it was to close on the 10 April 2026.

4 THE SITE

4.1 The Order Limits for the Scheme, which considers the maximum area of land potentially required for the cofnstruction, operation and decommissioning of the Scheme, is shown in Figure 1.1 Site Location Plan [AS-012]. The Scheme is situated in Nottinghamshire County Council ('**NCC**') and Bassetlaw District Council, and is wholly in England.

4.2 Unlike other solar schemes, which may have two principal parcels of development being the array area and cable corridor, the Scheme's proximity to the existing National Grid sub-station means that it does not have a cable corridor of substantial length – rather its cable route between its on-site sub-station and National Grid substation is over a length of approximately 700m.

4.3 The Site can be divided into two 'halves' that are formed near to Sturton le Steeple (excluded from the Site): 'the western half'; and 'the eastern half' (see Figure 2.1 – Indicative Site Layout [AS-013]). The Site extends to 888.3 ha and primarily comprises multiple agricultural fields defined by hedgerows and individual trees. The figures supporting Chapters 6 to 17 of the Environmental Statement, shown in ES

Volume 3 show the location of existing baseline features in relation to the Order Limits. The eastern section is more associated with the Trent Valley with fewer hedgerows and more dividing drainage ditches and watercourses, and the western half is more typical of the Mid-Nottinghamshire farmland with a stronger network of hedgerows and slightly more undulating ground.

4.4 The Site also includes part of the existing West Burton A Power Station site covering the area around the existing 400kV substation. The Point of Connection (POC) for the Scheme is at the existing 400kV substation in the former West Burton A Power Station. The West Burton A Power Station itself is currently in the process of being decommissioned.

4.5 Chapter 3 of the Environmental Statement [APP-061] provides a detailed description of the surrounding area. The Site broadly lies between the settlements of Retford and Gainsborough, occupying multiple agricultural fields within a relatively flat agricultural landscape primarily in arable use. A number of settlements or clusters of properties are located nearby beyond the Site boundaries, including Sturton le Steeple, North Leverton with Habblesthorpe and Fenton. Individual properties are also located close to the boundaries of the Site and within the wider surrounding area.

5 THE SCHEME

5.1 The Scheme comprises the construction, operation (including maintenance) and decommissioning of ground mounted solar PV panel arrays, BESS and supporting infrastructure. The Scheme will be entirely located within the Order Limits and all the works that are part of the Scheme are listed in Schedule 1 of the draft DCO [EN010163/EX/3.1].

5.2 A brief summary of these components is set out below with further details set out in ES Chapter 3: Site Description, Site Selection and Iterative Design Process [APP-061], Design and Access Statement [REP2-042], ES Appendix 4.5 Outline Design Principles [REP2-031]; and the Works Plans [REP2-004]. The Planning Statement [EN010163/EX/7.1], Chapter 3, also provides a summary of the relevant activities associated with the Scheme.

5.3 Chapter 4 of the Environmental Statement [APP-062] describes the Scheme in full. The proposed Development Consent Order divides these works into the following categories at Schedule 1 of the dDCO [EN010163/EX/3.1]:

(a) Work No 1 details the ground mounted solar photovoltaic generating station.

(b) Work No.2 details the battery energy storage system compound.

(c) Work No.3 details the works in connection with a new 400/33kV onsite substation.

(d) Work No. 4 details the works to install 400kV electrical cables connecting Work No. 3 to Work No. 5.

(e) Works No.5 details the construction, and installation works to the existing transmission network substation.

(f) Works No.6 details the works to facilitate project access and cabling.

(g) Work No. 6A details the works to install 33kV cabling

(h) Works No.7 details the general works.

(i) Works No.8 details the works for areas of habitat management.

(j) Works No.9 details the works to implement new permissive paths through the Order Limits.

(k) Works No.10 details the temporary construction and decommissioning of site compounds.

5.4 The Application comprises Work No.1 for which development consent is required as an NSIP and associated development, being Work Nos. 2-10. The Applicant submitted a document entitled “Outline Design Principles” [REP2-031] which provides the maximum parameters based on a reasonable worst case assumption for the environmental statement. Whilst final design would be approved through requirements post-consent, the design will need to accord with the principles set out in that document.

5.5 The Application includes a decommissioning requirement at Schedule 2, paragraph 21 (decommissioning and restoration) of the dDCO [EN010163/EX/3.1]. This secures that the undertaker must commence decommissioning no later than 40 years following the date of final commissioning of the first phase of Work No. 1, in accordance with an approved decommissioning plan. The requirement secures that works subject to a decommissioning plan must be completed within 2 years of approval of the decommissioning plan.

6 STATUTORY AND POLICY FRAMEWORK

6.1 The Scheme is defined as a NSIP under Sections 14(1)(a) and 15(2) of the Act because it is for the construction of an onshore generating station in England, with a capacity exceeding 100 megawatts ('**MW**'). Section 15 of the Act has been amended by the Infrastructure Planning (Onshore Wind and Solar Generation) Order 2025 to include the provision of onshore generating stations from wind and to increase the MW from 50MW to 100MW. The Scheme meets this new definition as its generating capacity is in excess of 100MW. Even if it did not meet this new definition, the transitional provisions in article 5 of the Infrastructure Planning (Onshore Wind and Solar Generation) Order 2025 (SI 2025/694) would ensure that the Scheme would continue to be applicable under the NSIP regime regardless, given its previous acceptance into that regime. Therefore, the Scheme requires development consent through a DCO to be able to proceed.

6.2 The Act prescribes that the SoS is responsible for determining an application for development consent, with the power to appoint an examining authority of appointed person(s) to manage and examine the application. The ExA, appointed through the Planning Inspectorate, will make procedural decisions and examine the application. Following their examination of the application, the ExA will make a recommendation to the SoS, who will then decide whether to grant a DCO.

6.3 DCO applications are determined in line with Section 104 of the Act where a relevant National Planning Statement (**NPS**) has effect in relation to the development.

6.4 Section 104 of the Act sets out what the SoS must have regard to when deciding the DCO application. This includes:

(a) any national policy statement which has effect in relation to the development of the description to which the application relates;

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

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

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

6.5 It is considered that the Overarching NPS for Energy (EN-1), the NPS for Renewable Energy (EN3) as well as the NPS for Electricity Networks Infrastructure (EN-5) have effect in relation to the Scheme and are, therefore, relevant NPSs for the purpose of Section 104(2)(a) of the Act. Consequently, it is considered that the Scheme should be determined in accordance with Section 104 of the Act. The Applicant has demonstrated the Scheme's accordance with the NPS' in Appendix C of the Planning Statement [REP2-040].

6.6 On 6 January 2026, the 2025 versions of NPS EN-1, EN-3, and EN-5 were published and came into force. These 2025 versions included transitional provisions so that for any application accepted for examination before the final publication of the approved 2025 amendments, the 2024 suite of NPSs should have effect in accordance with the terms of those NPSs. The Scheme was accepted into examination on the 11 June 2025 [PD-002], and therefore whilst the 2025 amendments are potentially capable of being important and relevant consideration in the decision-making process, the relevant policies for the determination of the Scheme are the 2024 versions of the NPS. The Applicant has also provided a tabularised comparison of changes to 2025 revised National Policy Statements NPS EN-1, NPS EN-3 and NPS EN-5 with 2024 versions and setting out any implications for the Scheme considered by the Applicant at Appendix A to the Applicant Response to ExA First Written Questions [REP2-052].

6.7 NPS EN-1 reflects the UK Government's commitment to reducing carbon emissions; ensuring energy security; promoting affordability; recognises the heavy reliance on fossil fuels for households and transportation; and emphasises the need to decrease dependency on high-carbon fossil fuels and to transition to a low-carbon energy mix. Paragraph 2.3.3 of NPS EN-1 explains that the UK Government's objective is to ensure the UK's supply of energy always remains secure, reliable, affordable and consistent with meeting the target to cut greenhouse gas emissions to net zero by 2050. It states that *"this will require a step change in the decarbonisation of our energy system"*.

6.8 The Applicant has provided a full policy background at Chapters 4 and 5 of the Planning Statement [REP2-040]. Of particular relevance, is section 4.2 of NPS EN-1 which states, "*the Government has*

therefore concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure".

6.9 As per paragraph 4.2.7 of EN-1, "*the CNP policy does not create an additional or cumulative need case or weighting to that which is already outlined for each type of energy infrastructure. The policy applies following the normal consideration of the need case, the impacts of the project, and the application of the mitigation hierarchy. As such, it is relevant during Secretary of State decision making and specifically in reference to any residual impacts that have been identified. It should therefore also be given consideration by the Examining Authority when it is making its recommendation to the Secretary of State*". Section 4.2, as a whole provides details on how to apply the CNP policies in relation to other planning considerations.

6.10 However, EN-1, paragraph 3.3.63 states "*the urgent need for CNP Infrastructure to achieving our energy objectives, together with the national security, economic, commercial, and net zero benefits, will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy".*

6.11 EN-1, paragraph 4.1.7 builds on this by stating *that "for projects which qualify as CNP infrastructure, it is likely that the need case will outweigh the residual effects in all but the most exceptional cases*".

6.12 The Applicant considers that none of the residual adverse effects reported in Chapter 18: Summary of its Environmental Statement [REP5-017] could reasonably be described as "exceptional". Therefore, the Applicant considers that the NPS' supports the conclusion that the need case for the Scheme outweighs the residual effects that have been identified.

6.13 Section 4.3 of the Planning Statement [EN010163/EX/7.1] discusses the principle elements of NPS EN-3, which include the specific need for solar PV generation in greater detail, including policies specific to solar NSIPs. Paragraph 2.10.9 of EN-3 states "*The government has committed to sustained growth in solar capacity to ensure that we are on a pathway that allows us to meet net zero emissions by 2050. As such, solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector".*

6.14 The Planning Statement [EN010163/EX/7.1] sets out at sections 4.4 and 4.5, the relevance of the National Planning Policy Framework and the local planning policy context for the Scheme. Section 4.6

of the Planning Statement [EN010163/EX/7.1] discusses other legislation relevant to the determination of the Application.

7 COMPULSORY ACQUISITION

7.1 A Compulsory Acquisition Hearing (CAH1) was held on 11 February 2026. The Applicant would firstly note that it is not seeking solely temporary possession ('**TP'**) rights in relation to any plot, unlike other schemes, such as Byers Gill Solar Order 2025. Whilst the DCO does have powers of TP included within it these are applied generally across the Order land to enable the undertaker to acquire a lesser right than what is principally proposed being the acquisition of freehold, or acquisition of rights. The Applicant refers to its Statement of Reasons [REP3-007], as being the primary document for understanding how the relevant statutory and policy tests have been satisfied. The Statement of Reasons explains the approach taken by the Applicant in regard to these tests.

7.2 The land which the Applicant is proposing to acquire is set out in the Book of Reference [EN010163/EX/4.3]. The powers enabling the acquisition of land and rights are contained in the DCO [EN010163/EX/3.1]. The need case establishing a compelling case in the public interest is established in the Planning Statement [EN010163/EX/7.1]. The Applicant has demonstrated adequate provision for funding in its Funding Statement [APP-045].

7.3 The DCO seeks to include powers to compulsorily acquire land rights, which are required to connect the Authorised Development to the Grid. The Applicant has attempted to acquire the land and rights required voluntarily but has been unable to acquire all the necessary rights and accordingly seeks powers of compulsory acquisition. The extent of engagement is set out in the Land Rights Tracker [EN010163/EX/8.6]

7.4 The Applicant has looked at all reasonable alternatives to the acquisition of land, as set out in the Statement of Reasons, but also [APP-146] which shows other alternative sites, and Chapter 3 of the ES [APP-061] which demonstrates site selection and iterative design process.

Statutory and CA Guidance Requirements

7.5 Section 122(2)(a)-(b) of the Act requires that the land must be required for the Scheme to which the development consent relates, or is required to facilitate or is incidental to the development or under

section 122(2)(c) is for replacement land for the Order land under section 131 or section 132 (a common, open space, or fuel or field garden allotment). Section 122(2)(c) is not relevant to this Scheme.

7.6 The Guidance Related to Procedures for the Compulsory Acquisition of Land, Department for Communities and Local Government, September 2013 ("**CA Guidance**") sets out at paragraph 11 further interpretation of section 122(2). In relation to whether the land is required for the Scheme to which the development consent relates, the CA Guidance states that the land must be no more than is reasonably required for the purposes of the development.

7.7 In relation to whether the land is required to facilitate or is incidental to the Scheme, the CA Guidance states that the land to be taken should be no more than is reasonably necessary for that purpose and be proportionate

7.8 Regarding the land being required, the Applicant has set out in Chapter 9 of its Statement of Reasons [REP3-007], against each plot the relevant work number being carried out in that plot. The Applicant considers this demonstrates clearly the need for each plot. Further, Schedule 7 of the DCO can be read to demonstrate the particular rights required in each case where the Applicant is seeking rights, rather than acquisition of freehold. The Applicant has undertaken a detailed land referencing exercise to ascertain the rights it requires. Where possible, the Applicant has proposed acquiring rights, rather than freehold, to ensure it acquires no more than is reasonably required. Regarding the second point made by the Guidance here, that land to be taken should be no more than is reasonably necessary for that purpose. The Applicant would point out that at the moment the design is still in preliminary stage and will be refined through the detailed design process which will be approved through requirement 3 of the DCO. Under article 18 of the DCO, the undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or facilitate it or is incidental to it. Therefore, the Order only grants a power that is inherently in keeping with the restrictions placed by section 122 and the Guidance. What this means is that if the detailed design provide that less land may be required, then that excess land could not be acquired unless it remained necessary to facilitate or be incidental to the authorised development.

7.9 Section 122(3) requires that there be a compelling case in the public interest for the land to be acquired compulsorily. The CA Guidance states, from paragraph 12 onwards, that for this condition to be met, there must be compelling evidence that the public benefits that would be derived from the compulsory

acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired. In relation to the test set out by section 122(3), the Applicant would point to its Planning Statement [EN010163/EX/7.1], in particular Chapter 5. The Applicant provided a summary of its need case also at ISH1, the written summaries being found at REP1-009.

7.10 Paragraphs 14-16 of the CA Guidance demonstrate that whilst the need for the scheme is a relevant factor in deciding on the public benefits of the Scheme, that compulsory acquisition should be justified in its own right and that it remains possible for the Scheme to be granted development consent but be refused the grant of compulsory acquisition powers. For this reason, the Applicant has included, on a plot by plot basis, the reasons for acquisition or rights in the Statement of Reasons – Chapter 9.

7.11 The CA Guidance contains further tests for consideration which may assist in the determination of the above statutory tests. These are:

<u>Whether all reasonable alternatives to compulsory acquisition have been explored (para 8)</u>

(a) The Applicant has set out at 6.7 of the Statement of Reasons [REP3-007] its consideration of alternatives regarding avoiding or minimising compulsory acquisition. In particular, Chapter 7 of the Statement of Reasons outlines the process to site selection. A key point, as stated in paragraph 7.8 of the Statement of Reasons, is that the site of the authorised development was selected as it is of sufficient size and scale to accommodate the Scheme, and is predominantly within the single ownership of a willing landowner. It also has the least environmental impacts associated with cabling due to its proximity to the point of connection.

(b) The Applicant has secured an option agreement with the primary landlord for the Site, being SNSE Limited. However, it continues to be appropriate to frame compulsory acquisition in relation to the freehold interest as whilst the Applicant has an option with the landlord it is not in possession nor in ownership of a legal title. Therefore, the Applicant must protect its position in relation to any future obstacle to performance of that contract, however, unlikely. This approach has been discussed and agreed with the landlord.

(c) In addition, it should be noted that the land is subject to a number of encumbrances. Please see the Book of Reference [EN010163/EX/4.3] which references, amongst other interests, the agricultural tenancy of the Bartles. Whilst the Applicant has sought an option agreement with

the freeholder, it is not guaranteed that the freeholder will be able to provide the undertaker of the Order with title free of encumbrances and therefore compulsory acquisition powers are necessary to protect the authorised development from this potential barrier and permit it to clear the title from such encumbrances.

(d) The Applicant has continued to engage with leaseholders / agricultural tenants and has kept a Land Rights Tracker [EN010163/EX/8.6] updated throughout examination to record the progress of these discussions.

Whether the applicant has a clear idea of how they intend to use the land which it is proposed to acquire (Para 9)

(e) The Applicant has demonstrated this in Chapter 9 of the Statement of Reasons [REP3-007].

Whether there is a reasonable prospect of the requisite funds for acquisition becoming available (para 9, 17-18)

(f) Regarding funds, the Applicant has provided a Funding Statement [APP-045] which splits justification for funding between that for the Scheme and that for CA costs including blight. The Applicant is intending to fund the Scheme through a combination of balance sheet, equity and debt finance. The exact combination of debt and equity financing will be dependent on market conditions at the time and investment partner preferences. The funding for the Scheme hinges on its commercial viability and the Applicant is confident based on prevailing market conditions that the Scheme will be commercially viable, if the Order is granted, and it will therefore be able to obtain sufficient funding.

(g) Paragraph 9 of the CA Guidance states that applicants should be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition being made available. Paragraph 18 states that the applicant should demonstrate that adequate funding is likely to be able to enable the compulsory acquisition within the statutory period following the order being made and that the resource implications of a possible acquisition resulting from a blight notice have been taken into account. Separately, paragraph 17 speaks to the resource implications of both acquiring the land and implementing the project for which the land is required. Paragraph 17

states that an application should be accompanied by a statement explaining how it will be funded providing an indication of how any potential shortfalls are intended to be met.

(h) This means that a separate test is set out between paragraph 18 for the costs associated with compulsory acquisition compared to paragraph 17 regarding total capital expenditure for the construction of the Scheme. The Applicant, therefore, should demonstrate that there is adequate funding for the value of £10,000,000 (ten million pounds) for the compulsory acquisition but in relation to the remaining figure, is only required to provide an explanation on how that will be funded.

(i) The Applicant satisfies this additional burden for the compulsory acquisition value by virtue of article 42 (funding) of the dDCO [EN010163/EX/3.1] which requires that the undertaker put in place either a guarantee or an alternative form of security in respect of the liability of the undertaker to pay compensation pursuant to the provisions of the order.

7.12 Paragraph 25 of the CA Guidance states that applicants should seek to acquire land by negotiation where practicable The Applicant has routinely provided updates to its Land Rights Tracker [EN010163/EX/8.4] which demonstrate the extent of negotiation and agreement the Applicant has reached. The Applicant would point out that well over 90% of the Order Limits is owned by SNSE Limited – being the main landowner. The Applicant has secured an option for lease over this land, and pursuant to that option would seek a lease following grant of the Order. The Applicant is still seeking, with the consent of the landowner, compulsory acquisition powers to acquire land over the Order Limits. It does this because the land is subject, in legal terms, to a number of encumbrances, but more generally agricultural tenancies. The Applicant has been engaging with tenants alongside representatives of the landowner to seek the surrender of these tenancies.

7.13 Section 123 requires the SoS to be satisfied that one of the three procedural conditions set out in subsections (2) to (4) are met, namely:

(a) that the application for the order included a request for CA of the land to be authorised - s123(2);

(b) or that all persons with an interest in the land consent to the inclusion of the provision – s123(3); and

(c) or that the prescribed procedure has been followed in relation to the land - s123(4).

7.14 The Application included a request for CA of the land to be authorised. As such, the condition set out in s123(2) of the PA2008 has been met.

Objections to use of compulsory acquisition powers

7.15 The Applicant is not aware of any extant objections regarding the use of compulsory acquisition powers from parties other than those of statutory undertakers. The Applicant presented a detailed assessment of the areas of disagreement between it and other statutory undertakers in the Section 127 Report [EN010163/EX/8.54] submitted at Deadline 5, the Applicant has updated this report for Deadline 6.

Human Rights Act 1998

7.16 The Human Rights Act 1998 incorporates the European Convention on Human Rights (**the Convention**) into UK law. The Convention includes provisions in the form of Articles, the aim of which is to protect the rights of the individual. Schedule 1 of the Act sets out the Articles. It is important to note that the Scheme does not acquire any land or rights from residential properties. Overall, due to the compulsory acquisition of land, this order may infringe upon the human rights of persons. However, this is permitted where there is a compelling case in the public interest for the compulsory acquisition of land and that interference with a human right is proportionate and justified. These tests are not dissimilar to the tests set out in the CA Guidance.

7.17 The Scheme may have an impact on individuals, and as such Article 8 and Article 1 of the First Protocol may be engaged, but this is outweighed by the public benefits that will arise from the Development. These benefits are encapsulated in the Need case as set out in the Planning Statement.

7.18 The interference is proportionate and justified, as per Chapter 9 of the Statement of Reasons [REP3-007] which sets out the use for each plot of land proposed to be acquired.

7.19 In the case of Article 6, the right to fair trial is respected due to the notice procedures, consultation carried out and examination of the proposals which allow all persons with an interest in the Order land to have full opportunity to comment on the proposals. A compulsory acquisition hearing was also held and all affected persons were invited to that hearing.

7.20 As such, the Applicant considers hat the obligations set out in Human Rights legislation have been met.

8 LANDSCAPE AND VISUAL MATTERS

8.1 The Applicant's Landscape and Visual Impact Assessment (LVIA) [APP-064] was prepared in accordance with the overarching principles set out in the Guidelines for Landscape and Visual Impact Assessment, 3rd Edition (GLVIA 3). The methodology for the identification of significant effects was explained in full in Section 6.3 of the LVIA. In summary, an assessment was made as to the level of effect by combining a judgement on the sensitivity of the receptors and the magnitude of the impact. Effects were set out on a 5 point scale from Major to Minor. Effects which were identified to be 'Major', 'Major-Moderate' and in some cases 'Moderate' were identified as being Significant.

8.2 The primary mitigation adopted in relation to landscape and visual matters is embedded within the design of the Scheme and comprises the consideration given to avoiding and minimising landscape and visual effects during the evolution of the Scheme layout. This is sometimes referred to as 'mitigation by design'. In addition, a series of landscape mitigation and enhancement measures are proposed to be included as part of the Scheme, including planting of new hedgerows, trees, woodland and species rich grassland. The measures are set out on ES Figure 6.9 Landscape and Ecological Mitigation Strategy [APP-160].

8.3 Requirement 6 (LEMP) of the dDCO [EN010163/EX/3.1] secures further Landscape and Ecological Management Plan details.

8.4 A meeting was held on 5th March between the Applicant and NCC's Landscape Consultant to discuss the matters raised in the 'key areas of disagreement' set out by NCC.

8.5 NCC's Landscape Consultant agreed to slightly revise the wording of their 'key areas of disagreement' in the light of the clarifications during the meeting and this was noted in the updated NCC SoCG [EN010163/EX/8.40] submitted at Deadline 6. Each of these areas of disagreement has been addressed in detail through the Applicant's written and oral submissions [including: REP1-009, REP2-050, REP2-051, REP2-052, REP4-031] and the responses are not provided in full again here. However, a summary of the responses to each matter is provided for ease of reference.

8.6 NCC disagrees that there would be beneficial effects on hedgerows and ground cover as landscape features. However, the Applicant notes that in relation to hedgerows, there would be notable additional

hedgerow planting that would far exceed the lengths removed during the construction period. Chapter 6 [APP-064] states that in total over 25km of new hedgerow is proposed, with a net increase of over 23km. Similarly in relation to the ground cover, during the operational period this would comprise grassland, including new species rich grassland across the Site, which would help maximise its biodiversity potential when compared with the existing arable or pastoral farmland at the Site. In each case, it is considered reasonable to identify these as beneficial effects on landscape features, noting that this is a separate matter to the adverse effects which are identified on local landscape character.

8.7 NCC disagrees that there would be beneficial effects from new planting by year 1 and suggests this would be neutral at best. The Applicant maintains that any new planting would be beneficial in nature, even at year 1, noting that the LVIA only identifies such effects to be minor beneficial, which is considered to be a reasonable position.

8.8 NCC suggests that moderate effects have been treated inconsistently in the LVIA. The Applicant disagrees and has explained that not all moderate effects are significant, with those closer towards moderate-major being significant and those closer towards moderate-minor being not significant. The Guidelines for Landscape and Impact Visual Assessment, GLVIA 3, being the guidance against which Chapter 6 has been drafted, is not prescriptive on the approach to be taken to the identification of significant effects and the approach taken by the Applicant is in line with the principles of the guidance set out.

8.9 NCC says that there is a reliance on the successful establishment of the mitigation planting and that the Applicant's proposals in the oLEMP are not sufficiently robust. The Applicant's LVIA assessment does assume the successful establishment of mitigation planting at year 15. However, the Applicant considers that for mitigation planting to be successful, 100% survival of planting is not necessary. Planting will be carried out at such a level as to be able to remain effective within assumed levels of failure. The Applicant has provided a 5 year replacement period which is entirely within industry norms, as this aligns with the period where risk of failure of planting is at its highest. The Applicant considers that after 5 years, hedgerow plants will have become established, and their risk of failure reduced to normal natural variation.

8.10 The Applicant considers that its assessment is a reasonable worse-case assumption, and that with mitigation measures incorporated such as the replacement planting over 5 years, the assumptions of the LVIA at year 15 are entirely reasonable and proportionate.

8.11 The Applicant would note that NCC's position is to assume that 100% replacement is necessary for the ES assumptions to be met. This is not the case, clearly where, for example, in year 15, an individual plant dies in the context of a hedgerow, that would be an imperceptible effect on the screening proposed as a whole. What is therefore required is a target based approach regarding mitigation to ensure that the hedgerow is managed as a whole to ensure it continues to operate to desired requirements. The Applicant commits to this at paragraph 9.7 of the oLEMP which establishes criteria that a hedgerow will be managed to, including level of gaps. It is this criteria that the ES has assumed.

8.12 NCC state that an additional monitoring programme is required between April and June in years 2,4, 6, 10 and 15 then every 5 years post monitoring. The Applicant has already included a monitoring programme in the oLEMP, at Table 6, which clearly demonstrates yearly management for all hedgerows, and then a monitoring schedule for of twice yearly for years 1-5, and thereafter years 10, 15, 20, 25, 30, and 40. The Applicant considers this entirely appropriate. The fact that it must manage the hedgerows annually will ensure that the Applicant will be able to assess whether or not the targets in paragraph 9.7 of the oLEMP are established.

8.13 NCC suggest that it is unlikely that there would be no significant effects on residential properties, without being explicit regarding which properties they believe would experience such effects. The Applicant maintains that the mitigation by design served to avoid and minimise visual effects on the nearest residential properties during the evolution of the Scheme layout such that no significant effects would arise. Even if a small number of properties were to experience a significant effect, as suggested by the Council, this would not be unusual for a development of this nature or an indication that the development was not acceptable, noting that the Council do not suggest that the effects on any of the residential properties would be 'overbearing' such that they would not pass the residential visual amenity threshold.

8.14 NCC suggests that it is unlikely that there would be no significant cumulative effects, without being explicit regarding which landscape or visual receptors they believe would experience such effects. The Applicant maintains that the relatively limited visual envelope of the Scheme, combined with the distance from many of the other cumulative projects and the vegetation screening in the landscape,

would be such as to prevent any significant cumulative landscape or visual effects. It is noted that there are several projects in the wider landscape which may result in cumulative landscape or visual effects between themselves, but unless the Scheme also forms a notable part of those views, that is not a cumulative effect brought about by the Scheme. It is also noted that even if it were considered that a small number of significant cumulative effects were to arise, this would not be unusual for a development of this nature or an indication that the development was not acceptable. Rather they would simply be a matter to weigh in the overall planning balance alongside the other benefits and harms of the project.

8.15 Overall, the Applicant considers that the areas of disagreement with NCC are relatively limited. Irrespective, the Applicant notes that there are some significant and some non-significant landscape and visual effects to be taken forward into the planning balance. The Applicant maintains that these landscape and visual effects have been appropriately minimised through the mitigation provided for through the design process and via the proposed planting to be controlled via the LEMP.

8.16 Paragraph 5.10.35 of NPS EN-1 acknowledges that the scale of energy projects means that they will often be visible across a very wide area, and that the Secretary of State should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project.

8.17 Paragraph 5.10.36 of NPS EN-1 states that in reaching a judgement, the Secretary of State should consider whether any adverse impact is temporary or whether the adverse impact on the landscape will be capable of being reversed in a timescale that the Secretary of State considers reasonable.

8.18 Paragraph 5.10.37 of NPS EN-1 highlights that the Secretary of State should consider the extent to which an applicant has sought to minimise harm, including by appropriate mitigation, and paragraph 5.10.38 points to whether requirements are needed to secure particular design details.

8.19 The Applicant considers that the landscape impact caused by the Scheme is associated only with the temporary development, and that it has sought to appropriately address and mitigate the proposed impacts, not least by the provision of offsets and hedgerow planting. The Applicant has secured these mitigation measures through a number of management plans, which are secured in the requirements of the DCO. The Applicant, therefore, submits there is no reason under the NPS why the Application could not be granted.

9 HERITAGE AND ARCHAEOLOGY

North Leverton Windmill

9.1 Throughout the Examination, there has been considerable material exchanged between interested parties and the Applicant regarding North Leverton Windmill. In particular, the Applicant has responded to points raised in its Applicant's Comments on Relevant Representations [REP1-008], Response to Written Representations and other Documents Submitted at Deadline 1 [REP2-051], the Applicant's Response to NCC's Local Impact Report [REP2-050], and the Applicant's responses to ExQ1 [REP2-052] and ExQ2 [REP5-048]. The Applicant would note that Historic England has agreed with the assessment of impacts, as is set out in the SoCG , AG2, with Historic England [EN010163/EX/8.51].

9.2 In short, it has been maintained that the Scheme is anticipated to result in a minor adverse effect (less than substantial harm) to the significance of the asset (see ES Chapter 9 – Cultural Heritage [APP-067]). There is to be no physical impact to the fabric of this asset from the Scheme. The minor adverse effects reported arise from changes to elements of the setting that contribute to the significance of the asset. The assessment carried out by the Applicant identified that the key elements of the setting which contribute to the significance of the asset would not experience any change, neither would the immediately surrounding agricultural land. Because of this, the level of change was considered to be negligible resulting in a minor adverse effect which is temporary until the decommissioning of the Scheme.

9.3 There have been questions regarding the relationship between the Windmill and the Trent Valley Way from multiple parties including the North Leverton Windmill Charitable Trust. The Applicant's position on this has been that the Trent Valley Way is a modern way, not a heritage asset in its own right. The Applicant considers that any views from public rights of way in the vicinity of the Scheme would only be a relevant part of the assessment of significance on the windmill, if the views from the public rights of way contribute to the significance of the heritage asset. The Trent Valley Way has no connection with the Windmill and is not a route to or from this asset. The Applicant also notes that guidance is careful to set out that views of a development from, towards or together with a heritage asset are not inherently harmful. The view must contribute to the understanding of the asset, and the development must cause a detriment to this relationship for this to matter. In this case, the view of the windmill from the Trent Valley Way is incidental, the windmill was built on the rise to serve its function to capture prevailing

winds, not to be seen from the valley floor. The asset is visible from many vantage points. Even where the Scheme may alter views, this would not remove every single view of this asset. It would still be able to be appreciated.

9.4 Regarding whether views from the asset contribute to its significance, the Applicant's position is that any views obtained from windows in the Windmill are incidental to its purpose. The windows would have been installed for the functional purpose of providing light to allow the workers to operate the mill. Therefore, the Applicant does not consider that views experienced from the windows of the windmill contribute to the significance of the asset.

9.5 The Applicant's position regarding the impact of the development on the windmill's function as a tourist attraction, has also been set out in the documents set out in paragraph 9.1, above, where the Applicant has noted that no evidence has been adduced into the examination justifying this perception of a loss of tourist attraction noting that the views from this asset are already dominated by energy associated infrastructure.

9.6 The Applicant understands that NCC maintains that the Scheme has potential to result in 'less than substantial harm', at the highest end of the spectrum to the significance of the North Leverton Windmill, due to the change in wider landscape views and potential impacts on financial viability and thereby the asset's 'optimum viable use' as a tourist destination. Whilst the Applicant does not agree, even if NCC's position is to be preferred, NPS EN-1 states at paragraph 5.9.32 that where a Scheme will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate securing its optimum viable use. Paragraph 5.9.36 states that when considering applications for development affecting the setting of a designated heritage asset, the Secretary of State should give appropriate weight to preserving the setting of such assets and should give great weight to any negative effects when weighing them against the wider benefits of the application. The Applicant considers that these tests do not apply any higher test setting out that consent should be granted only in exceptional circumstances, rather what is required in policy is to weigh any harm against the need for the Scheme. Given the Scheme is critical national infrastructure, and the fact that the overarching need for the Development should be given substantial weight, as per paragraph 4.2.6, that the Applicant does not consider that the supposed "less than substantial harm" which NCC says would arise would outweigh the benefit of the Scheme.

Burton Chateau

9.7 Concerns have been raised regarding a theorised impact on Burton Chateau, a grade II* listed building that sits on the river Trent on the Lincolnshire bank. Concerns have been raised by NCC regarding harm caused by the Scheme. The Applicant's position, as set out in its response to ExQ1 [REP2-052] and NCC's Local Impact Report [REP2-050], is that whilst on review of the ZTV [APP-155], it is acknowledged that this does show theoretical visibility of the Scheme from Burton Chateau, this theoretical visibility is, however, limited to the BESS, and no other elements of the Scheme are identified as being potentially visible. It is also noted that ZTVs are not completely accurate as they do not take into account smaller blocks of vegetation, hedgerows or isolated or smaller clumps of trees. As such, ZTVs provide broad indications of what could theoretically be visible but local conditions might be such that upon ground-truthing it is actually the case that visibility is much reduced.

9.8 It should be noted that this element of the Scheme lies c.3.7km west-northwest of the asset, and the asset is orientated in the opposite direction, with the primary façade facing to the south-east. Despite the potential visibility identified by the ZTV, given the distance from the asset and intervening woodland immediately west and north-west of the asset, any elements of the BESS Scheme are not anticipated to be readily discernible from the asset. As outlined in Appendix 9.1 – Cultural Heritage Technical Baseline [APP-122], land associated with the Scheme is not considered to contribute to the significance of the Grade II* Listed Building.

9.9 Elements of the asset's setting which contribute to its significance would remain unaffected, as would any important views to or from the asset. Views towards the BESS are not considered to contribute to the significance of this asset and therefore, should any distant, glimpsed views of the BESS development be possible beyond the intervening woodland, they would not result in any impact to the significance of Burton Chateau.

9.10 Questions were raised regarding the viability of tourism of the Burton Chateau; the Applicant's position is that no evidence has been adduced evidencing any basis for this perception of harm to a tourist attraction.

9.11 The Applicant understands that this point remains unagreed with NCC, however, for the reasons stated above, the Applicant disagrees with the suggestion of harm to Burton Chateau. The Applicant would note that Historic England have not raised concerns in their SoCG.

Christian Heritage and the Pilgrim Trail

9.12 The Applicant has responded to points raised regarding the surrounding area's Christian heritage and a perceived impact to the modern tourism route called the "Pilgrim Trail" in the Applicant's Comments on Relevant Representations [REP1-008], Response to Written Representations and other Documents Submitted at Deadline 1 [REP2-051], the Applicant's Response to NCC's Local Impact Report [REP2-050], and the Applicant's responses to ExQ1 [REP2-052] and ExQ2 [REP5-048].

9.13 At Deadline 4, a paper was submitted into examination by Fields for Farming [REP4-037] entitled "How Christian Heritage Contributes to the Significance of Heritage Assets in and around Sturton le Steeple". The Applicant has responded to this paper at Deadline 5 [REP5-047].

Post-determination Trial Trenching.

9.14 The Examining Authority has heard detailed submissions from NCC's County Archaeologist and the Applicant on the appropriateness of the Applicant's post-determination trial trenching regime. The Applicant has provided an Archaeological Strategy Note [REP2-053] setting out its position on this matter in detail, which further demonstrated how its position is not unique and has been adopted on several other schemes. In addition, the Applicant has responded to ExQ2s at Deadline 5 to respond to further questions raised by the ExA on this point [REP5-048]. It should be noted that the Applicant has agreed an SoCG with Historic England [EN010163/EX/8.51] where Historic England have raised no fundamental concerns regarding the Applicant's approach to trial trenching and whilst Historic England have stated a preference for additional pre-determination trial trenching, Historic England have accepted the Applicant's proposed strategy and are content with the proposed mitigation as secured by requirement 17.

9.15 Section 5.9 of NPS EN-1 sets out generalised policy in relation to the Historic Environment. From paragraph 5.9.22 to paragraph 5.9.36, the NPS EN-1 sets out the basis for Secretary of State decision making.

9.16 Paragraph 5.9.22 NPS EN-1 states that the Secretary of State should seek to identify and assess the particular significance of any heritage asset that may be affected by the Scheme. The importance of establishing significance is borne out by the remaining paragraphs of section 5.9, where the Secretary of State must then go on to consider the impact of a Scheme on the significance of an asset, and then weigh that impact against the public benefits of a Scheme. In relation to buried archaeology, the importance of establishing significance is relevant only to those elements of a scheme which will impact the buried archaeology and cannot be moved or built in such a way that avoids harm.

9.17 It is for this reason that the Applicant has undertaken a programme of pre-determination trial trenching in those locations where, by virtue of the extent of the impact of construction, and elements of the scheme that are fixed within the proposals as a whole, harm would be unavoidable. This has been carried out to inform an assessment of significance and resulting impact on any findings. The methodology and scope of the pre-determination trial trenching is provided in the Outline Written Scheme of Investigation for Pre-determination Trial Trenching [APP-125].

9.18 The pre-determination trial trenching was informed by an earlier geophysical survey. The results of this phase of trenching corroborated the results of the geophysical survey and provided evidence as to the success of the geophysical survey. The corroboration of the results of the survey, confirms the geophysical survey as being an appropriate methodology to identify potential areas of significant archaeology. Where these areas have been identified, they have been removed from the Scheme, as outlined in Appendix 9.3 Archaeological Mitigation Statement [APP-124]. The removal of these areas is controlled by requirement 3 and 17 of the dDCO [EN010163/EX/3.1], as supported by NPS EN-1, paragraph 5.9.21.

9.19 Having removed those areas with the greatest potential for significant archaeological remains, the Applicant is left with a residual risk of harm to unidentified archaeological deposits and areas of archaeological potential (as identified by the geophysical survey) of lesser significance than those excluded from development. The Applicant has committed to a scheme of post-determination trial trenching, which will inform an appropriate mitigation strategy (as outlined in the Outline Written Scheme of Investigation for Post Consent Archaeological Works [EN010163/APP6.3.9]) to ensure that impacts to archaeological remains can be mitigated as far as possible. This approach of post-determination trial trenching is considered an entirely appropriate course of action as it ensures that any harm that the trial

trenching would do to the archaeological deposits (trenching being an inherently destructive process to archaeological deposits) would be justified on the basis that a scheme had been consented, rather than introducing harm for an unconsented scheme which may or may not be granted consent. It is also reiterated that the approach to archaeological investigation and mitigation would be the same irrespective of whether further trial trenching is undertaken prior to determination or post-determination, given the nature of the Scheme and the range of mitigation measures available.

9.20 NPS EN-3, paragraphs 2.10.137 which states that the "ability of the applicants to microsite specific elements of the Scheme during the construction phase should be an important consideration by the Secretary of State when assessing the risk of damage to archaeology". NPS EN-3 paragraphs 2.10.113-114 cover the assessments that should be carried out and submitted into examination. Pre-determination trial trenching is not mentioned.

9.21 This means that the approach adopted by the Applicant is supported by the NPS on the basis that the NPS does not require a scheme of trial trenching to be carried out pre-determination and that the NPS EN-3 recognises that in the event of archaeological remains being found, that solar infrastructure is inherently flexible allowing for adjustments to panel areas or method of installation to ensure that archaeological deposits are not impacted.

9.22 The fact that the particular aspect of solar development enables impacts to be entirely avoided means that there is no requirement to know the significance of those assets for the determination of the Application. There is no express requirement for pre-determination trial trenching in the NPS. The Applicant considers that were pre-determination trial trenching to be so fundamental to establishing the significance of assets, or to the consideration of 5.9.22 NPS EN-1, that no other methodology would be accepted, the NPS would make provision setting out that expectation in policy.

9.23 In summary, the NPS requires an assessment of the significance of historic assets to inform the exercise of weighing the impact on those assets. Where there is no impact, there is no requirement to have an assessment to inform the significance of the asset. Undertaking 100,000's sqm of trenching at the pre-determination stage of a Scheme is not mitigating the impacts of a solar scheme, it is potentially permanently removing archaeology which, if the scheme should not gain consent, would have been for no justification and would otherwise remain in situ for future generations.

10 OTHER ENVIRONMENTAL MATTERS

Biodiversity and Ecology

10.1 There has been discussion between the Applicant and Interested Parties, throughout the examination regarding the extent of surveys undertaken by the Applicant. The Applicant has provided detailed oral submissions on this, as set out in the summary of oral submissions of ISH2 [REP4-031]. To confirm, the Applicant considers that the surveys undertaken are proportionate and appropriate and allow a robust assessment of the likely significant effects of the project. The Applicant is unaware of any comments from local authorities regarding any insufficiencies and would note that Nottinghamshire Wildlife Trust has agreed to the surveys undertaken in the SoCG [REP5-046]. It should be noted that that Natural England have also not raised concerns with the surveys undertaken by the Applicant [EN010163/EX/8.32].

10.2 There has been discussion in the second half of the examination, with input particularly from representatives of Fields for Farming as well as Mr and Mrs Barlow, regarding the impacts on badgers, and whether disturbance could cause the transfer of bovine tuberculosis to herds of cattle in the vicinity of the Scheme, including a herd of Lincoln Red Cattle. The draft badger licence application submitted by the Applicant to Natural England includes an assessment of the biosecurity risks associated with bovine TB and badger sett closures, and specifies the measures required of personnel working on badger sett closures to practice good biosecurity controls. The Applicant confirmed that during construction, no main or annexe setts are currently planned to be closed and, during operation, the provision of mammal gaps in the fences of the Scheme will allow badgers to continue to move freely within their territories, meaning that displacement effects are unlikely. It is concluded that the Scheme has a very low risk of causing badger perturbation / redistribution. This means that the risk of creating new vectors for bovine TB transmission is also very low. It should be noted that the Applicant has secured a Letter of No Impediment [REP5-054] from Natural England in relation to its draft application for a European protected species licence required for any interference with badgers or their setts. Natural England did not raise any concerns regarding the spread of bovine tuberculosis by the Scheme [EN010163/EX/8.32].

10.3 The Applicant has been asked questions relating to biodiversity net gain ("**BNG**") throughout examination and would like to reiterate its position stated in its response to ExQ1 [REP2-052]. There

is no legislative requirement for NSIPs to deliver BNG to any mandatory level. DEFRA is currently consulting on how the structure of the BNG scheme will apply for NSIPs. It is noted that NPS EN-1 does present a policy basis which establishes an expectation for Schemes to deliver BNG but is silent as to the magnitude of any habitat gain. As Appendix C, Planning Statement makes clear, in response to the NPS EN-1 position on BNG, the Applicant has provided a commitment to deliver 10% BNG. Absent a national policy requirement for anything further, the Applicant considers 10% to be a reasonable and proportionate level of mitigation given the statutory requirements in the Town and Country Planning Act 1990 regime. The Applicant's Biodiversity Net Gain Report [APP-114] presents the Applicant's analysis of what BNG would likely be realised as a result of the Scheme. This finds that the Scheme would likely realise BNG results in excess of 10%. However, the Applicant does not wish to be held to account for these units.

10.4 As a result, the Applicant is not proposing to commit to a greater than 10% gain for BNG. The Secretary of State would be capable of considering the 10% gain in the planning balance, given there is no legislative requirement to deliver this, but the Applicant would specifically ask that any excess gain over 10% is not taken into account by the Secretary of State. It would not be appropriate for the Secretary of State to consider that which the Applicant is not committed to and therefore the Applicant would request that the Secretary of State take into account only the committed 10%. It should be noted that 10% gain for the Scheme delivers in excess of 200 habitat units which is a significant benefit, noting that in 2024 the Environment Bank reported that of the 18 new habitat banks added to the BNG register, the average number of units generated from each of these was approximately 140ha units each. There is no requirement in legislation or policy to provide a commitment for all BNG that could be realised by a Scheme therefore, the Applicant is able to reserve these units outside of the consideration of the Scheme.

10.5 The Applicant notes that a Rule 17 letter [PD-010] was provided on the 2nd April 2026 which included further remarks regarding the provision of skylark mitigation for the Scheme. The Applicant has responded to this letter in detail at Deadline 6 in the Applicant’s response to the rule 17 letter [EN/010163/EX/8.60].

<u>Flood Risk, drainage and the water environment</u>

10.6 The Applicant has engaged with the Environment Agency and NCC as lead local flood authority regarding its Flood Risk Assessment and proposals regarding drainage and surface water management. The Applicant notes that there are no extant concerns regarding these topics from these statutory undertakers. This is set out in the SoCG with NCC [REP4-032] and the Environment Agency [REP5-044].

10.7 In addition to ensuring that there is no increase in runoff from the Scheme, the Applicant has committed to providing additional measures which aim to provide a positive reduction in the existing flood risk to Sturton le Steeple. This will be achieved by providing large detention basins positioned strategically to intercept existing flow paths and store runoff from the fields that in certain conditions currently flow uncontrolled towards the village resulting in flooding on the roads in the centre of the village. This is an additional voluntary measure for the benefit of the local community and is separate to the measures proposed to control runoff from the Scheme.

Land use and soils

10.8 The Applicant has been engaged with Natural England throughout the examination and has provided a number of revisions to the outline Soil Management Plan [REP3-027] and Environmental Statement, Chapter 15 [REP5-015], particularly in respect of the relatively narrow issues of the micrositing of fixed equipment and how the use of BMV was minimised in design, and in respect of how tree planting should be assessed in terms of long-term impacts on agricultural land . The Applicant now considers that all matters are agreed with Natural England regarding the Scheme's impact on agricultural land and soils. This is set out in the SoCG with Natural England submitted at Deadline 6 [EN010163/EX/8.32].

10.9 The Applicant appreciates that there has been considerable interest and comment made in relation to land use and soils by interested parties, the Applicant has carefully considered the Best and Most Versatile (BMV) land principles throughout site selection and design as set out in Chapter 3 [APP-061]. BMV land, defined as Grades 1, 2, and 3a in the Agricultural Land Classification system, represents the most productive and flexible agricultural soils. In line with the National Planning Policy Framework (NPPF) and associated guidance, the Scheme seeks to avoid BMV land wherever practicable and to minimise the use of higher-quality soils. Where BMV land is unavoidably affected, for the relatively small areas required for the placement of fixed infrastructure, the Scheme design ensures that its temporary and reversible nature allows the land to be restored to its former agricultural condition following

decommissioning. The land-use considerations are set out in the ES, and no significant adverse effects have been identified. The Scheme has been brought forward in accordance with the National Policy Statement for Energy (EN-1), which identifies an urgent need for new, low-carbon, nationally significant energy infrastructure, and the National Policy Statement for Renewable Energy Infrastructure (EN-3), which provides specific policy support for solar generation projects.

Battery Energy Storage System and Fire Risk

10.10 The Applicant recognises that there is a common concern regarding BESS and the risk of failure, including the resulting effects that fires may have on local environments and communities. The Applicant has thoroughly assessed this risk and has ensured that the design of the BESS appropriately mitigates this risk as set out below.

10.11 An Outline Fire Management Layout Plan [REP5-004] and a revised Outline Fire Risk Management Plan [REP5-023] were submitted at Deadline 5. The outline fire risk management plan details how the BESS complies with National Fire Chiefs Council Guidance. Appendix B of the outline fire risk management plan is tabulated and specifically details how the design responds to this Guidance. The management plan is secured by requirement 10 of the dDCO [REP5-005], which ensures that a detailed Fire Risk Management Plan is approved by the local planning authority prior to commencement with Nottinghamshire Fire and Rescue Service secured as a consultee. The Applicant has engaged with Nottinghamshire Fire and Rescue Service, and has submitted an SoCG [REP5-049] confirming that all matters are agreed. The Environment Agency are also agrees that the Applicant's design suitability mitigates the risk of contaminated fire water entering the wider water system, through the provision of drainage basins. An SoCG with the Environment Agency [REP5-044] has been provided on this basis.

Transport

10.12 The Applicant has engaged with NCC Highways throughout the Examination regarding traffic and highway matters. A revised oCTMP (Revision 2) [REP5-035] was provided at Deadline 5. This outlined a package of measures and commitments which manages and mitigates the forecast temporary traffic

impact during the construction phase of the project. It was agreed at a meeting with NCC Highways on 31st March 2026 that the revised oCTMP was acceptable as set out in the NCC SoCG [EN010163/EX/8.40].

10.13 NCC has requested that its Permit Scheme is incorporated into the DCO which includes a need for written consent from the local highway authority. The Applicant's position on this has been set out in the below DCO section 11.

10.14 There exists an extant concern by NCC Highways regarding the Transport Assessment [APP-128]. Whilst NCC Highways did not make any specific requests for further work in relation to the transport assessment through the EIA Scoping, PEIR or other pre-application discussions, NCC Highways officers raised concerns in the NCC Local Impact Report [REP1-014]. Of these concerns, the Applicant considers that the principal matter of disagreement relates to a request by NCC Highways for a full survey and capacity assessment of the entire length of the A631 to review for potential capacity issues with the highway.

10.15 NCC Highways stated that the additional survey work was required to understand traffic flows across this route, and so that they could understand the condition of the highway. The Applicant would reiterate that NCC Highways officers raised the issue for the first time in the Local Impact Report [REP1-014] in November 2025 at Deadline 1. The Applicant's response to the Local Impact Report was submitted in January 2026 at Deadline 2 [REP2-050]. The Applicant's response included three technical notes [REP2-058], two of which related to traffic impact. These technical notes included assessment work which utilised traffic survey data which was collected in April 2025. The Applicant's position was that the request for the surveys was not necessary, and disproportionate to the impact of the Scheme. In addition, surveys require neutral months and so cannot be carried out in December-January. This means that there was not sufficient time to scope and obtain traffic survey data in the period running up to ISH2 in February 2026. The Applicant met with NCC Highways prior to ISH2 on the 10th February 2026. NCC Highways did not raise any further concerns on the transport assessment following the Applicant's submission of a response at Deadline 2. During ISH2, the Applicant did not hear any points raised by NCC Highways regarding the Transport Assessment. The Applicant further met with NCC Highways on the 9th March 2026, where again NCC Highways did not raise any particular concerns when discussing the Transport Assessment. The Applicant did not therefore consider that there was

any extant issues with its Transport Assessment, and that its submissions at Deadline 2 had dealt with the concerns in the NCC Local Impact Report.

10.16 However, on the 31st March 2026, when seeking to resolve final matters on all matters within the SoCG between the parties, NCC Highways re-raised concerns on the Transport Assessment, stating that they had not yet reviewed the Applicant's Deadline 2 submissions. The Applicant provided new links to the Deadline 2 submissions on the 31st March 2026 and asked for a further meeting with NCC to close out their queries. The Applicant received an email from NCC Highways on 1st April 2026 which re-stated the position of NCC as set out in the Local Impact Report without reference to the Applicant's further submissions. The Applicant has sought to contact NCC Highways since 1st April 2026 to re-emphasise the submissions made at Deadline 2, as it did not appear to the Applicant that these had been considered by NCC Highways. The Applicant has been unable to meet with NCC Highways since the 31st March 2026 to understand whether the re-statement of the positions of NCC on the 1st April were made following a review of the Applicant's deadline 2 submissions.

10.17 The Applicant has sought clarification from NCC Highways on the details of their remaining points of disagreement regarding the transport assessment but has been unable to obtain feedback that is made in reference to the material provided by the Applicant since the NCC Local Impact Report. In short, NCC Highways appear not to have engaged with the material provided at Deadline 2.

10.18 It should be noted that where the Applicant had received timely and reasonable requests for survey work as part of the preparation of the transport assessment it has considered these requests and incorporated these into the transport assessment. For example, in response to requests from Doncaster City Council during pre-application, the Applicant expanded its surveys accordingly. NCC Highways did not provide a request pre-application for further survey work, and since providing their comments in their Local Impact Report have not engaged with the Applicant's rationale and reasoning for not doing so.

10.19 The Applicant considers that the principal matter of disagreement in relation to the transport assessment is that NCC Highways are requesting survey work over the A631. Even if the Applicant had had time to provide updated surveys and capacity reports, the Applicant considers this unnecessary as the construction traffic numbers are low in real terms. The oCTMP submitted at Deadline 5 [REP5-035] (which has been agreed with NCC, as per the SoCG) shows traffic numbers for the development on an

hour by hour basis, and confirms that traffic will not be arriving and departing the Order Limits in the weekday peak periods and so it will instead be spread out across the day. Traffic will be routed along suitable routes that have already been agreed with NCC Highways under the oCTMP.

10.20 The monthly, weekly, daily and hourly traffic flows have been provided in Tables 5.1 and 5.2 of the agreed oCTMP [REP5-035] for both the average month and the peak months. The highest number of vehicles are noted at Month 7, would peak at 40 two way vehicle movements per hour. In an average month there would be an estimated 22 two-way vehicle movements per hour. These numbers are considered a reasonable worst case scenario as they don't consider the effects of the Workforce Travel Plan, which will be appended to the oCTMP [REP5-035] and secured through the DCO requirement.

10.21 The Applicant carried out a percentage impact assessment [REP2-058] on the A631 junction with Bar Road which identified a temporary impact of 10% across the whole junction. This utilised the development traffic forecast in the busiest month of construction. It would be less during other months of the construction period. A temporary impact of 10% is not considered to trigger the need for detailed traffic capacity modelling by the Applicant's traffic consultants. The Applicant proposed to scope out detailed assessment of traffic and the Inspectorate's EIA Scoping Opinion [APP-078] confirmed these could be scoped out where the relevant thresholds have not been exceeded. Therefore, the Applicant considers that the additional junction impact assessment requested by NCC in the LIR on the A631 corridor is not proportionate to the forecast impact for the temporary construction period with the existing substantial HGV base traffic flows along this corridor and the proposed traffic route being considered appropriate for other schemes in the area which did not require additional testing. As such the request is not considered to be appropriate in terms of the scale of the construction traffic impact when the oCTMP has been agreed with NCC Highways as acceptable.

10.22 Regardless of the concerns of NCC Highways, NPS EN-1 paragraph 5.14.5 states if a project is likely to have significant transport implications, the applicant's ES should include a transport appraisal. In this case a Transport Assessment [APP-128], using the Department for Transport's (DfT) 'Transport Analysis Guidance', has been prepared and submitted.

10.23 NPS EN-1 paragraph 5.14.6 also confirms that the Applicant should consult with National Highways and Highway Authorities as appropriate. This has been undertaken throughout the DCO process, with NCC Highways being consulted throughout scoping, PEIR and pre-submission stages.

10.24 NPS 5.14.14 states that HGV traffic could be controlled in terms of numbers movements to and from the site in a specified period during its construction and also on the vehicle movement routing. This suggests that the Applicant should assess the potential routes for deliveries and the suitability of these routes, and the mitigation measures that may be required to be implemented by the Highway Authority or the Secretary of State. This has been undertaken in the Transport Assessment [APP-128] and the outcomes are confirmed in the oCTMP submitted at Deadline 5 which has subsequently been agreed. The proposed construction traffic routing was agreed with National Highways and NCC Highways prior to DCO submission. Further appropriate mitigation has been included in the agreed oCTMP including for example the provision of signage, banksmen, a delivery driver call-ahead management system, and restricted delivery hours.

10.25 NPS EN-1 5.14.18 states that a new energy NSIP may give rise to substantial impacts on the surrounding transport infrastructure and the Secretary of State should therefore ensure that the applicant has sought to mitigate these impacts. The Applicant's Environmental Statement, Chapter 13: Transport and Access [APP-071] found that with the provision of mitigation, primarily in the form of the oCTMP [REP5-035], that there are no predicted significant effects on highway capacity and therefore the Applicant has adequately met this policy requirement.

10.26 NPS 5.14.21 states that the Secretary of State should only consider refusing development on highways grounds if there would be an unacceptable impact on highway safety, residual cumulative impacts on the road network would be severe. The Applicant considers that there has no evidence adduced into examination to suggest that the Scheme would create an unacceptable impact. The Applicant's submissions at REP2-058 demonstrate that there is not a reasonable case that the Scheme would have an impact of highway safety. The Applicant's proposed mitigation, in the form of the oCTMP which is secured by the dDCO ensures that there are no predicted significant impacts. The Applicant considers, therefore, that this threshold for refusal has not been met.

10.27 It is therefore concluded that the comments and additional requests raised by NCC Highways are not proportional to the forecast traffic impact of the Scheme, and that there is no basis on which to refuse the Application on this basis in accordance with the NPS.

11 THE DEVELOPMENT CONSENT ORDER

11.1 The Applicant has engaged with a number of parties throughout the Examination regarding the drafting of the Development Consent Order. It has made a number of amendments to the draft Order as a result of this engagement. This has been set out in the Applicant's Schedule of Changes [EN010163/EX/8.8] to the dDCO. The Applicant does have a number of points where there continues to be disagreement. These are set out below:

Nottinghamshire County Council ("NCC") Permit Scheme

11.2 The Applicant has provided extensive submissions in support of its position that it is appropriate for the NCC Permit Scheme to be disapplied. NCC have sought to justify the adherence to the permit scheme on the basis that this is the normal process for street works within Nottinghamshire. The Applicant explained in ISH3, and in other written submissions, that the purpose of permit schemes under the Traffic Management Act 2004 was to provide an alternative to the New Roads and Street Works Act 1991. These schemes were essentially to introduce an additional consent-based layer of control where a highway authority would be able to manage co-ordination of street works to minimise disruption. The 1991 Act notification procedure provided a clear notice-based system which allowed a highway authority to be aware of works occurring, and an ability to give directions as to timing of the works – subject to the tests set out in the New Roads and Street Works Act 1991. However, it was considered that there should be an option for a highway authority to create a more regularised system, if they wish to, to insert additional control over the process and timing of street works. This was considered necessary as many street works occur under permitted development rights, and therefore there was no planning nexus where a highway authority could insert itself into the process in order to determine how and when street works could occur.

11.3 However, the planning position for a DCO is materially different. The DCO regime is intended to provide a single, unified consent framework for nationally significant infrastructure projects rather than layering multiple consenting regimes on top of one another. There is clear Government focus in speeding up the delivery of infrastructure, and a re-emphasis on the primary goal of DCOs which is remove unnecessary layers of secondary consents.

11.4 The dDCO [EN010163/EX/3.1] proposed by the Applicant has a requirement for a Construction Traffic Management Plan. This management plan can be used to ensure appropriate measures for the co-ordination of works, where that is necessary. The Applicant has set out the co-ordination measures it proposes in section 4.57 – 4.61 to mitigate the loss of the permit scheme. The Applicant considers that this addresses NCC's concerns around co-ordination. The Applicant considers that it is still appropriate to disapply the permit scheme, as it allows any discussions and consents required for highway works to be considered within the bounds of the Order and therefore any dispute pursuant to that consent can be referred centrally for arbitration, rather than the Scheme be subject to the wide discretion of the highway authority.

11.5 The Applicant considers that the fact that the Scheme is critical national priority infrastructure which is seeking consent through the DCO process differentiates it from the standard infrastructure being installed in highways. The fact that there is a national need for this infrastructure means that it is more appropriate for the Applicant to adopt the notice procedures set out in the New Roads and Street Works Act 1991 rather than the permit procedure set out in the 2020 Order. The Applicant considers that the imperative need for this infrastructure means that it would be inappropriate for the Applicant to have to obtain permits on the same basis as other statutory undertakers. The permit scheme has the capability to introducing delay into the Applicant's construction timetable, where NCC wishes to organise other infrastructure. The Applicant considers that as the authorised development is critical national priority infrastructure, there should no opportunity for frustration of construction programme as a result of works being carried out by other statutory undertakers in the area.

<u>Detailed Design Approval Criteria for Highways</u>

11.6 The Applicant is aware that there have been multiple requests by NCC regarding its view that there should be additional detail set out on the specific information that it requires as part of the detailed design sign off for particular highway works, as required by the dDCO [EN010163/EX/3.1]. In response the Applicant has set out from paragraph 4.51 of the Outline Construction Traffic Management Plan [REP5-035] a methodology for securing the required approvals for detailed design. The Applicant considers that this level of detail is sufficient for an outline management plan. The Applicant considers that if NCC require further granular detail on what is required for its approvals, then that can be adequately secured in the final CTMP which is required to be approved prior to commencement of the

authorised development. The Applicant does not consider it necessary for the purpose of determining the Application, that this level of specifics be placed in the outline document.

Archaeology

11.7 The Applicant appreciates that there is an extant area of disagreement regarding trial trenching methodology used in the Application with NCC, although note that Historic England have agreed with the Applicant's position. However, the Applicant has made significant amendments to its requirement 17 (archaeology) to seek to ensure that NCC are at least content with how it is binding it proposed methodology. The Applicant has secured NCC's agreement on this requirement and would like to draw the ExA's attention to the fact that it has tried to accommodate NCC's concerns, as far as is reasonable and practicable to do so.

Discharging Authorities

11.8 The Applicant notes that NCC have routinely requested that a number of requirements should be discharged by NCC in its role as local planning authority. The Applicant notes that NCC has requested it discharge requirements relating to the oCTMP and surface water and foul drainage. The Applicant acknowledges that pursuant to paragraph 1(1) of the TCPA 1990, that the county planning authority would be capable of discharging requirements as county planning authority, however, with a view of ensuring that responsibility for discharge falls at a local level, and is consistent across the Scheme, the Applicant remains of the view that the dDCO [EN010163/EX/3.1] as drafted appropriately divides responsibilities for approval and consultation between BDC and NCC.

11.9 However, fundamentally, it is not the case that items such as surface and foul water drainage and highways **must** be discharged by NCC. Whilst NCC as county council hold responsibility as a lead local flood authority or a local highway authority, that does not mean that they are the county planning authority for those matters. That means that there is no basis on which to asset that these measures fall within the ambit of NCC as local planning authority, which is what is claimed.

11.10 The Applicant has acknowledged that if NCC are of the view that it would be more appropriate for the county planning authority to discharge all the requirements then the Applicant would be content with that arrangement. However, NCC have not provided any confirmation to that effect. The key point is there is no justification for a split jurisdiction between Bassetlaw District Council and NCC.

Community Engagement

11.11 There have been various submissions through examination requesting community engagement. The Applicant confirmed in ISH3, that it would be happy to engage with NCC and local residents and support wider community liaison. The Applicant has confirmed in its responses to ExQ2s, [REP5-048], that requirement 7(4) of the dDCO, [EN010163/EX/3.1], secures that the detailed CEMP for each phase of the authorised development must provide details of community liaison. The Applicant considers, therefore, that the Application and the Order therefore provide sufficient assurance that the undertaker of the order is required to carry out community liaison. The exact nature of that community liaison will be dependent on the approval of the local planning authority. The approach of the Applicant in this respect, to secure liaison through the CEMP aligns with that of other solar projects such as: Heckington Fen Solar Park Order 2025, Stonestreet Green Solar Order 2025, Mallard Pass Solar Farm Order 2024, Sunnica Energy Farm Order 2024, Byers Gill Solar Order 2025, Oaklands Farm Solar Park Order 2025.

12 NEGOTIATIONS WITH NATIONAL GRID ELECTRICITY TRANSMISSION (NGET)

12.1 The Applicant's position in respect of NGET is set out in:

a. The Applicant's response to Relevant Representations - REP1-008
b. The Applicant's response to the ExA's First Written Questions - REP2-052
c. The Applicant's written summary of oral submissions at ISH3 - REP4-031
d. The Applicant's response to the ExA's Second Written Questions - REP5-048
e. The Applicant's section 127/138 report - REP5-053; and
f. In the Applicant's deadline 6 response to NGET's deadline 5 submission [EX010163/EX/8.56

12.2 The position in respect of NGET is summarised below and should be read together with the representations listed above.

Existing NGET infrastructure

12.3 The Applicant's s127/138 Report has set out how the remaining issues of disagreement on protective provisions drafting in respect of existing assets have been resolved by the Applicant adopting the wording proposed by NGET in respect of "Acceptable Insurance" and "Acceptable Security". There are no continuing areas of disagreement between the parties except the wording relating to future assets and in particular the North Humber to High Marnham project.

Future NGET infrastructure

12.4 NGET intends to make an application for development consent for a project known as the North Humber to High Marnham ("**NHHM**") project. At present, NGET does not have consent, or even a live application for the NHHM and does not own the land or rights necessary to deliver that project.

Impact of NHHM project on the Project

12.5 NGET's currently preferred route for section 10 of the NHHM project runs to the east of the railway line between Pylons 4AF211 and AF220 and interacts with a significant proportion of the Applicant's proposed solar arrays. The extent of the interaction is shown in the Applicant's Deadline 2 submissions at [REP2-052; pdf 311]. The impact of NGET's currently preferred alignment on the Project is described in the Applicant's response to ExQ1 7.0.4 [REP5-048 from pdf 312].

12.6 In summary:

(a) The total area comprised in NGET's currently preferred route, represented by the area of NHHM's proposed order limits that overlap with the Scheme's Order Limits is 40.48ha (100.05ac).

(b) The total footprint of NHHM permanent development plus minimum set off areas required by NGET within the Scheme's Order Limits would result in the following area of land being permanently sterilised from development: 14.89ha (36.81ac).

(c) The practical consequence of the above is that further areas would then also become sterilised because of the inefficiency in attempting to develop what are in effect stranded areas, lying between the NHHM OHL and the railway. In aggregate with (b) above, the total area sterilised from development within the Scheme's Order Limits would be 50.23ha (124.14ac).

(d) The consequential effect of the figure in (c) above on loss of energy generation would be 49.9MW or a yield over the lifetime of the project (40yrs) of 1899.1 GWh/yr.

(e) The commercial impact on the Scheme from the figure in (c) above would be a loss of circa £2.6m/year in revenue, assuming average revenues of £54/MWh (real 2025) per annum. That

is a loss in respect of which NGET is not proposing to secure any right to compensation through its proposed protective provisions (which are at Appendix 1 of REP5-057).

12.7 Those impacts assume a binding commitment by NGET to its currently proposed alignment, which NGET is not willing to provide (see NGET's response to ExQ27.2.7 [REP5-057]) and no delay to the Project's currently anticipated construction timescale, which NGET has been unable to confirm. NGET's inability to confirm the NHHM route means that its proposed protective provisions seek protection over an unspecified area of land. If imposed, the provisions would extend to any variation to the NHHM alignment before submissions of its DCO application and to any variation of the scheme during or even after the examination.

12.8 As to construction programme, the Applicant understands that NGET's current construction programme means that land within the NHHM Order Limits would not be accessible between September 2028 (earliest access date) and October 2030 (last activity date). This would have the following impact on the Project:

(a) The solar installation in the western half of the Scheme and the medium voltage interconnection would be directly affected in their entirety as the primary compound and site access, required for constructing the western half of the Project, falls within the NGET's proposed order limits for the NHHM project.

(b) The Project's civil works are scheduled to start in May 2028, with solar mechanical installation beginning in July 2028 and electrical works in September 2028. The Applicant's assumption is that both halves of the Scheme would be built in parallel meaning that for the western half there could be only limited enabling works before a pause in development. That would result in a loss of up to some 16 months' work (accounting for mechanical, electrical, interconnection and commissioning) and the western half would only be able to start construction after October 2030.

(c) Since the site cannot be fully energised and commissioned until both halves are complete, the outage period would push energisation back from October 2029 by 16 months to February/March 2031 with completion (COD) around August to September 2031. The Applicant's current programme assumes COD being achieved in April 2029, so this would

represent an overall Scheme delay of 28/29 months, i.e. well in excess of two years. The effect of this delay is that the Applicant would miss the October 2029 date for connection to the grid in the Applicant's grid connection offer with NGET, giving rise to a risk that the offer could be terminated.

(d) Delay in construction by a period of in excess of two years would substantially delay the ability of the development to achieve its objective of contributing to the urgent national need for low carbon electricity generation. It would also delay by a substantial period any final investment decision (FID) in the Scheme, until these major uncertainties are resolved or capable of finite estimation. During that delay period, delivery of the entire Scheme remains at risk, as is the nature of any postponement of FID.

12.9 Even the significant impacts identified above do not constitute a worst-case scenario given that NGET's proposed protective provisions do not include any limits on NGET construction activities or protected construction windows over the overlap area for the benefit of the Applicant.

12.10 The Applicant notes that the ExA's schedule of proposed changes to the draft DCO, issued on 30 March 2026, that the ExA is minded to include protective provisions for the protection of the NHHM project. However, in light of the significant adverse impacts and the ongoing uncertainty relating to the NHHM project, the Applicant resists the imposition of any protective provisions for the protection of future land and assets associated with the NHHM project.

NHHM route selection

12.11 The Applicant has objected to that route consistently since August 2024, when it submitted its response to NGET's localised consultation. The landowner has also objected to the eastern route and has proposed a number of potential alternatives routes, running to the west of the railway line, since at least March 2025. The Applicant notes that in its Deadline 5 submissions the landowner (SNSE Ltd) has proposed further changes to its proposed alternative route. The Applicant has not undertaken any detailed analysis of impacts of those changes but believes they reduce adverse impacts further than those described below (i.e. they reduce environmental and amenity impacts and reduce potential generation losses at Wood Lane). Both the Applicant and the landowner have consistently requested that the NHHM route alignment in section 10 should be moved to the west of the railway line. This western alignment was NGET's preferred route during non-statutory consultation and no adequate

reasons have been advanced for its decision, in February 2025, to select a different route, to the east of the railway (as explained at REP2-052**,** from pdf 240).

12.12 In summary:

(a) In June – July 2023, NGET carried out non-statutory consultation. At that stage, NGET identified a "graduated swathe" (essentially a visual representation of NGET's preferred option corridor, indicating where the OHL alignment could be routed). In the vicinity of the Scheme, the graduated swathe was to the west of Sturton le Steeple and North Leverton and to the west of the railway line. NGET recognised that some existing 132kV OHL would need to be undergrounded to facilitate the preferred route. This was not treated as an obstacle to the route. The graduated swathe was said to offer the optimum balance between environmental, technical, cost and socio-economic considerations.

(b) In July – August 2024, NGET carried out localised consultation. At this stage, NGET presented a potential alternative corridor between South Wheatley and High Marnham, referred to as the "eastern corridor". This ran closer to the west of Sturton le Steeple than the previous western corridor and then passed to the east of North Leverton (rather than to the west, as previously). NGET's localised consultation made it clear that it had made no decision on whether to progress the eastern or western corridors.

(c) In February – April 2025, NGET carried out statutory consultation. For the first time, NGET showed an amended route which passed through part of the eastern corridor (shown in the 2024 localised consultation) and part of the western corridor (shown in the 2023 non-statutory consultation). The reasons for selecting this new hybrid route are not clear. The design report accompanying the statutory consultation explained that:

(i) The eastern and western corridors presented different challenges and opportunities and that neither route was considered to be unfeasible.

(ii) No feedback received during either consultation provided information to suggest that a route within either the eastern or western corridors would be unfeasible and that no clear preference emerged through the consultation processes.

(iii) In the absence of landscape designations in either the eastern or western corridors, routing a new OHL through either corridor would comply in principle with relevant landscape and visual amenity planning policy.

(iv) Routing within the eastern corridor was likely to result in increased interactions with third party developments, including a number of planned or consented solar schemes and that where possible, it was preferable to avoid or minimise interactions with third party developments.

12.13 The only reasons given for the proposed route section 10 alignment were: (a) to avoid interaction with existing 132kV OHL; (b) to avoid interaction with Wood Lane solar farm; and (c) certain subsidiary points relating to minimising impacts on the Church of St Helens, the listed North Leverton Windmill and landscape/visual impacts. The Applicant does not consider that any of those reasons justify NGET's route selection. In particular:

(a) Interaction with 132kV lines has not been treated as a major constraint in earlier stages of consultation. NGET now claims this would add c£7m to the cost of the project but outage will be required on the existing 132kV line in any event, so the cost should not be double-counted. Furthermore, the alternative route proposed by the landowners would be 1km shorter. Given the costing provided in NGET's NHHM corridor preliminary routing and siting study (June 2023) (p.191), that would suggest a cost reduction of at least £3.8m. The landowner has also offered to come to favourable terms on the compensation that would be payable if NGET pursues a western corridor, which would further reduce project costs.

(b) As to the impacts on Wood Lane solar farm, it is not clear to the Applicant why the priority should be to avoid that scheme, which has a capacity of 49.9MWac rather than the Scheme, which is nationally significant with a generating capacity of 450MWac. Furthermore, the Wood Lane project appears to be stalled. Permission was granted for the Wood Lane solar farm in 2020. The interest in the site was sold by Elgin to Scottish Power in 2023. While the permission has been implemented, no further development has taken place and the grid connection has now lapsed so it could not be connected to the grid until such time as a new grid connection offer is secured. The lease in favour of Scottish Power has lapsed and the Applicant understands that the landowner served notice such that Scottish Power now has no interest in

that land at all. The land belongs to the landowner, and his expressed preference is to route the NHHM project through that site.

(c) In relation to heritage matters, there are a balance of considerations as between the eastern and western routes and no clear reason for preferring the eastern route now proposed by NGET. While the Applicant's preferred western route is closer to the Church of St Helen southeast of South Wheatley, that asset is well-screened by vegetation and outward views are limited. The asset is already experienced in the context of overhead cables in views eastwards. Views outwards from this asset do not make any major contribution to the significance of this asset given its enclosed and intimate in its setting. While this route would likely give rise to some less than substantial heritage harm, given the current context, lack of designed views and preservation of those areas from which the key elements of the significance of this asset can be appreciated (its physical fabric and surrounding graveyard), this harm would be at the lower end of the scale. By contrast, NGET's currently preferred route runs in very close proximity to the Grade II listed Crow Trees Farmhouse. Pylons in this location would be likely to cause a high level of less than substantial harm to the significance of the asset through changes to views of and from the asset. NGET's preferred route runs close to the western edge of Sturton le Steeple and OHL would be visible and affect the experience of walkers travelling along Footpaths 19 and 20 be prominent in views towards the Grade II* listed Church and St Peter in Paul (in Sturton le Steeple) which can be seen from the footpaths. This would likely cause less than substantial harm to the significance of the Church through changes in views which make some contribution to its significance. If pylons are also located in this area, they would result in harm to the significance of the Grade II West End Farmhouse and Wash House, located along Freemans Lane by introducing tall and prominent power infrastructure in views north of the asset and by causing a large-scale change in character to the experience of moving along Footpath 20. This would likely result in less than significant harm at the middle of the range of such harm.

(d) In relation to landscape impacts, as explained in NGET's own design report, published with its statutory consultation, in the absence of landscape designations in either the eastern or western

corridors, routing the new OHL through either corridor would comply with relevant planning policy in respect of landscape and visual amenity.

12.14 The Applicant's view, which it intends to make robustly to the NHHM examination, is that there is no reason to justify the route selection choice made by NGET or consequent impact on the Scheme.

12.15 NGET has argued that any amendment to the alignment may result in a six-month delay to the NHHM project. However, NGET's deadline 5 submissions [REP5-057] confirm that the route is not yet fixed and may yet be subject to further change in any event. Furthermore, the Applicant and the landowner have been raising concerns with NGET's eastern route for well over 18 months. The fact that NGET has neglected to give further consideration to the alternative route cannot legitimately now be prayed in aid as a reason to reject that route.

12.16 For the avoidance of any doubt, the Applicant does not (and has never) disputed the importance of the NHHM project. Rather, the Applicant considers that there is a preferable alternative route which will enable both projects to come forward with minimal impacts on one another. Ultimately, it will be for NGET to justify its proposed route choices and compulsory acquisition powers through its own DCO application. Through that process, the Applicant will have the opportunity to make representations about alternative routes that would minimise impacts on the Scheme. Plainly it is not possible to resolve NGET's route selection process through this examination and would be inappropriate to do so, given that other affected parties will almost certainly have representations to make – including potentially, the promoters of the schemes which the landowners have referred to in their submissions. However, it is important for the ExA to recognise that there are very strong outstanding objections to NGET's preferred route, from the affected landowner as well as the Applicant.

12.17 It is also important to understand that there is no question in this examination, of choosing between the relative importance of the projects. NGET will have every opportunity to justify its preferred route and to secure such powers as it considers necessary through its own DCO application and that is the appropriate course. To the extent that its routing choices and compulsory acquisition powers are found to be justified, it will be able to acquire any relevant land interests, including land within the Scheme's Order Limits, through its own DCO in due course.

<u>Protective provisions for the protection of future NGET infrastructure</u>

12.18 The Applicant's position is that it is not necessary or appropriate to impose provisions for the protection of future, as yet uncertain, NGET infrastructure associated with the NHHM project.

12.19 The Applicant and NGET agree that sections 127 and 138 of the Act do not apply to land or apparatus that may be owned by a statutory undertaker in the future [REP5-053**,** paragraph 13].

12.20 The effect of imposing protective provisions for the NHHM project on the Applicant's DCO will be to deprive the Applicant of a legitimate opportunity to test NGET's case on route selection, alternatives and its compelling case in the public interest by effectively safeguarding land within the Applicant's Order Limits for the benefit of NGET with no provision for the Applicant to make a blight claim or claim compensation in response to that safeguarding.

12.21 The Applicant is not aware of any precedent where protective provisions have been imposed for the protection of future assets in the face of outstanding objections from an applicant. NGET has referred to the Awel y Mor and Mona DCOs as relevant precedents. However, for the reasons explained in REP4-031, the circumstances in which the protective provisions were imposed in that case are materially different for a number of reasons:

(a) First, in both of those cases the protective provisions were agreed with the applicants (not least because the future NGET projects were extensions to substations that the wind farms were reliant upon to connect to the grid). This means that there was no dispute for the ExA or Secretary of State to resolve.

(b) Second, in both of those cases, the protective provisions protected a future fixed node to a connection point which meant there was little or no variation as to the area to be protected which reduced the risk of uncertainty. By contrast, the protective provisions in the present case relate to an area of land in the middle of a proposed 90km overhead line route which may yet be subject to change.

(c) Third, the areas subject to protection for future works did not affect the generating capacity of those schemes and did not prevent or delay the applicants from progressing the design or construction of the offshore wind turbine arrays; and

(d) Fourth, neither the Applicant nor the ExA is privy to any other arrangements that were agreed between the parties on those cases which may operate alongside the protective provisions to render them acceptable to the undertakers.

12.22 By contrast, in the present case, NGET seeks to secure protective provisions to safeguard an as-yet uncertain route in the middle of a 90km overhead line where the prospect of change is much higher and where the route directly impacts the generating capability of the Scheme and means the Applicant cannot carry out its detailed design or construction until such time as NGET has carried out its own detailed design and confirmed the areas of overlap.

12.23 The Applicant considers that the most relevant precedent is the Viking CCS DCO. In that case, NGET proposed protective provisions (which are reproduced at REP2-052, from pdf 399) the effect of which was similar to those proposed in this case. So far as the Applicant is aware, this is the only case where a statutory undertaker proposed protective provisions to protect future assets which were disputed at the end of the examination such that a determination was required by the Secretary of State. The Viking CCS decision came after the Awel y Mor DCO, which NGET relied on as a precedent in that case, yet the ExA accepted the applicant's position that future projects which would not be determined for some time should not impinge on the Viking CCS DCO. The Secretary of State agreed and included only protections for existing assets. The same approach should be adopted here. Any departure from that approach would require clear explanation and justification given the importance of consistency in decision-making.

12.24 In ExQ2 7.2.6, the ExA asked if protective provisions were not applied to this DCO, what affect this could have on any land rights requests as part of the proposed NHHM application. Notably, NGET has not responded to that aspect of the ExA's question.

12.25 The Applicant's position is that if protective provisions for the NHHM project are not included on this DCO, that will have no impact on NGET's ability to seek relevant powers of compulsory acquisition through its own DCO. Indeed, NGET recognise that this option would remain open to it. Its Deadline 3 submissions acknowledge that NGET will be able to seek relevant powers of acquisition through its own DCO in any event, and explains that "*In the absence of suitable PPs…the NHHM project would need to address the interaction between the two projects through its own DCO application."* [REP3-053**,** pdf 15].

12.26 That is the appropriate course of action. In the event that NGET continues with its currently preferred alignment, the correct and appropriate procedure is for it to seek the necessary compulsory acquisition powers through its own DCO application in due course, which would require justification in the public interest and which, if confirmed, would trigger the requirement to pay compensation. It is not appropriate for NGET to safeguard or seek to compulsorily acquire land by the back door through protective provisions on the Applicant's DCO without having established a case for doing so in the public interest and which, on NGET's preferred terms, would not engage any requirement to pay compensation.

12.27 The reasons given by NGET for imposing protective provisions on this DCO [REP5-057] do not advance or justify the imposition of protections for future assets:

(a) First, NGET suggests that if protective provisions are not imposed, the Applicant will need to wait until the conclusion of the NHHM examination before knowing whether or how, the Scheme will be affected by NHHM. The Applicant is confident that it will be established through the NHHM examination that NGET's route selection and compulsory acquisition powers, insofar as they affect the Scheme, are not justified. However, even if that proves not to be the case, there is no benefit to the Applicant in imposing NGET's protective provisions on the DCO given that the NHHM route could change at any time up to and even after submission of the NHHM application. Given that NGET is unwilling or unable to specify the precise route to which the protective provisions will apply, there will be no reduction in uncertainty by imposing its proposed protective provisions on this DCO.

(b) NGET suggests that if protective provisions for the benefit of the NHHM project are not imposed on this DCO, the Applicant will be left without clarity as to the interface agreements. However, any interface agreements can properly be agreed through the NHHM project examination. On NGET's current timescales, the NHHM examination will close in June 2027 and a decision can be expected by January 2028. If consented the Scheme is scheduled to commence construction in February 2028. Where one project is under construction and a second project comes forward with a DCO application that will interact with the first project, it is entirely commonplace to secure any necessary protections and interface agreements through the second DCO process. There is no reason to adopt a different approach here, at a stage when

the route of the NHHM project (and so spatial application of any protective provisions) remains uncertain.

(c) Second, NGET suggests that a failure to coordinate the two projects would result in greater and more prolonged disruption to local residents than if the interface agreements are resolved now. The Applicant does not accept that imposing NGET's protective provisions on this DCO will serve to reduce disruption to local residents. Any necessary coordination between the two projects can equally well be secured by protective provisions on the NHHM project, in due course. There is no reason to believe that imposing protective provisions now in respect of uncertain future infrastructure, will result in better outcomes for local residents, than imposing any necessary protections and resolving interface agreements in the context of the NHHM examination when the alignment of that project has been fixed and when there is likely to be greater certainty as to its construction programme.

(d) Third, NGET suggests that deferring the issue to the NHHM examination would create consenting risk and jeopardise the delivery of the NHHM project. That assertion is entirely unsupported by evidence. Instead, NGET's explanation makes it clear that it is attempting to use the protective provisions to secure land in which it has no interest for the benefit of its own project – effectively seeking to safeguard that land by the back door. There is no evidence that deferring the matter of protective provisions to the NHHM examination would create consenting risk for, and jeopardise the delivery of, that project. If NGET secures compulsory acquisition powers over the Applicant's Order Land, it will be able to exercise those rights and secure the removal of any previously existing infrastructure. Given that the NHHM project comprises 90km of OHL, it is wholly unrealistic to suggest that the removal of a number of panels from a small part of that overall scheme would jeopardise or delay the delivery of the NHHM project. Plainly there will be scope (and in practice a necessity) to construct the NHHM project in stages and, if proven to be necessary, the removal of the area of panels comprised in the Scheme could be considered while works are undertaken on other parts of the NHHM project. Any interactions in relation to site access and construction compounds can appropriately be addressed through compulsory purchase powers; protective provisions and side agreements in the NHHM examination. As such, in the event that the NHHM project secures development consent, there

will be no uncertainty over its interface with the Scheme that could conceivably compromise its ability to commission the NHHM project by the end of 2031.

(e) Fourth, NGET suggests that the linear nature of the NHHM project means that changes to the route in any one location may have implications beyond that specific section. This is not a reason to justify the imposition of protective provisions for the NHHM project on this DCO. Rather, it appears to be a response to the Applicant's criticisms of NGET's route selection process. In any event, there is an inconsistency between NGET's position, on the one hand, that route changes cannot be made at this stage without unacceptable delay and, on the other hand, that it is not possible at this stage to commit to a specific route because the route may yet be subject to change (see NGET's response to ExQ2 7.2.7 [REP5-057]).

(f) Finally, NGET suggests that the imposition of protective provisions on this DCO would not result in unnecessary duplication if compulsory acquisition of land or rights is sought as part of the NHHM DCO. The Applicant disagrees. Imposing protective provisions as proposed by NGET would pre-judge the case for confirmation of afny compulsory acquisition powers in favour of NHHM before NGET has even made an application for such powers or advanced its case in support of doing so. To the extent that NGET seeks and secures compulsory purchase powers over the Applicant's Order Land through its own DCO, the exercise of those rights will need to be regulated by protective provisions and any necessary interface agreements in the normal way. The appropriate protections and agreements will be matters for consideration during the NHHM examination and should not be duplicated by protective provisions on the Applicant's DCO when there is no certainty about the NHHM route.

Drafting

12.28 The Applicant notes from the ExA's schedule of proposed changes to the draft DCO, issued on 30 March 2026, that the ExA is minded to include protective provisions for the protection of the NHHM project. For the reasons summarised above, the Applicant continues to strongly object to the imposition of such provisions.

12.29 Furthermore, it is not clear which version of the protective provisions the ExA is minded to include. The rival contenders are NGET's protective provisions at Appendix 1 to REP5-057 and the Applicant's

without prejudice protective provisions (submitted at the request of the ExA) at Appendix 3 to REP5-053.

12.30 In the event that the Applicant's primary position (that no protective provisions for the benefit of the NHHM project should be imposed) is rejected, NGET's proposed protective provisions should nonetheless be rejected in favour of the Applicant's without prejudice submissions.

NGET's proposed protective provisions

12.31 NGET has submitted its proposed protective provisions at Appendix 1 to REP5-057**.** In spite of various assurances given by NGET at ISH3 (including an offer to secure payment of compensation for any loss incurred by the Applicant as a result of the protections imposed for the NHHM project; an offer to limit the spatial scope of the NHHM project to the area comprised in the NHHM application at the point of submission; and an offer to secure protected working periods during which the Applicant would be able to undertake necessary construction works in the overlap area, there is no material difference between the protective provisions originally proposed by NGET in its Relevant Representation [RR-049] and those submitted at Deadline 5 [REP5-057].

(a) **Clause 1** defines:

(i) "apparatus" to include any electrical lines, mains, pipes, plant or other apparatus owned or operated by NGET for the purposes of the construction, operation and maintenance of the NHHM project

(ii) The NHHM project is defined simply as a new high voltage transmission line and associated works between Creyke Beck in Yorkshire and High Marnham in Nottinghamshire. The precise route is not specified or defined in the proposed protective provisions but the NHHM project is defined to include land on which NHHM apparatus is situated and land on which such apparatus is anticipated to be situated for the construction, use or maintenance of the project. The scope of the definition is extremely broad and would encompass any future design changes to the project. In its response to ExQ2 7.2.7 [REP5-057], NGET has rejected the suggestion that the protective provisions should be accompanied by a plan that identifies the NHHM project on the basis that the project route is yet to be fixed. This underlines the uncertainty that

NGET's proposed provisions would cause to the Scheme. Instead, NGET suggests that the precise area should be fixed at the point at which the NHHM DCO is submitted but even that is not secured by NGET's proposed protective provisions.

(iii) "Specified works" are defined as any of the works authorised by the DCO which will or may be situated over, or within 15 metres of any apparatus [remembering that apparatus includes proposed apparatus associated with the NHHM project] or which may, in any way, adversely affect any apparatus.

(b) **Clause 3** requires the undertaker to use reasonable endeavours to avoid any conflict with the NHHM project. That includes ensuring that the design and programme for connection works do not unreasonably impede or interfere with the NHHM Project and facilitating a coordinated approach to the programme, land assembly and carrying out of the projects. Notably, there is no obligation on NGET to use reasonable endeavours to avoid conflict with the Scheme. The obligations all rest on the Applicant to accommodate the NHHM project with no reciprocal protection in favour of the Scheme.

(c) **Clause 7(2)**[1] prevents the undertaker from acquiring any land forming part of the NHHM project without NGET's consent. The extent of that land is not specified or defined by reference to any plan because NGET does not yet know how much land it will require and is yet to undertake its detailed design.

(d) **Clause 10** prevents the undertaker from carrying out any specified works – which includes those that may be within 15 m or adversely affect *future* apparatus associated with the NHHM project, without NGET's written approval. Any approval may itself be subject to conditions imposed by NGET, including conditions to facilitate the construction, commissioning, operation and maintenance of the NHHM project (Clause 10(4)(b)). Again, it is not possible for NGET to say at this stage where any relevant apparatus will be located.

(e) **Clause 15** requires the undertaker not to impede access to the NHHM project or to provide alternative access.

[1] Noting that the numbering in NGET's proposed protective provisions at Appendix 1 of REP5-057 appears to have gone awry as there ae two clause 3s, such that the tracked changes suggest this may be clause 6 or 7.

12.32 Taken together, NGET's proposed protective provisions would prevent the undertaker, without NGET's consent, from acquiring any land which may be needed for a future project, the final routing and design of which are uncertain or from carrying out any works which may be within a certain distance of or adversely affect future apparatus, the location of which is unknown. They would require the undertaker to take positive steps to ensure that its design and programme do not impede that future project, the construction programme for which remains uncertain, and to ensure access to that project, whenever it may come forward.

12.33 If NGET were to be afforded that level of protection, the certain effect is that at a minimum, the Applicant would only be able to commit to a final design and commence construction in an as-yet undefined overlap area, with NGET's approval. The obligation on NGET not to unreasonably withhold consent affords it ample opportunity to require the Applicant to defer detailed design and construction of a significant part of its Scheme until NGET has secured its own DCO and completed its detailed design.

12.34 As to the issue of compensation, NGET's Deadline 3 submissions suggest that it would be willing to pay compensation. However, the protective provisions submitted by NGET at Deadline 5 (Appendix 1 to REP5-057) contain no provision for the payment of compensation.

12.35 This means the Secretary of State is being asked to impose protective provisions that give NGET rights over land it does not own and in respect of which its public interest justification, including route selection and assessment of alternatives has not been properly interrogated; rights that would indisputably sterilize parts of the Steeple development and its generating capacity without securing any right to compensation. That would be an extremely draconian and unprecedented step to countenance.

<u>Without prejudice protective provisions for the protection of future NGET assets</u>

12.36 The Applicant's without prejudice protective provisions takes as their base the protective provisions advanced by NGET [RR-049] with amendments proposed by the Applicant shown by way of tracked changes. The amendments can be summarised as follows:

(a) **An amendment to paragraph 2 (the definition of the "North Humber to High Marnham Project").** This is to clarify that any protective provisions shall be limited to the land, interests and apparatus physically within the Order Limits for the NHHM in the development consent application submitted to the Secretary of State and as provided for in a plan attached to the

protective provisions as contemplated in ExQ2 7.2.7. The intention of this amendment is to provide a degree of certainty that the land subject to protection would be fixed at the date of confirmation of the Scheme's DCO by reference to NGET's application. This certainty allows the undertaker to undertake detailed design of the project.

(b) **Amendments to paragraph 3 (interaction with the NHHM project).** This is to ensure that the undertaker of the Scheme would retain exclusive access to the NHHM land to carry out its development for a specified period to enable it to meet its grid connection offer. This is required to ensure that the undertaker is not constrained in its ability to successfully implement and complete its project.

(c) **An amendment to paragraph 7 (acquisition of land)**. This is to acknowledge the undertaker's rights of access to the NHHM land (as proposed through the amendment to paragraph 3).

(d) **An amendment to paragraph 11 (expenses).** This contains provision for NGET to pay the undertaker compensation for any loss suffered in observing the provisions of paragraph 3 (interaction with the NHHM project), such sum to be subject to arbitration if not agreed. This is required to reflect the inevitability that in leaving the NHHM land clear of panel development, the undertaker will lose valuable generating development for which it should be compensated.

13 CONCLUSION

13.1 The Scheme will make a significant contribution to decarbonisation, energy security and affordability objectives and, in accordance with the National Policy Statements, that need case should be afforded substantial weight. Where any residual adverse effects remain, the Applicant's position remains that those effects are outweighed in the overall balance by the public benefits of the Scheme.

13.2 The Applicant appreciates that there are a number of outstanding points regarding the assessment of environmental impacts of the Scheme. The Applicant has set out its position above, including its position regarding the policy considerations set out in the National Policy Statements. There are no overriding or exceptional local impact and on that basis the Applicant contends that the planning balance should weigh in the Scheme's favour.

13.3 The Applicant submits that the statutory and policy tests for compulsory acquisition are satisfied. The land and rights sought are no more than is reasonably required for the authorised development and are

necessary to facilitate delivery of the Scheme. The Applicant has pursued acquisition by negotiation wherever practicable, has demonstrated funding and deliverability, and has established a compelling case in the public interest.

13.4 Where matters of drafting remain in relation to the dDCO, including points raised by NCC in respect of permit scheme disapplication, approval processes for highway works, and the allocation of discharging authority functions, the Applicant's position is that the draft Order as promoted provides a coherent and appropriate single-consent framework. The Applicant considers that where there are outstanding matters on the drafting of the DCO that those matters should not, in the Applicant's view, prevent the grant of development consent.

13.5 Regarding statutory undertakers, the Applicant's submissions are set out separately in the Section 127 Report [EN010163/EX/8.54] as updated in response to the Examining Authority's Rule 17 request. The Applicant considers that fundamentally, the protective provisions set out in the Order ensure that there would be no serious detriment to any statutory undertaking and that the powers sought by the Applicant are necessary and should be granted.

13.6 Finally, the Applicant maintains its strong objection to the inclusion of protective provisions for uncertain future NGET infrastructure associated with the North Humber to High Marnham project, in circumstances where the route, land requirements and programme remain unresolved and where the effect would be to create material uncertainty and potential sterilisation of nationally significant generating capacity without the ordinary safeguards and compensation that would arise through NGET's own DCO process. The Applicant submits that any interface between the two projects should be addressed, if and when necessary, through NGET's own application and examination, rather than by safeguarding land through this Order.

13.7 For all of the reasons set out in this document and the wider application documents, the Applicant respectfully requests that the Secretary of State grants the Development Consent Order for the Scheme, including the associated powers and requirements necessary to deliver it.

13.8 On the basis of the above, and of the material submitted throughout the Examination, the Applicant considers that there is sufficient justification for the Scheme to be granted development consent in the form submitted at Deadline 6.