



# **Lime Down**

Solar Park

## **Statement of Reasons Compulsory Acquisition Information (Change Application)**

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## List of Contents

1	Executive Summary.....	1
1.1	Purpose and Structure of this Statement of Reasons .....	1
1.2	Description of the Scheme (Section 3).....	1
1.3	Description of the Order Limits (Section 4) .....	2
1.4	Source and Scope of Powers Sought in the DCO (Section 5) .....	3
1.5	Purpose of the Powers (Section 6) .....	4
1.6	Justification for the Compulsory Acquisition Powers (Section 7).....	4
1.7	Communications and Negotiations (Section 8) .....	5
1.8	Human Rights (Section 9).....	6
1.9	Special Considerations (Section 10) .....	6
1.10	Related Applications and Consents (Section 11) .....	6
1.11	Further Information.....	6
1.12	Conclusion .....	7
2	Introduction.....	8
2.2	The Scheme.....	8
2.3	The Applicant .....	8
2.4	The Purpose and Structure of this Document .....	9
2.5	Useful documents .....	10
3	Description of The Scheme .....	11
3.2	Works Packages .....	12
3.3	Proposed Timing of Construction .....	13
3.4	Flexibility .....	14
4	Description of the Order Limits .....	16
5	Source and Scope of Powers Sought in the DCO .....	18
5.1	Introduction .....	18
5.2	Enabling Powers .....	19
5.3	Permanent Acquisition of Freehold .....	19
5.4	Permanent Acquisition of Rights and Imposition of Restrictions .....	20
5.5	Temporary Possession.....	22
5.6	Other Rights and Powers .....	23
6	Purpose of the Powers .....	26
6.1	The need for the Scheme.....	26

6.2	National Policy Support.....	26
7	Justification for the Compulsory Acquisition Powers.....	29
7.1	The matters to which the SoS must have regard .....	29
7.2	Use and quantum of the Order limits .....	30
7.3	Public Benefits .....	31
7.4	Impacts and Private Loss.....	32
7.5	Alternatives to Compulsory Acquisition .....	33
7.6	Alternatives to the Scheme .....	33
7.7	Site Selection .....	33
7.8	Voluntary agreements with landowners.....	35
7.9	Availability of funds for compensation .....	35
8	Communications and Negotiations .....	37
8.1	Diligent inquiry / land referencing.....	37
8.2	Diligent inquiry methodology .....	37
8.3	Consultation with landowners .....	38
8.4	Consultation with Statutory Undertakers .....	39
9	Human Rights.....	40
10	Special considerations affecting the Order Limits .....	43
10.1	Special Category Land – Crown Land.....	43
10.2	Special Category Land – Open Space .....	43
10.3	Statutory Undertakers’ Land and Apparatus.....	43
11	Related Applications and Consents.....	47
12	Further Information.....	48
12.1	Negotiation of Sale.....	48
12.2	Compensation.....	48
13	Conclusion .....	49

## 1 Executive Summary

### 1.1 Purpose and Structure of this Statement of Reasons

1.1.1 This Statement of Reasons relates to the Application for a development consent order (DCO) made by Lime Down Solar Park Limited (the Applicant) to the Secretary of State (SoS) under the Planning Act 2008 (the PA 2008) for powers to construct, operate (including maintenance and programmed replacements) and decommission the Lime Down Solar Park (the Scheme).

1.1.2 This Statement is required because the Application is seeking powers to:

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

1.1.3 The Applicant is also seeking powers to take temporary possession of land to construct the Scheme.

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

1.1.5 The matters addressed in this Statement are summarised in this section. References to numbered sections or paragraphs are to sections or paragraphs of this Statement. Terms used in this Executive Summary are defined in the main body of this Statement of Reasons.

### 1.2 Description of the Scheme (Section 3)

1.2.1 The Scheme comprises a solar photovoltaic (PV) electricity generating station of over 50 megawatts (MW) and associated development comprising a Battery Energy Storage System (BESS), substations, grid connection infrastructure and other infrastructure integral to the construction, operation and maintenance, and decommissioning phases. The Scheme will be located within the 'Order Limits' (as described below) and is the subject of the DCO Application. Further details are set out in **Environmental Statement (ES) Volume 1, Chapter 3: The Scheme [EN010168/APP/6.1]**.

1.2.2 The Order limits comprises five land parcels (the Solar PV Sites, described as Lime Down A, B, C, D, E), which will be connected by

underground cables. The Scheme is set out in detail in Schedule 1 of the **draft DCO [EN010168/APP/3.1]**, where it is referred to as the “authorised development” and is divided into works packages. The areas in which each component may be constructed are shown on the **Works Plan [EN010168/APP/2.3]**.

### **1.3 Description of the Order Limits (Section 4)**

1.3.1 The land within the Order limits totals 1,237 of hectares (ha) of land. The Solar PV Sites are located within a 20km radius of the Point of Connection of the National Grid Substation at Melksham (also referred to as the Point of Connection). The Scheme will be located within the administrative boundaries of Wiltshire Council and South Gloucestershire Council. The Solar PV Sites comprise a total area of approximately 749 ha. The area and National Grid Reference (NGR) for each individual Solar PV Site is as follows:

- Lime Down A comprises an area of approximately 94 ha, is approximately 300m south of Sherston and is centred on NGR ST 86281 84700;
- Lime Down B comprises an area of approximately 70 ha, is approximately 3km southwest of Malmesbury and is centred on NGR ST 88571 85010;
- Lime Down C comprises an area of approximately 241 ha, is approximately 830m east of Luckington and is centred on NGR ST 86198 83092;
- Lime Down D comprises an area of approximately 213 ha, is approximately 700m north of Hullavington and is centred on NGR ST 89705 83780; and
- Lime Down E comprises an area of approximately 131 ha, is approximately 150m northwest of Rodbourne and is centred on NGR ST 92698 81906.

1.3.2 The Cable Route Corridor runs for approximately 22 km from Lime Down D to the Existing National Grid Melksham Substation, as well as connecting each of the Solar PV Sites. It covers a total area of approximately 463 ha and is approximately centred on approximately NGR ST 88369 73688.

1.3.3 The Scheme also includes land required for the Highway Improvement Areas (approximately 18 ha (noting that approximately 6 ha overlaps with the Cable Route Corridor)) and land required for works to the Existing National Grid Melksham Substation (approximately 13 ha). These areas of land cover a total area of approximately 31 ha.

## **1.4 Source and Scope of Powers Sought in the DCO (Section 5)**

- 1.4.1 Section 120 of the PA 2008 provides that an order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development, which includes the acquisition of land, compulsorily or by agreement, and the creation, suspension or extinguishment of, or interference with, interests in or rights over land, compulsorily or by agreement.
- 1.4.2 Section 122 of the PA 2008 provides that an order granting development consent may include provisions authorising the compulsory acquisition of land only if the SoS, in respect of the Application, is satisfied that the land is required for the development to which the DCO relates and the land is required to facilitate or is incidental to that development.
- 1.4.3 The SoS must also be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the **draft DCO [EN010168/APP/3.1]**.
- 1.4.4 The powers sought with the Application for the draft DCO are:
- all interests in land, including freehold (Article 21 in the DCO) - shown edged black and shaded pink on the **Land Plan [EN010168/APP/2.2]**;
  - all interests in land, including freehold in respect of subsoil only (Article 29 in the DCO);
  - permanent acquisition of new rights (Article 24 in the DCO) - shown edged black and shaded blue on the **Land Plan [EN010168/APP/2.2]**;
  - temporary use of land to permit construction or maintenance where the Applicant has not yet exercised powers of compulsory acquisition (Articles 31 and 32 in the DCO) shown edged black and shaded yellow on the **Land Plan [EN010168/APP/2.2]**; and
  - suspension of rights (Article 25 in the DCO) and overriding of easements and other rights (Article 27 in the DCO) - shown edged black on the **Land Plan [EN010168/APP/2.2]**.
- 1.4.5 The Applicant considers that in the absence of these powers, the Order land may not be assembled, uncertainty will continue to prevail, and its objectives and Government policy objectives would not be achieved.
- 1.4.6 The Applicant has been seeking to acquire the relevant land, new rights and temporary use of land by voluntary agreement, in order to ensure implementation of the Scheme. Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land, the rights and other interests in, on and over the land, the temporary use of land, as well as secure the removal of matters affecting the Order land that may impede the Scheme, by agreement wherever possible. This approach of

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

- 1.4.7 This Statement (alongside the **Land and Rights Negotiations Tracker [EN010168/APP/4.4]**) sets out the position in relation to the negotiations undertaken to date with affected owners. In summary, at the time of submission of the DCO application, option agreements have been entered into for the Solar PV Sites and heads of terms have been issued for the remainder of the rights required.

## **1.5 Purpose of the Powers (Section 6)**

- 1.5.1 The meaningful and timely contributions offered by the Scheme to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, will be critical on the path to Net Zero. Without the Scheme, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.
- 1.5.2 The **Statement of Need [EN010168/APP/7.1]** sets out the need for the Scheme in more detail.

## **1.6 Justification for the Compulsory Acquisition Powers (Section 7)**

- 1.6.1 Under section 122 of the PA 2008, compulsory acquisition powers may only be granted if the SoS is satisfied that the land is required for the Scheme (or is required to facilitate it or is incidental to it), and if there is a compelling case in the public interest for inclusion of the powers.
- 1.6.2 The CA Guidance related to procedures for the compulsory acquisition of land also states that: there must be a clear idea how the land to be acquired is to be used and it must be no more than is reasonably required; there must be compelling evidence that the public benefits would outweigh the private loss from the acquisition; all reasonable alternatives to compulsory acquisition should have been explored; there are reasonable prospects of the required funds for the acquisition being available; and that the purposes for which the land is sought are legitimate and sufficient to justify interfering with the human rights of affected people.

- 1.6.3 This Statement, the **Land and Rights Negotiations Tracker [EN010168/APP/4.4]**, the **Planning Statement [EN010168/APP/7.2]** and the **Explanatory Memorandum [EN010168/APP/3.2]** set out the factors that the Applicant considers demonstrate that the conditions in section 122 of the PA 2008, and the considerations set out in the CA Guidance, are satisfied (with the exception of the availability of funding, which is demonstrated in the **Funding Statement [EN010168/APP/4.2]**).
- 1.6.4 In particular, those documents set out how the land will be used and demonstrate that the Scheme would:
- help meet the urgent need for new energy infrastructure in the UK, providing enhanced energy security and supporting UK Government priorities in relation to economic development and security of supply;
  - deliver additional renewable energy capacity, supporting the achievement of the UK Government's climate change commitments and carbon budgets;
  - minimise or mitigate adverse impacts to an acceptable degree; and
  - comply with NPS EN-1, NPS EN-3 and NPS EN-5, which have effect in relation to the Scheme and in accordance with which the application must be decided under section 104 of the PA 2008.

## **1.7 Communications and Negotiations (Section 8)**

- 1.7.1 In accordance with the requirements of the PA 2008, the Applicant undertook "diligent inquiry" through a land referencing process to identify parties within Categories 1, 2 and 3, as defined in sections 42 and 44 of the PA 2008. These include owners, lessees, tenants and occupiers of the land within the Order land. Category 2 includes parties that are interested in the land or have the power to sell, convey or release the land within the Order land. Category 3 includes parties that may be eligible to make a claim for compensation as a result of the construction or operation of the Scheme.
- 1.7.2 The current position in relation to the Applicant's engagement and negotiations with each landowner affected by the Scheme is explained in the **Land and Rights Negotiations Tracker [EN010168/APP/4.4]**. Detailed discussions are ongoing with landowners and occupiers in order to ensure that their concerns are taken into account and accommodated wherever practicable. Negotiations are continuing with landowners and persons with interests in land affected by the Scheme. The Applicant and its advisors are liaising with statutory undertakers whose apparatus may be affected by the Scheme.

## **1.8 Human Rights (Section 9)**

- 1.8.1 Article 1 of the First Protocol to the European Convention on Human Rights (ECHR) and Article 8 of the ECHR have been considered in respect of the proposals for the Scheme. The draft DCO has the potential to infringe the human rights of persons who own property or have rights in the land proposed to be acquired pursuant to the draft DCO.
- 1.8.2 The Applicant considers that there would be very significant public benefit arising from the making of the draft DCO, a benefit that can only be realised if compulsory acquisition powers are granted. The purpose for which the land and rights are sought (to build and operate the Scheme) is legitimate, necessary and proportionate.

## **1.9 Special Considerations (Section 10)**

- 1.9.1 There is no special category land within or affected by the Order limits.
- 1.9.2 There is Crown Land within the Order limits.
- 1.9.3 There is apparatus of statutory undertakers within the Order land. The Applicant has included protective provisions within the draft DCO and is seeking to agree these with each statutory undertaker whose apparatus would be affected by the Scheme.

## **1.10 Related Applications and Consents (Section 11)**

- 1.10.1 The Applicant requires or may require various other consents, as well as a DCO, in order to build and operate the Scheme. The **Consents and Agreements Position Statement [EN010168/APP/7.7]** sets out the additional consents required and when they will be applied for.
- 1.10.2 The Applicant is not aware of any reason why these and other consents required would not be granted and therefore does not consider that they represent an impediment to the Scheme proceeding.

## **1.11 Further Information**

- 1.11.1 Where powers of compulsory acquisition are exercised, owners of the relevant land or rights in land may be entitled to compensation under the Compensation Code, where a valid claim is made out. Any dispute in respect of the compensation payable would be referred to and determined by the Lands Chamber of the Upper Tribunal.
- 1.11.2 Owners and occupiers of property affected by the Scheme who wish to discuss matters of compensation should contact the Applicant on 0808 175 6656 or at [info@limedownsolar.co.uk](mailto:info@limedownsolar.co.uk).

- 1.11.3 Provision is made by statute for compensation for the compulsory acquisition of land. Helpful information is given in the series of booklets published by the Department for Communities and Local Government entitled “Compulsory Purchase and Compensation”. Copies of these booklets are obtainable, free of charge, from:  
<https://www.gov.uk/government/collections/compulsory-purchase-system-guidance>.

**1.12 Conclusion**

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

## 2 Introduction

2.1.1 This Statement of Reasons has been prepared by Lime Down Solar Park Limited (the Applicant). It forms part of the application (the Application) for a development consent order (DCO) that has been submitted to the Secretary of State for Energy Security and Net Zero (the SoS) under section 37 of the Planning Act 2008 (the PA 2008). Terms used in this Statement of Reasons are defined in the **ES Volume 1, Chapter 0: Contents, Glossary and Abbreviations [EN010168/APP/6.1]**.

### 2.2 The Scheme

- 2.2.1 The Lime Down Solar Park (the Scheme) is a proposed solar farm that will generate and store renewable electricity for export to the National Grid.
- 2.2.2 The Scheme comprises a number of land parcels (the Solar PV Sites) described as Lime Down A, B, C, D, E (see **Location Plan [EN010168/APP/2.1]**) which accommodate ground mounted solar photovoltaic (PV) generating stations (incorporating the solar arrays); grid connection infrastructure; substations; the Battery Energy Storage System (BESS); the Cable Route Corridor; and other infrastructure.
- 2.2.3 The Scheme will comprise the construction, operation and maintenance, and decommissioning of a generating station (incorporating solar arrays) with a total capacity exceeding 50 megawatts (MW).
- 2.2.4 The Scheme qualifies as a Nationally Significant Infrastructure Scheme (NSIP) under Part 3 section 14 of the PA 2008 by virtue of the fact that the generating station is located in England and has a generating capacity of over 50MW (section 15(2) of the PA 2008). It, therefore, requires an application for a DCO to be submitted to the Planning Inspectorate (PINS) under the PA 2008. PINS will examine the application for the Scheme and make a recommendation to the SoS to grant or refuse consent. On receipt of the report and recommendation from PINS, the SoS will then make the final decision on whether to grant the DCO. The DCO, if made by the SoS, would be known as the 'Lime Down Solar Park Order'.
- 2.2.5 Full details of the Scheme, including the proposed construction methods and phasing, can be found in **ES Volume 1, Chapter 3: The Scheme [EN010168/APP/6.1]** accompanying the DCO Application.

### 2.3 The Applicant

- 2.3.1 The Applicant, Lime Down Solar Park Limited, is a 100% subsidiary of IGP UK Projects Limited (Registered in England and Wales with Company

Number: 15724555), which is in turn a 100% subsidiary of Island Green Power's UK group holding company, Island Green Power Group Limited (Registered in England and Wales with Company Number: 15724585). The parent company is Island Green Power Limited (Incorporated in Bermuda with Company Number: 47097) which is a UK tax resident.

2.3.2 IGP has successfully delivered 38 projects worldwide with a total of more than 2.5GW of energy capacity. This includes 21 projects in the UK. These range in size from below 5MW to Nationally Significant Infrastructure Projects (NSIPs) such as Cottam Solar Project, currently the UK's largest consented solar farm, which will generate 600MW of clean, renewable and secure electricity including 600MW of Battery Storage.

2.3.3 More information on the Applicant, its corporate structure and financials is presented in the **Funding Statement [EN010168/APP/4.2]**.

## **2.4 The Purpose and Structure of this Document**

2.4.1 This Statement has been produced pursuant to Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (the APFP Regulations), the Department of Communities and Local Government guidance 'Planning At 2008: Guidance related to procedures for the compulsory acquisition of land' (September 2013) and the Guidance on Compulsory purchase process and the Crichel Down Rules (updated 31 January 2025).

2.4.2 This Statement is required because the DCO sought for the Scheme would authorise the compulsory acquisition of land or interests in land.

2.4.3 This Statement explains why it is necessary to acquire land, acquire and/or create rights and impose restrictions over land, override, suspend or extinguish rights over land and to temporarily use land for the purposes of the Scheme, if necessary, by compulsion. It also explains the reasons for the inclusion of compulsory acquisition and related powers in the draft DCO and sets out why there is a clear and compelling case in the public interest, in accordance with section 122 of the PA 2008, for the DCO to include such powers.

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

- An introduction to the Applicant is contained in section 2.3;
- A description of the Scheme is set out in section 3;
- A description of the Order limits, its location, and present use is contained in section 4;

- The legislation relied on and scope of powers sought are set out in section 5;
- The purpose of the powers including the need for the Scheme and policy support is set out in section 6;
- A statement of the justification for compulsory acquisition including reference to funding is included in section 7;
- How the Applicant has sought to engage with landowners and negotiate to acquire the relevant land by agreement in section 8;
- How regard has been given to human rights legislation relevant to the determination of the Application is in section 9;
- Any special considerations affecting the Order limits including Crown Land is included in section 10;
- Details of the other consents needed before the Scheme can be implemented are included in section 11; and
- Any other information which would be of interest to someone affected by the Scheme, such as, telephone number and email address where further information on these matters can be obtained, is included in section 12.

## 2.5 Useful documents

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

- **Land Plan [EN010168/APP/2.2];**
- **Works Plan [EN010168/APP/2.3];**
- **Crown Land Plan [EN010168/APP/2.11];**
- **Draft Development Consent Order [EN010168/APP/3.1];**
- **Exploratory Memorandum [EN010168/APP/3.2];**
- **Funding Statement [EN010168/APP/4.2];**
- **Book of Reference [EN010168/APP/4.3];**
- **Land and Rights Negotiations Tracker [EN010168/APP/4.4];**
- **Consents and Agreements Position Statement [EN010168/APP/7.7];**
- **Statement of Need [EN010168/APP/7.1]; and**
- **Planning Statement [EN010168/APP/7.2].**

### 3 Description of The Scheme

3.1.1 The Scheme will comprise a solar photovoltaic (PV) electricity generating station of over 50 megawatts (MW) and associated development comprising a Battery Energy Storage System (BESS), substations, grid connection infrastructure and other infrastructure integral to the construction, operation and maintenance, and decommissioning phases. The solar PV panels will be located on five Solar PV Sites known as Lime Down A, B, C, D, E. The BESS will be located at Lime Down D. The Solar PV Sites are:

- **Lime Down A** - an area of approximately 94 ha, is approximately 300m south of Sherston and is centred on NGR ST 86281 84700;
- **Lime Down B** - an area of approximately 70 ha, is approximately 3km southwest of Malmesbury and is centred on NGR ST 88571 85010;
- **Lime Down C** - an area of approximately 241 ha, is approximately 830m east of Luckington and is centred on NGR ST 86198 83092;
- **Lime Down D** - an area of approximately 213 ha, is approximately 700m north of Hullavington and is centred on NGR ST 89705 83780; and
- **Lime Down E** - an area of approximately 131 ha, is approximately 150m northwest of Rodbourne and is centred on NGR ST 92698 81906.

3.1.2 The Cable Route Corridor runs for approximately 22 km from Lime Down D to the Existing National Grid Melksham Substation, as well as connecting each of the Solar PV Sites. The Cable Route Corridor crosses a range of existing infrastructure including the M4, A429, A420 and A4, minor roads and tracks, Public Rights of Way, existing and/or buried underground utilities, railway lines (Great Western Railway South Wales Main Line and Great Western Main Line), field drains and main drains. It covers a total area of approximately 463 ha and is approximately centred on approximately NGR ST 88369 73688.

3.1.3 The Scheme also includes land required for the Highway Improvement Areas (approximately 18 ha (noting that approximately 6 ha overlaps with the Cable Route Corridor)) and land required for works to the Existing National Grid Melksham Substation (approximately 13 ha). These areas of land cover a total area of approximately 31 ha. The Highway Improvement Areas are sections of the highway network that will contain localised improvements, such as improvements to road edge where it is deteriorated, or temporary highway and traffic works required to safely

accommodate the Abnormal Indivisible Load (AIL) deliveries. These areas will support the movement of construction vehicles on narrower sections of the local highway network within parts of the construction vehicle routes to the Solar PV Sites and Cable Route Corridor.

## 3.2 Works Packages

3.2.1 A detailed description of the Scheme can be found in **ES Volume 1, Chapter 3: The Scheme [EN010168/APP/6.1]**. It comprises a generating station of more than 50MW, being the NSIP, and is described in Work No. 1 in Schedule 1 to the **draft DCO [EN010168/APP/3.1]**. The Scheme also includes Associated Development, which comprises Work Nos. 2 to 10 in Schedule 1 to the **draft DCO [EN010168/APP/3.1]**.

3.2.2 **Work No. 1** consists of a ground mounted solar photovoltaic generating stations with a gross electrical output capacity of over 50 MW, including:

- solar modules fitted to mounting structures;
- DC electrical cabling and combiner DC boxes;
- 33 kV sub-distribution switch rooms, conversion units including inverters, transformers, switchgear, and monitoring and control systems; and
- electrical and communications cabling

3.2.3 The Associated Development for the purposes of section 115 of the PA 2008 comprises Work Nos. 2 to 10 of the Scheme as provided for in Schedule 1 of the **draft DCO [EN010168/APP/3.1]**. This comprises the following elements:

3.2.4 **Work No. 2:** an energy storage facility comprising battery energy storage system units each containing fire protection systems and components, a structure protecting the battery energy storage cells, interconnection units including heating, ventilation, cooling and temperature management, conversion units, monitoring and control systems, electrical cabling, surface water drainage, water storage facility for firefighting and infrastructure to contain used firewater;

3.2.5 **Work No. 3:** onsite substations with associated transformer bays, feeder bays, transformers, switchgear buildings and ancillary equipment including reactive power units, control buildings, monitoring and control systems, maintenance compounds, cabling and earthworks;

3.2.6 **Work No. 4:** works to connect to the National Grid substation at Melksham, including population of the substation bay, including a 400kV 3-phase 4000 A circuit breaker, 3-phase transformers, high accuracy metering current and voltage transformer assembly, line disconnecter for

isolation and earthing, high voltage cable sealing ends, 3-phase power ready capacitor voltage transformer, and a building to house duplicate feeder protection systems, commercial metering systems, protection and control equipment and user remote control and data acquisition apparatus;

- 3.2.7 **Work No. 5:** electrical cabling between the solar generating stations, the substations and the National Grid substation, including access tracks, drainage, signage, joint bays, link boxes, cable ducts, cable protection, joint protection, communications chambers, fibre-optic cables, tunnelling and boring works, and temporary construction and decommissioning laydown areas including car parking, welfare offices, security infrastructure and drainage;
- 3.2.8 **Work No. 6:** fencing, security works including CCTV and lighting columns, landscaping and biodiversity mitigation, improvement, maintenance and use of private tracks, footpath diversions, earthworks, sustainable drainage, communications and temporary construction and decommissioning laydown areas;
- 3.2.9 **Work No. 7:** temporary construction and decommissioning laydown areas, including hardstanding, car parking, site and welfare offices, security infrastructure, storage, drainage and communications connections;
- 3.2.10 **Work No. 8:** works to facilitate access to other works, including creation of accesses from the highway, alteration of streets and works to facilitate the movement of abnormal indivisible loads;
- 3.2.11 **Work No. 9:** creation and maintenance of habitat management areas, including fencing, information boards, earth works, landscaping and biodiversity mitigation and enhancement measures, access and drainage;
- 3.2.12 **Work No. 10:** creation of permissive paths for use by pedestrians, cycle and equestrian users, including ramps, bridges and access, fencing, signs and information boards, and landscaping and biodiversity mitigation and enhancement measures.
- 3.2.13 The Associated Development also includes such other works or operations as may be necessary or expedient for the purposes of or in connection with the construction, operation and maintenance of the Scheme.

### **3.3 Proposed Timing of Construction**

- 3.3.1 The Scheme currently has a grid connection date of 2030. The construction phase is expected to commence no earlier than 2027 and the

construction programme for the entire Scheme is anticipated to be 24 months, with operation anticipated to commence no earlier than 2029.

- 3.3.2 Further details of the proposed construction of the Scheme, including the proposed construction methods, can be found in **ES Volume 1, Chapter 3: The Scheme [EN010168/APP/6.1]** and the **Outline Construction Environmental Management Plan [EN010168/APP/7.12]**.

### **3.4 Flexibility**

- 3.4.1 The Applicant has undertaken extensive studies and assessments in order to obtain as much certainty as possible, however, a number of elements of detailed design for the Scheme cannot be confirmed until the tendering process for the design and construction of the Scheme has been completed. For example, due to the rapid pace of technological development in the solar photovoltaic (PV) and energy storage industry, the Scheme could utilise technology which does not currently exist and therefore sufficient flexibility needs to be incorporated into the Application.
- 3.4.2 To address this, a 'Rochdale Envelope' approach is used, this is set out in more detail in **ES Volume 1, Chapter 6: Environmental Impact Assessment Methodology [EN010168/APP/6.1]**. This involves assessing the maximum (and where relevant, the minimum) parameters for the Scheme where flexibility needs to be retained. The principles and justification for this approach are set out in section 6.2 of **ES Volume 1, Chapter 6: Environmental Impact Assessment Methodology [EN010168/APP/6.1]**, and the maximum (and minimum) parameters assessed as part of the Rochdale Envelope form the **Design Principles and Parameters [EN010168/APP/7.4]** and explained within the **Design Approach Document [EN010168/APP/7.3]**. The **draft DCO [EN010168/APP/3.1]** includes a Requirement that detailed design of the Scheme must be in accordance with the **Design Principles and Parameters [EN010168/APP/7.4]**.
- 3.4.3 The Scheme allows for necessary spatial flexibility in the routing of the Interconnecting Cables and the Grid Connection Cables within the Cable Route Corridor. The Cable Route Corridor has a typical width of 50 m but broadens to up to 665 m in some locations to provide sufficient space for use of trenchless construction techniques and temporary construction compounds or to provide a wider area to allow space to avoid features such as trees, hedgerows and field boundaries. The working area for installation of the Interconnecting Cables and Grid Connection Cables is anticipated to be a 25 m wide corridor to be micro sited within the Cable Route Corridor at the detailed design stage. This will be widened in places to accommodate required operations (such as the crossing of

watercourses, roads, utilities etc.) and narrowed in others, for example to minimise removal of hedgerows.

- 3.4.4 This flexibility is essential to ensure the successful delivery of the Scheme.

## 4 Description of the Order Limits

- 4.1.1 The land within the Order limits required to construct, operate and maintain and decommission the Scheme is shown on the **Location Plan [EN010168/APP/2.1]** and is located within the administrative area of Wiltshire Council with small areas within the administrative area of South Gloucestershire Council. The Order limits for each Site is located:
- **Lime Down A** - an area of approximately 94 ha approximately 300m south of Sherston comprising agricultural fields separated by hedgerows with scattered trees. A forked section of unnamed highway passes north-south between Fields A4 and A5, and Field A11;
  - **Lime Down B** - an area of approximately 70 ha approximately 3km southwest of Malmesbury comprising agricultural fields separated by hedgerows with scattered trees. A section of woodland passes northeast-southwest between Field B8 and B9. The Fosse Way borders Lime Down B to the west;
  - **Lime Down C** - an area of approximately 241 ha approximately 830m east of Luckington comprising agricultural fields separated by hedgerows with scattered trees and surrounds a number of woodland blocks. The Fosse Way passes northeast-southwest and Pig lane passes north-south between Field C14 and C15, and Fields C16 and C18. The South Wales Main Line also passes east-west through the southern extents of Lime Down C;
  - **Lime Down D** - an area of approximately 213 ha approximately 700m north of Hullavington comprising agricultural fields separated by hedgerows with scattered trees. Bradfield Cottages Road passes north-south between Fields D4 and D5, and Fields D6 and D7. Gauze Brook also passes northeast-southwest through the eastern extents of Lime Down D; and
  - **Lime Down E** - an area of approximately 131 ha approximately 150m northwest of Rodbourne comprising agricultural fields separated by hedgerows with scattered trees. A forked section of unnamed highway and the watercourse Gabriel's Well pass north-south through Lime Down E. The South Wales Main Line also passes east-west through the centre of Lime Down E.
- 4.1.2 The BESS Area is located at Lime Down D.
- 4.1.3 The Cable Route Corridor runs for approximately 22 km from Lime Down D to the Existing National Grid Melksham Substation, as well as connecting each of the Solar PV Sites. It covers a total area of approximately 463 ha, comprising predominantly agricultural fields

separated by hedgerows and minor and major roads. The Cable Route Corridor crosses the M4 approximately 3.5 km south of Lime Down C.

- 4.1.4 Minor highway improvement works within part of the Highway Improvement Areas would be undertaken within the Cotswold National Landscape (refer to **ES Volume 2, Figure 8-6: Landscape Receptors [EN010168/APP/6.2]**). Further details on the land within the Order limits are set out in **ES Volume 1, Chapter 2: The Order Limits [EN010168/APP/6.1]**.

## 5 Source and Scope of Powers Sought in the DCO

### 5.1 Introduction

- 5.1.1 The **draft DCO [EN010168/APP/3.1]** contains powers to enable the acquisition of land, new rights over land and the imposition of restrictions that are required to construct, operate and maintain and decommission the Scheme. In addition, it contains powers sought for the possession and use of land on a temporary basis to facilitate the construction of the Scheme. Where the necessary land and rights over land cannot be acquired by agreement with the requisite landowners and occupiers, the draft DCO enables the acquisition of land and rights. These powers in the draft DCO relate to the Order land only.
- 5.1.2 The Applicant has been seeking to acquire the relevant land interests and other rights over land required by agreement, in order to allow for the construction, operation and decommissioning of the Scheme. Option Agreements have been entered into with each of the owners of eight landholdings that make up the five Solar PV Sites. Discussions with other landowners are ongoing (see **Land and Rights Negotiations Tracker [EN010168/APP/4.4]**). The Applicant will continue to endeavour to acquire the land, rights and other interests by agreement wherever practicable. This approach of making the application for powers of compulsory acquisition in the Application and, in parallel, conducting negotiations to acquire land by agreement, accords with paragraph 26 of the Guidance.
- 5.1.3 Notwithstanding where an agreement has been reached, it is necessary for the Applicant to be granted the compulsory acquisition powers included in the DCO so as to protect against a scenario whereby contracts are not adhered to or are otherwise set aside, for example: (i) freeholder owners of the land within the Order land (where agreement has been reached) do not grant a lease of the land in accordance with the terms of the completed option agreements; or (ii) the contracting party dies, is subject to divorce proceedings, or is declared insolvent. In those circumstances, it would be in the public interest for the Scheme to proceed and the interests in question effectively converted into a claim for compensation. The Applicant also needs powers to suspend rights and override easements and other rights in the Order land to the extent that they would conflict with the Scheme.
- 5.1.4 There are a number of plots within the **Land plans [EN010168/APP/2.2]** which are not registered at Land Registry. Following diligent inquiry, ownership of a number of these plots has been established, however, there are interests identified in the **Book of Reference [EN010168/APP/4.3]** where it has not been possible to identify ownership. The statement “Unknown” is given in the **Book of Reference**

**[EN010168/APP/4.3]** when diligent inquiry has been carried out and it has still not been possible to obtain information. The Applicant has carried out searches and enquiries with the Land Registry, site visits and notices have been and will be erected on site to seek to identify unknown landowners or persons with an interest in the land.

5.1.5 The compulsory acquisition powers in the draft DCO will enable the Applicant to construct, operate, maintain, protect and decommission the Scheme, to mitigate impacts of the Scheme where necessary, and to ensure that access could be taken as necessary to facilitate the construction, operation and maintenance of the Scheme.

## **5.2 Enabling Powers**

5.2.1 Section 120(3) of the PA 2008 provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the PA 2008 lists the matters ancillary to the development. These include (amongst others):

- the acquisition of land, compulsorily or by agreement (paragraph 1);
- the creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement (paragraph 2);
- the abrogation or modification of agreements relating to land (paragraph 3); and
- the payment of compensation (paragraph 36).

5.2.2 Section 122 of the PA 2008 provides that a DCO may only include provision authorising the compulsory acquisition of land if the SoS is satisfied that the land is:

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

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

5.2.4 This Statement provides the information that will enable the SoS to comply with sections 120 and 122 of the PA 2008.

## **5.3 Permanent Acquisition of Freehold**

5.3.1 The areas of the Order land over which compulsory acquisition powers are sought in respect of all interests (including freehold) are shown edged

black and shaded pink on the **Land Plan [EN010168/APP/2.2]**. This land is described in more detail in the **Book of Reference [EN010168/APP/4.3]**. The **Land and Rights Negotiations Tracker [EN010168/APP/4.4]** sets out the plots over which freehold acquisition is required.

- 5.3.2 In summary, the areas in which freehold acquisition is sought are for part of Work Nos. 1, 2, 3, 6, 8, 9, and 10. The Applicant has only included powers to compulsorily acquire the freehold interest in land where other powers (such as to acquire new rights, impose restrictions or take temporary possession) would not be sufficient or appropriate to enable the construction, operation and maintenance or decommissioning of the Scheme. Temporary compounds (Work No. 7) and permanent cable and access works (Work Nos. 5 and 8) will also take place within these land parcels.
- 5.3.3 Article 21 of the draft DCO is relied upon for this purpose. The article reflects the terms of the source of the compulsory acquisition powers in section 122 of the PA 2008, would provide the Applicant with the power to acquire so much of the Order land as is required for the Scheme, or such land as is required because it facilitates or is incidental to that development.

#### **5.4 Permanent Acquisition of Rights and Imposition of Restrictions**

- 5.4.1 The Order land over which compulsory acquisition powers are sought for rights and the creation of new rights (including imposing restrictive covenants) is shown edged black and shaded blue on the **Land Plan [EN010168/APP/2.2]**. This land is described in more detail in the **Book of Reference [EN010168/APP/4.3]**. The **Land and Rights Negotiations Tracker [EN010168/APP/4.4]** sets out the plots over which new rights and restrictions are required. Schedule 9 to the **draft DCO [EN010168/APP/3.1]** sets out the rights and restrictions being sought in respect of each plot. In summary, these are the areas required for Work Nos. 1(d), 5, 6 and 8 being the Cable Route Corridor, works to facilitate access to the Solar PV Sites and Cable Route Corridor, and various works associated with the Solar PV Sites. Article 24 of the draft DCO is relied upon for this purpose.
- 5.4.2 It cannot yet be confirmed exactly where within the Cable Route Corridor the cable circuits will be laid, or where only temporary possession would be sufficient, as the exact alignment will be determined following the detailed design of the Scheme and ground investigations and other surveys along the route prior to the commencement of the laying of the cables. Compulsory acquisition powers are therefore being sought over the entire Cable Route Corridor to enable the Applicant to carry out the

cable installation works with the minimum of inconvenience to affected landowners, and to allow for minor variances to the cable route to avoid potential engineering difficulties, or otherwise, to enable the construction of the Scheme within programme and with the minimum of disruption to landowners and the wider community.

- 5.4.3 There is also a need to impose restrictive covenants in relation to new rights required in connection with the construction, operation, maintenance and decommissioning of the Scheme.
- 5.4.4 The Ministry of Housing, Communities and Local Government and Department for Levelling Up, Housing and Communities Guidance on the Consent of a Development Consent Order for Nationally Significant Infrastructure Projects (paragraph 011 Reference ID 04-011-20240430) advises that it may be appropriate to include a power to impose restrictive covenants over part of the land which is subject to compulsory acquisition or use under the DCO. Planning Inspectorate guidance in Advice Note 15 concerning the drafting of DCOs (paragraphs 24.1-24.3) states that before deciding whether or not such a power is justified the SoS will need to consider issues such as proportionality; the risk that use of land above or below a structure could be sterilised if it has to be acquired outright in the absence of a power to impose restrictive covenants; or whether there is for example a policy of establishing a continuous protection zone for the infrastructure network which could be secured more efficiently with the benefit of this power.
- 5.4.5 The guidance states that the power to impose restrictive covenants over land above a buried cable or pipe, or where a slope contains artificial reinforcement has been granted in DCOs, and cites the Silvertown Tunnel Order 2018 as an example. The guidance advises that in order to enable the SoS to consider whether the imposition of restrictive covenants is necessary for the purposes of implementing a DCO and appropriate in human rights terms, applicants should be prepared to fully explain and justify the need for including such powers.
- 5.4.6 The Applicant has had regard to this guidance in preparing Schedule 9 to its **draft DCO [EN010168/APP/3.1]** which sets out the restrictions being sought. Article 24 includes a power to impose restrictive covenants in relation to land over which new rights are acquired. These proposed restrictions are required to protect the apparatus from becoming exposed, damaged or built over; preventing operations which may obstruct, interrupt or interfere with apparatus and the exercise of new rights required; ensuring that access for future maintenance can be facilitated and ensuring that land requirements are minimised so far as possible.

- 5.4.7 The Applicant considers the imposition of such restrictions to be justified and proportionate in the circumstances of this case, in order to protect and preserve the integrity of the Scheme.

## 5.5 Temporary Possession

- 5.5.1 There will be situations where it will not be necessary for the Applicant to permanently acquire rights and interests, but instead be authorised to temporarily possess and use land. The Order land over which powers of temporary use only are sought is shown edged black and shaded yellow on the **Land Plan [EN010168/APP/2.2]**. The Applicant is also seeking temporary use powers over all other land within the Order land, in order to allow it to temporarily possess and use land ahead of acquiring land or rights permanently (see further explanation below). The land over which these powers are sought is shown edged black and shaded pink and blue on the **Land Plan [EN010168/APP/2.2]**. This land is described in more detail in the **Book of Reference [EN010168/APP/4.3]**.
- 5.5.2 The reason for seeking temporary use powers over land shaded pink or blue is that it allows the Applicant to enter on to land for particular purposes (including site preparation works) in advance of any vesting of the relevant land/rights. This enables the Applicant to only compulsorily acquire the minimum amount of land and rights over land required to construct, operate and maintain the Scheme, because, for example, the Applicant could exercise the temporary use powers to undertake site investigation works to inform and minimise the land within the Cable Route Corridor over which permanent rights are needed.
- 5.5.3 Articles 31 and 32 of the **draft DCO [EN010168/APP/3.1]** are relied upon in respect of all land within the Order Limits. Article 32 allows temporary possession and use of land for the purposes of maintaining the Scheme. As noted above, Article 31 permits temporary use in two ways in connection with the construction of the Scheme:
- a) First, the land identified in Schedule 11 to the draft DCO may only be temporarily possessed and used (i.e. the Applicant cannot acquire the land nor new rights over it), and possession and use can only be taken for the purposes set out in that Schedule for the particular plot. In summary, these are the areas required to facilitate access to the Works and provide temporary construction compounds. These areas are shown edged black and shaded yellow on the **Land Plan [EN010168/APP/2.2]**; and
  - b) Secondly, Article 31 permits the Applicant to take temporary possession of and use any other part of the Order land where it has not yet exercised powers of compulsory acquisition - this will allow the Applicant (for instance) to initially take temporary possession of and use the width of the Cable Route Corridor required for construction. Once the Applicant has

carried out detailed surveys and installed the relevant apparatus (such as pipes or cable), the Applicant can then acquire new rights (pursuant to the powers set out above) within only a narrower strip in which permanent rights are required, within the wider construction corridor. This phased approach to occupation and acquisition allows the area over which permanent rights are required to be defined after construction, and to be only that which is necessary for the operation, maintenance and protection of the apparatus. Such an approach has precedent amongst other DCOs, including The Longfield Solar Farm Order 2023, the Mallard Pass Solar Farm Order 2024, the Gate Burton Energy Park Order 2024, the Cottam Solar Project Order 2024 and the West Burton Solar Project Order 2025.

- 5.5.4 The **Land and Rights Negotiations Tracker [EN010168/APP/4.4]** sets out the latest position in relation to negotiation of voluntary agreements with landowners.
- 5.5.5 Under Article 32, the Applicant is entitled to occupy the land for as long as necessary to carry out the relevant maintenance works. The Applicant must give the landowner and any occupier not less than 28 days' notice and on completion of the maintenance works must remove all temporary works and restore the land to the reasonable satisfaction of the landowner.

## 5.6 Other Rights and Powers

- 5.6.1 In addition, the Applicant has included powers to ensure that easements and other private rights identified as affecting the land are suspended or cease to have effect, so as to facilitate the construction and operation of the Scheme without hindrance. Furthermore, there may be unknown rights, restrictions, easements or servitudes affecting that land which also need to cease to have effect in order to facilitate the construction, operation and decommissioning of the Scheme. Article 25 of the draft DCO is relied upon in respect of this land and apply in relation to land in which compulsory acquisition or temporary possession are proposed (that is, land shaded pink, blue or yellow on the **Land Plan [EN010168/APP/2.2]**). With respect to land shaded yellow, in respect of which powers of temporary possession and use only are sought, Article 25(3) makes clear that any private rights or restrictive covenants are only suspended for the period in which the Applicant is in lawful possession of the land (i.e. they would only be suspended temporarily).
- 5.6.2 The **draft DCO [EN010168/APP/3.1]** also contains the following additional powers which may constitute an interference with land and/or rights over land and as such are captured in Part 3 of the **Book of Reference [EN010168/APP/4.3]**:

- Article 8 - Street works: this article would confer authority on the Applicant to interfere with and execute works in or under any streets for the purposes of the authorised development;
- Article 12 - Temporary closure, restriction or prohibition of use of streets and public rights of way: this article permits the Applicant to temporarily prohibit or restrict the use of, alter, divert or restrict the use of streets and public rights of way for the purposes of the development, whilst ensuring that pedestrian access is maintained;
- Article 13 - Use of private roads: this article enables the Applicant to use any private road within the Order limits during construction or maintenance of the authorised development;
- Article 14 - Access to works: this article allows works accesses to public highways to be created. It gives the Applicant a general power to form means of access;
- Article 17 - Discharge of water: this article sets out the circumstances in which the Applicant is entitled to discharge water into a sewer, watercourse or drain, and its purpose is to establish statutory authority for doing so;
- Article 19 - Protective works to buildings: this article provides a power to monitor certain buildings and structures (included within the Order limits) for the effects of ground movement relating to settlement arising from the construction of the authorised works; and to carry out protective works where necessary to mitigate the effects of such settlement. This power applies throughout the Order limits;
- Article 20 - Authority to survey and investigate the land: this article gives the Applicant the power to enter certain land for the purpose of surveying and testing. It provides that the Applicant must give 14 days' notice before exercising the powers of entry, and that compensation is payable for any loss or damage caused;
- Article 23 – Compulsory acquisition of land – incorporation of the minerals code: incorporates Parts 2 and 3 of Schedule 2 to the Acquisition of Land Act 1981. It has been included within the draft DCO as mineral rights have been identified within the Order land and the mineral code provides a statutory process for dealing with the purchase of and compensation for minerals;
- Article 27 - Power to override easements and other rights: this article permits the Applicant to override easements and other rights such that land vested in the Applicant would be discharged from all rights, trusts and incidents to which it was previously subject at the point of vesting, together with the benefit of restrictive covenants and instances where land subject to third party rights is acquired by agreement rather than through compulsory acquisition; and
- Article 40 - Felling or lopping of trees and removal of hedgerows: this article would permit any tree or shrub that is near the Scheme to be

felled or lopped, or have its roots cut back by the Applicant if it is considered to obstruct the construction, operation or maintenance of the Scheme or endanger anyone using it. Compensation is payable for any loss or damage caused;

- Article 41 - Trees subject to tree preservation orders: this article permits any tree subject to a tree protection order that is described in the outline or approved landscape and ecological management plan, or which is located within or overhanging the Order limits, to be felled or lopped or have its roots cut back by the Applicant if it is considered to obstruct the construction operation or maintenance of the Scheme. Compensation is payable for any loss or damage caused.

5.6.3 All the above-mentioned articles in the **draft DCO [EN010168/APP/3.1]**, which would provide powers enabling the Applicant to acquire land permanently or to use land temporarily, are required to enable the construction, operation, maintenance and decommissioning of the Scheme.

## 6 Purpose of the Powers

### 6.1 The need for the Scheme

- 6.1.1 The **Statement of Need [EN010168/APP/7.1]** sets out the need for the Scheme. A summary of the need for the Scheme is set out below.
- 6.1.2 Urgent and unprecedented action is needed on an international scale to meet the commitments established through the Paris Agreement to for urgent actions to decarbonise society and stop global warming.
- 6.1.3 The UK has legally binding targets to decarbonise and is developing new and enhancing existing policies to ensure that those targets are met in a secure and affordable fashion.
- 6.1.4 The position solar generation is taking within emerging government policy is increasing in both scale and importance. Not only for the benefits it delivers to decarbonisation, but also because of the need for secure and affordable energy supplies.
- 6.1.5 Government is currently targeting 70GW of solar operational in the UK by 2035, including both ground mount and rooftop installations.
- 6.1.6 The Scheme will, if consented, contribute a significant generation capacity towards Government's current targets.

### 6.2 National Policy Support

- 6.2.1 A more detailed explanation of the legislative and policy context of the Scheme is set out in Section 6 of the **Planning Statement [EN010168/APP/7.2]** and **Annex A: National Policy Accordance Tables** and **Annex B: Local Policy Accordance Tables** of the **Planning Statement [EN010168/APP/7.2]**.
- 6.2.2 Section 104 of the PA 2008 makes clear that where an NPS exists relating to the type of development applied for, the SoS must have regard to it as a relevant NPS, and must decide the application in accordance with that NPS. The Applicant considers that the following NPSs are all relevant (as they provide specific policy in relation to solar development):
- Overarching National Policy Statement for Energy (NPS EN-1);
  - National Policy Statement for Renewable Energy (NPS EN-3); and
  - National Policy Statement for Electricity Networks Infrastructure (NPS EN-5).
- 6.2.3 The Energy NPSs and other national energy policy set out the government's aims to provide secure and affordable energy supplies whilst decarbonising the energy system. This is in order to enable the UK to achieve its legally binding commitment to reduce carbon emissions and

achieve net zero carbon emissions by 2050; as well as provide a resilient and low cost energy network for the future. The government recognises that the need to deliver these aims and commitments is immediate and therefore renewable energy NSIPs, including large scale solar projects, need to be delivered urgently.

- 6.2.4 The Scheme will deliver these policy aims, providing a significant amount of low carbon electricity over its lifetime; and providing resilience, security and affordability of supplies due to its large scale and proposed integration of energy storage. It will therefore be an essential step in the development of the portfolio of solar generation that is required to decarbonise its energy supply quickly whilst providing security and affordability to the energy supply. The Scheme will make a valuable contribution to adopted UK government policy and the achievement of world-leading decarbonisation commitments.
- 6.2.5 The Scheme will also deliver other more localised economic, social and environmental benefits. These include biodiversity net gain and encouraging local people to access apprenticeships and training and employment during the construction phase. With regard to biodiversity, the Scheme will deliver a variety of enhancement measures and will be implemented in accordance with the **Outline Landscape and Ecological Management Plan [EN010168/APP/7.18]**.
- 6.2.6 The analysis of planning policy compliance in the **Planning Statement [EN010168/APP/7.2]** and **Annex A: National Policy Accordance Tables** and **Annex B: Local Policy Accordance Tables** of the **Planning Statement [EN010168/APP/7.2]** demonstrates that the need for the Scheme is supported by planning policy and other national energy and environmental policy and that the Scheme addresses relevant national and local planning policies through its design, avoiding and minimising adverse impacts where possible.
- 6.2.7 With the mitigation proposed, the **Environmental Statement [EN010168/APP/6.1]** demonstrates that the Scheme will not have any significant adverse effects in relation to climate change, hydrology, cultural heritage, transport, noise and vibration, air quality, human health, ground conditions or other environmental matters. It is however acknowledged that Scheme will result in residual significant adverse effects upon [landscape and visual, ecological, arboricultural, socio-economic, soils and agricultural receptors during construction, operation and/or decommissioning]. Further details can be found in the **Environmental Statement Non-Technical Summary [EN010168/APP/6.4]**.
- 6.2.8 The Applicant has carefully designed the Scheme to ensure landscape and visual impacts are minimised through sensitive siting of the largest Scheme components in the most well-screened areas of the Order land

and a green infrastructure led landscape and ecological design set out within the **Outline Landscape and Ecological Management Plan [EN010168/APP/7.18]** and the **Design Approach Document [EN010168/APP/7.3]**. Key features of the Scheme design include offsets and buffer zones in proximity to residential receptors, extensive planting and habitat enhancement areas throughout the Solar PV Sites and protection buffer zones around existing hedgerows, trees, woodland and watercourses. This limits the landscape effects during the operational period to only the initial years whilst planting becomes established, becoming not significant from Year 15, and limits visual effects during the operational period to a small number of receptors. In terms of the planning balance, the fact that these effects are localised; will be reversed following decommissioning at the end of the Scheme's operational life; and that NPS EN-1 acknowledges that adverse effects are likely, given the scale of energy NSIPs, the national benefits of the Scheme outweigh these localised effects.

- 6.2.9 As described in the **Planning Statement [EN010168/APP/7.2]**, whilst it has not been possible to avoid all impacts these have been minimised, where practicable, through careful and sensitive design and detailed mitigation strategies. When considered against the NPS and NPPF, the Scheme accords with relevant policies, and with regard to specific policy tests, the national and local benefits of the Scheme are considered on balance to outweigh its adverse impacts. The Scheme is also considered to be broadly consistent with relevant local planning policy, and accords with the relevant criteria which concern renewable and low carbon energy schemes. Therefore, it is considered that development consent for the Scheme should be granted.
- 6.2.10 To ensure that the Scheme can be built, operated, maintained and decommissioned, and so that the Government's policy in relation to the timely provision of new generating capacity is met within a reasonable timescale, the Applicant requires the acquisition of a number of property interests in third party ownership, and has therefore applied for the grant of powers to facilitate acquisition and/or creation of new rights and interests, and to suspend rights over land.
- 6.2.11 In the absence of powers of compulsory acquisition, it might not be possible to assemble all of the Order land, uncertainty will continue to prevail and the Applicant considers that its objectives and those of Government policy would not be achieved.

## **7 Justification for the Compulsory Acquisition Powers**

### **7.1 The matters to which the SoS must have regard**

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

- the land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development (section 122(2)) (see section 7.2 below); and
- there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the DCO (section 122(3)). The SoS must be persuaded that the public benefits from the compulsory acquisition will outweigh the private loss suffered by those whose land is to be acquired (see Sections 7.3 and 7.4 below).

7.1.2 In respect of the section 122(2) condition, the 'Guidance related to procedures for the compulsory acquisition of land' (at paragraph 11 of the CA Guidance) states that applicants should be able to demonstrate to the satisfaction of the SoS that the land in question is needed for the development for which consent is sought. The CA Guidance goes on to say that the SoS will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.

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

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

- that all reasonable alternatives to compulsory acquisition (including modifications to the Scheme) have been explored - see section 7.5 below in relation to how the Applicant has given regard to alternatives to compulsory acquisition;
- that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and

proportionate - see the remainder of this section, and Section 7.4 below;

- that the Applicant has a clear idea of how they intend to use the land which it is proposed to acquire – Section 3 above describes the Scheme, and Section 6 alongside the **Land and Rights Negotiations Tracker [EN010168/APP/4.4]** that together provide the purposes for which areas are to be acquired or used;
- that there is a reasonable prospect of the requisite funds for the acquisition becoming available - see section 7.9 below in addition to the **Funding Statement [EN010168/APP/4.2]**; and
- that the purposes for which compulsory acquisition of land powers are included in the DCO are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected - see Section 8 below.

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

## 7.2 Use and quantum of the Order limits

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

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

7.2.3 Section 3 describes the Scheme. The **Land and Rights Negotiations Tracker [EN010168/APP/4.4]** summarises the land and rights over land within the Order land required for the Scheme.

7.2.4 The proposed interference with the rights of those with an interest in the land is for a legitimate purpose because the Applicant requires the land for the development of the Scheme and can satisfy the conditions set out in section 122(2) of the PA 2008. The land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development.

7.2.5 The scope of the powers of compulsory acquisition proposed in respect of the land within the Order land goes no further than is needed. All the land included within the Order land is needed to achieve the identified purpose of delivering the Scheme. The **Land and Rights Negotiations Tracker [EN010168/APP/4.4]** shows the powers being applied over each plot (including the plots over which freehold acquisition is acquired), the requirement for each plot of land demonstrating the assessment that has been carried out for each plot, and the works for which each plot of land is required.

7.2.6 Steps have been taken to ensure that the interference with the rights of those with an interest in the affected land is no more than is necessary to deliver the benefits associated with the Scheme.

### 7.3 Public Benefits

7.3.1 Section 6.1 and the **Statement of Need [EN010168/APP/7.1]** set out the need for the Scheme which would ensure meaningful and timely contributions to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, which is critical on the path to Net Zero. Without the Scheme, a significant and vital opportunity to develop a large-scale low-carbon generation scheme will have been passed over, increasing materially the risk that future Carbon Budgets and Net Zero 2050 will not be achieved.

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

- Biodiversity net gain (**Biodiversity Net Gain Assessment Report [EN010168/APP/7.8]**);
- Permissive paths will be provided during the operational phase of the Scheme, improving connectivity with the existing network of PRowS. The existing network of PRowS will be retained during operation of the Scheme. See the **Outline Public Rights of Way and Permissive Paths Management Plan [EN010168/APP/7.17]**;
- Employment during the construction and operational phases. It is expected that an average of 268 gross direct full time equivalent (FTE) jobs per annum will be created during the construction period;
- An **Outline Skills, Supply Chain and Employment Plan [EN010168/APP/7.5]** will be prepared prior to the commencement of construction. This will set out measures that the Applicant will implement in order to advertise and promote employment opportunities associated with the Scheme in construction and operation locally.

7.3.3 Further information in relation to these project benefits can be found in the **Planning Statement [EN010168/APP/7.2]**.

## **7.4 Impacts and Private Loss**

7.4.1 In order to deliver the benefits of the Scheme set out above, the Applicant requires the use of compulsory acquisition powers. This will result in a private loss by those persons whose land or interests in land is compulsorily acquired. Appropriate compensation would be available to those entitled to claim it under the relevant provisions of the national Compensation Code thereby minimising the private loss.

7.4.2 Compensation is payable for the compulsory acquisition of land or rights and for loss or damage caused by the exercise of any power of temporary use of land. Any dispute in respect of the compensation payable is to be determined by the Lands Chamber of the Upper Tribunal.

7.4.3 As shown in the **Land and Rights Negotiations Tracker [EN010168/APP/4.4]**, the Applicant has taken pro-active steps to engage with these persons whose land and rights will be affected by the Scheme to understand the direct and indirect impacts on them and to try to reach a voluntary agreement. This has helped to shape the proposals and, where possible enabled changes to designs to minimise the private loss.

7.4.4 All relevant environmental, social and economic benefits and adverse impacts have been assessed and are reported on in the Application documents, most notably the **Environmental Statement [EN010168/APP/6.1]**.

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

7.4.6 The Scheme is a NSIP and the public benefits associated with the Scheme are set out in section 7.3 above. The Applicant considers that there is a compelling case in the public interest for the power to compulsorily acquire land and rights over land (together with the imposition of restrictions) to be included in the Order. Compensation is payable to all affected landowners and occupiers.

7.4.7 There is also a compelling case in the public interest for the power to extinguish, suspend or interfere with private rights to the extent necessary to deliver the Scheme. The extent of the Order land is no more than is reasonably necessary for the construction, operation and maintenance of

the Scheme and therefore any interference with private rights is proportionate and necessary. Compensation is payable to anyone whose rights are extinguished, suspended or interfered with.

## **7.5 Alternatives to Compulsory Acquisition**

7.5.1 The Applicant has considered all reasonable alternatives to compulsory acquisition: negotiated agreements, alternative sites and modifications to the Scheme have been considered prior to making the Application. Efforts to negotiate directly with landowners are ongoing, as described at section 7.8.

7.5.2 The Applicant's use of compulsory acquisition powers is intended to be proportionate. Where practicable, lesser powers of temporary possession will be used.

## **7.6 Alternatives to the Scheme**

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

7.6.2 The location and extent of land and rights has been carefully considered and designed in order to take the minimum amount of land required whilst ensuring that the Scheme continues to meet the project benefits. The rights sought are therefore proportionate and necessary.

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

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

7.6.5 Further details on the consideration of alternatives are set out in **ES Volume 1, Chapter 5: Alternatives and Design Evolution [EN010168/APP/6.1]**.

## **7.7 Site Selection**

7.7.1 In order to determine the location of a potential solar PV site, there needs to be an available grid connection, and, if possible, a landowner agreeable to their land being used for the development. A 'smaller development' as

an alternative to the Scheme has not been considered further, as NPS EN-1 at paragraph 4.3.23 states that the decision maker:

“...should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity (including energy security, climate change benefits and other environmental benefits) in the same timescale as the Scheme”.

- 7.7.2 A smaller scheme would not deliver the same generation capacity or energy security and climate change benefit as the Scheme, and as such would not represent a reasonable alternative. A **Statement of Need [EN010168/APP/7.1]** is submitted with the Application which addresses the need for the Scheme at the size it is.
- 7.7.3 In order to be deliverable, irradiation (sunlight) levels and topography are key factors when determining the location of solar development. The preference is for a flat site or a site with a southerly aspect. The length of the grid connection is also critical, to minimise environmental and social impacts and deliver an economically viable scheme.
- 7.7.4 Therefore, proximity of a Point of Connection (POC) for the Scheme to the National Grid was a key criterion. This is recognised at paragraph 2.10.24 of NPS EN-3 which states:
- “...the connection voltage, availability of network capacity, and the distance from the solar farm to the existing network can have a significant effect on the commercial feasibility of a development proposal.”
- 7.7.5 During discussions with National Grid, the Applicant was notified of grid capacity at Melksham Substation. Further details are set out in the **Grid Connection Statement [EN010168/APP/7.5]**. To supply the grid connection offer of 500MW, a total site size of approximately 1,000 ha (excluding cable route) is needed, and the Applicant sought to find a total area around 10% larger than this to provide flexibility for accommodation of additional mitigation and other constraints that only become known during the design development process.
- 7.7.6 The Applicant assessed a range of criteria to identify a suitable site or sites with proximity to the Point of Connection for the Scheme. Exclusionary and discretionary planning and environmental criteria (including agricultural land classification, designated biodiversity, landscape and heritage sites, flood risk and woodlands) were applied to discount land within the area of search which may be unsuitable to locate the solar scheme. A series of key operational inclusionary criteria were also applied such as site size, land assembly, site topography, access requirements and availability of brownfield land. Land agents were contacted regarding potentially willing landowners because it is typical for the land to be leased due to solar farms consisting of temporary

structures. This process was considered over a search area that was increased incrementally from the Point of Connection, to identify suitable site options which are located within a 20km radius (being a viable cable connection distance for a solar project of this scale).

- 7.7.7 On further interrogation of the land available, the area where the Solar PV Site is located was considered the preferred location for the Scheme. This process, including the nature of the other areas, is described in detail in **ES Volume 1, Chapter 4: Alternatives and Design Evolution [EN010168/APP/6.1]** and **ES Volume 3, Appendix 4-1 Site Selection Assessment Report [EN010168/APP/6.3]**.

## **7.8 Voluntary agreements with landowners**

- 7.8.1 The Solar PV Sites of Lime Down A to E are held within eight land ownerships, and this small number of landowners is advantageous in terms of minimising project complexity, legal complexity and cost. The Sites were chosen following extensive assessment work as detailed in the Site Selection Assessment Report (**ES Volume 3, Appendix 4-1 Site Selection Assessment Report [EN010168/APP/6.3]**) leading to discussions with landowners regarding areas of their land holdings that they were prepared to allow solar development on. The land has limited land use conflicts with respect to local development plan allocations and displacement of existing businesses.
- 7.8.2 Option Agreements have been entered into with the relevant landowners for each of the Solar PV Sites.
- 7.8.3 Negotiations for the lease of other land, rights and interests are ongoing in respect of the land and new rights required for the Scheme. Nevertheless, it is necessary for the Applicant to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third-party interests or encumbrances affecting such land, rights and interests may be acquired, overridden or extinguished pursuant to the draft DCO, thereby ensuring that the Scheme can be constructed, operated and maintained.

## **7.9 Availability of funds for compensation**

- 7.9.1 The **Funding Statement [EN010168/APP/4.2]** confirms that the Applicant has the ability to procure the financial resources required for the Scheme, including the cost of acquiring any land and rights and the payment of compensation, as applicable.
- 7.9.2 The Applicant is not aware of any interests within the Order land in respect of which a person may be able to make a blight claim, but in the event this did occur the Applicant has sufficient funds to meet any compensation due.

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

## 8 Communications and Negotiations

### 8.1 Diligent inquiry / land referencing

8.1.1 In accordance with the requirements of the PA 2008, the Applicant undertook "diligent inquiry" through a land referencing process to identify parties within Categories 1, 2 and 3, as defined in sections 42 and 44 of the PA 2008. These include owners, lessees, tenants and occupiers of the land within the Order limits.

### 8.2 Diligent inquiry methodology

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

8.2.2 The Land Referencing limits were set to include all land and rights necessary to construct and operate the Scheme. A professional land referencing firm, Dalcour Maclaren, was employed to undertake diligent inquiry to identify these land interests. The following processes were undertaken as part of the methodology to identify and consult with those with an interest in affected land.

8.2.3 Land Registry data was received in the form of a digital shape file (a GIS layer) and digital copies of the Official Copy Registers and Title Plans. All relevant freehold, leasehold, mortgagee, beneficiary, other charges and restrictive covenant information was extracted and stored in a land referencing database.

8.2.4 An update to the land registry information was carried out prior to the preparation of the **Book of Reference [EN010168/APP/4.3]** as part of the DCO application documentation to ensure HM Land Registry records did not exceed 6 months in date.

8.2.5 Adopted highways plans were acquired from Wiltshire Council and South Gloucestershire Council. Information was also obtained regarding special category land (including open space, common land, fuel and field garden allotments); and any information relating to extant planning permissions. Information was entered into the GIS system as appropriate. Where

necessary, further enquiries were made to address any changes, anomalies, or gaps. These processes allowed parties relevant to Parts 4 and 5 of the Book of Reference to be identified. Crown land was identified from registered title data.

- 8.2.6 Statutory undertakers that were believed to have a possible interest in the area were contacted to identify their interests. Information received was entered into the GIS as appropriate and where necessary further enquiries were made to address changes, anomalies or gaps.
- 8.2.7 Any existing information or stakeholder data gained by the Applicant as a result of property negotiations or Section 42 consultation was incorporated accordingly.
- 8.2.8 Consultation with landowners and the identification of potentially affected parties has been ongoing throughout the development of the proposals. This included checking all company addresses at Companies House to ensure the correct address was being used. The registered address was used unless advised differently by the affected party. Census data and other publicly available records were reviewed to understand accurate addresses for correspondence for individuals affected by the Scheme.
- 8.2.9 Land Interest Questionnaires (LIQs) were issued to all affected parties within the Order land ahead of statutory consultation. This included landowners, lessees, occupiers, third party interests and statutory undertakers potentially affected by the Scheme. Contact details for the Land Referencing team were provided on the letter which accompanied the LIQs, allowing parties to make contact if they sought further information on the proposals. Parties identified after the initial batch, or whose initial LIQ was unsuccessfully delivered, were issued with LIQs at the earliest possible opportunity. Reminder letters, phone calls and some door knocks were undertaken to parties who had not returned an LIQ in an effort to complete the exercise in a diligent manner.
- 8.2.10 Where there was unregistered land within the Order Land, site notices were affixed on or adjacent to the land in order to notify any unregistered interested parties of the proposals. These were maintained weekly for a period of 6 weeks before statutory consultation commenced. Any parties that came forward were issued a LIQ and given the same undertaking or due diligence as mentioned above in 8.2.9.

### **8.3 Consultation with landowners**

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

the Scheme is explained in the **Land and Rights Negotiations Tracker [EN010168/APP/4.4]**.

8.3.2 It has not yet been possible to acquire all of the land, the temporary use of land and the rights required by agreement at the point of DCO Application. In addition, the Applicant requires certain rights to be suspended, overridden or extinguished within the Order land so as to ensure there are no impediments to the construction, operation and maintenance of the Scheme.

8.3.3 Negotiations will continue with landowners and persons with interests in land affected by the Scheme. Nonetheless, it is necessary for the Applicant to seek compulsory acquisition powers to secure such land, rights and interests and to ensure that any third-party interests or encumbrances affecting such land, rights and interests may be acquired, overridden or extinguished pursuant to the draft DCO, thereby ensuring that the Scheme can be constructed, operated and maintained.

#### **8.4 Consultation with Statutory Undertakers**

8.4.1 The Applicant and its advisors have been liaising with statutory undertakers whose apparatus may be affected by the Scheme. A summary of these negotiations and correspondence can be found in the **Land and Rights Negotiations Tracker [EN010168/APP/4.4]**.

## 9 Human Rights

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

9.1.2 The following Articles of the Convention are relevant to the SoS's decision as to whether the **draft DCO [EN010168/APP/3.1]** should be made so as to include powers of compulsory acquisition:

- **Article 1** of the First Protocol to the Convention - protects the rights to peaceful enjoyment of possessions and provides that no one can be deprived of their possessions except in the public interest.
- **Article 6** entitles those affected by powers sought in the draft DCO to a fair and public hearing of any relevant objections they may have to the granting of those powers. This includes property rights and can include opportunities to be heard in the decision making process.
- **Article 8** protects private and family life, home and correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.

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

9.1.4 The **draft DCO [EN010168/APP/3.1]** has the potential to infringe the rights of persons who hold interests in land within the Order land under Article 1 of the First Protocol, Article 6 and Article 8. Such an infringement is authorised by law so long as:

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

9.1.5 In relation to Article 1, in preparing the Application, the Applicant has considered the potential infringement of the Convention rights in consequence of the inclusion of compulsory acquisition powers within the draft DCO and has sought to minimise the amount of land over which it requires powers of compulsory acquisition. As set out in section 7.3 above and in more detail in the **Statement of Need [EN010168/APP/7.1]** and the **Planning Statement [EN010168/APP/7.2]** the Applicant considers that there would be very significant public benefits arising from the grant of the DCO. The benefits are only realised if the DCO is accompanied by the grant of powers of compulsory acquisition, and the purpose for which

the land is sought (to build and operate the Scheme) is legitimate. The Applicant has concluded on balance that the significant public benefits outweigh the effects upon persons who own property within the Order land. For those affected by expropriation or dispossession, compensation is payable in accordance with the statutory compensation code.

- 9.1.6 In relation to Article 8, the Order limits do not include, and the Scheme does not require, the outright acquisition of any residential dwelling-houses. Consequently, as dwelling-houses will not be directly affected, it is not anticipated that the Convention rights protected by Article 8 will be infringed. In the event that such rights were to be infringed, such interference would be justifiable on the basis that it would be lawful and in the public interest.
- 9.1.7 In relation to Article 6, there has been opportunity to make representations regarding the preparation of the Application. In accordance with Part 5 of the PA 2008, the Applicant has consulted with persons set out in the categories contained in Section 44 of the PA 2008, which includes owners, lessees, tenants and occupiers within the Order limits and those with an interest in the Order limits. The Applicant has also consulted with those persons who may be able to make a relevant claim under Section 10 of the Compulsory Purchase Act 1965, Part 1 of the Land Compensation Act 1973 or s152(3) of the PA 2008.
- 9.1.8 Furthermore, representations can also be made in response to any notice given under Section 56 of the PA 2008 for consideration at examination of the Application by the Examining Authority and in any written representations procedure which the Examining Authority decides to uphold or at any compulsory acquisition hearing held under Section 92 of the PA 2008.
- 9.1.9 Should the DCO be made, any person aggrieved may challenge the DCO in the High Court if they consider that the grounds for doing so are made out pursuant to Section 118 of the PA 2008.
- 9.1.10 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. In relation to matters of compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), which is an independent judicial body, to determine the compensation payable.
- 9.1.11 For the above reasons, any infringement of the Convention rights of those whose interests are affected by the inclusion in the DCO of powers of compulsory acquisition, is proportionate, necessary and legitimate and is in accordance with national and European law. For the reasons set out in Section 7 of this Statement, the Applicant considers that there is a

compelling case in the public interest for the exercise of such powers of compulsory acquisition.

- 9.1.12 The Applicant considers that the DCO strikes a fair balance between the public interest in the Scheme going ahead and the interference with the rights that will be affected. The Applicant considers that it would, therefore, be appropriate and proportionate for the SoS to make the DCO, including the grant of compulsory acquisition powers.

## **10 Special considerations affecting the Order Limits**

### **10.1 Special Category Land – Crown Land**

- 10.1.1 The Order land includes Crown land but this is excluded from the scope of the compulsory acquisition powers – see **Crown Land Plan [EN010168/APP/2.9]** and Part 4 of the **Book of Reference [EN010168/APP/4.3]**.
- 10.1.2 The Applicant has included land interests belonging to the Secretary of State for Environment, Food and Rural Affairs, Secretary of State for Work and Pensions and Secretary of State for Defence as Crown land on a precautionary basis whilst investigations are ongoing.
- 10.1.3 The Applicant is engaged with these Crown authorities in order to ascertain whether this interest is Crown land (as defined in the PA 2008). This process will run in parallel with the application for development consent. Where Crown land is confirmed, consent from the relevant Crown authority, pursuant to section 135 of the PA 2008, will be obtained prior to the Secretary of State determining the DCO Application.

### **10.2 Special Category Land – Open Space**

- 10.2.1 There is no open space land included in or affected by the Order limits.
- 10.2.2 There is no common land or fuel or field garden allotments included or affected by the Order limits.
- 10.2.3 Part of the Cable Route Corridor is located within Whitley Golf Club. The Applicant understands that access is restricted by the club and is not available to the public as of right. Access may be restricted to a specified group of persons (such as club members or fee paying members of the public) or denied to any person. Although there are public rights of way across the course, these in themselves do not make the surrounding land open space as defined in the PA 2008. The Applicant has therefore concluded that this is not open space land.

### **10.3 Statutory Undertakers' Land and Apparatus**

- 10.3.1 The interests held by each Statutory Undertaker identified by the Applicant as having a right to keep or access apparatus within the Order land are identified in the **Book of Reference [EN010168/APP/4.3]**.
- 10.3.2 Section 127(2) of the PA 2008 states that an order granting development consent may only include provision authorising the compulsory acquisition of statutory undertakers' land to the extent that matters set out in section 127(3) are satisfied.
- 10.3.3 Those matters are:

- the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
- if purchased, the land can be replaced by other land belonging to or available for acquisition by the undertakers without serious detriment to the carrying on of the undertaking.

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

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

10.3.5 Article 33 of the DCO gives the Applicant the authority to acquire land and rights from Statutory Undertakers, and to extinguish or suspend their rights, and to remove or reposition their apparatus, subject to the provisions of Schedule 15 which contains protective provisions for their benefit. The protective provisions provide adequate protection for Statutory Undertakers' assets. The Applicant therefore considers that the Statutory Undertakers will not suffer serious detriment to the carrying on of the undertaking as a result of the compulsory acquisition powers sought over the Order land being granted. The tests set out in sections 127(3) and 127(6) of the PA 2008 are therefore satisfied.

10.3.6 Section 138 of the PA 2008 applies if a development consent order authorises the acquisition of land (compulsorily or by agreement) and there subsists over the land a 'relevant right', or there is 'relevant apparatus' on, under or over the land. The draft DCO includes provision to authorise the extinguishment of a relevant right, or the removal of relevant apparatus belonging to statutory undertakers, in connection with the delivery of the Scheme. The exercise of such powers will be carried out in accordance with the protective provisions contained in Schedule 15 to the DCO. The protective provisions set out constraints on the exercise of the powers in the DCO, with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests, whilst enabling the Scheme (i.e. the development authorised by the DCO) to proceed. The Applicant therefore considers that the test set out in section 138 of the PA 2008 is satisfied.

10.3.7 Various statutory undertakers and owners of apparatus have a right to keep equipment (in connection with their undertaking) on, in or over the Order limits. Statutory undertakers and other apparatus owners that are known to have interest in or equipment on, in or over the Order limits are included in the **Book of Reference [EN010168/APP/4.3]**. These include:

- C.A. Telecom UK Limited
- CityFibre Holdings Limited
- EE Limited
- EXA Infrastructure Limited
- Exolum Pipeline System Ltd
- Gigaclear Limited
- Hutchison 3G UK Limited
- Lumen Technologies UK Limited
- Melksham East Storage Limited
- National Gas Transmission PLC
- National Grid Electricity Distribution (South West) PLC
- National Grid Electricity Transmission PLC
- National Highways Limited
- NEOS Networks Limited
- Network Rail Infrastructure Limited
- OCU Group Ltd
- On Tower UK Limited
- Openreach Limited
- South West Water Limited
- Southern Electric Power Distribution PLC
- SSE PLC
- Telent Technology Services Limited
- Virgin Media Limited
- Vodafone Limited
- Wales and West Utilities Limited

- Wessex Water Services Limited
- Zayo Group UK Limited

- 10.3.8 The Applicant is in discussions with the relevant statutory undertakers and owners of apparatus to agree the form of protective provisions and, where required, side agreements and asset protection agreement with the other parties contacted.
- 10.3.9 In any event, Part 1 and Part 2 of Schedule 15 to the draft DCO include standard protective provisions for the protection of electricity, gas, water and sewerage undertakers and for the protection of operators of electronic communications code networks, in order to ensure the assets of those parties receive adequate protection.
- 10.3.10 There are no other relevant special considerations in respect of the Order limits.

## 11 Related Applications and Consents

11.1.1 Other consents are or may be required in order for the Scheme to be constructed and subsequently operate. The key consents are identified below and reference should be made to the **Consents and Agreements Position Statement [EN010168/APP/7.7]** which sets out the additional consents required and the status and timeframe for each consent. These may include:

- Electricity Generation Licence;
- Bilateral Connection Agreement (to connect to the National Electricity Transmission System);
- Water discharge;
- Permit for transport of Abnormal Loads;
- Section 61 consent (control of noise on construction site);
- Building Regulations consents;
- Health and Safety related consents;
- Protected species licence;
- Consent in relation to proximity to registered mine shafts;
- Hazardous Substances Consent; and
- Permit Schemes.

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

## **12 Further Information**

### **12.1 Negotiation of Sale**

12.1.1 Owners and occupiers of property affected by the Scheme who wish to discuss matters of compensation should contact the Applicant on 0808 175 6656 or at [info@limedownsolar.co.uk](mailto:info@limedownsolar.co.uk).

### **12.2 Compensation**

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

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

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

## **13 Conclusion**

- 13.1.1 This Statement demonstrates that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Scheme meets the requirements of Section 122 of the PA 2008 as well as the considerations in the CA Guidance.
- 13.1.2 A description of the intended use of the land and rights to be acquired compulsorily has been provided.
- 13.1.3 In summary, the compulsory acquisition of the Order land or rights over the Order land (including restrictions), together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights, is required for the purposes of, to facilitate, or are incidental to, the Scheme and are proportionate and no more than is reasonably necessary.
- 13.1.4 Furthermore, there is a compelling case in the public interest for the land or rights over the land to be compulsorily acquired given the meaningful and timely contributions offered by the Scheme to UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life.
- 13.1.5 The need for the Scheme is clearly set out in NPS EN-1, NPS EN-3 and NPS EN-5. These demonstrate that there is a compelling case in the public interest for the land, and rights over land and imposition of restrictions, to be acquired compulsorily.
- 13.1.6 All reasonable alternatives to compulsory acquisition have been explored. Whilst seeking compulsory acquisition powers, the Applicant will continue to seek to acquire the land, the temporary use of land, the rights and other interests by agreement, as well as secure the removal of matters affecting the Order land that may impede the Scheme, wherever possible.
- 13.1.7 Given the national and local need for the Scheme and the support for it found in policy, as well as the suitability of the Order limits (for the reasons outlined above), compulsory acquisition of the land and rights and the temporary use of land, together with the overriding of interests, rights and restrictive covenants and the suspension or extinguishment of private rights is justified.
- 13.1.8 The proposed interference with the rights of those with an interest in the Order land is for a legitimate purpose, i.e. the construction and operation of the Scheme which is an NSIP, and is necessary and proportionate to that purpose. The Applicant considers that the very substantial public benefits to be derived from the proposed compulsory acquisition would decisively outweigh the private loss that would be suffered by those

whose land or interests are to be acquired, and therefore justifies interfering with that land or rights.

- 13.1.9 The Applicant has set out clear and specific proposals for how the Order land will be used.
- 13.1.10 An explanation has been provided as to how it is expected that the construction of the Scheme and the acquisition of the land or rights over the land will be funded, as well as compensation in respect of the exercise of powers of compulsory acquisition, which demonstrates that there is a reasonable prospect of the requisite funds being available. More detail is provided in the **Funding Statement [EN010168/APP/4.2]**.
- 13.1.11 Articles 1, 6 and 8 of the First Protocol to the Convention have been considered. The Applicant considers that the very substantial public benefits to be derived from Scheme would outweigh the private loss that would be suffered by those whose land is to be acquired or whose rights would be interfered with.
- 13.1.12 It is therefore submitted that the Order be made and any compulsory acquisition powers and powers of temporary possession sought within the Order be granted.