

Further to the representations that I made to the ExA during the CAH2 on 23rd September 2026, I have reflected on the late disclosure (as mentioned in my address to the ExA) by the Applicant that the reason it is seeking acquisition rights over so much of Mr Methuen-Campbell's land is that it has not agreed (with Network Rail) the location of a crossing point over the Great Western Railway at Easton/Thingley. Prior to 18th September 2026, the Applicant's Agents had maintained that the surplus land was needed for "security reasons". When I queried this, it was explained to me that the Developer's engineers could not be certain of the most expeditious cable route in this location until such time as it had the requisite geological information to determine its path.

In response to my observations that the "land take" seemed very excessive (bearing in mind the working width of 30m), the ExA heard from both the Applicant's Solicitor and its Senior Project Manager that difficulties had been experienced in determining a crossing point with Network Rail. The ExA was told that various options had been under review for the cable crossing to be made at any point between Thingley Road Bridge (easternmost) and Lacock Road Bridge (westernmost). I understood that issues in agreeing a crossing point with Network Rail had been anticipated, and that the Applicant had consequently included a much more extensive area of Mr Methuen-Campbell's adjoining farmland than would actually be required for the installation of the cable route in this location. Such issues were expressly referred to by the Applicant's representatives with mention being made of the fact that Network Rail had "changed teams", in the course of negotiations, with different personnel having different opinions as to where the railway crossing should be made.

Section 122 of the Planning Act 2008 provides that compulsory purchase may only be authorised by a DCO if the land is required for the development to which the consent relates or that it is at least necessary to facilitate or is incidental to that development. There is legal precedent (*Sharkey & Another v Sec. of State for the Environment and South Bucks DC*) which establishes that whilst it is not necessary to show that compulsory purchase is indispensable/essential to the delivery of the scheme, requirement cannot be justified on the grounds that the inclusion of land is "desirable" or "convenient" for the applicant in the pursuit of its endeavours. It is my assertion, on Mr Methuen-Campbell's behalf, that land has been ear-marked by Lime Down Solar Park Ltd. for its convenience in its negotiations with Network Rail.

Guidance Related to Procedures for Compulsory Acquisition (DCLG Feb 2010) sets out general considerations which are to be applied when considering whether compulsory purchase is justified. Paragraph 24 states:

"The first criterion is that the land is required for the development to which the development consent relates. For this to be met, the promoter should be able to demonstrate to the satisfaction of the decision-maker that the land in question is needed for the development for which consent is sought. The decision-maker should be satisfied, in this regard, that the land to be acquired is no more than is reasonably required for the purposes of the development."

Although the ExA has helpfully suggested that [REDACTED] and I should have a site meeting with the Applicant's Senior Project Manager to further discuss the cable route in the proximity of Easton/Thingley, I strongly maintain that the principles relating to the conferral of compulsory acquisition powers are not met insofar as S122 of the PA 2008 are concerned. Whilst both Mrs Gregory and I will be pleased to meet [REDACTED] at Easton, and whilst I do not wish to prejudice the outcome of that meeting, I find it difficult to conceive that anyone from the Applicant's Team will be able to justify the requirement for such a large area of land being included in the DCO application.

Following CAH2, a Teams meeting was held on 15th October to discuss the AP's contention that the area of land, over which the Applicant is seeking compulsory acquisition rights, is excessive.

At the Teams meeting, the Applicant's Project Manager explained that the demarcation of the DCO land boundary was drawn to include sufficient land to enable the cable route to cross the Great Western Railway mainline at some indeterminate point between Thingley Road Bridge (easternmost) and Lacock Road (aka Roebuck) Road Bridge (westernmost). It was stated that the final decision as to the location of the crossing point was dependant upon the outcome of the Applicant's negotiations with Network Rail which, it was informed, had been protracted, but are still ongoing. An offer was made to keep the AP and his tenant farmer (present at the meeting) apprised of progress. The Project Manager further advised that these negotiations (with Network Rail) would continue, although he was unable to say when they might be concluded.

There are two tests, under the 2008 Planning Act, which must be addressed for an Order to be made conferring compulsory acquisition powers on the developers of any Nationally Significant Infrastructure Project.

FIRSTLY, the land must be "strictly required" for the core development or required to facilitate or be incidental to the development. Whilst it is accepted that the demarcation of boundaries to land for which compulsory rights are sought can accommodate detailed site investigation or micro-siting, DCLG guidance dictates that these parameters must be kept to "the absolute minimum necessary to contain the project".

Paragraph 4.17 of the Planning Act 2008: Guidance on Preparing an application: Part 3 - Contents of a draft Development Control Order (July 2026) requires the reasoning for and extent of the limits of deviation to be set out in the developer's Explanatory Memorandum.

Section 1 of the Applicant's Explanatory Memorandum (Revision 6) deals with the "parameters of the Order" and the "consent envelope". Specifically, Paragraph 1.68 refers to the protective provisions set out in Schedule 15 of the Memorandum. Amongst the assets of, expressly National Highways Agency, Local Highway Agency and others, there is an ambiguous reference to "railway interests", but not to Network Rail. From this, it is far from clear what the "reasoning" for the extent of deviation is.

SECONDLY, the Applicant needs to demonstrate that, on balance, the public interest, in the inclusion of land in its application, outweighs the consequential hardship suffered by the Affected Persons. The grant of compulsory acquisition rights over such a wide extent of the AP's land (equivalent to some 400% of that actually needed to accommodate the working width of the cable route) will jeopardise at least two independent farming businesses which need certainty to plan and run their respective livestock and arable enterprises. With the prospect of further drought, the incidence of TB lockdowns on both holdings, volatility in the cost of inputs (notably diesel fuel and fertiliser), statutory impositions for pollution control, etc. etc. these businesses are severely curtailed by a situation about which the AP has only recently (23rd September 2026) been advised - i.e. the Applicant's issues with Network Rail as confirmed by its solicitor during CAH2. It is the AP's position that the public interest, in rights over such extensive limits of deviation being granted to the Applicant, does not outweigh the hardship of the AP and his impacted tenant farmers.

In summary, if the land is deemed "not necessarily required" it fails the above-mentioned tests. Surely Lime Down Solar Park Ltd. would have been better placed to meet its obligations to keep the limits of deviation to the requisite parameters of the "absolute minimum necessary" if it had completed bore hole surveys (as it did at the cable route M4 crossing) and started a salient dialogue with Network Rail at a much earlier stage. In short, any decision to determine Lime Down's DCO application should be deferred until to these matters have been resolved.