

Green Hill Solar Farm

EN010170

Written Summary of the Applicant's Oral Submissions and Responses at Compulsory Acquisition Hearing 1

Prepared by: Pinsent Masons LLP

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The Infrastructure Planning (Examination Procedure) Rules 2010

Rules 8(1)(c)



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Issue Sheet

Report Prepared for: Green Hill Solar Farm

Examination Deadline 3

Written Summary of the Applicant's Oral Submissions and Responses at
Compulsory Acquisition Hearing 1 and Responses to Action Points

Prepared by

Pinsent Masons LLP



1 Summary of Oral Submissions at Compulsory Acquisition Hearing 1

Agenda Item	Comment
1. Welcome, introductions, arrangements for the Hearing	The ExA introduced the hearing and made some preliminary remarks.
2. Purpose of Compulsory Acquisition Hearing 1	<p>Purpose of the hearing is to address matters raised by the ExA following its consideration of the application documents.</p> <p>The following parties introduced themselves during CAH1:</p> <p>The Applicant</p> <ul style="list-style-type: none">• Claire Brodrick, Partner at Pinsent Masons LLP (solicitors for the Applicant)• Alison Dablin, Associate at Pinsent Masons LLP• Lesley Giles, Project Development Manager at Island Green Power• Jane Crichton, Associate Director, Lanpro• Charlotte Astrella, Senior EIA Consultant, Lanpro• Julian Barter, Land Acquisition Specialist, Bruton Knowles <p>Other Stat/Non-stat body</p> <ul style="list-style-type: none">• Vicky Flower, on behalf of National Highways ("NH") from Gowlings WLG <p>Other interested parties</p> <ul style="list-style-type: none">• Bernard Livesey, Stop Green Hill Solar• Serien Partridge and Matthew Partridge; residents to the scheme• Shena Howell; residents to the scheme• John Hope; residents to the scheme• Helen Elderkin; residents to the scheme
3.1 Summary of cases from Affected Persons attending CAH1	The ExA introduced agenda item 3.1.
National Highways	<p>Claire Brodrick, on behalf of the Applicant explained that discussions are ongoing with National Highways (NH) regarding protective provisions.</p> <p>Ms Brodrick explained that the works that are undertaken in relation to the installation of the cable are dealt with under article 8 (Street works) in the draft DCO [EX3/GH3.1_C]. The Applicant asked NH to advise whether they would require a property agreement and NH confirmed that they do. The Applicant is more than happy to negotiate a deed of easement.</p> <p>Compulsory acquisition powers relating to the acquisition of rights have been omitted from the requirement for NH consent in the protective provisions due to the potential requirement for a deed of easement. The Applicant's position is that the compulsory acquisition powers in the DCO should apply to NH's land so as to avoid an impediment to the Scheme in the event that a voluntary agreement was not agreed. Therefore, the power to compulsorily acquire rights for the cable easement has been intentionally omitted from the provisions that require NH's consent to be exercised, pending a property agreement being entered into.</p> <p>In response to comments made by Ms Fowler on behalf of NH, Ms Brodrick explained that the rights are consistent across the cable route corridor. However, the Applicant can only exercise the powers that are actually required for the Scheme. The Applicant's position is that the use of compulsory acquisition powers in relation to the cable route would not cause any significant detriment to the carrying on of NH's undertaking due to the need to obtain technical approval for the works under the Protective Provisions.</p> <p>It was confirmed that discussions will continue between the Applicant and NH.</p>



Agenda Item	Comment
	<p>Ms Brodrick, on behalf of the Applicant confirmed that the Applicant would give some consideration to making specific provision for the rights required in relation to NH's land within Schedule 9 of the draft DCO [EX3/GH3.1_C].</p> <p>The ExA asked for an update to be provided at Deadline 4, following the meeting between solicitors for the Applicant and NH on the 16th December.</p>
Bernard Livesey	<p>In response to comments made by Mr Livesey relating to plot 14-195, Ms Brodrick, on behalf of the Applicant, explained by reference to the Land Plan Sheet 14 [CR1-004], that the land referred to is a section of road to the east of the cable route corridor. The cable corridor crosses the road, travelling to the south from plots 14-193 and 14-191 to plot 14-197. Flexibility is included for where the cable crosses the highway, which is why the blue area of plot 14-193 is wider than plot 14-197.</p> <p>The shaded yellow area, being plot 14-195, on Sheet 14 of the Land Plans relates to land that was added following consultation with the highway authority, due to further work being undertaken in relation to access points. Temporary possession powers are being sought over this land to allow for the cutting back of any vegetation required and for traffic regulation measures to be implemented to enable safe crossing and access to the site. Ms Brodrick explained that due to the land being a public highway there are two powers applicable to the land to ensure that the Applicant has ability to carry out the necessary works (being the streets powers in Part 3 of the draft DCO and the powers of temporary possession in Part 5 of the draft DCO [EX3/GH3.1_C]). Ms Brodrick clarified that the Applicant is not able to take possession of the highway land to do as it wishes. This is controlled by the management plans (that will be approved by the relevant planning authority in consultation with the highway authority) that apply in order to facilitate safe access to the site.</p> <p><i>Post hearing note: Please refer to the Outline Construction Traffic Management Plan Revision B [EX3/GH7.9_B], section 5, for the measures that will apply to ensure safe access to the Sites.</i></p>
Serien Partridge and Matthew Partridge	<p>In response to comments made by Ms Partridge and Mr Partridge, Ms Brodrick, on behalf of the Applicant, explained that in terms of specific mitigation measures the Applicant's ecologist was not available to provide a response at the hearing. It is the Applicant's position that the measures proposed are sufficient to avoid disruption to any badgers. Ms Brodrick noted that that the Applicant is aware that there is limited flexibility in this area regarding where the cable route can be located due to the presence of the existing overhead line and the woodland.</p> <p>Post hearing note: a summary document demonstrating how construction will take place in this location and avoiding the buffer zones from protected species will be provided at Deadline 4.</p> <p>Ms Brodrick apologised for any distress caused by the voluntary negotiations in relation to the land agreements. The Applicant remains keen to enter into any voluntary agreements with landowners affected by the cable corridor and those discussions are without prejudice to any position a landowner has in respect of the Scheme generally. Ms Brodrick explained that should the DCO be granted, the Applicant would like landowners to have the benefits contained in the voluntary agreements as opposed to relying on the compulsory acquisition powers.</p> <p>Ms Brodrick explained that the cable will be microsituated during the detailed design stage so the full 50 metre typical width of the cable route corridor may not be required. The Applicant will seek to arrange a discussion between the Applicant's ecologist and Mr Partridge.</p>
Shena Howell and Martin Howell	<p>In response to comments made by Ms Howell, Ms Brodrick, on behalf of the Applicant, explained the procedure relating to the inclusion compulsory acquisition powers in the DCO (as set out in the Statement of Reasons). Firstly, that the Applicant has entered into voluntary agreements for the BESS site and the substation. To ensure there is no impediment to delivery of the Scheme, the compulsory acquisition powers are included as a backup. When including powers to compulsory acquire land, the Applicant is required to identify the landowner and any other person who has a right in relation to the land, regardless of whether you are intending to interfere with any right that person might have. This similarly applies to National Grid land, and the Applicant is in discussions with National Grid in relation to this.</p> <p>Ms Brodrick explained that the DCO includes works to connect into the National Grid Substation at Grendon (this is the grey area on the land plan). The Applicant is seeking compulsory acquisition powers to acquire rights for the installation of the cables on the surrounding land. Compulsory acquisition powers are also being sought to deliver ecological mitigation measures. It is necessary for the Applicant to include the details of all those that have an interest in the land within the Scheme. The DCO includes the power to restrict and suspend private rights in order to facilitate the construction of the Scheme, for example where the cabling goes into the Grendon Substation. If the cable needs to cross a private right of way, the DCO allows for the continued use of that private right of way where this does not conflict with the Scheme. Use of the private right of way can continue during the operational phase of the Scheme. Plots 13-169 and 13-170 will be used for habitat mitigation areas. The proposed management of these plots allows for continued use of the private right of way.</p>



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	<p>Ms Brodrick explained that the 'extent of acquisition or use' in the Book of Reference is the power that may be exercised against the landowner. The provisions in relation to private rights are set out in article 25 of the Draft DCO Revision C [EX3/GH3.1_C], which states that it is only in so far as the exercise of any private rights are inconsistent with the powers, rights and requirements for the Scheme that they would be temporarily suspended.</p>
John Hope	<p>In response to comments made by Mr Hope, Ms Brodrick, on behalf of the Applicant, explained that whilst the general points he has made about the Scheme have been noted, this hearing specifically related to compulsory acquisition matters. The Outline Construction Environmental Management Plan [REP1-131] sets out the various measures and mitigation measures. The Outline Soil Management Plan [APP-550] sets out the strategy, approach, methodology and guidance of soil mitigation as part of the construction of the cable route corridor. In terms of the financial compensation during the construction period, the Applicant is trying to enter into voluntary agreements including any losses incurred during construction. However, if an agreement isn't entered into the compulsory acquisition powers provides for compensation as part of the compulsory purchase compensation code.</p> <p>Ms Brodrick noted that in terms of the voluntary agreements, the standard approach for nationally significant infrastructure projects is to agree the compensation for the rights as part of the negotiations. For example, there are payments made when signing an option agreement and that is standard across the DCO process. Ms Brodrick confirmed that the Applicant remains open to negotiations on the agreements.</p> <p>Post Hearing Note: <i>The Applicant has considered the concern regarding access to the fields being interrupted by cabling works. The trenching work affecting the field access from the road would take approximately 1-2 weeks to complete and during this time arrangements would be made to allow access by placing steel plates, that can accommodate agricultural vehicles, over the open trench. This is common practice where trenches cross single lane accesses to ensure access remains available to emergency vehicles. The Applicant will communicate the intended construction programme for the cable works with the landowner ahead of works taking place to reduce disruption.</i></p> <p><i>In respect of the comments made regarding an alternative route for the cable, the Applicant will provide a response at Deadline 4.</i></p>
Helen Elderkin	<p>In response to comments made by Ms Elderkin, Ms Brodrick, on behalf of the Applicant explained that this plot relates to access to the cable corridor. It is a public highway where the Applicant may require visibility splays to be put in place. The Applicant is required to include the land within the Book of Reference even if they are not intending to use the subsoil. The reason Ms Elderkin has been identified in relation to the highway is because the Applicant believes that the people that live in the properties adjacent to the road have rights to the subsoil up to the central point of the highway. Ms Brodrick confirmed that there is no intention to interfere with the subsoil rights in this location.</p> <p>Ms Brodrick explained that she did not have the specific transport measures to hand but the Applicant would follow up in the written summary explaining the suite of measures to manage traffic flows.</p> <p>Post Hearing Note: <i>Please refer to the Outline Construction Traffic Management Plan [EX3/GH7.9_B], section 5.7, for the measures that may be put in place to manage traffic flows close to access points for the Scheme.</i></p> <p>Ms Brodrick noted that there is a potential private right of way that Ms Elderkin has mentioned to the Applicant's land agent. It is unclear whether the private right of way is within in the Order Limits or not. It was confirmed that conversations would continue between the Applicant and Ms Elderkin.</p> <p>In response to comments regarding noise, Ms Brodrick, on behalf of the Applicant, confirmed that the Applicant would provide cross referencing to the details of the noise modelling. The Applicant will follow up with Ms Elderkin.</p> <p>Post Hearing Note: <i>Please refer to ES Chapter 14 Noise and Vibration [APP-051] and ES Technical Addendum Chapter 14 Noise and Vibration [REP1-168] for the Applicant's assessment of potential noise impacts from the BESS batteries and substation. The receptor for Ms Elderkins' address which has been assessed in the noise and vibration assessment, is BESS003, this is outlined in ES Figure 14.9 Sensitive Noise Receptors at Green Hill F and BESS [APP-457].</i></p>
3.2 Applicant's Land Rights negotiations update The applicant will be asked by the ExA to provide an update with respect to its land rights negotiations since its previous updates. The ExA will ask the applicant any questions it considers necessary.	<p>The ExA requested the Applicant provide an update in relation to its land rights negotiations.</p> <p>Julian Barter, on behalf of the Applicant, advised that there has been limited changes since Deadline 1. Heads of Terms are out for signing for nearly 50% of the cable route. There is ongoing engagement with a local agent, who has several clients on the cable route. The Applicant is working with the local agent to agree a standard set of Heads of Terms for his clients.</p> <p>The ExA asked where there were any updates in relation to Crown Land.</p>



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	<p>Ms Brodrick, on behalf of the Applicant confirmed that the Applicant is still waiting for a number of Crown bodies to confirm that they do have an interest in the Order land. The Applicant will continue to chase the relevant bodies for this confirmation. If the confirmation is provided, the Applicant will engage with them to obtain consent under section 135 of the Planning Act 2008 and hopes to do so before the end of examination.</p> <p>Ms Brodrick highlighted that the Applicant is aware that any section 135 consent is needed before the Secretary of State makes a decision. It was agreed that an update on s135 consents would be provided at Deadline 3.</p> <p>Post Hearing Note: <i>The Applicant is continuing to chase both the Department for Transport in respect of the BRB Residuary interest for a response and discussions are ongoing in respect of the subsoil interest of the Duchy of Lancaster and The Kexby Estate.</i></p>
4. Any Other Business	N/A