

Green Hill Solar Farm EN010170

Written Summary of the Applicant's Oral Submissions and Responses at Issue Specific Hearing 3 and Responses to Action Points

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 Issue Specific Hearing 3
and Responses to Action Points

Prepared by

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**1 Summary of Oral Submissions at Issue Specific Hearing 3**

Agenda Item	Comment
1. Welcome, introductions, arrangements for the Hearing	The ExA introduced the hearing and made some preliminary remarks.
2. Purpose of Issue Specific Hearing 3	<p>Purpose of the hearing is to address matters raised by the ExA following its consideration of the Development Consent Order.</p> <p>The following parties introduced themselves during ISH3:</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• Charlotte Astrella, Senior EIA Consultant at Lanpro• Lesley Giles, Project Development Manager at Island Green Power• Jane Chrichton, Associate Director at Lanpro <p>Milton Keynes City Council ("MKCC")</p> <ul style="list-style-type: none">• Elizabeth Verdegem, Team Leader, Development Management <p>North Northamptonshire Council ("NNC")</p> <ul style="list-style-type: none">• Gary Grant, Barrister at Kings Chambers• Nicola Thompson, Planning Consultant at North Northamptonshire Council• Lesley Roy, Principle Planning Solicitor at North Northamptonshire Council <p>West Northamptonshire Council ("WNC")</p> <ul style="list-style-type: none">• Nicky Scaife, Major Projects Team Lead• Ruth Burnham, Principal Flood and Coastal Consultant at Binnies <p>Other Stat/Non-stat body</p> <ul style="list-style-type: none">• Vicky Fowler, on behalf of National Highways ("NH") from Gowlings WLG• Philip Anthony, Stop Green Hill Solar• Shena Howell, Stop Green Hill Solar• Marion Turner-Hawes, on behalf of the Wellingborough Walks Action Group
3. Matters for discussion at this Hearing	
3.1. Introduction to agenda item 3	
3.1. Discussion of the draft Development Consent Order (dDCO), involving the applicant and other interested parties (IPs), including: The applicant to provide a brief explanation of its approach to the drafting of the dDCO [REP1-008] and the Explanatory Memorandum [REP1-010], and highlight any key changes made to the dDCO articles or schedules from the originally submitted version	<p>1.1 Alison Dablin, on behalf of the Applicant, explained that the Draft DCO [REP1-008] [CR1-014] has been drafted having regard to the Guidance on the context of a Development Consent Order required for a Nationally Significant Infrastructure Project issued by the Ministry of Housing, Communities and Local Government and the Department for Levelling Up, Housing and Communities, PINS' Advice Note Fifteen: drafting Development Consent Orders, and the practice and precedents established in other made DCOs, in particular solar DCOs (including those promoted by the Applicant), and other energy DCOs. Additionally, regard has been had to national policy including the designated National Policy Statements for energy (EN-1) and renewable energy infrastructure (EN-3).</p> <p>1.2 The draft Order is proposed to be called the Green Hill Solar Farm Order, and would confer development consent for the construction, maintenance, operation, use and decommissioning of the authorised development, which comprises the works described in Schedule 1.</p>



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Any local authority comments concerning the drafting of the proposed articles and schedules Any comments from other IPs concerning the drafting of the proposed articles and schedules Examining Authority's (ExA) questions with respect to the proposed articles and schedules	1.3 In the Order the Applicant is referred to as the "undertaker" and the Proposed Development is referred to as the "authorised development".
	1.4 The Order includes 49 articles, grouped into 6 Parts, and then 16 Schedules, which are given by effect, and tie into, the articles.
	1.5 The Explanatory Memorandum has been prepared to explain the purpose and effect of each article of, and the Schedules to, the Order, as required by the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations). It also explains why each article of, and Schedule to, the Order is required for the Scheme.
	1.6 KEY CHANGES
	1.7 Ms Dablin continued to explain the key changes made to the dDCO since the originally submitted version:
	1.7.1 Article 25 (private rights) – changes were made to clarify that the undertaker may, by providing positive notice, extinguish private rights. This amendment is consistent with the compensation provisions in (renumbered) paragraph (5) (considered to be clarification only) and reflects that there may be circumstances where the permanent acquisition or extinguishment of a private right is necessary. This approach is less onerous than the provisions contained in solar DCOs made to date which automatically extinguished all private rights where land was acquired unless notice to the contrary was given. The amendment to paragraph (5) confirms that compensation is available where private rights cease to have effect where they are inconsistent with the exercise of compulsory acquisition powers as well as in circumstances where private rights are extinguished.
	1.7.2 Article 39 has been relabelled as (Planning permission, etc).
	1.7.3 Article 39 has been broadened in Revision A of the dDCO. The article, as originally drafted, was based on a model provision which is included in numerous DCOs. Following the amendment, paragraph (2) reflects the original drafting and has the effect of ensuring that the land on which the Authorised Development is constructed will be "operational land" under section 264(3)(A) of the Town and Country Planning Act 1990 ("TCPA"). This change provides consistency between a development authorised by a DCO and a development authorised by a TCPA planning permission. Development authorised by a TCPA planning permission becomes operational land from date that the planning permission is granted.
	1.7.4 Drafting has been added in Revision A of the draft DCO to explicitly manage the potential for the authorised development to interact with planning permissions granted under the TCPA. This drafting is required to ensure that the authorised development does not extinguish existing planning permissions through the rationale set out by the Supreme Court in Hillside Parks Ltd v Snowdonia National Park (2022). It also ensures that the carrying out of the authorised development will not result in an enforceable breach of any planning condition in existing planning permissions. The full rationale for this drafting is set out in the Explanatory Memorandum [EX3/GH3.2_C].
	1.8 In response to comments made by Mr Grant, Counsel for North Northamptonshire Council, regarding Schedule 16, Claire Brodrick, on behalf of the Applicant confirmed that there is a cross-referencing error and paragraph 2(3) should refer to sub-paragraph (2). Ms Brodrick explained that Advice Note 15 provides a suggested period of 42 days / 6 weeks for planning authorities to consider applications for the discharge of Requirements. However, the Applicant would be happy to increase this period to 8 weeks.
	1.9 The Applicant notes that Nicky Scaife, on behalf of WNC, explained that WNC has similar concerns to that raised by NNC. Further adding that the offer of 8 weeks is appreciated, noting that sub-paragraph 2(c) provides for an agreement in writing to extend the time period.
	1.10 The Applicant also notes that Elizabeth Verdegem, on behalf of MKCC, agreed regarding appreciating the offer of 8 weeks. Ms Verdegem added concerns in relation to the deemed consent.
	1.11 Ms Brodrick, on behalf of the Applicant explained that the mechanism for the deemed consent is a bespoke procedure and is explained in the Explanatory Memorandum [REP1-010] [CR1-016] at section 5.16. Sub-paragraph 2(1) places a positive obligation on the Applicant to provide copies of the application documents to any of the consultees noted in the requirements.



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	<p>1.12 Ms Brodrick explained the reason for the deemed approval process is to ensure that the applications to discharge the Requirements are dealt with efficiently, ensuring that nationally significant infrastructure projects are not held up due to applications not being responded to. The Scheme will be working towards a fixed grid connection date which means there needs to be time limits imposed. The Applicant will have been working with the local planning authority ("LPA") in the lead up to submitting the application (typically under a planning performance agreement) and therefore the LPAs will be expecting to receive the applications. Further, when the Applicant submits their application, the LPA can either approve it, refuse it or ask for further information. If further information is requested, the clock stops on the time period. Once the information has been provided, the time period begins again, allowing time for consultation on the new information.</p>
	<p>1.13 Further, under sub-paragraph (4), the Applicant has an obligation to set out whether the subject matter of the application is likely to give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement. If there are materially new or materially different environmental effects, then if no response is received from the LPA, the application will be deemed refused. It is only where the application will not result in any difference to the environmental statement that it would be a deemed approval. The Applicant believes that the bespoke provisions provide sufficient protections, and the Secretary of State has agreed that this mechanism provides an appropriate balance in made DCOs.</p>
	<p>1.14 Post Hearing Note: Similar provisions can be seen in various made DCOs for solar projects, including in the Cleve Hill Solar Park Order 2020, the Longfield Solar Farm Order 2023, the Gate Burton Energy Park Order 2024, the West Burton Solar Project Order 2025, and the East Yorkshire Solar Farm Order 2025.</p>
	<p>1.15 In response to comments from Mr Grant on the need for consistency where Requirements would be discharged by multiple LPAs, Ms Brodrick explained that it is not uncommon for NSIPs to be located in the administrative areas of multiple LPAs and, depending on how much of the scheme is located in each LPA, this usually affects each LPAs involvement. The dDCO has been drafted on the basis that each LPA will discharge the Requirements in relation to their area. The reason for the reference to part of the authorised development, is to allow for the management plans to relate to the development of part of the Scheme. The works will be carried out by different contractors and will require different mitigation measures which may be finalised at different stages. The reference to "no part" allows for the management plans to deal with different elements of the Scheme. Ms Brodrick provided the example of the construction environmental management plan which may have detailed provisions in relation to the cable work installations that do not apply to the solar panel areas.</p>
	<p>1.16 This is reflective of the nature of how these large nationally significant infrastructure projects are constructed. All of the works will take place within the two year construction period, but the Applicant is not able to confirm whether there will be distinctive phases as that level of detail isn't available to the Applicant at this time. Ms Brodrick further added that it may be appropriate to have individual Landscape and Ecological Management Plans for each of the solar sites if the mitigation measures are bespoke to that location.</p>
	<p>1.17 Ms Brodrick agreed that the Applicant would consider whether there is any way of providing more certainty as to when the LPAs will receive the plans, such as an indicative timetable.</p>
	<p>1.18 Post Hearing Note: Additional drafting has been added to Requirement 2 to address this point. This drafting is consistent with the West Burton Solar Project Order 2025. Please see the response to Action Point 2, below.</p>
	<p>1.19 Ms Scaife, on behalf of WNC, raised whether there needs to be any wording / discussion regarding partial discharge of the application in relation to the drafting of "all parts of the application" in Schedule 16.</p>
	<p>1.20 Ms Brodrick, on behalf of the Applicant, confirmed that the Applicant would take another look at the drafting. Ms Brodrick explained that generally the provisions apply per Requirement and each individual document would constitute an application only in relation to that Requirement, even if multiple Requirements are referred to in the same covering letter. Further explaining that it is similar to how the fees are calculated in accordance with paragraph 5 of Schedule 16.</p>
	<p>1.21 Post Hearing Note: A clarification has been added into paragraph 1 of Schedule 16 to confirm that an application for the discharge of multiple Requirements is to be treated as though separate applications for discharge had been made. Please see the response to Action Point 3, below.</p>



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	<p>1.22 In response to comments made by Ruth Burnham, on behalf of WNC, in respect of Article 6(1)(a)-(c) and the disapplication of sections of the Land Drainage Act 1991, Ms Dablin, on behalf of the Applicant, explained that it is recognised that works might be required relating to ordinary watercourses. At present, such works would be covered by the outline Landscape and Ecological Management Plan (LEMP) [EX3/GH7.4_B]. The Applicant recognises that it is necessary to obtain the consent of the lead local flood authority to disapply the requirement to obtain an ordinary watercourse consent in the draft DCO. The Applicant would be happy to engage with the LPAs to discuss the measures in the oLEMP and understand if they would like to see any further measures (such as protective provisions) included in order to be content to agree to the DCO disapplying the requirement for ordinary watercourse consent. It was agreed that this would be taken away to be discussed further between the Applicant and the LPAs.</p> <p>1.23 In response to comments made by Vicky Fowler, on behalf of NH, relating to the Requirements, Ms Brodrick referred to the Applicant's comments set out in REP2-048. The Applicant maintains that it is not necessary to include National Highways as a consultee, except in relation to Requirement 16. The Applicant is happy to replicate Requirement 15(3) and add consultation with the relevant highway authority into Requirement 16. This will have the effect of requiring the LPA to consult with NH where relevant. It would also be for the Applicant to provide a copy of that document to NH, where it is the relevant highway authority, when the application to discharge the Requirement is submitted. Ms Brodrick explained that the Protective Provisions (PPs) provide significant control regarding works that directly affect the strategic road network.</p> <p>1.24 The Applicant notes that the ExA encouraged the Applicant and NH to continue the discussions separately to determine whether there are options to alleviate concerns.</p> <p>1.25 Ms Brodrick, on behalf of the Applicant, explained that for this Scheme the works relate to cabling underneath the strategic road network (SRN) rather than other works to the SRN. Therefore, for this particular project, the Applicant's position is that it is not proportionate for NH to be a consultee on the discharge of the majority of Requirements, given the interaction of this Scheme with the SRN. The Applicant and NH have a call next week and hope to progress discussions further.</p> <p>1.26 In response to comments made by Philip Anthony, on behalf of Stop Green Hill Solar, relating to the 60 year operational period, Ms Brodrick explained that this point had previously been discussed in ISH 1 and 2 (please refer to the Written Summary of the Applicant's Oral Submissions and Responses at Issue Specific Hearing 1 [REP1-162] and the Written Summary of the Applicant's Oral Submissions and Responses at Issue Specific Hearing 2 [EX3/GH8.1.20]). As the Applicant has previously set out, the typical operational period of 40 years is based on the current anticipated design life of a solar panel. However, it is becoming apparent that the panels might last longer. The Applicant wants to avoid a requirement to decommission panels that are still functional. Further, the Scheme provides for the replacement of the panels themselves. The replacement of panels has been assessed as part of the application and is justified on the basis of the great need for renewable energy. The renewable energy produced by the Scheme should not be curtailed to 40 years.</p> <p>1.27 Marion Turner-Hawes, on behalf of the Wellingborough Walks Action Group, raised concerns in relation to article 41 (trees subject to tree preservation orders) and the Applicant's commitments in relation to tree preservation orders ("TPOs").</p> <p>1.28 Ms Brodrick, on behalf of the Applicant, explained that DCOs are intended to include all consents necessary for the relevant scheme. The Applicant has reviewed the current TPOs and does not intend to remove any within the Order limits and this has been assessed under the environmental statement. However, if any new TPOs were to be granted after the DCO is made, the Applicant may require the power to remove the newly protected tree. Further sub-paragraph (2) provides for "no unnecessary damage" to be caused to the tree in question.</p> <p>1.29 The Applicant notes that Ms Turner-Hawes, on behalf of the Wellingborough Walks Action Group, further highlighted that residents may be considering applying for TPOs because of the Scheme.</p> <p>1.30 Ms Brodrick, on behalf of the Applicant, reiterated that the purpose of the power is to avoid the need for a further statutory consent to be obtained under a different consenting procedure. In the event that there was a new TPO, the removal of this tree would still need to be approved via a management plan.</p> <p>1.31 In response to comments made by Ms Turner-Hawes relating to the removal of hedgerows, Ms Brodrick explained that the purpose of the DCO regime is to bring together all of the consents required for a development. If the Applicant had to then apply for a different consent, this would be contrary to the principle of the DCO process. Due to the detailed design not having been determined, it is not possible to know</p>



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	<p>where exactly in the hedgerows the gaps are required. Therefore, the DCO needs to apply the power in respect of the entire hedgerow. However paragraph (4) of article 40 specifies that the power to remove hedgerows is only permitted to the extent that is set out in the management plan. This management plan is approved by the LPA. A failure to comply with a management plan is automatically a criminal offence. This applies to the Applicant and to anyone else who may subsequently own the Scheme.</p>
	<p>1.32 Ms Brodrick explained that the concerns raised by Ms Turner-Hawes will not occur because of the control mechanisms within the DCO. The Applicant has to tell the LPA if there are any material or new effects, and if there are and the LPA does not respond within the timeframe, consent is deemed to be refused. Ms Brodrick highlighted that similar concerns were raised by local people during the Cottam and West Burton examinations, and it was agreed by the SoS that the control methods adopted are appropriate.</p>
	<p>1.33 Ms Scaife, on behalf of WNC, queried whether there could be clarification in the drafting in relation to the removal of hedgerows, such as making it clear that the power was subject to a requirement or relevant schedule.</p>
	<p>1.34 Ms Brodrick explained that the drafting requirements are quite strict, but the Applicant will look into whether a footnote can be added.</p>
	<p>1.35 Post Hearing Note: The Applicant has added a footnote to each table in Schedule 12 to clarify that the extent to which each listed hedgerow may be removed is controlled by the LEMP. Please refer to the response to Action Point 4, below.</p>
	<p>1.36 ExA questions</p>
	<p>1.37 The ExA referred to the Tillbridge Solar Farm decision letter (of the 14 October 2025) in relation to article 22 (time limit for the exercise of authority to possess land temporarily or to acquire land compulsorily) the normal 5 year time period to serve notice to treat being adequate and no extension of time due to legal challenge. The ExA queried whether the Applicant had any views on drafting of article 22 and associated definition of applicable period in article 2(1) (interpretation) in light of this.</p>
	<p>1.38 Ms Brodrick explained that the Applicant's position is that there has been a misunderstanding by the Secretary of State on the justification behind the drafting. The intention was to make the time limits under the DCO process consistent with the time limits that apply where you are making a compulsory purchase order under the Acquisition of Land Act 1981. In light of the Tillbridge decision, the Applicant has been considering bolstering the justification in the Explanatory Memorandum. The reason for the drafting is that it stops the clock if someone tries to judicially review the decision to grant development consent. This is considered appropriate and necessary as the potentially long judicial review period could take up quite a substantial amount of the 5 year time frame to exercise compulsory acquisition powers.</p>
	<p>1.39 The ExA queried whether the Applicant has considered revisiting the definition of "authorised development" within the DCO, following the Tillbridge decision.</p>
	<p>1.40 Ms Brodrick, on behalf of the Applicant, explained that it has been noted that this change in drafting has been included in a number of recently drafted DCOs. It appears to be a statutory drafting change, which does not appear to make too much difference. The Applicant will consider this and may add into the next draft of the DCO.</p>
	<p>1.41 Post Hearing Note: The Applicant has amended the definition of "authorised development" to make express reference to the associated development described in Schedule 1.</p>
	<p>1.42 The ExA queried whether the Applicant intends to amend the definition of "maintain" in article 2(1) (interpretation) in light of the Tillbridge decision.</p>
	<p>1.43 Ms Dablin, on behalf of the Applicant, explained that the drafting of the definition of "maintain" is intentional and is consistent with statutory instrument drafting best practice. A definition should only define the term and should not contain an operational provision. The constraint on what "maintain" can mean is set out in article 5(3) (power to maintain authorised development) which confirms that the power to maintain the authorised development does not authorise the carrying out of maintenance which is likely to give rise to any materially new or materially different environmental effects in comparison to those in the environmental statement. This is considered to be consistent with best drafting practice and will be maintained.</p>



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	<p>1.44 The ExA raised that article 16(4) (traffic regulation measures) requires consent from the traffic authority in relation to traffic regulation measures but is only required to consult the chief officer of police. The ExA queried whether this is the common approach and would it be appropriate to require consent from the chief officer of police, further has the Applicant had any discussions with the police on the matter.</p> <p>1.45 Ms Dablin, on behalf of the Applicant, explained that the Applicant believes the approach taken is consistent with the approach under wider highways law.</p> <p>1.46 The ExA queried whether there should be a standalone Requirement for an operational waste management plan or equivalent within Schedule 2 (Requirements).</p> <p>1.47 Ms Brodrick, on behalf of the Applicant agreed to check but believes waste during the operational phase forms part of the operational environmental management plan.</p> <p>1.48 The ExA, responded raising examples of Byers Gill and Tillbridge Solar Farm which have included a separate standalone requirement around waste and Cleve Hill and Cottam where waste is specifically referred to under the operational environmental management plan requirement. The ExA queried would the waste not be significant enough of an issue to warrant its own plan.</p> <p>1.49 Ms Brodrick, on behalf of the Applicant explained that sometimes a separate plan is added because the waste planning authority is a different authority. For this Scheme it is the same body that is the waste planning authority as is relevant planning authority responsible for approving the detailed operational environmental management plan. The Applicant will consider whether there is further wording that can be added into the outline OEMP [REP1-131], rather than a standalone Requirement.</p> <p>1.50 The ExA raised that Requirement 4 (community liaison group), as currently drafted specifies that the community liaison group must be established prior to commencement of development. The ExA queried whether there would be benefit to committing to establishing this group at an earlier defined point.</p> <p>1.51 Ms Brodrick, on behalf of the Applicant, confirmed that the Applicant would take the point away and consider it, highlighting that DCO requirements do have triggers either on commencement, prior to commencement or even could be triggered by permitted preliminary works. The Applicant will consider this point further.</p> <p>1.52 Post Hearing Note: Please refer to the response to Action Point 12 below.</p> <p>1.53 The ExA turned to Requirement 5(4) (detailed design approval), querying whether Work Number 6 should be included given that there are concept design parameters and principles set out in the latest version [REP1-151] for those components of the Scheme. The ExA acknowledged that Requirement 10 secures fencing and other sorts of enclosure but believes that there are other matters covered by the concept design parameters and principles in relation to Work Number 6 that perhaps don't appear secured under Requirement 5 as currently drafted. The ExA specifically made reference to CCTV columns and lighting.</p> <p>1.54 Ms Brodrick, on behalf of the Applicant, explained that the reason the Requirement does not specifically refer to Work Number 6 is because each of the elements in Work Number 6 is secured under different management plans. This approach is consistent with other DCOs. Ms Brodrick confirmed that the Applicant would provide signposting to where the design parameters are secured.</p> <p>1.55 The ExA, regarding Requirement 6, queried whether the Health and Safety Executive should be added to the list of consultees for the battery storage safety management plan.</p> <p>1.56 Ms Dablin, on behalf of the Applicant, explained that the Applicant believes there has been a request in the past from the Health and Safety Executive that they are not consulted. Ms Dablin confirmed that the Applicant will take this point away to confirm. Ms Dablin also referred back to oral submissions made in ISH2 in relation to battery safety and in the unlikely event that there are chemicals that meet the thresholds requiring a hazardous substance consent then the regime would be triggered.</p> <p>Post Hearing Note: Please see the response to Action Point 14, below.</p>



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	<p>1.57 In relation to Requirement 9 (biodiversity net gain), the ExA raised the upcoming mandatory BNG requirement, highlighting that they were aware of the Applicant's response in [REP2-049] and that specific figures over 10% net gain cannot be committed to yet. The ExA queried whether the Applicant could commit to a higher percentage for area-based habitat units at this point.</p> <p>1.58 Ms Brodrick, on behalf of the Applicant, confirmed that the Applicant notes the point in respect of habitat units. Ms Brodrick noted that the Applicant is aware that the Secretary of State has decided to impose higher figures in respect of recently granted DCOs. Ms Brodrick explained that any higher figure would need to include a buffer allowance in case the metrics changed based on detailed design. Further adding that the actual measures being proposed in terms of habitat creation are secured as part of the LEMP, therefore the actual delivery of those measures being provided by the Scheme are secured in any event. Ms Brodrick highlighted that this is a separate question as to whether those measures will be capable of constituting BNG units.</p> <p>1.59 The Applicant notes that Ms Scaife, on behalf of WNC, explained that discussions are ongoing as part of the SOCG in relation to BNG.</p> <p>1.60 Mr Grant, on behalf of NNC, flagged that there is different wording in relation to the approval by the relevant planning authority providing examples Requirement 9 and Requirement 10(2) and queried why the approach is not consistent throughout the Requirements.</p> <p>1.61 The ExA also raised – in reference to the Tillbridge Solar decision – that the Secretary of State added Natural England as a consultee within a number of requirements, querying whether the Applicant considers that the reference to consultation with the statutory nature conservation body might need to be added to requirements 12, 14, 19 and / or 21.</p> <p>1.62 Ms Brodrick, on behalf of the Applicant, explained her understanding was that the Applicant had included the statutory nature conservation body in respect of the Requirements they had asked to be consulted on. The Applicant will confirm for certain in relation to this point.</p> <p>1.63 Further in response to Mr Grant's question, Ms Brodrick confirmed that a review will be undertaken of the wording of the Requirements in relation to multiple planning authorities and if a different approach has been taken intentionally, justification will be provided.</p> <p>1.64 Post Hearing Note: <i>The Applicant has amended Schedule 2 in Revision C of the draft DCO [EX3/GH3.1_C] to ensure the approach to multiple relevant planning authorities is consistent.</i></p>
<p>3.2. Update with respect to the protective provisions included in schedule 15 of the dDCO</p> <p>The applicant will be asked by the ExA to provide an update on the negotiations concerning protective provisions.</p> <p>Any comments from IPs attending ISH3 concerning protective provisions</p> <p>Any ExA questions concerning protective provisions.</p>	<p>The ExA requested that the Applicant provide an update on negotiations concerning Protective Provisions (PPs).</p> <p>Ms Dablin, on behalf of the Applicant, explained that the Environment Agency has requested further details about the proposed locations and the nature of the proposed flood risk activities. The Applicant understands that this is needed for the Environment Agency to agree to the disapplication of the requirement for a flood risk activity permit in article 6(1)(e) of the draft DCO [REP1-008]. This information has been shared with the Environment Agency by email on 9 December 2025 and is currently being reviewed by its technical team.</p> <p>The PPs included in the draft DCO include minor amendments to the standard form of PPs requested by the Environment Agency, primarily to remove references to tidal defences that are not relevant to the Scheme. The Applicant understands that the PPs provide the Environment Agency with the assurances necessary to be confident that the requirement for a FRAP may be disapplied by the DCO, and the Applicant therefore expects to discuss and agree the detail of these amendments once the flood risk activity information has been reviewed by the Environment Agency. The Applicant is confident that agreement on the form of PPs will be reached before the end of Examination.</p> <p>Regarding National Highways (NH), as confirmed in ISH2, all technical matters have now been agreed between the Applicant and NH.</p> <p>The Applicant remains in discussions with NH in relation to the form of PPs. By way of update, the Applicant received a mark up of the latest draft PPs from NH on 2 December 2025. A meeting has been arranged with solicitors for NH on 16 December 2025 to discuss the remaining areas of disagreement. The Applicant remains confident that agreement as to the form of PPs will be reached before the end of Examination.</p> <p>In relation to NGET, the Applicant and NGET have agreed the approach to be taken in relation to an agreement and PPs for existing NGET infrastructure.</p> <p>NGET are proposing two projects that include future works at or near the Grendon Substation – the Weston Marsh to East Lincolnshire Project and the Sundon to Grendon Reconductoring Project. The Applicant is seeking further technical information from NGET to understand how these projects will interact with the Scheme, which will help to inform discussions on how the PPs will be drafted to provide the necessary protections for</p>



Agenda Item	Comment
	<p>NGET's future projects and certainty for the Scheme. The Applicant is confident that an agreement will be reached with NGET before the end of Examination.</p> <p>Ms Dablin explained that the Applicant has received data from NGED as to the location of its assets. This data has informed a number of amendments to the Book of Reference to be submitted at Deadline 3 [EX3/GH4.3_D].</p> <p>A markup of the PPs and a draft side agreement have been received from NGED. The Applicant is currently reviewing these and will shortly be providing comments to NGED. The Applicant is confident that an agreement will be entered into before the end of Examination.</p> <p>The ExA queried in relation to the changes to the Book of Reference and the NGED assets, were they new assets or were they originally attributed to NGET. Ms Dablin, on behalf of the Applicant, confirmed that her understanding was that the assets had been identified incorrectly as belong to National Grid Electricity Transmission and have been reallocated to National Grid Electricity Distribution.</p> <p>Ms Dablin, on behalf of the Applicant, continued to provide an update on the PPs in respect of Anglian Water. The Applicant has received confirmation of Anglian Water's agreement to the form of PPs that were included in Revision A of the dDCO [REP1-008]. Confirmation of this will be provided in the next iteration of the Statement of Common Ground with Anglian Water.</p> <p>Finally, in relation to Cadent Gas, the Applicant has not had any contact from Cadent Gas Limited. The Applicant will continue to seek confirmation from Cadent that it is content with the form of PPs included in the draft DCO.</p> <p>In response to comments made by Ms Fowler, on behalf of NH, Ms Brodrick, on behalf of the Applicant, advised in relation to discussions with NH that, as Deadline 3 was only a week away, the Applicant would try to incorporate the provisions that are agreed in the meeting (on the 16 December 2025) but that it may be they are included in the Deadline 4 revision of the draft DCO.</p> <p>1.65 Post Hearing Note: <i>The Applicant and NH discussed the PPs on a call on 16 December 2025 and there is an action for the Applicant to update the PPs and circulate to NH for comment prior to Deadline 4. Any agreed amendments to the PPs for the benefit of NH will therefore be made to the draft DCO submitted at Deadline 4.</i></p> <p>The ExA queried, given the lack of contact with Cadent Gas, why they are not satisfactorily covered by Part 1 of Schedule 15, for the protection of utility undertakers.</p> <p>Ms Brodrick, on behalf of the Applicant, explained that in her experience on other DCOs, Cadent typically request bespoke PPs that include measures similar to those included in Part 8 of Schedule 15, so the Applicant has proactively included these.</p> <p>The ExA raised that Cadent Gas is the only body not specifically referred to in section 5.15 of the Explanatory Memorandum. Ms Brodrick, on behalf of the Applicant, agreed to review this omission and update the Explanatory Memorandum accordingly.</p>
4. Any Other Business	



2 List of Actions for the Applicant and Other Parties following Issue Specific Hearing 3

No.	Responsible Party	Action	Submission Deadline	Applicant's Response / Commentary
1	Applicant	To amend in Schedule 16 the period for the relevant planning authority to determine and application for discharge of a requirement to 8 weeks	D3	This change has been made in Revision C of the draft DCO [EX3/GH3.1_C].
2	Applicant	To consider if more certainty can be provided to the host authorities for when applications to discharge requirements are likely to be made	D4	Requirement 2 has been amended to require the Applicant to submit a written scheme setting out the phase or phases of construction of the authorised development to the relevant planning authorities, including a timetable. This will enable the host authorities to better understand when the Applicant will be applying to discharge each Requirement. The drafting has precedent in the West Burton Solar Project Order 2025.
3	Applicant	To consider if it is sufficiently clear that each application to discharge a requirement is individual, even if more than one application is made at the same time	D4	Paragraph 1 of Schedule 16 has been updated to add sub-paragraph (2), which clarifies that, should an application be made for more than one discharge, this must be treated as one application per discharge. This change has been made in Revision C of the draft DCO [EX3/GH3.1_C].
4	Applicant, NNC, WNC, and MKCC in their capacity as lead local flood authorities	The applicant and the host authorities to discuss the mitigation relating to ordinary watercourses and confirm if anything further is needed to agree to the disapplication of provisions of the Land Drainage Act 1991	D4	The Applicant has contacted the three Host Authorities to arrange meetings with the LLFA representatives. This is likely to take place in early January.



5	Applicant	To amend requirement 16 (Operational Traffic Management Plan) to include consultation with the relevant highway authority	D3	This change has been made in Revision C of the draft DCO [EX3/GH3.1_C].
6	Applicant	To consider if a clarification may be added into Schedule 12 to refer to the mechanism for controlling the extent of hedgerow removal	D4	A table footnote has been added to each table within Schedule 12 which explains that the extent to which each hedgerow will be removed is controlled by article 40(4) and the landscape and ecological management plan. This change has been made in Revision C of the draft DCO [EX3/GH3.1_C].
7	Applicant	Review and update the Explanatory Memorandum to provide greater clarity in relation to the time limit for the exercise of compulsory acquisition powers	D4	The Explanatory Memorandum [EX3/GH3.2_C] has been updated to provide a clearer explanation for the drafting in article 22 in paragraphs 4.5.4 and 4.5.5.
8	Applicant	Review and update the Explanatory Memorandum to refer to the protective provisions for Cadent Gas	D4	The Explanatory Memorandum [EX3/GH3.2_C] has been updated to include reference to the protective provisions of Cadent Gas in paragraph 5.15.1.
9	Applicant	To consider whether the definition of “authorised development” used in the Tillbridge Solar Order 2025 should be adopted in article 2	D3	The Applicant has amended the definition of “authorised development” to make express reference to the associated development described in Schedule 1. The definition is now consistent with that used in the Tillbridge Solar Order 2025. This change has been made in Revision C of the draft DCO [EX3/GH3.1_C].
10	Applicant	To confirm if the drafting in article 16(4) of the draft DCO is standard and reflects wider highways legislation	D3	The Applicant confirms that the drafting of article 16(4) is consistent with the approach taken in wider highways law. By way of an example, paragraph 4 of the Highways (Traffic Calming) Regulations 1999 provides that the highway authority proposing to



				construct traffic calming work in the highway must “consult with the chief officer of police for the area in which the highway is situated”.
11	Applicant	To clarify the approach to waste strategy in the outline Operational Environmental Management Plan	D4	The Applicant will consider whether there is further wording that can be added into the outline OEMP [REP1-131] , rather than a standalone Requirement.
12	Applicant	To consider if the Community Liaison Group should be established earlier than commencement of the authorised development, and how this may be secured	D4	The Requirements in Schedule 2 are required to mitigate planning harms that would otherwise be caused by the Scheme. Before the authorised development is commenced, activities are limited to only the permitted preliminary works. By their nature, the permitted preliminary works do not give rise to any planning harm that may need to be addressed by the Community Liaison Group. It is noted, however, that whilst the Requirement stipulates that the Community Liaison Group must be established prior to commencement of the authorised development, there is nothing that would restrict or preclude the Applicant from establishing the Community Liaison Group earlier.
13	Applicant	To signpost where each element of work no. 6 is secured for approval under the requirements	D4	The Applicant will provide a signposting document at Deadline 4.
14	Applicant	To confirm the reason why the Health and Safety Executive is not a required consultee on the Battery Storage Safety Management Plan	D3	The Applicant confirms that it is not intended to include the Health and Safety Executive as a consultee on the detailed Battery Storage Safety Management Plan. The Health and Safety Executive would be responsible for providing an approval in the event the BESS exceeded the thresholds for hazardous substances such that a Hazardous Substances Consent (HSC) were required. It is not anticipated that the BESS will require a HSC; however the draft DCO does not seek to disapply this regime and, as confirmed in the Consents and Agreements Position Statement, a HSC would be applied for if required.



				<p>It is noted that, on the Sunnica Energy Farm Project, the Health and Safety Executive confirmed (see [REP7-112] on that project) that it did not wish to be listed as a required consultee on the Battery Safety Management Plan, stating:</p> <p><i>“There is no statutory requirement to consult HSE in relation to a Battery Safety Management Plan (BSMP) and HSE does not provide comment on them. HSE ask that Requirement 7 and any other references to HSE consultation/approval of the BSMP are removed from the Development Consent Order.</i></p> <p><i>HSE has contacted the Planning Inspectorate to make them aware of this and will also contact the Developer and the Department for Levelling up, Housing and Communities in due course.</i></p> <p><i>HSE is a consultation body, for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and section 42 of the Planning Act 2008 (PA2008), providing public safety advice in respect of proposed NSIPs. HSE’s role as a statutory consultee in the planning process is set out on the Planning Inspectorate website. HSE has agreed with the Planning Inspectorate that Advice Note 11 annex G will be amended to further clarify the position regarding BSMP.”</i></p> <p>The HSE also commented on the Cottam Solar Project (see [REP4-078] on that project), requesting that it is removed as a consultee under the relevant Requirement, and stated:</p> <p><i>“HSE’s letter of the 10 August 2023 gave an in-depth explanation that HSE does not provide comment on BSMPs, as it is not part of our planning functions and we do not have the technical capacity to undertake them.”</i></p> <p>The Applicant also notes the response from the UK Health Security Agency (UKHSA) to a written question on the One Earth Solar Farm project (see [REP6-076] on that project). The UKHSA has a</p>
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				<p>role in protecting from environmental hazards and external health threats. In its response, the UKHSA confirmed:</p> <p><i>“We note the concerns raised about risks posed to surface waters and groundwater from any uncontrolled emissions from a fire involving a battery energy storage system (BESS). We would recommend that any questions of this nature are addressed to the Environment Agency in respect of controlled waters; Anglian Water in respect of its assets; and Lincolnshire Fire and Rescue Service in respect of the proposed fire-fighting process and measures to contain and manage any fire-water runoff.”</i></p> <p>Requirement 6 requires that the relevant planning authority consult with both the Northamptonshire Fire and Rescue Service and the Environment Agency before approving the detailed battery storage safety management plan. It is also noted that it remains open to the relevant planning authority to consult with any other bodies as it sees fit, and is not limited by to the bodies prescribed by the Requirement. The Applicant is therefore confident that the draft DCO secures that all relevant and appropriate bodies will be consulted on the detailed plan prior to its approval.</p>
15	Applicant	To consider if requirement 9 (Biodiversity Net Gain) should secure a greater than 10% gain in habitat units	D4	The Applicant is currently considering this and will provide an update at Deadline 4.
16	Applicant and Natural England	To confirm that Natural England is listed as a consultee for all appropriate requirements	D4	The Applicant is seeking confirmation with Natural England and will provide a response at Deadline 4.
17	Applicant	To review whether reference should be approval being made by multiple relevant planning	D4	This review has been undertaken and the changes are reflected in Revision C of the draft DCO [EX3/GH3.1_C] .



		authorities, where relevant, in each requirement		
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