

LIGHT VALLEY SOLAR DEVELOPMENT CONSENT ORDER

Planning Inspectorate reference EN0110012

Deadline 3 Submission of Mrs Annette Exley

Interested Party. Written Representation at Deadline 1: [REP1-032]

6 October 2026

1. INTRODUCTION AND SCOPE

1.1 This submission is made at Deadline 3. It has two parts.

1.2 **Part A** responds to numbered questions in the Examining Authority's first written questions [PD-008]. ExQ1 states that a question being directed to another party "does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests". The questions answered are relevant to the interests set out in [REP1-032].

1.3 **Part B** comments, as an interested party, on matters the Examining Authority's questions do not reach. The Rule 17 request of 7 September 2026 [PD-007] expressly stated that "other interested parties may wish to respond to this request", and Part B includes comment on the Applicant's Rule 17 responses and on the Notification of Intention to Submit a Change Application of 25 September 2026.

1.4 **Part C** is a request to be heard.

1.5 **Part D** sets out corrections and concessions. **Part E** is a declaration of the use of artificial intelligence in preparing this submission.

1.6 Each point is marked with an evidential tier: **[DF]** Documented Fact, **[OP]** Observed Pattern, **[RI]** Reasonable Inference, **[NP]** Not Proven. I ask the Examining Authority to give weight accordingly. I am not legally qualified and nothing here is advanced as legal advice.

PART A: RESPONSES TO EXQ1

Q1.2.2 – Maximum parameters: conversion units and switchrooms

A.1 **[DF]** The Design Parameters and Commitments document [REP2-021] contains the finished floor level rule verbatim four times — for the 33 kV switch rooms, the integrated conversion units, the disaggregated conversion units, and (as "the minimum FFL of all equipment including transformers and switchgear") the onsite substations:

"The minimum Finished Floor Level (FFL) would be set to the design event flood level plus 0.3 m freeboard or the credible maximum scenario flood level, whichever is greater. In the event voided structures are used, freeboard will be a minimum of 600 mm."

A.2 **[DF]** The draft Order [REP2-004] does not. The words "freeboard" and "finished floor" appear nowhere in it — not in any of the Requirements in Schedule 2, and not in any article.

A.3 **[DF]** Requirement 4(1) lists the details to be submitted and approved for Work Nos. 1, 2 and 3: "(a) the layout; (b) scale; (c) proposed finished ground levels; (d) external appearances; (e) hard surfacing materials; and (f) vehicular and pedestrian access, parking and circulation areas". Finished floor level and freeboard are not among them. Requirement 4(2) requires the details submitted to accord with the Design Parameters document. Requirement 4(3) requires each part of the authorised development to be carried out "in accordance with the approved details for that part".

A.4 **[DF]** Requirement 4(4) provides that "Work No. 5 must be carried out in accordance with the design parameters and commitments document". Work No. 5 is the cable route: the Design Parameters document defines it at paragraph 2.6.1 as "works in connection with electrical and communication cabling comprising works to lay electrical cables up to 275 kV".

A.5 **[RI]** Requirement 4(2) requires the details submitted under Requirement 4(1) to accord with the Design Parameters document. But Requirement 4(1) does not require finished floor level or freeboard to be among the details submitted. If that is right, there is nothing on which accordance with the finished floor level rule falls to be

tested when details for Work Nos. 1, 2 and 3 are approved, and nothing against which compliance with it could afterwards be enforced under Requirement 4(3). The only numbered Work the Order requires to be carried out in accordance with the Design Parameters document as such is Work No. 5, the cable route — the one Work on which no conversion unit, switch room or substation stands.

A.5A I may be wrong about the legal effect of Requirement 4 and I invite correction. The question I ask the Examining Authority to put is a short one: **by what mechanism is the finished floor level rule enforceable in respect of Work Nos. 1, 2 and 3, and how would compliance with it be checked?**

A.6 **[DF]** The Flood Risk Assessment [REP2-079] asserts at paragraph 8.1.7 that "the resulting infrastructure heights have been assessed to remain within the maximum development heights reported in Section 4.2 and secured by the Design Parameters". That is the proposition the Examining Authority is testing at Q1.2.2. It is asserted, not demonstrated, and the Design Parameters document does not state whether the maximum heights are inclusive of or additional to plinth, foundation, finished floor level and freeboard.

A.7 **[DF]** Paragraph 8.1.10 of the Flood Risk Assessment states that the levels in Table 8-1 "are indicative and based on the current illustrative locations of the flood-sensitive assets. There is no single FFL applicable to all elements of the Proposed Development. Final FFLs will be confirmed during detailed design, taking account of the final siting within the limits of deviation on the Works Plans". The levels are therefore capable of changing with the final siting, and nothing in the Order fixes them.

A.8 I respectfully invite the Examining Authority, in addition to the updates it has already required of the Applicant, to consider whether Requirement 4 should be amended so that Work Nos. 1, 2 and 3 are required to be carried out in accordance with the Design Parameters and Commitments document in the same terms as Work No. 5, and whether finished floor level and freeboard should be added to the details listed at Requirement 4(1).

Q1.3.1 — Need for the proposed battery energy storage system

A.9 **[DF]** The Other Consents and Licences Statement [APP-215] records, at Table 2-1:

"The connection for the solar component of the Proposed Development **secured a Gate 2 Phase 1 prioritisation** in December 2025 (i.e. in 2030 or earlier). The BESS component of the Proposed Development **holds a Gate 1 connection offer**, the indicative connection date of which has not yet been confirmed. A Gate 2 offer is a firm offer for the connection of a specified MW capacity at a specified location **by a specified date**."

A.10 **[DF]** The verbs differ, and the difference is the Applicant's own. The solar component is said to have "secured a ... prioritisation". The BESS component is said to "hold ... a connection offer". A prioritisation is a position in the reformed queue. It is not a connection offer, and it is not an executed connection agreement.

A.11 **[RI]** On published commentary on the National Energy System Operator's connections reform timetable, the December 2025 announcement was the outcome of the queue assessment, and Gate 2 offers were issued afterwards — Gate 2 Phase 1 transmission offers being scheduled for issue between mid-May and mid-September 2026, with a standard acceptance window of 90 calendar days. I rely on published commentary rather than on a document of the National Energy System Operator, and I invite correction if the timetable has moved. If it is broadly right, both the issue of any Gate 2 offer for this connection and the deadline for accepting it fall **within this Examination**.

A.12 **[RI]** That timetable is context, and the following point does not depend on it. Either the Applicant now holds a Gate 2 offer, which on its own definition specifies a connection date — in which case that date has not been disclosed to this Examination. Or it does not, in which case the only connection instruments disclosed are a Bilateral Connection Agreement of December 2021 made under a superseded regime and a queue prioritisation. The Examination has not been told which, and I do not assert which it is.

A.13 **[DF]** The connection date contracted under the December 2021 agreement is not stated in the Grid Connection Statement, not stated in [APP-215], and not stated anywhere else I have been able to locate in the application documents.

A.14 **[DF]** The Applicant's own programme does not support an early connection in any event. ES Volume 1 Chapter 15 [REP2-043], at Table 15-21, assesses cumulative effects on the basis of "a **2028 project start date**", with Solar Development Site 3 "planned to start construction **24 months after**" it.

A.15 **[DF]** The battery energy storage system holds a Gate 1 offer with no confirmed indicative connection date, as the Examining Authority's question records and as section 3.7 of the Statement of Need [APP-214] is said to state. I have not read the open letter of 16 April 2026 and rely on the Examining Authority's account of it. On that account the figures given — 14.8 GW above the top of the Clean Power 2030 Action Plan battery capacity range for 2030, and 61.7 GW above projected battery system need in 2035 — are the position **after** the reforms process. **[RI]** If that is right, the surplus identified is what remains once the queue has been filtered for readiness and deliverability. It is

not a backlog that further filtering will remove.

A.16 I invite the Examining Authority to require the Applicant to state, and to produce the documents evidencing:

(a) the connection date contracted under the December 2021 Bilateral Connection Agreement, and whether that date has now passed;

(b) whether a Gate 2 offer has been issued for the solar component, on what date, what connection date it specifies, whether it has been accepted, and by what date it must be accepted;

(c) the current position on the battery energy storage system's Gate 1 offer, and when the Applicant expects an indicative connection date to be confirmed; and

(d) whether the Applicant would still pursue the Proposed Development if the battery energy storage system did not proceed.

Q1.15.2 – Panel lower edge, freeboard and the design event

A.17 **[DF]** Table 8-1 of the Flood Risk Assessment discloses, for the first time in the application documents, the inputs to the finished floor levels:

Site	Element	Design flood depth	Credible maximum	Minimum FFL
1	2 no. ICUs	+0.5 m	+1.000 m	+1.000 m
3	1 no. ICU	+0	+0.070 m	+0.300 m
4	Several ICUs	+0	+0.660 m	+0.660 m
4	275 kV substation	+0	+0.386 m	+0.386 m

A.18 **[DF]** The anticipated maximum flood depth above ground level at the Solar Development Site 1 conversion units in the **design event** is **+0.5 m**. That figure appears nowhere in ES Volume 1 Chapter 15 [REP2-043], nowhere in Figure 15.27 [AS-041], and nowhere in the Applicant's response at [AS-040].

A.19 **[DF]** Paragraph 8.1.9 of the Flood Risk Assessment states that panels within the design flood extent at Site 1 "will be raised above the modelled design flood level in the corresponding location in accordance with the applicable freeboard parameters or, **where this is not practical**, panel layouts will be refined to avoid flood-affected areas". The same qualification appears on sheet 1 of Figure 15.27. I invite the Examining Authority to consider what secures either limb of that alternative.

Q1.15.17(d) – Bank-top offset and construction works

A.20 **[DF]** This is the question to which the most significant unresolved matter in the water environment evidence attaches.

A.21 **[DF]** In consultation on ES Chapter 15, the Environment Agency said:

"It is unclear whether mitigation will be applied for construction activities within the floodplain, such as storing spoil from trenching for the cable corridor. This creates a risk of increasing flood risk during construction. A sequential approach should be taken, ensuring spoil is placed **outside the functional floodplain** and Flood Zone 3 wherever possible."

A.22 **[DF]** The Applicant's answer, in the same chapter, is that the Flood Risk Assessment "includes measures such as the storage of spoil outside of Flood Zone 3 **where practicable**".

A.23 **[DF]** Annex H of the Flood Risk Assessment is to the same effect. At H.2.39 construction compound siting will be adjusted "**where feasible**". At H.2.40 the Applicant contemplates the position "**where it is not feasible to avoid the floodplain entirely**".

A.24 **[DF]** The Applicant's principal answer on functional floodplain — that the cable will be below ground and will not displace storage or impede flows — addresses **permanent** works only. It does not address construction-phase spoil, compounds, fuel stores, or horizontal directional drilling entry and exit pits, which are precisely what the Environment Agency asked about and what Q1.15.17(d) asks about.

A.25 I invite the Examining Authority to require that any construction-phase commitment to keep spoil and compounds out of the functional floodplain be expressed without the qualifications "where practicable" and "where feasible", and be secured in a Requirement.

Q1.17.6 – Book of Reference and potentially missing affected persons

A.26 **[DF]** The Applicant's Notification of Intention to Submit a Change Application of 25 September 2026 records at paragraph 3.1.7 that, of 103 parties with a legal right or interest in the land affected by the proposed changes, 97 are in the Book of Reference, **four are newly identified and not in it**, and **two are "entirely new to the Project and have not previously been part of any land referencing exercise"**.

A.27 **[DF]** That disclosure post-dates ExQ1 by three days and is directly responsive to this question.

A.28 **[DF]** The Technical Note at [AS-039] records three entries in the Book of Reference where the party is shown as "Unknown" with the notification type "None: No address and Category 2 interest" — at plots 05-048, 06-002 and 06-004; plots 21-031 to 21-040b; and plots 20-029, 20-031, 20-034 and 20-035. **[RI]** On its face that discloses Category 2 interests which have been neither identified nor notified. The table does not record what steps, if any, were taken, and I do not assert that none were. I invite the Examining Authority to require the Applicant to confirm the identification and notification position for each of those plots.

Q1.17.7 — Funding

A.29 I adopt the Examining Authority's question. I add only that the Funding Statement [APP-021] has not been revised since 10 February 2026, through two rounds of deadlines and a Rule 17 request **[DF]**, and that the Applicant has now undertaken to produce an updated Funding Statement in support of its Change Application in order to comply with Regulation 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 **[DF]**. I invite the Examining Authority to require that the updated statement answer Q1.17.7 in full rather than address the change land alone.

Q1.16.21 — Article 17 and harbour authorities

A.30 I support the Examining Authority's question and invite it to be read with Part B, section B.6 below. The absence of any provision for a harbour authority is one of two regimes applying to the River Ouse that the draft Order does not address.

PART B: COMMENTS AS AN INTERESTED PARTY

B.1 Functional floodplain: an unreconciled change of position

B.1.1 **[DF]** ES Volume 1 Chapter 15, Version 2, September 2026 [REP2-043], answering the Planning Inspectorate's scoping advice at ID 3.15.3 — which advised that the Environmental Statement "should be able to differentiate between the extents of Flood Zone 3a and 3b" — states:

"Clear documentation and assessment of impact on flood storage, including reference to breakdown of FZ3 into 3a and 3b, is provided in Section 15.7.59. **None of the areas assessed are within FZ3b.**"

B.1.2 **[DF]** The Applicant's Rule 17 response [AS-040], published 15 September 2026, states:

"The only element of the Proposed Development considered to be located within the functional floodplain is the Cable Corridor where it crosses beneath the River Ouse and the associated floodplain, including the flood storage area at Wistow."

B.1.3 **[DF]** Both documents are dated September 2026 and are two weeks apart. The statement in Chapter 15 is not confined to the solar development sites: it is that **none of the areas assessed** is within Flood Zone 3b. The cable corridor is an area assessed.

B.1.4 **[DF]** ES paragraph 15.9.128 records that the Flood Risk Assessment "considers that the Proposed Development satisfies the requirements of both the Sequential and Exception Tests". That conclusion was reached on the basis recorded at B.1.1.

B.1.5 **[DF]** The Flood Risk Assessment records at paragraph 7.1.4 that "Annex 3 specifically lists solar farms as 'Essential infrastructure'", and its Table 7-1 shows that Essential Infrastructure in Flood Zone 3b requires the **Exception Test**, and must be "designed and constructed to remain operational and safe in times of flood, result in no net loss of floodplain storage, and [not] impede water flows and not increase flood risk elsewhere".

B.1.6 I therefore do not suggest that development in functional floodplain is impermissible. I ask a narrower question: the Applicant now accepts that one element is in functional floodplain; the Exception Test consequences for that element follow; and I invite the Examining Authority to require the Applicant to state whether the Exception Test has been applied to the cable corridor crossing as an element in Flood Zone 3b, and if so where that assessment is recorded. If the Applicant's position is that "functional floodplain" and "Flood Zone 3b" are not being used interchangeably between the two documents, I invite it to say so and to explain the distinction it draws,

because on the face of the documents the two statements read as inconsistent.

B.1.7 **[DF]** I note that the Applicant has stated that "North Yorkshire Council did not object to the methodology used". The Council's Local Impact Report [REP1-006] devotes four paragraphs to hydrology and flood risk. It records that the Lead Local Flood Authority "understand the proposed development may cause/increase flood risk locally around the site", refers to the Outline Drainage Strategy, and concludes that "the LLFA find this a suitable way to manage surface water on the site". It does not address functional floodplain, the Sequential Test, the Exception Test or the Council's own Strategic Flood Risk Assessment. **[RI]** The absence of objection is therefore the absence of engagement, and should not be read as agreement on the extent of functional floodplain.

B.2 The status of Figures 15.27 and 15.28

B.2.1 **[DF]** The Examination Library records Chapter 15 figures as APP-115 (Figure 15.1) through APP-140 (Figure 15.26), each with an application-stage entry dated 10 February 2026. **There is no application-stage entry for Figure 15.27 or Figure 15.28.** They appear only as AS-041 and AS-042, additional submissions accepted at the discretion of the Examining Authority.

B.2.2 **[DF]** In the Examination Library both are listed by bare title, without the 06.02.15.xx application document reference that every other ES Volume 2 figure carries.

B.2.3 **[DF]** Chapter 15 Version 2, at paragraph 15.1.5, lists the figures supporting the chapter as 15.1 to 15.14. Neither 15.27 nor 15.28 is among them.

B.2.4 **[DF]** The drawings are stamped revision **P01** — first issue — dated 09/09/2026. The Guide to the Application [AS-038] logs both as "Version 2.0". There is no Version 1.0 of either.

B.2.5 **[DF]** Both are marked in the Guide as documents to be certified. Schedule 13 of the draft Order [REP2-004] does not include them, and could not: the Order is the Deadline 2 version of 1 September and the figures did not exist until 9 September. ExQ1 Q1.16.53 asks for three documents to be added to Schedule 13 and does not mention these.

B.2.6 I invite the Examining Authority to require the Applicant to state whether Figures 15.27 and 15.28 form part of the Environmental Statement; if they are to be certified, by what mechanism they are to enter Schedule 13; and why a first-issue drawing has been logged as a second version.

B.2.7 **[DF]** Figure 15.27 is published in six sheets, numbered "Sheet Number 1 of 7" to "Sheet Number 6 of 7". **Sheet 7 of 7 is not published.** The sheet-location index in the corner of all six published sheets shows seven panels. **[RI]** The six published sheets cover all seven solar development sites, which leaves the cable route corridor as the likely subject of the missing sheet — that is, the one location the Applicant now accepts is within functional floodplain. I do not know what sheet 7 shows. I invite the Examining Authority to require its production and to require the Applicant to confirm what it covers.

B.3 The certified substation commitment

B.3.1 **[DF]** The Design Parameters and Commitments document [REP2-021], a document certified under Schedule 13, records at Table 2-3 under Onsite Substations (Work No. 3) the following Design Commitment:

"The sequential location of the substations, in areas of lowest flood risk ... This includes locating the substations **within Flood Zone 1 and 2 only, thereby avoiding Flood Zone 3, minimising potential flood risk and avoiding loss of functional floodplain.**

The use of site-specific flood modelling to inform the spatial distribution of infrastructure, **ensuring that the substations are located outside the flood envelope associated with the 1 in 100-year plus climate change design flood event.**"

B.3.2 **[DF]** Figure 15.27 sheet 4 records an anticipated minimum finished floor level for the Solar Development Site 4 275 kV substation of **+0.386 m above ground level**, and marks flood-affected integrated conversion units across that site.

B.3.3 **[DF]** The Flood Risk Assessment states at paragraph 6.2.12 that **"the majority of the substation footprint lies outside the flood envelope for this event, with only a minor portion encroaching into the area of potential inundation"**, and at 6.2.13 refers to **"the affected 275 kV substation"**.

B.3.4 **[DF]** Table 8-1 shows the design flood depth at that substation as +0, so the flood-related elevation derives from the credible maximum scenario. The limb of the certified commitment concerning the 1 in 100-year plus climate change design flood event therefore appears to be satisfied.

B.3.5 **[RI]** I do not assert that the commitment is breached. The words "flood-affected" and "encroaching into the area of potential inundation" do not of themselves establish that any part of the substation lies in Flood Zone 3 or in

functional floodplain, and the design event depth is +0. What they do establish is that the Applicant's own Flood Risk Assessment describes as affected an asset which a certified commitment says will avoid Flood Zone 3 altogether, and the two descriptions need reconciling.

B.3.6 I invite the Examining Authority to require the Applicant to state whether the remaining limb of the certified commitment — that the substations are located "within Flood Zone 1 and 2 only, thereby avoiding Flood Zone 3 ... and avoiding loss of functional floodplain" — is satisfied in respect of an asset which its own Flood Risk Assessment describes as "affected" and part of whose footprint it describes as "encroaching into the area of potential inundation".

B.4 Disclosure of the underlying model

B.4.1 **[DF]** Figures 15.27 and 15.28 state that "the flood data shown is derived from site-specific model updates completed by Arthian (2025)".

B.4.2 **[DF]** The model update pre-dates the application of 10 February 2026. The outputs have been disclosed as maps. The update report itself has not been placed in the Examination.

B.4.3 I invite the Examining Authority to require its production, so that the outputs on which Table 8-1 and the Sequential and Exception Test conclusions rest can be examined.

B.5 Book of Reference and compulsory acquisition

B.5.1 **[DF]** The Rule 17 request of 7 September 2026 [PD-007] asked the Applicant to set out four matters: the reason persons were not previously identified; the steps taken to notify each and when; how they have had a fair opportunity to participate; and whether the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 apply.

B.5.2 **[DF]** The Technical Note [AS-039] answers the second by its table. For the first it supplies category labels — "HMLR Refresh", "Companies House Update", "Continued Diligent Inquiry", "Quality Assurance", "Relevant Representation", "Written Representation". Those describe how each party came to be found. They do not state why any party was not identified earlier.

B.5.3 **[DF]** For the third it offers a single sentence at paragraph 2.1.4: that the parties "have sufficient time within the Examination to have a fair opportunity to participate". No analysis is given of what, if anything, has been lost.

B.5.4 **[DF]** For the fourth it states that the 2010 Regulations "are not engaged, as they relate specifically to the identification of new additional land subject to compulsory acquisition of land or rights power, **rather than additional interests only**". No provision is cited.

B.5.5 **[DF]** Eleven days later, the Notification of Intention to Submit a Change Application states at paragraph 2.1.3 that Changes 2, 4 and 9 engage those Regulations because they involve land outside the Order limits **"or involve the 'upgrade' of powers within the Order limits from temporary possession to compulsory acquisition of rights"**. Paragraph 2.3.14 confirms that Change 9 engages the Regulations on that second basis alone, with no additional land.

B.5.6 **[RI]** The Applicant therefore now applies a wider reading of the same Regulations than it gave the Examining Authority on 14 September. I am not legally qualified and do not assert that the earlier answer was wrong. I invite the Examining Authority to require the Applicant to reconcile the two statements and to identify the provisions relied on in each.

B.5.7 **[DF]** The Examining Authority has already directed that this information be provided "on each occasion the Book of Reference is updated". I respectfully support that direction and invite the Examining Authority to require that each future schedule state, per party, the reason that party was not identified at an earlier stage.

B.6 Marine licensing at the River Ouse crossing

B.6.1 **[DF]** The Other Consents and Licences Statement [APP-215] is a statutory document required by APFP Regulation 5(2)(g). Its stated purpose is to provide information on the consents and licences "that are, or may be, required to construct and operate the Proposed Development". It lists nine categories included in the draft Order and a further fourteen consents likely to be required outside it. **Neither list mentions a marine licence, a deemed marine licence, or the Marine and Coastal Access Act 2009.**

B.6.2 **[DF]** It remains at Version 1.0, February 2026. It has not been amended following the Examining Authority's procedural decision letter of 20 April 2026, in which marine licensing was first raised (as [PD-007] records); nor following the Preliminary Meeting of 28 July 2026; nor following the Rule 17 request of 7 September 2026 [PD-007] itself. It does not appear on the list of documents the Applicant proposes to revise for its Change Application.

Nearly six months have passed since the Examining Authority first raised the regime.

B.6.3 **[DF]** The draft Order [REP2-004] has sixteen schedules and contains no deemed marine licence. Schedule 15 contains eleven Parts of protective provisions and none for the Marine Management Organisation or for a harbour authority. The word "marine" appears in the Order three times, all in footnotes to other statutes.

B.6.4 **[DF]** By contrast, Schedule 3 disapplies the Ouse (Lower) Improvement Act 1884 and both the Aire and Calder Navigation Acts of 1889 and 1899, and Article 6(1)(f) carves out anything affecting "the operation or maintenance of the River Ouse as a navigable river". The legal status of the river has been addressed deliberately, as a navigation. **[RI]** This is not a case of the river having been overlooked; it is a case of one regime applying to it having been left unaddressed.

B.6.5 **[DF]** The Rule 17 request of 7 September 2026 [PD-007] records that the proposed development "would cross beneath a section of the River Ouse which is a water in or adjacent to England up to the seaward limits of the territorial sea and spatially located in the **East Inshore Marine Plan area**"; that, "**as previously raised in its procedural decision letter dated 20 April 2026**", the Examining Authority "is not clear whether the proposed development would be unlikely to affect this water"; that "during the preliminary meeting the applicant explained it had engaged with the Marine Management Organisation and were working towards a position where **a marine licence would not be required**"; and that the Marine Management Organisation "is requested to confirm its position in relation to the proposed development, including matters concerning aquatic ecology and marine licensing" by this deadline.

B.6.6 **[DF]** Published Government guidance on marine licensing jurisdiction records that it extends inland to the Normal Tidal Limit, defined by Mean High Water Springs, and expressly covers works "under the seabed ... such as pipelines or cables that are buried". The Environment Agency's flood alert area for this reach is "Tidal River Ouse from Naburn Lock to Selby"; the crossing is downstream of Naburn.

B.6.7 I do not assert that a marine licence is required; that is for the Marine Management Organisation. I invite the Examining Authority to test whatever position the Marine Management Organisation takes against the fact that the statutory Other Consents and Licences Statement does not mention the regime at all, and to require that document to be updated. I reserve the right to comment on the Marine Management Organisation's response at Deadline 4.

B.7 The proposed Change Application procedure

B.7.1 **[DF]** The Applicant's Notification of 25 September 2026 invites the Examining Authority's comments on its proposed timetable and consultation arrangements. I comment on three matters only. I do not suggest that a change application is inappropriate, nor that the proposed acceptance date of 23 October is objectionable: Regulation 6(1) of the 2010 Regulations requires a decision "by the end of" 28 days, which is a longstop, and an earlier decision is within the Examining Authority's power.

B.7.2 **[DF]** **First**, the Applicant states of its proposed 11 December step that "the Applicant acknowledges this period is **less than allowed for by the CA Regulations**". It does not identify which period, or which regulation. **[RI]** On Regulations 11, 14, 15 and 16 no shortfall is apparent to me: Regulation 11(1) requires the initial assessment "within 21 days", which 11 December satisfies, and Regulations 14(4), 15(4) and 16(4) require "at least 21 days' notice" of a hearing, which the interval to 12 January satisfies. I invite the Examining Authority to require the Applicant to identify the period it says falls short.

B.7.3 **[DF]** Separately, Regulations 15(1)(a) and 16(1)(a) require that the deadline by which an affected person must notify a wish to be heard "must be **not less than 21 days after the date of the notification**". The Applicant's Table 5-1 places the issue of notices **and** the "deadline to request to speak" both on 11 December. I invite the Examining Authority to confirm that the deadline for requesting to be heard will be not less than 21 days after the date of notification.

B.7.4 **[DF]** Regulation 19 empowers the Examining Authority to "allow **further time** for the taking of any step". **[RI]** No corresponding power to abridge a prescribed period is apparent on the face of the Regulations.

B.7.5 **[DF]** **Second**, the Applicant proposes that consultation on all of the changes take place only **after** the Change Application is submitted, on the basis that "there is no benefit" to consulting beforehand, and its proposed consultation period of 29 October to 3 December is the statutory minimum under Regulation 8(2)(j) calculated to the day. That is lawful. I invite the Examining Authority to consider whether it is appropriate in an examination in which affected persons have been identified late on three separate occasions: the parties first notified on 3 September 2026; the three Category 2 interests still unidentified; and the six further parties disclosed on 25 September, two of whom have "not previously been part of any land referencing exercise".

B.7.6 **[DF]** **Third**, two of the nine changes are, on the Applicant's own statement, not needed. Of Change 5, the extension of the 275 kV substation compound at Site 1 by 0.2 hectares: "The Applicant can confirm that this change

is not needed to ensure that its various environmental drainage and safety commitments at the substation can be met." Of Change 7: the habitat "**is not required** to mitigate the Proposed Development's impacts".

B.7.7 **[DF]** The three changes that do engage the 2010 Regulations each arise from analysis carried out after the application was submitted. Change 2 arises because "analysis of access CA19 ... **following the application for development consent** has identified" that an oversail beyond the Order Limits would be required. Change 4 is required to "ensure **strict DMRB CD109 and 123 compliance**". Change 9 arises "**following swept path analysis**".

B.7.8 **[RI]** The changes that engage compulsory acquisition are therefore those caused by access and swept-path analysis that did not precede the application. That is consistent with the Applicant's acknowledgement, in its supplementary response at [AS-037], that "the Transport Assessment [APP-178] does **only** assess road safety on the public highway network".

B.7.9 **[DF]** Change 5 extends the substation compound at Solar Development Site 1 — the site at which Table 8-1 records a design event flood depth of +0.5 m at the conversion units. I invite the Examining Authority to require the Applicant to state whether the extended compound footprint falls within flood-affected land as shown on sheet 1 of Figure 15.27.

B.7.10 **[DF]** Change 9 requires the existing culvert over Roe Lane Drain to be "widened during the construction period", returned to its current dimension afterwards, and the process "repeated at any replacement stage and decommissioning". Change 1 contemplates "a temporary culvert over Dam Dike". The Design Parameters and Commitments document commits to trenchless solutions "for the crossing of main rivers including the River Ouse, IDB watercourses, and WER water body line watercourses", and the Flood Risk Assessment records the Internal Drainage Boards' position that crossings of IDB watercourses "must be trenchless". I invite the Examining Authority to require these changes to be tested against those commitments.

B.8 Pattern of disclosure

B.8.1 I make this point once and do not rely on it alone.

B.8.2 **[OP]** Plans showing the 1 in 30-year event were agreed as action point ISH1-24 at Issue Specific Hearing 1 on 30 July 2026. They were not provided at Deadline 1 on 11 August, nor at Deadline 2 on 1 September. They were produced on 14 September, after a Rule 17 request. On 1 September seventeen Chapter 15 figures were replaced at once, after the Deadline 1 written representations had been made against the set they superseded. The Guide to the Application has been issued six times in seven months, with a seventh now committed.

B.8.3 **[OP]** Taken together these do not establish any individual breach. They do bear on the weight the Examining Authority can place on the completeness of the water environment evidence at the point at which interested parties have had to comment on it.

B.9 The connection is not designed, and the Order Limits overlap National Grid's own works at Monk Fryston

B.9.1 **[DF]** National Grid Electricity Transmission's relevant representation, as reproduced in the Applicant's Response to Relevant Representations (Part 1), June 2026, records that "the proposed Order Limits **overlap with land required for the siting of future NGET infrastructure**", and that "Plot 21-031 of the land plans includes the land required for the **Monk Fryston Substation extension (part of the Yorkshire GREEN Project)**". The Applicant seeks permanent rights over that plot. NGET's position is that "this land will become operational and therefore should be treated the same as plot 21-032" — the plot over which no rights are sought.

B.9.2 **[DF]** NGET further records that the Yorkshire GREEN Project "includes the construction of a new 400 kV substation on land to the immediate north and east of the existing substation", and that "the Applicant has indicated a preference for the development to be located within the **Northeast of the existing substation, which may be in conflict to new installed infrastructure surrounding the existing substation**".

B.9.3 **[DF]** The Applicant's answer is given twice, in the same words. To NGET's point that plots 20-001 to 20-003 "directly conflict with the landscape mitigation required as part of the Yorkshire GREEN project", and again to its point about the new overhead line tower XC526, the Applicant replies that it "is confident that there is a solution ... but at this stage **requires flexibility until the connection is designed**".

B.9.4 **[DF]** The Land and Rights Negotiations Tracker (document 04.04) records that "the Protective Provisions currently drafted and included at **Part 9 of Schedule 15 of the Draft DCO are not in a form acceptable to NGET**", and that negotiation continues "in the context of the broader Island Green Power (IGP) portfolio/NGET negotiations". The recorded contact dates are 7 July and 26 August 2026.

B.9.5 **[DF]** Change 8 of the Notification of 25 September 2026 proposes two new accesses into the substation so that access can be taken "**regardless of where the 275 kV feeder bay is ultimately located**".

B.9.6 **[RI]** On the Applicant's own documents, therefore, as at the date of this submission: the connection is not designed; the feeder bay location is not fixed; the form of protective provisions is not agreed with the transmission owner; and the Order Limits overlap land that the transmission owner says it requires for a consented reinforcement project of its own. **[DF]** The status of that project is stated by NGET in the same representation: "The project is **currently well into construction** and final detailed plans are being prepared to discharge our DCO requirements in relation to landscape and biodiversity mitigation."

B.9.7 **[RI]** That bears on compulsory acquisition. Section 127 of the Planning Act 2008 applies to land acquired by statutory undertakers for the purposes of their undertaking where a representation has been made and not withdrawn. NGET has made such a representation. Where rights are to be created over such land, the Secretary of State must be satisfied that the right can be created without serious detriment to the carrying on of the undertaking, or that any detriment can be remedied by the use of other land belonging to the undertakers. I am not legally qualified and put this as a question rather than a submission: I invite the Examining Authority to consider how that test is to be applied to plot 21-031 while the connection remains undesigned and the Applicant's answer to the conflict NGET has identified is that it "requires flexibility".

B.9.8 **[DF]** As recorded at paragraph 11.10 of my Written Representation [REP1-032], National Grid's published need case material for the Yorkshire GREEN Project recorded that uprating the existing 275 kV Poppleton to Monk Fryston overhead line to 400 kV would provide additional capacity, but that this was not required to meet that project's need case, although it could be considered if additional customers were looking to connect. I invite the Examining Authority to require the Applicant and NGET to state what reinforcement beyond Yorkshire GREEN is required to accommodate a further 500 MW at this point, who would deliver it, when, and at whose cost.

B.9.9 I renew the request made at paragraph 11.9 of [REP1-032] for a Statement of Common Ground between the Applicant and National Grid Electricity Transmission addressing the availability of the connection bay, the design of the connection, the overlap with the Yorkshire GREEN works, and the relative timing of the two projects.

B.10 Permanent freehold acquisition for a time-limited use

B.10.1 **[DF]** The Order authorises a development the Applicant itself asks to be time-limited. Its Response to Relevant Representations records that it "is seeking a **time-limited consent** for the Proposed Development to have an operational period of 60 years, with decommissioning to take place following cessation of operation", secured by Requirement 19, and that a Decommissioning Environmental Management Plan "will provide for the removal of infrastructure and the **restoration of the land to its former use**, as secured via the DCO".

B.10.2 **[DF]** Article 21 nonetheless authorises compulsory acquisition of the **freehold** of the solar development sites. Freehold is perpetual. The use it is sought for is not.

B.10.3 **[DF]** The Applicant has accepted the governing principle in terms. Explaining at Compulsory Acquisition Hearing 1 why it sought only rights over the cable route corridor, it said: "There is no need for the freehold to be acquired and, accordingly, **the lesser power of compulsory acquisition of rights must be used**." That is the correct test. The question is why it is not applied to land whose use the Order itself brings to an end.

B.10.4 **[DF]** The Applicant's justification for freehold over the sites, given at the same hearing, is that rights "are permanent and can only be removed with the agreement of the landowner", so that at decommissioning the land would remain fettered, whereas "the freehold of the land can, following decommissioning, be **sold to the original or a new landowner** for agricultural use, unfettered by rights that are no longer required".

B.10.5 **[RI]** That is an argument about how the lesser interest would have to be drafted, not an argument that the greater interest is necessary. A right expressed to determine on completion of decommissioning would leave no residual fetter and would meet the objection the Applicant raises. I recognise that there are mechanical questions in such an arrangement — who holds the land during the operational period, how the undertaker's security of tenure and its ability to maintain and decommission are protected, and how a determining right would be framed in the Order. I do not assert that those questions are easily answered. I say only that the Applicant, which has itself invoked the principle that the lesser power must be used where it suffices, has not been asked to address them.

B.10.6 **[DF]** There is a further difficulty. To the Examining Authority at Issue Specific Hearing 1, the Applicant said the land "would be returned to its current use and **its landowners** as it currently is today". In its Response to Relevant Representations it said it "cannot dictate what will happen to the land post-decommissioning **when the Applicant no longer has an interest in the land**", and that "the landowner will decide how the land is to be used". At Compulsory Acquisition Hearing 1 it said the freehold "**can** ... be sold to the original **or a new** landowner".

B.10.7 **[RI]** "Can be sold to the original or a new landowner" is not the same proposition as "returned to its landowners". I do not suggest the Applicant intended to mislead. I invite the Examining Authority to establish which is meant, and to identify what in the Order, if anything, obliges the undertaker to offer the freehold back to the former owner or their successor at decommissioning.

B.10.8 **[DF]** Nothing in the Crichel Down Rules supplies that obligation. I put this as a point about consequences, not about necessity: the absence of an offer-back duty does not show that freehold acquisition is unnecessary, but it does bear on what follows if freehold is authorised. Those Rules, which require surplus land acquired compulsorily to be offered back to the former owner, apply mandatorily to "all government departments, executive agencies and non departmental public bodies in England and other organisations in England ... which are subject to a power of direction by a minister", and are recommended — not required — for local authorities, statutory bodies, and "bodies in the private sector to which public land holdings have been transferred, for example on privatisation". A private undertaker acquiring freehold under a development consent order falls within none of those categories.

B.10.9 **[DF]** The published Guidance related to procedures for the compulsory acquisition of land requires the Applicant to demonstrate that all reasonable alternatives to compulsory acquisition "including modifications to the scheme" have been explored and that the acquisition is "necessary and proportionate" (paragraph 8); that the land to be acquired is "**no more than is reasonably required** for the purposes of the development" (paragraph 11); and that the purposes are legitimate having regard to Article 1 of the First Protocol to the European Convention on Human Rights (paragraph 10).

B.10.10 I therefore invite the Examining Authority to require the Applicant to state why a leasehold interest, or rights for a term expiring on completion of decommissioning, would not meet its requirements for the solar development sites; and, if freehold acquisition is to be authorised, to consider whether the Order should secure an obligation to offer the land back to the former owner or their successor at decommissioning. I make this point as a matter of principle as well as of law: where national infrastructure is consented for a defined period and is required to be removed at the end of it, the permanent transfer of freehold title away from those from whom it is taken is not an obvious consequence, and in my submission it is not a necessary one.

PART C: REQUEST TO BE HEARD

C.1 I request to be heard at any Compulsory Acquisition Hearing, Issue Specific Hearing or Open Floor Hearing held on the reserved date of 2 November 2026.

C.2 The matters on which I would wish to be heard are those at Part B sections B.1, B.3, B.5, B.6, B.9 and B.10, and the grid connection and need matters at Part A, Q1.3.1. I would wish to be heard orally rather than in writing because each turns on the relationship between two or more documents, and the Applicant's position on each has changed during the Examination in ways that are more readily tested in exchange than on paper.

C.3 I am content to attend by virtual means.

PART D: CORRECTIONS AND CONCESSIONS

D.1 I correct and concede the following, so that the Examining Authority and the Applicant are not required to do so.

D.2 **The Applicant's position on Flood Zone 3b mapping has been on the record since 30 July 2026 and I do not suggest otherwise.** The written summary of the Applicant's oral submissions at Issue Specific Hearing 1 [REP1-004] records that specific Flood Zone 3b plans "had not been produced, as such plans need to be produced by the Council"; that "it is for the local planning authority to designate the functional floodplain extents in their SFRA"; and that "North Yorkshire Council's current SFRA includes no functional floodplain areas within the development sites". My comments at B.1 are directed at the inconsistency between two of the Applicant's own September 2026 documents, not at any suggestion that the Applicant has concealed the Council's position.

D.3 **The Environment Agency supported the Applicant's approach to the 1 in 30-year outline.** At the same hearing the Environment Agency stated that the 1 in 30-year extent is "the outline ... which EA recommends for usage as the outline for 3b". Figure 15.28 is therefore what the regulator asked for. My comment at B.8 goes to the timing of its production, not to its content.

D.4 **I do not assert that the Applicant's finished floor levels are unsecured.** The rule exists, and it is in a certified document. My point at A.1 to A.5A is narrower: it concerns whether Requirement 4 makes that rule enforceable in respect of Work Nos. 1, 2 and 3, and I have invited correction on the legal effect of that

Requirement.

D.5 I do not assert that the Site 4 figures are inconsistent with the Applicant's statement that Solar Development Sites 2 to 4 and 6 to 8 remain free from flooding during the design flood event. Table 8-1 shows a design flood depth of +0 at Site 4, and the elevations derive from the credible maximum scenario. That statement is correct.

D.6 I do not assert that development in functional floodplain is impermissible. Solar farms are classified as Essential Infrastructure, for which the Exception Test applies in Flood Zone 3b.

D.7 I do not assert that any party notified on 3 September 2026 has been excluded from the Examination. The Examining Authority's decision of 23 September 2026 on requests under section 102A records that Emma Jane Osborne had already made a relevant representation and is already an interested party, as had Nicholas Osborne, and that Hillam Solar Limited was identified as an affected person in the Book of Reference at the time of submission.

D.8 I do not object to the Applicant making a change application, nor to the proposed acceptance date of 23 October 2026, for the reasons at B.7.1.

D.9 I have not seen sheet 7 of Figure 15.27, the Arthian (2025) model update report, or the updated Book of Reference [REP2-011]. My comments on those matters are framed accordingly.

D.10 I correct paragraph 2.1(i) of my Written Representation [REP1-032]. I there stated that the effect of the reformed connections process on the December 2021 Bilateral Connection Agreement "is not addressed anywhere in the application". That is not correct. It is addressed in the Other Consents and Licences Statement [APP-215], and, as the Examining Authority records, at section 3.7 of the Statement of Need [APP-214]. It is not addressed in the Grid Connection Statement, which is the document in which I looked for it. What survives is that no connection date is disclosed for either component, and that is the subject of Part A, Q1.3.1 above.

PART E: DECLARATION OF THE USE OF ARTIFICIAL INTELLIGENCE

E.1 In accordance with the statement in ExQ1 concerning the use of artificial intelligence, I declare as follows.

E.2 System used. Claude, an AI assistant made by Anthropic.

E.3 What it was used for. To read and cross-refer the examination documents listed at E.4; to identify passages bearing on the matters raised; to check the text of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 and published Government guidance on marine licensing jurisdiction; and to draft this submission from my instructions.

E.4 Sources on which the content is based. Documents published on the Planning Inspectorate's National Infrastructure Planning website for this application, namely [REP2-004], [REP2-021], [REP2-022], [REP2-043], [REP2-079], [REP1-004], [REP1-006], [APP-021], [APP-214], [APP-215], [APP-217], [AS-037] to [AS-042], [PD-007], [PD-008], the Examining Authority's decision of 23 September 2026, the Examination Library of 22 September 2026, and the Applicant's Notification of Intention to Submit a Change Application of 25 September 2026, the Applicant's Response to Relevant Representations (Part 1) of June 2026 and the Land and Rights Negotiations Tracker (document 04.04), and the written summaries of the Applicant's oral submissions at Issue Specific Hearing 1 and Compulsory Acquisition Hearing 1; together with the Selby District Level 1 Strategic Flood Risk Assessment (August 2022) and the North Yorkshire Council Selby Area Level 2 Strategic Flood Risk Assessment Update (August 2023), both published by North Yorkshire Council; the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 and section 127 of the Planning Act 2008, both as published on legislation.gov.uk; Government guidance on marine licensing jurisdiction, the Guidance related to procedures for the compulsory acquisition of land, and the Crichel Down Rules, each published on gov.uk; and published commentary on the National Energy System Operator's connections reform timetable, relied on and identified as such at paragraph A.11.

E.5 What was created or altered. The drafting of this submission. The selection of grounds, the evidential tiering, the corrections and concessions at Part D, and the decision to make the submission are mine. Every quotation has been checked by me against the source document. I take responsibility for the whole of its content.

Mrs Annette Exley

The Old Vicarage, Thornton Steward, Ripon, North Yorkshire HG4 4BB



