THE DROVES
SOLAR FARM

The Droves Solar Farm

Explanatory Memorandum (Tracked)

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1 Introduction

1.1 Overview

1.1.1 This Explanatory Memorandum has been prepared on behalf of The Droves Solar Farm Limited ('the Applicant') in relation to the Development Consent Order (DCO) Application for the construction, operation, maintenance, and decommissioning of The Droves Solar Farm (hereafter referred to as the 'Scheme').

1.1.2 This document has been updated at Deadline 6~~5~~ to reflect the changes made to the final **draft Development Consent Order (draft DCO) [APP/3.1.6~~5~~]** submitted into the Examination~~as a result of discussions with Interested Parties, requests from the Examining Authority and relevant further information – including, in particular, additional requirements incorporated within Schedule 2 of the **draft DCO [APP/3.1.5]** which have been fully agreed between the Applicant and the Ministry of Defence (MoD)~~. The document references have not been updated from the original submission. Please refer to the **Guide to the Application [APP/1.3.8~~7~~]** for the list of current versions of documents.

1.1.3 The Scheme comprises the construction, operation, maintenance, and decommissioning of a solar photovoltaic (PV) electricity generating station and Associated Development comprising Battery Energy Storage System (BESS), a Customer Substation, and Grid Connection Infrastructure, including a new National Grid Substation. The Scheme would allow for the generation and export of over 100MW Alternating Current (AC) of renewable energy, connecting into the National Electricity Transmission System (NETS) overhead line that passes through the Site.

1.1.4 As the Scheme would have a generating capacity in excess of 100MW, it is considered to be a Nationally Significant Infrastructure Project (NSIP) under the Planning Act 2008 (the PA 2008).

1.1.5 The **draft DCO [APP/3.1]**, if made, would be known as The Droves Solar Farm Order 202[*]. A draft of the Order has been submitted with the DCO Application as **draft DCO [APP/3.1]**.

1.1.6 This Explanatory Memorandum has been prepared to explain the purpose and effect of each article of, and schedules to, the **draft DCO [APP/3.1]**, as required by Regulation 5(2)(c) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the "APFP Regulations"). It should be read in conjunction with the suite of documents accompanying the DCO Application, in particular the **draft DCO [APP/3.1]**, the **Environmental Statement (ES) [APP/6.1 – 6.5]**, the **Works Plan [APP/2.3]**, the **Land Plan [APP/2.2]**, **Book of Reference [APP/4.3]**, **Statement of Reasons [APP/4.1]**, **Consultation Report [APP/5.1]** and **Statement of Need [APP/5.4]**.

1.2 The Droves Solar Farm Limited

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

1.3 The Site

1.3.1 For the purposes of the DCO Application, the Site referred to is the maximum extent of land anticipated to be used for the construction, operational, and decommissioning phases of the Scheme. The Site comprises all areas required for the Scheme comprising the Solar PV Site, the Customer Substation, the National Grid Substation, the BESS, Grid Connection Infrastructure, Mitigation and Enhancement Areas, and the Highway Works.

1.3.2 The Scheme consists of a series of solar arrays and a BESS and an up to 400kV substation.

1.3.3 The Order limits is the area within which the Scheme may be carried out. The Order limits are shown on the **Works Plan [APP/2.3]**. The powers in the **draft DCO [APP/3.1]** enabling the acquisition of land, new rights over land and the imposition of restrictions over land, relate to the Order land only, which is the land shown coloured pink or coloured blue on the **Land Plan [APP/2.2]**, within the Order limits.

1.3.4 Information about the Site, including about the current land use and any environmental constraints, is provided in greater detail in **ES Chapter 3: Order limits and Context [APP/6.1]**.

1.4 The Proposed Scheme

1.4.1 A detailed description of the Scheme can be found in **ES Chapter 5: The Scheme [APP/6.1]**. It comprises a generating station of more than 100MW, being the NSIP, and which is described in Work No. 1 in Schedule 1 to the **draft DCO [APP/3.1]**. The Scheme also includes Associated Development, which comprises Work Nos. 2 to 11 in Schedule 1 to the **draft DCO [APP/3.1]**. All elements of the NSIP are described in the sub-paragraphs below and the Associated Development is described in **Paragraphs 1.4.5** to **1.4.16**:

- Work No. 1: a ground mounted solar photovoltaic generating station with a gross electrical output capacity of over 100 megawatts including -
  a) solar modules fitted to mounting structures
  b) DC electrical cabling and combiner DC boxes

c) 33 kV sub-distribution switch rooms, conversion units including foundations, inverters, transformers, switchgear, and monitoring and control systems; and

d) electrical and communications cabling connecting Work No. 1(c) to Work No. 3A.

1.4.2 The description of Work No. 1 refers to a gross electrical output capacity of over 100MW (AC). This is consistent with sections 14 and 15 of the PA 2008 which stipulates that a generating station which exceeds an electrical capacity of 100MW (AC) will be a NSIP and therefore development consent will be required.

1.4.3 The description of the NSIP at Work No. 1 does not refer to an upper limit on the capacity of the generating station that development consent is being sought for. It is not considered that imposing an upper limit is desirable or necessary. The **draft DCO [APP/3.1]** includes reference to the means by which the parameters of the Authorised Development will be constrained and it is on this basis that the Environmental Impact Assessment has been undertaken, as set out in the **ES [APP/6.1 – 6.5]** and explained further in relation to the 'consent envelope'. There is no reason to limit the electrical output capacity of the Scheme provided those parameters of the consent envelope are adequately captured in the **draft DCO [APP/3.1]**. The Applicant is confident that those parameters are adequately secured in the **draft DCO [APP/3.1]**.

1.4.4 There are clear advantages in not imposing an upper limit on capacity. For example, the Applicant may take advantage of technological improvements and innovation that may emerge before construction, which would enable it to still construct the Scheme within the assessed Parameters but increase capacity beyond that which is currently anticipated. It is in the public interest and accords with national policy to facilitate efficient and maximum generation from renewable sources, which is explained further in the **Statement of Need [APP/5.4]**. The approach taken has precedent in all the made Orders for solar NSIPs to date, including the **Cleve Hill Solar Park Order 2020**, **Longfield Solar Farm Order 2023**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025**, the **East Yorkshire Solar Farm Order 2025** and, most recently, the **Tillbridge Solar Order 2025**.

1.4.5 The Associated Development for the purposes of section 115 of the PA 2008 comprises Work Nos. 2 to 11 of the Scheme as provided for in Schedule 1 of the **draft DCO [APP/3.1]**. This comprises the following elements:

- Work No. 2: an energy storage facility comprising battery energy storage cells each containing fire protection systems and components, a structure protecting the battery energy storage cells, interconnection units including heating, ventilation, cooling and temperature management, conversion units, monitoring and control systems, electrical cabling, surface water drainage, water storage facility for firefighting and infrastructure to contain used firewater
- Work No. 3: an onsite substation with associated transformer bays, feeder bays, transformers, switchgear, buildings and ancillary equipment including power quality and reactive power units, control buildings, monitoring and control systems, maintenance compounds, cabling, earthworks and foundations, plus electrical cabling between the

solar generating stations, the onsite substation and the National Grid Substation, including access tracks, drainage, signage, joint bays, link boxes, cable ducts, cable protection, joint protection, communications chambers, fibre-optic cables, tunnelling and boring works, and temporary construction and decommissioning laydown areas including car parking, welfare offices, security infrastructure and drainage

- Work No. 4: works in connection with a new National Grid Substation, including an up to 400kV double buss bar substation, with associated feeder bays, switchgear, buildings and ancillary equipment, control buildings, monitoring and control systems, maintenance compounds, cabling, a 400kV 3-phase 4000 A circuit breaker, 3-phase transformers, high accuracy metering current and voltage transformer assembly, line disconnector for isolation and earthing, high voltage cable sealing ends, 3-phase power ready capacitor voltage transformer, a building to house duplicate feeder protection systems, commercial metering systems, protection and control equipment and user remote control and data acquisition apparatus, and foundations, maintenance compound, earthworks, fencing, security works including CCTV and lighting columns, landscaping and biodiversity mitigation, improvement, maintenance and use of private tracks, footpath diversions, sustainable drainage, acoustic barriers, communications and temporary construction laydown areas, including hardstanding, car parking, site and welfare offices, security infrastructure, storage, drainage and communications connections, and works to facilitate access to other works, including creation of accesses from the public highway, alteration of streets and works to facilitate the movement of abnormal indivisible loads
- Work No. 5: works in connection with a connection to the existing overhead transmission electric line, including works to modify, reconfigure, construct and install a new overhead transmission electric line including the installation of new gantries, the foundations and steelwork to construct new pylons, the installation of overhead transmission electric line, the installation of conductors, busbars, switchgear and fittings, including downleads and downdroppers at each realigned and new gantry, to facilitate connection from the equipment within the new National Grid Substation, the installation of fibre optic earthwire conductors, with optical fibres terminated in joint boxes, and fencing, security works including CCTV and lighting columns, landscaping and biodiversity mitigation, improvement, maintenance and use of private tracks, footpath diversions, creation of accesses from the public highway, creation of visibility splays, earthworks, sustainable drainage, communications, plus works in relation to the existing overhead transmission electric line including the realignment of the existing gantries, the modification of existing pylons, modifications to the existing overhead transmission electric line and the temporary diversion of the existing overhead transmission electric line to facilitate the works, plus temporary construction laydown areas and works including the dismantling and removal of all existing overhead transmission electric line and pylons including foundations, maintenance and use of existing private tracks, laying down of internal access tracks, ramps, bridges, means of access and footpaths, and temporary footpath diversions, signage and information boards

- Work No. 6: fencing, security works including CCTV and lighting columns, landscaping and biodiversity mitigation, improvement, maintenance and use of private tracks, footpath diversions, earthworks, sustainable drainage, communications and temporary construction and decommissioning laydown areas
- Work No. 7: temporary construction and decommissioning laydown areas, including hardstanding, car parking, site and welfare offices, security infrastructure, storage, drainage and communications connections
- Work No. 8: works to facilitate access to other works, including creation of accesses from the highway, alteration of streets and works to facilitate the movement of abnormal indivisible loads
- Work No. 9: creation and maintenance of habitat management areas, including fencing, information boards, earth works, landscaping and biodiversity mitigation and enhancement measures, access and drainage
- Work No. 10: creation of permissive paths for use by pedestrians, including ramps, bridges and access, fencing, signs and information boards, and landscaping and biodiversity mitigation and enhancement measures; and
- Work No. 11: ecological mitigation works including fencing, gates, boundary treatments, earthworks such as bunds, embankments, ponds, trenching and swales, landscaping and biodiversity mitigation and enhancement measures including planting, signage and information boards, means of access, and drainage.

1.4.6 The Associated Development includes further works in connection with and in addition to Work Nos. 1 to 11 within the Order limits including:

- fencing, gates, boundary treatment and other means of enclosure
- bunds, embankments, trenching and swales
- works to the existing irrigation system and works to alter the position and extent of such irrigation system
- surface water drainage systems, storm water attenuation systems including storage basins, oil water separators, including channelling and culverting and works to existing drainage networks
- electrical, gas, water, foul water drainage and telecommunications infrastructure
- connections, diversions and works to, and works to alter the position of, such services and utilities connections
- works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses
- ramps, bridges and other means of access
- works for the provision of security and monitoring measures such as CCTV columns, lighting columns and lighting, cameras, lightning protection masts, weather stations, storage containers, communication infrastructure, and perimeter fencing

- improvement, maintenance and use of existing private tracks
- temporary footpath diversions and footpath enhancement
- signs, interpretation boards or any other information display board
- landscaping and related works
- habitat creation and enhancement
- site establishments and preparation works including site clearance (including vegetation removal, demolition of existing buildings and structures); earthworks (including soil stripping and storage and site levelling) and excavations; the alteration of the position of services and utilities; and works for the protection of buildings and land
- works to maintain and repair streets and access roads
- tunnelling, boring and drilling works
- other works to mitigate any adverse effects of the construction, maintenance, operation or decommissioning of the authorised development; and
- further Associated Development comprising such other works or operations for the purposes of or in connection with the construction, operation and maintenance of the Authorised Development and which fall within the scope of the Environmental Impact Assessment recorded in the **ES [APP/6.1 – 6.5]**.

1.5 Phasing

1.5.1 It is anticipated that construction works will commence no earlier than 2031, with the construction programme for the entire Scheme anticipated to be approximately 24 months.

1.5.2 The operational phase is anticipated to commence in 2033.

1.5.3 Outside of the main construction period, there will be commissioning and connection to the National Grid. The timing of these works is dependent on National Grid.

1.5.4 The different elements of the construction works mean that enabling works do not need to be complete in all areas of the construction site before solar farm construction commences in another part of the site.

1.5.5 During the construction phase, several temporary construction laydown areas will be required as well as temporary roadways to facilitate access to all land within the Order limits.

1.5.6 The Scheme currently has a grid connection date of 2033.

1.6 Parameters of the Order and the "consent envelope"

1.6.1 The detailed design of the Scheme infrastructure must be in accordance with the **Design Principles, Parameters and Commitments [APP/5.8]**, as secured in Requirement 5 of the **draft DCO [APP/3.1]**.

1.6.2 This approach is taken to ensure suitable flexibility in the design of the Scheme, such that new technology can be used, while ensuring that the impacts of the development will always be within the extent assessed in the **ES [APP/6.1 – 6.5]**. The principle of using a design envelope is recognised as appropriate for a wide range of NSIPs and is described in PINS' Advice Note 9: Rochdale Envelope (July 2018).

1.6.3 Article 3 (Development consent etc. granted by this Order) grants development consent for the *"Authorised Development"* (the description of the Scheme described in Schedule 1). The consent for the Authorised Development is subject to two key controls, which together form the *"consent envelope"*. These are:

- **Works Plan [APP/2.3]** – in Schedule 1, the Authorised Development is divided into a series of component parts, referred to as "*numbered works"*. Article 3(2) of the **draft DCO [APP/3.1]** requires that the numbered works authorised by the **draft DCO [APP/3.1]** are situated within the corresponding areas shown on the **Works Plan [APP/2.3]**.
- Requirements – Article 3(1) provides that consent for the Authorised Development is only given subject to compliance with the Requirements, set out in Schedule 2 to the **draft DCO [APP/3.1]**.

1.6.4 The design of the Scheme is also controlled via Requirement 5 (Detailed design approval) of Schedule 2 of the **draft DCO [APP/3.1]** which requires approval of details of the Scheme's design. The details submitted must accord with the **Design Principles, Parameters and Commitments [APP/5.8]**.

1.6.5 In addition to the **Design Principles, Parameters and Commitments [APP/5.8]** and other requirements in the **draft DCO [APP/3.1]**, certified documents and plans will operate to control and manage the detailed design of the Scheme, as well as its construction, operation and maintenance and decommissioning. The way in which those mechanisms work together as an envelope within which the Authorised Development is to be undertaken, is explained in more detail below.

1.6.6 In addition to these commitments and parameters, the design of the Scheme is also controlled by:

- approval and implementation of a battery safety management plan (Requirement 6)
- approval and implementation of the landscape and ecological management plan (Requirement 7)

- approval and implementation of the biodiversity net gain strategy (Requirement 9)
- approval and implementation of permanent fencing and other means of enclosure (Requirement 10)
- approval and implementation of any surface and foul water drainage scheme or system (Requirement 11)
- a programme of further archaeological evaluation, approval of any addendum to, and implementation of the archaeological mitigation strategy (Requirement 12)
- the measures set out in the outline operational environmental management plan (Requirement 14)
- approval and implementation of the public right of way and permissive path management plan (Requirement 16)
- approval and implementation of a detailed plan relating to mitigation at RAF Marham (Requirement 21)
- approval and implementation of a glint and glare management plan (Requirement 22)
- approval and implementation of an aviation safety management plan (Requirement 23)
- the provision of details in relation to the management of certain design aspects, as required by the Ministry of Defence (MoD) (Requirement 24)
- the notification of details in relation to pylons, as required by the MoD (Requirement 25); and
- the protective provisions (Schedule 15).

1.6.7 Where the **Design Principles, Parameters and Commitments [APP/5.8]** do not include guidance or controls for an aspect of a numbered work, this is justified on the basis of the Environmental Impact Assessment and having regard to the other controls in place via the measures listed above.

1.6.8 The construction phase of the Scheme (as set out in Schedule 1 to the **draft DCO [APP/3.1]** and which is required to be constructed within the areas on the **Works Plan [APP/2.3]**) is also controlled by:

- the implementation of a community liaison group (Requirement 4)
- approval and implementation of a battery safety management plan (Requirement 6)
- approval and implementation of the landscape and ecological management plan (Requirement 7)
- approval and implementation of temporary fencing and other means of enclosure (Requirement 10)
- approval and implementation of surface water drainage scheme and foul water drainage scheme or system (Requirement 11)
- a programme of further archaeological evaluation, approval of any addendum to, and implementation of the archaeological mitigation strategy (Requirement 12)

- approval and implementation of the construction environmental management plan (Requirement 13), which in turn secures a dust management plan
- implementation of a permitted preliminary works environmental management plan (Requirement 13)
- approval and implementation of the construction traffic management plan (Requirement 15)
- approval and implementation of the public right of way and permissive path management plan (Requirement 16)
- approval and implementation of a soil management plan (Requirement 17)
- the approval and implementation of the employment, skills and supply chain strategy (Requirement 18)
- approval and implementation of the site waste management plan (Requirement 19)
- approval and implementation of a detailed plan relating to mitigation at RAF Marham (Requirement 21)
- approval and implementation of a glint and glare management plan (Requirement 22)
- approval and implementation of an aviation safety management plan (Requirement 23)
- the provision of details in relation to the management of certain design aspects, as required by the MoD (Requirement 24)
- the notification of details in relation to pylons, as required by the MoD (Requirement 25)
- the protective provisions (Schedule 15); and
- street works pursuant to relevant powers in Part 3 of the **draft DCO [APP/3.1]** and the accompanying **Streets Plan [APP/2.4]**.

1.6.9 The ongoing operation and maintenance of the Scheme is controlled by:

- approval and implementation of a battery safety management plan (Requirement 6)
- approval and implementation of the landscape and ecological management plan (Requirement 7)
- approval and implementation of the operational traffic management plan (Requirement 8)
- approval and implementation of surface water drainage scheme and foul water drainage scheme or system (Requirement 11)
- approval and implementation of the operational environmental management plan (Requirement 14)
- approval and implementation of the public right of way and permissive path management plan (Requirement 16)
- approval and implementation of a soil management plan (Requirement 17)

- approval and implementation of the employment, skills and supply chain strategy (Requirement 18)
- approval and implementation of a detailed plan relating to mitigation at RAF Marham (Requirement 21)
- approval and implementation of a glint and glare management plan (Requirement 22)
- approval and implementation of an aviation safety management plan (Requirement 23)
- the provision of details in relation to the management of certain design aspects, as required by the MoD (Requirement 24); and
- the notification of details in relation to pylons, as required by the MoD (Requirement 25).

1.6.10 Article 4 of the **draft DCO [APP/3.1]** authorises the operation of the Authorised Development, and Article 5 allows the undertaker to *"maintain"* the Authorised Development. The definition of *"maintain"* in Article 2 of the **draft DCO [APP/3.1]** includes provision for the scheduled replacement of equipment, in addition to routine maintenance and ad-hoc replacement of components that have ceased to function, as has been assessed in the **ES [APP/6.1 – 6.5]**. Article 5(3) further provides that the authorisation to maintain the Authorised Development does not include works that are likely to give rise to any materially new or different effects that have not been assessed in the **ES [APP/6.1 – 6.5]**. These provisions balance the need to replace equipment at the end of its life in order for the Authorised Development to function most effectively as a generating station, with the need for such maintenance activities to be within the extent assessed in the **ES [APP/6.1 – 6.5]**.

1.6.11 The decommissioning of the Scheme is controlled by:

- Requirement 20 which requires that the date of decommissioning must be no later than 60 years following the date of final commissioning and requires a decommissioning plan to be approved and implemented
- approval and implementation of a battery safety management plan (Requirement 6)
- approval and implementation of the public right of way and permissive path management plan (Requirement 16)
- approval and implementation of a soil management plan (Requirement 17)
- the approval and implementation of the employment, skills and supply chain strategy (Requirement 18)
- approval and implementation of an aviation safety management plan (Requirement 23)
- the notification of details in relation to pylons, including for their removal, as required by the MoD (Requirement 25); and
- the protective provisions (Schedule 15).

1.6.12 The DCO Application seeks flexibility to undertake the Scheme within the above envelope, in particular within the maximum areas and parameters secured via the **Works Plan [APP/2.3]** and the **Design Principles, Parameters and Commitments [APP/5.8]**. As set out in **ES Chapter 2: EIA Process and Methodology [APP/6.1]** and the individual technical chapters, the Environmental Impact Assessment has assessed the maximum extent of the areas and sizes allowed by the **Works Plan [APP/2.3]** and the **Design Principles, Parameters and Commitments [APP/5.8]**. As a result, the **ES [APP/6.1 – 6.5]** has assessed a worst case and has considered and confirmed that any development built and maintained within the maximum areas and parameters would have effects no worse than those assessed.

2 The Purpose and Structure of this Document

2.1.1 This Explanatory Memorandum has been prepared to explain the purpose and effect of each article of, and the Schedules to, the **draft DCO [APP/3.1]**, as required by Regulation 5(2)(c) of the APFP Regulations. This Explanatory Memorandum also explains why each article of, and Schedule to, the **draft DCO [APP/3.1]** is required for the Scheme.

2.1.2 It also seeks to identify and explain departures from the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (the *"model provisions"*). While the power for the Secretary of State to designate, and the requirement to have regard to, model provisions have both been removed by the Localism Act 2011, the Applicant considers that it is still relevant to note and explain variations made in the **draft DCO [APP/3.1]** compared to the model provisions. This provides additional context where this Explanatory Memorandum identifies drafting that takes precedent from recently made DCOs, demonstrating that the drafting is both relevant and consistent with current DCO drafting practices.

2.1.3 The **draft DCO [APP/3.1]** includes a number of provisions to enable the construction, operation and maintenance and decommissioning of the Scheme. This reflects the integrated consenting objective of the PA 2008 regime. The provisions have been drafted to accord with the wide-ranging powers at section 120 of the PA 2008, but also the limitations, requirements and exceptions imposed by section 120(8) and sections 122 to 152 so far as these are relevant to the Scheme. All powers provided for within the **draft DCO [APP/3.1]** come within the scope of section 120 of, and Schedule 5 to, the PA 2008.

2.1.4 The provisions contained in the **draft DCO [APP/3.1]** are briefly described below and then considered in more detail in the following Sections:

- **Part 1 (Preliminary)**: Article 1 sets out what the **draft DCO [APP/3.1]** may be cited as and when it comes into force. Article 2 sets out the meaning of the defined terms used in the **draft DCO [APP/3.1]**
- **Part 2 (Principal Powers)**: Articles 3 to 7 provide development consent for the Scheme, and allow it to be constructed, operated and maintained by the undertaker. Articles 6 and 7 relate to the application and modification of certain legislative provisions and defence to proceedings in respect of statutory nuisance respectively
- **Part 3 (Streets)**: Articles 8 to 16 provide the undertaker with a suite of powers in relation to street works. The powers include the ability for the undertaker to be able to carry out works to and within streets; to alter the layout of streets; to construct and maintain new or altered means of access; to close temporarily streets and public rights of way; use of private roads within the Order limits for vehicles; form, lay or improve means of access; to enter into agreements with street authorities and provisions to manage the application of street works permit schemes and in relation to traffic regulations

- **Part 4 (Supplemental Powers)**: Articles 17 to 20 set out four supplemental powers relating to the discharge of water; removal of human remains; undertaking protective works to buildings; the authority to survey and investigate land
- **Part 5 (Powers of Acquisition)**: Articles 21 to 35 provide for the undertaker to be able to compulsorily acquire the Order land and rights over and within it, and to be able to temporarily possess parts of the Order land and other land specified within the Order limits for the construction or maintenance of the Scheme. Article 22 sets out a time limit for the exercise of the compulsory acquisition powers and Article 25 provides for the undertaker to suspend certain private rights or for certain private rights to cease to have effect. The provisions provide for compensation to be payable to affected persons in respect of these powers, where that is not already secured elsewhere. Articles 31 and 32 provide for the temporary use of land for constructing and maintaining the Scheme. Articles 33 to 35 provide for powers in relation to the land and apparatus of statutory undertakers and for compensation recovery regarding apparatus of a public utility undertaker or a public communications provider; and
- **Part 6 (Miscellaneous and General)**: Articles 36 to 50 include various general provisions in relation to the **draft DCO [APP/3.1]**:
  - Article 36 sets out who has the benefit of the powers contained in the **draft DCO [APP/3.1]** and Article 37 sets out how those powers can be transferred
  - Articles 38 and 39 provide (respectively) for how landlord and tenant law applies in relation to the **draft DCO [APP/3.1]** and that the Order limits will be *"operational land"*
  - Articles 40 and 41 provide (respectively) powers in relation to trees which need to be removed or lopped and for hedgerows to be removed in relation to the Scheme and in relation to trees subject to tree preservation orders; and
  - Articles 42 to 49 include provisions relating to the certification of plans and documents relevant to the **draft DCO [APP/3.1]**; confirming no double recovery of compensation; arbitration; protection for statutory undertakers through the protective provisions (set out in Schedule 15); service of notices; procedure in relation to certain approvals; guarantees in respect of the payment of compensation, and responsibility for maintenance of drainage works.
- There are then 16 Schedules to the **draft DCO [APP/3.1],** providing for:
  - **Schedule 1** – the description of the Authorised Development
  - **Schedule 2** – the requirements that apply to the Scheme (i.e. the controls that apply to the **draft DCO [APP/3.1]**, similar to planning conditions). Schedule 16 then contains details of the procedure for discharge of requirements required under the **draft DCO [APP/3.1]**
  - **Schedule 3** – a list of the local legislation relating to land, railways and water that the **draft DCO [APP/3.1]** will disapply insofar as the provisions (in that local legislation) still in force are inconsistent with the powers contained in the **draft DCO [APP/3.1]**

- **Schedules 4 to 8** – matters in relation to street works and alterations, public rights of way, access to works and details of the streets subject to traffic regulation measures both during construction of the Authorised Development and permanently
- **Schedule 9** – details of land in which only new rights may be acquired
- **Schedule 10** – amendments to legislation to ensure appropriate compensation is payable where new rights over land are acquired under the **draft DCO [APP/3.1]**
- **Schedule 11** – details of land over which only temporary possession may be taken
- **Schedule 12** – details of hedgerows to be removed and trees subject to tree preservation orders
- **Schedule 13** – the documents and plans to be certified by the Secretary of State
- **Schedule 14** – arbitration rules that apply to most arbitrations in connection with the **draft DCO [APP/3.1]**
- **Schedule 15** – provisions for the protection of statutory undertakers and their apparatus; and
- **Schedule 16** – procedure for the discharge of requirements.

3 The Purpose of the Order

3.1.1 The Scheme involves an onshore generating station with a capacity of over 100MW, located in England, and is therefore a NSIP under sections 14(1)(a) and 15 of the PA 2008. The Applicant requires development consent under the PA 2008 in order to construct, operate and maintain, and decommission the Scheme. Under section 37 of the PA 2008, development consent may only be granted by a DCO, following an Application to the Secretary of State.

3.1.2 The Applicant is therefore making an Application to the Secretary of State for a DCO for the Scheme. In the **draft DCO [APP/3.1]**, the Scheme is referred to as the *"Authorised Development"*. The **draft DCO [APP/3.1]** refers to the person authorised to exercise the powers in the **draft DCO [APP/3.1]** as the *"undertaker"* and defines the undertaker as The Droves Solar Farm Limited.

3.1.3 The matters for which development consent is sought are summarised below and described more formally in Schedule 1 to the **draft DCO [APP/3.1]**.

3.1.4 Section 115(1) of the PA 2008 provides that development consent may be granted for associated development, as well as for the NSIP. The Secretary of State must therefore be satisfied that all the elements included within the Authorised Development are either the NSIP or are Associated Development, in order to include them in the **draft DCO [APP/3.1]**.

3.1.5 The solar photovoltaic generating station within Work No. 1 in Schedule 1 to the **draft DCO [APP/3.1]** constitutes *"development for which development consent is required"*, and as such is the NSIP.

3.1.6 The **draft DCO [APP/3.1]** also includes consent for Associated Development to allow for the storage, importation and exportation of energy to the National Grid, included at Works Nos. 2 to 11. The Applicant has considered these works against the policy and criteria in DCLG 'Guidance on Associated Development applications for major infrastructure projects' (April 2013) (the 'Guidance') – it is clear that all of these works come within the guidance and are clearly capable of being granted development consent by the Secretary of State pursuant to section 115 of the PA 2008.

3.1.7 The approach taken by the Applicant between those parts of the Authorised Development which form the NSIP and those parts that form Associated Development follows the approach taken by other DCOs to date, including the **Cleve Hill Solar Park Order 2020**, the **Longfield Solar Farm Order 2022**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025**, the **East Yorkshire Solar Farm Order 2025** and the **Tillbridge Solar Order 2025** each of which incorporate BESS (except East Yorkshire), grid connection infrastructure and mitigation and enhancement measures as associated development.

3.1.8 In particular, Work Nos. 2 to 11 are:

- all directly associated with the NSIP, as they are all required to support the construction, maintenance or operation of the generating station, or to mitigate its impacts (paragraph 5(i) of the Guidance)
- all subordinate to the NSIP – none of them are an aim in themselves (paragraph 5(ii)). In particular, the Applicant notes that the new overhead transmission electric line to be installed under Work No. 5A is proposed to be less than 2 kilometres in length, thereby ensuring that it is not classified as an NSIP in its own right in accordance with section 16(3)(aa) of the PA 2008
- not only necessary as a source of additional revenue for the Applicant, in order to cross-subsidise the cost of the NSIP (paragraph 5(iii))
- all proportionate to the nature and scale of the NSIP (paragraph 5(iv))
- all of a nature which is typically brought forward alongside a solar generating station (paragraph 6); and
- all listed in or analogous to the types of associated development listed in Annexes A and B to the Guidance. Those annexes mention:
  - In Annex A, *"Connections to national, regional or local networks"*, including electricity networks and in Annex B, *"substations"*, *"jointing pits"*, *"control buildings"* and *"underground lines"* would include the electrical cabling, collector compounds, substation works and grid connection works (Work Nos. 3, 4 and 5)
  - In Annex A, *"monitoring apparatus"* (Work Nos. 2, 3 and 4)
  - In Annex A, *"Formation of new or improved vehicular or pedestrian access (to stations, work sites etc), whether temporary or permanent"*; highway improvements, *"Alteration or construction of roads, footpaths"*, *"Parking spaces for workers"* and *"lay down areas"* (Work Nos. 5, 6, 7, 8 and 10)
  - In Annex A, hard and soft landscaping would include landscaping and other works to mitigate adverse impacts (Work No. 9 and 11); and
  - In Annex A, *"Security measures"* and *"Working sites, site offices and laydown areas"* (Work Nos. 3, 5, 6 and 7).

3.1.9 As the **draft DCO [APP/3.1]** seeks to apply and modify statutory provisions, including those relating to the compulsory acquisition of land, the **draft DCO [APP/3.1]** has been drafted as a statutory instrument, in accordance with sections 117 and 120 of the PA 2008.

3.2 Compulsory Acquisition

3.2.1 In addition to providing for the construction, operation and maintenance and decommissioning of the Scheme, the **draft DCO [APP/3.1]** will, in accordance with section 122, section 120(3) and Schedule 5 of the PA 2008, authorise the acquisition of land and rights over land, and the suspension of, or interference with, interests in or rights over land.

3.2.2 The **Book of Reference [APP/4.3]** sets out a description of, and interests included in, the Order land, split by *"plots"*, and these are shown on the **Land Plan [APP/2.2]**. The **Book of Reference [APP/4.3]** is divided into parts, dependent upon whether interests are Category 1, 2 or 3 interests, whether there are easements/private rights or land subject to special parliamentary procedure and these interests are identified in the **Book of Reference [APP/4.3]**. The **draft DCO [APP/3.1]** provides for land to be compulsorily acquired, rights to be compulsorily acquired and other rights and interests that will be affected as well as for the temporary possession of land. The **draft DCO [APP/3.1]** and the **Book of Reference [APP/4.3]** should be read together with the **Land Plan [APP/2.2]** and the **Statement of Reasons [APP/4.1]**, which sets out the justification for the inclusion of compulsory acquisition powers in the **draft DCO [APP/3.1]**.

3.3 Statutory Undertakers' Land and Apparatus

3.3.1 The interests held by each statutory undertaker identified by the Applicant as owning land or having a right to keep or access apparatus within the Order limits are identified in the **Book of Reference [APP/4.3]**.

3.3.2 Section 127(2) of the PA 2008 states that a DCO may only include provision authorising the compulsory acquisition of statutory undertakers' land to the extent that:

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

3.3.3 Section 127(5) of the PA 2008 states that a DCO may only include provision authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land to the extent that:

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

3.3.4 Section 138 of the PA 2008 states that a DCO may include provision for the extinguishment of rights of way, or rights to lay down, erect, continue or maintain apparatus on, under or over the land belonging to statutory undertakers for the purposes of their undertakings only if the Secretary of State is satisfied that the extinguishment is necessary for the purpose of carrying out the development to which the DCO relates.

3.3.5 The **draft DCO [APP/3.1]** includes protective provisions in respect of statutory undertakers (refer to Article 33 and Schedule 15). The Applicant ~~is currently seeking~~has sought to agree the form of protective provisions with the affected statutory undertakers.

The Applicant has reached agreement with all affected statutory undertakers on the form of protective provisions at the end of Examination, with the exception of National Grid Electricity Transmission plc (NGET). In respect of NGET, the parties are close to finalising the form of protective provisions and the parties will write to the Examining Authority / Secretary of State (as applicable), once that agreement has been reached, to provide them with a copy of those agreed protective provisions (which will replace those currently in Part 3 of Schedule 15 of the **draft DCO [APP/3.1.6]**) well in advance of determination of the DCO by the Secretary of State. Further details as to how the tests under sections 127 and 138 of the PA 2008 have been satisfied are set out in the **Statement of Reasons [APP/4.1]**.

4 Provisions of the Order

4.1.1 The **draft DCO [APP/3.1]** consists of 49 operative provisions, referred to as articles and 16 Schedules. The articles are considered below in numerical order (split between the different Parts of the **draft DCO [APP/3.1]**), and Schedules are considered along with the article which introduces them or to which they relate. Given the **draft DCO [APP/3.1]** refers to the Applicant as the *"undertaker*", for ease when reading this document with the **draft DCO [APP/3.1]** we use the term *"undertaker"* when explaining the provision of the **draft DCO [APP/3.1]** below. Equally, the Scheme is referred to as the *"Authorised Development"* in the **draft DCO [APP/3.1]** and so for ease this document refers to the *"Authorised Development"* when explaining the provisions of the **draft DCO [APP/3.1]**.

4.2 Part 1 (Preliminary) and Part 2 (Principal Powers)

4.2.1 Articles 1 (Citation and commencement) and 2 (Interpretation) are preliminary provisions. Article 1 provides for the way in which the **draft DCO [APP/3.1]** should be cited and when it takes effect.

4.2.2 Article 2 (Interpretation) provides for the interpretation of the rest of the **draft DCO [APP/3.1]**, including the Schedules. Where appropriate, some Schedules also contain provisions setting out what terms mean in that particular Schedule. Article 2 makes alterations to the model provisions to accommodate departures from model provisions elsewhere in the **draft DCO [APP/3.1]**, and to add required definitions, including:

- definitions of documents submitted as part of the DCO Application and which are referred to in the **draft DCO [APP/3.1]** have been added. These documents are more fully identified in the table in Schedule 13 to the **draft DCO [APP/3.1]**
- the definition of *"apparatus"* has the same meaning as in Part 3 (street works in England and Wales) of the New Roads and Street Works Act 1991. However, for the purposes of the **draft DCO [APP/3.1]** this has been expanded to include pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, transformer rectifier kiosks, electricity cables, telecommunications equipment and electricity cabinets. This is required to ensure that the definition of apparatus is sufficiently broad to encompass the type of apparatus that the undertaker may encounter or need to install when constructing the Authorised Development. This definition has precedent in all recent solar DCOs, including the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the E**ast Yorkshire Solar Farm Order 2025** and the **Tillbridge Solar Order 2025**
- the definition of *"Authorised Development"* means the development and associated development described in Schedule 1 to the **draft DCO [APP/3.1]** and any other development which is development within the meaning of section 32 of the PA 2008. The definitions of *"ancillary works"* and *"authorised project"* from the model provisions have not been used in the **draft DCO [APP/3.1]**, instead the concept of Associated Development is included in the definition of *"Authorised Development"* and is described

in detail in Schedule 1, as it is considered that this drafting is neater. The approach to defining *"Authorised Development"* is consistent with other made Orders such as the **Longfield Solar Park Order 2023**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**

- the definition of *"commence"* is defined so as to exclude *"permitted preliminary works"*. This exclusion is required to enable the undertaker to carry out certain preparatory works prior to the submission of relevant details or plans for approval under the requirements contained in Schedule 2 to the **draft DCO [APP/3.1]** so that certain works can be carried out without *"commencing"* the Authorised Development, in order to build the required flexibility into how the Authorised Development can be constructed
- The works identified in the *"permitted preliminary works"* include pre-commencement activities such as surveys and site investigations which are considered appropriate as the nature of these works (i.e. non-intrusive, above ground works or actions) means they are not expected to give rise to environmental effects requiring mitigation. Intrusive archaeological surveys are controlled via Requirement 12
- a definition of *"maintain"* has been added to make clear what activities are authorised under Article 5 (refer to **Paragraph 4.2.101** ~~1~~ of this document) during the operation of the Authorised Development
- The definition has been drafted to directly reflect the nature and context of the Authorised Development, which will need to be properly maintained, managed and protected throughout its operational lifetime. The drafting, therefore, reflects this operational period and likely framework of maintenance that will be required while enabling technological and practice advancement and improvements within identified environmental performance standards. Therefore, some flexibility must be built-in to what maintenance of the Authorised Development will involve, particularly to keep up with changing standards and controls and advances in technology
- For the purposes of the Authorised Development, examples of the activities anticipated to be covered are listed below:
  - **Maintain and inspect**: Throughout the life of the Authorised Development there will be a planned maintenance regime and, on occasion, the need for unplanned maintenance due to plant failures
  - **Repair/Refurbish/Replace**: Through the planned maintenance regime and indeed through any unplanned maintenance required due to plant failures, it is likely that some plant and equipment, particularly those with moving parts, will need to be repaired or refurbished or indeed replaced. In order to maintain the performance of the Authorised Development, an allowance for scheduled replacement has been included within the definition in order for equipment to be replaced once it reaches the end of the expected service life, in addition to replacement of apparatus on an ad-hoc basis due to plant failures. **ES Chapter 5: The Scheme [APP/6.1]** sets out the assumptions for programmed or scheduled maintenance of equipment which informed the environmental assessment; the replacement of all Solar PV Panels and batteries is permitted and has been assessed within the **ES [APP/6.1 – 6.5]**

- **Adjust and alter**: Through the planned maintenance regime, and indeed outside the planned maintenance regime, there may be a need to adjust or alter elements comprising the Authorised Development to respond to changing conditions
- **Remove**: Adjustment and replacement activities will require plant, equipment and material to be removed
- **Reconstruct**: If, for example, a part has to be dismantled in order to be repaired or refurbished, then that part will need to be reconstructed; and
- **Improve**: Technology will improve over the life of the Authorised Development and therefore there may be opportunities to *"improve"* the workings of the plant and equipment by, for example, the removal of an old part and replacing it with a new, more efficient part.

- the definition of *"Order land"* means the land shown pink or blue on the **Land Plan [APP/2.2]** which is within the limits of land to be acquired and described in the **Book of Reference [APP/4.3]**. This land is coloured pink (land to be permanently acquired) or blue (land in which the undertaker can create and acquire new rights)
- the definition of *"Order limits"* means the limits shown on the **Works Plan [APP/2.3]** within which the Authorised Development may be carried out
- the definition of *"statutory undertaker"* includes reference to a public communications provider defined by section 151(1) of the Communications Act 2003. This is on the basis that a *"public communication provider"* is providing a network or service to members of the public and, insofar as they may have assets or apparatus within the Order limits, it is considered appropriate to ensure that the **draft DCO [APP/3.1]** applies equally to those providers as statutory undertakers under section 127(8) of the PA 2008. There is precedent for this approach, for instance the **Longfield Solar Park Order 2023**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**
- the definition of *"street works"* has been amended to refer to the works listed in the street works article (Article 8(1)) so as to ensure consistency between the powers in the Article and the definition itself; and
- the *"undertaker"* is defined as The Droves Solar Farm Limited, who has the benefit of the provisions of the **draft DCO [APP/3.1]**, subject to the provisions of Article 36 and Article 37 (refer to **Paragraph 4.6.1** of this document).

4.2.3 Paragraph (2) of Article 2 has been included to reflect that *"rights over land"* include references to do or restrain or to place and maintain anything in, on or under land or in the airspace above its surface and to any trusts and incidents, including restrictive covenants. Paragraph (2) also makes it clear that references to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another.

4.2.4 Paragraph (3) of Article 2 has been added to make it clear that references to the purposes of the Authorised Development include the construction, maintenance, operation, use and decommissioning of the Authorised Development. Paragraph (4) of Article 2 has been

added to provide clarity that all distances, directions, capacities and lengths referred to in the **draft DCO [APP/3.1]** are approximate and that distances between lines or points on a numbered work comprised in the Authorised Development and shown on the **Works Plan [APP/2.3]** and **Access and Rights of Way Plan [APP/2.5]** are taken to be measured along that work. Paragraph (5) of Article clarifies that references to numbered works or by a combination of letters and numbers is a reference to the work as described in the Schedule and a reference to a numbered work means numbered works including a letter – for example a reference to *"Work No. 3"* or *"numbered work 3"* means numbered works 3A and 3B inclusive. Paragraph (6) of Article 2 clarifies as to how the word *"includes"* is to be construed; paragraph (7) that references to a statutory body include that body's successor bodies; paragraph (8) clarifies that any reference to the singular is a reference to the plural and vice versa unless stated otherwise; paragraph (9) clarifies that all areas described in square meters in the **Book of Reference [APP/4.3]** are approximate.

~~4.2.5 Finally, paragraph (10) clarifies that materially new or materially different environmental effects is not to be construed so as to include the avoidance, removal or reduction of assessed adverse environmental effects, nor the increase of an assessed positive environmental effect or creation of a new positive environmental effect. This enables the Authorised Development to incorporate improvements in its design and construction by clarifying that improved environmental outcomes to those assessed in the **ES [APP/6.1 – 6.5]** are inherently acceptable, whilst ensuring that any worse environmental effects would require a further consenting or approval process. This drafting has precedence in the **A66 Northern Trans-Pennine Development Consent Order 2024**, the **A122 (Lower Thames Crossing) Development Consent Order 2025** and the **London Luton Airport Expansion Development Consent Order 2025**.~~

~~4.2.6~~4.2.5 Article 3 (Development consent etc. granted by this Order) grants development consent for the Authorised Development. This article is adapted from the model provisions. Schedule 1 describes the Authorised Development in detail, split into *"work numbers"*, each of which represents different sections or parts of the Authorised Development. This split of the Authorised Development between different work numbers enables the **draft DCO [APP/3.1]** to refer to different parts of the Authorised Development by citing the relevant work number. The content of the works contained within each work number is described in greater detail in **Section 1.4** of this document.

~~4.2.7~~4.2.6 Paragraph (2) of Article 3 requires that the works authorised by the **draft DCO [APP/3.1]** are situated in the areas shown on the **Works Plan [APP/2.3]** (that is, the limits of deviation for each numbered work). This is in order to provide certainty as to what has been consented by the **draft DCO [APP/3.1]**, in respect of which areas of land.

~~4.2.8~~4.2.7 The purpose of Article 3(2) is to provide the undertaker with a necessary, but proportionate, degree of flexibility when constructing the Authorised Development, reducing the risk that the Authorised Development as approved cannot later be implemented for reasons which, at the time the DCO Application was made and the development consent was granted, could not reasonably have been foreseen. It also gives

a proportionate amount of flexibility for the detailed design of the Authorised Development within the set limits.

~~4.2.9~~4.2.8 Parameters are appropriate in the current **draft DCO [APP/3.1]** as they serve to precisely define the Authorised Development by reference to the **Works Plan [APP/2.3]**, while preserving an appropriate and proportionate amount of flexibility in the implementation of the Authorised Development to allow for variances in ground conditions and choice of appropriate equipment and technology. The **ES [APP/6.1 – 6.5]** accompanying the DCO Application for development consent has assessed the Authorised Development within the full envelope provided by the parameters on the **Works Plan [APP/2.3]**, and so development within this envelope will not create effects that exceed the worst-case scenario assessed in the **ES [APP/6.1 – 6.5]**. Further detail in this respect is provided in **Section 1.6** of this document.

~~4.2.10~~4.2.9 Article 4 (Operation of generating station) permits the operation and use of the generating station comprised in the Authorised Development and is included pursuant to section 140 of the PA 2008. Article 4(2) specifically preserves the need for the undertaker to obtain any other operational consent that may be needed for the generating station, in addition to the **draft DCO [APP/3.1]**. It is included so that the undertaker has powers to operate the generating station. *"Generating station"* in this Article would include the energy storage facility. The drafting of Article 4 adopted by the Applicant is in keeping with made energy DCOs such as the **Little Crow Solar Park Order 2022** and the **Longfield Solar Park Order 2023**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

~~4.2.11~~4.2.10 Article 5 (Power to maintain authorised development) provides for the maintenance of the Authorised Development at any time and is required so that the undertaker has power to maintain the Authorised Development. Article 5 reflects the terms of the model provisions, but text has been added to make clear that maintenance must be in accordance with the provisions of the **draft DCO [APP/3.1]**. Article 5(2) restricts maintenance to the Order limits in order to provide a defined area within which this power can be exercised. A definition of *"maintain"* has been included, as referred to above, so that it is clear what the term involves. The **ES [APP/6.1 – 6.5]** has assessed maintenance as defined in the **draft DCO [APP/3.1]** and therefore Article 5(3) does not permit the undertaker to undertake such maintenance activities if they will give rise to any materially new or different environmental effects that have not been assessed in the **ES [APP/6.1 – 6.5]**.

~~4.2.12~~4.2.11 Article 6 (Disapplication and modification of legislation, etc.) disapplies a number of statutory provisions. Section 120 of the PA 2008 makes comprehensive and wide-ranging provision about what may be included in a DCO, as part of the PA 2008's integrated approach to consenting. Section 120(5) provides that, subject to specified limitations and requirements, a DCO may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the **draft DCO [APP/3.1]**; and make amendments, repeals or revocations of statutory provisions of local application. It is common for DCOs to contain such provisions, although the scope and content

inevitably differs according to the circumstances of different projects. Precedent for most of the provisions sought for the **draft DCO [APP/3.1]** can be found in the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

~~4.2.13~~4.2.12 Article 6 provides for the disapplication of the following specified provisions

- section 23 of the Land Drainage Act 1991, which prohibits the obstruction and other works in watercourses without the consent of the lead local flood authority or relevant internal drainage board
- section 32 of the Land Drainage Act 1991, which would inappropriately allow the provisions of the **draft DCO [APP/3.1]** relating to drainage to be revisited
- the provisions of any byelaws made by drainage undertakers under section 66 of the Land Drainage Act 1991
- the provisions of any byelaws made, or having effect, under paragraphs 5, 6 or 6A to Schedule 25 of the Water Resources Act 1991
- Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016, only insofar as a flood risk activity permit(s) would be required under this Regulation; and
- the provisions of the Neighbourhood Planning Act 2017 in so far as they relate to temporary possession of land under articles 31 and 32 of the **draft DCO [APP/3.1]**. At present the reforms to the temporary possession regime contained in the Neighbourhood Planning Act 2017 have not yet been commenced (nor consulted on). When this may happen is uncertain, as are the detailed implications of implementation for the Authorised Development. A DCO should achieve certainty, and it is therefore appropriate and necessary to disapply the reforms whilst taking account of their principles in the relevant articles of the **draft DCO [APP/3.1]**, these being articles 31 and 32. This approach has precedent and has been accepted by the Secretary of State; see for example the **Cleve Hill Solar Park Order 2020**, the **Longfield Solar Farm Order 2023**, the **Mallard Pass Solar Farm Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

~~4.2.14~~4.2.13 These disapplications are sought on the basis that they address matters whose merits and acceptability can, and will, already have been sufficiently considered and resolved if the **draft DCO [APP/3.1]** is made, notably in relation to the provisions under the Land Drainage Act 1991, the Water Resources Act 1991, and the Environmental Permitting (England and Wales) Regulations 2016 through protective provisions for the protection of the relevant drainage authorities.

~~4.2.15~~4.2.14 Such matters should therefore not be the subject of further regulatory consideration or control, which would cause unnecessary uncertainty and duplication, and may unjustifiably delay the implementation of the Authorised Development.

~~4.2.16~~4.2.15 Section 150 of the PA 2008 only allows requirements for prescribed consents to be disapplied if the relevant body has consented to this. The relevant consents, where applicable, are being sought in parallel with the negotiation of appropriate protective provisions, which will ensure that the disapplications will not prejudice the statutory objectives and responsibilities of the relevant regulators. The Applicant's approach to obtaining the other consents required for the Authorised Development is set out in greater detail in the **Consents and Agreements Position Statement [APP/7.5]**.

~~4.2.17~~4.2.16 Paragraph 2 of Article 6 also applies section 9 of the Forestry Act 1967 to any felling required as a result of the Authorised Development. Section 9(1) of the 1967 Act provides that a Forestry Commission licence is required for felling growing trees. Section 9(4)(d) disapplies the requirement from felling required to implement development authorised by a planning permission – but not to development authorised by a DCO. Paragraph (2) of Article 6 extends the exception to any trees felled as a result of the Authorised Development.

~~4.2.18~~4.2.17 Paragraph (3) of Article 6 provides for the modification of Regulation 6(1) of the Hedgerows Regulations 1997 to provide that removal of any hedgerow to which the Hedgerow Regulations 1997 relates is permitted for the carrying out of any development or the exercise of any functions which have been authorised by the **draft DCO [APP/3.1]**. Regulation 6 provides that the removal of any hedgerow to which the Regulations apply is permitted if it is required for, at paragraph (1)(e), development for which planning permission has been granted – but not to development authorised by a DCO. Paragraph (3) of Article 6 extends the permission to any hedgerows removed as a result of the Authorised Development. This has precedent in other DCOs including the **Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024**, the **North Lincolnshire Green Energy Park Order 2025**, and the **Rampion 2 Offshore Wind Farm Order 2025**.

~~4.2.19~~4.2.18 Article 6(4) provides for the modification of Regulation 3(2) of The Environmental Impact Assessment (Agriculture) (England) (No.2) Regulations 2006. This modification addresses a lacuna in the existing legislative regime whereby restoration of land taken temporarily out of agricultural use under a planning permission for EIA development is exempt from the application of the Regulations, but no equivalent provision is made for development consent under the 2008 Act. The DCO Application for the Scheme has included an environmental impact assessment which assesses the impacts of decommissioning and restoration. This obviates the requirement for these Regulations to apply to the restoration of the land for agricultural use as part of the decommissioning of the Scheme.

~~4.2.20~~4.2.19 Article 6(5) in effect disapplies the Community Infrastructure Levy Regulations 2010, by making clear that any building comprised in the Authorised Development is to be deemed to be of a type that does not trigger liability for payment of the Community Infrastructure Levy.

~~4.2.21~~4.2.20 In addition, the Applicant has conducted a review of any local legislation that might conflict with the powers and rights sought in the **draft DCO [APP/3.1]**. The Applicant has

included a list of the historic legislation that it seeks to disapply in Schedule 3, which relates to matters including land, railways and water within, and in the vicinity of, the Order limits. This list has been prepared taking a precautionary approach, because in some cases it was difficult to conclusively determine whether or not the provisions of the legislation were relevant to the **draft DCO [APP/3.1]**, given that plans were not available in respect of the majority of the Acts considered to make clear their precise geographic scope. Article 6(1)(f) disapplies the legislation listed in Schedule 3 in so far as the provisions still in force are inconsistent with how the powers in the **draft DCO [APP/3.1]** can be exercised.

~~4.2.22~~4.2.21 Article 7 (Defence to proceedings in respect of statutory nuisance) provides that no person is able to bring statutory nuisance proceedings under the Environmental Protection Act 1990 in respect of noise, if the noise is created in the course of carrying out construction, maintenance or decommissioning of the Authorised Development and for which notice has been given under section 60 or consent obtained under section 61(9) of the Control of Pollution Act 1974 or which cannot be reasonably avoided as a consequence of the Authorised Development. Whilst the Statement of Engagement with Section 79(1) of the Environmental Protection Act 1990 (Statutory Nuisance Statement) **[APP/5.3]** confirms that there is no statutory nuisance expected as a result of the Authorised Development, the Applicant has continued to include Article 7 in the **draft DCO [APP/3.1]** as it is a model provision, in recognition that should such noise arise, that provision will provide sufficient definition of its consequences in an appropriate and balanced manner.

~~4.2.23~~4.2.22 Article 7 is precedented in all made solar DCOs, including the **Longfield Solar Farm Order 2023**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.3 Part 3 (Streets)

4.3.1 Article 8 (Street works) allows the undertaker to carry out certain works to a street for the purposes of the Authorised Development. It is necessary because implementation of the Authorised Development will require works to be undertaken to streets. Schedule 4 sets out the streets that are subject to street works, and the nature of those works, thereby clarifying the extent of the powers. Article 8 is a model provision; however, it has been modified to bring in sections 54 to 106 of the New Roads and Street Works Act 1991 to apply to any street work carried out pursuant to paragraph (1). This provides protection for the street authority for the street in question. In addition, the model provision has been extended in paragraph (1)(e) to provide for works which may be required to any culvert under a street. This article has precedent in the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.3.2 Article 9 (Application of the permit scheme) deals with the relationship between the powers in the **draft DCO [APP/3.1]** and the permit scheme for street works operated by Norfolk County Council. The article applies the permit scheme with modifications, helping to rationalise the differences between the scheme and its application to the Authorised

Development, located across two administrative areas. The first modification is so that the permit scheme cannot be used in a way that acts as a moratoria, ensuring that the permit scheme is not an impediment to the delivery of the Authorised Development. The second modification is to restrict the conditions that may be imposed pursuant to the permit scheme to ensure that they do not leave the undertaker unable to comply with the **draft DCO [APP/3.1]** or with the conditions in the **draft DCO [APP/3.1]** that control the powers it grants. This reflects that development consent is intended to provide a single, unified planning consent for the Authorised Development, with any limits and restrictions on the powers being contained within the **draft DCO [APP/3.1]** itself. The final modification is to apply the appeal process in Schedule 16 to the **draft DCO [APP/3.1]** to any decision to refuse a permit or to grant a permit with conditions. This does not restrict the use of any appeal mechanism that may be included within the permit scheme, but enables any disagreement about matters that may restrict the ability of the undertaker to implement the Authorised Development to be subject to a single appeal procedure.

4.3.3 The Applicant will continue discussions with the local highway authorities as to the need for this article as well as any additional controls associated with the street works articles in Part 3 of the **draft DCO [APP/3.1]**. The **draft DCO [APP/3.1]** and any associated control documents will be updated throughout the course of the Examination, to reflect any agreement in this respect.

4.3.4 Article 10 (Power to alter layout, etc., of streets) allows the undertaker to alter the layout of or carry out any works in a street. Schedule 5 then sets out the permanent and temporary alterations to streets. This Article is necessary because, in order to construct, operate, maintain and decommission the Authorised Development, the undertaker will need to alter street layouts and establish suitable accesses to ensure that the Authorised Development can be accessed effectively while ensuring there is minimal disruption to the local highway network. The powers conferred by paragraph (2) (which is a general power enabling the undertaker to alter the layout of any street and alter remove, replace and relocate any street furniture) require the consent of the street authority before they can be exercised. Article 10 has precedent and appears in the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.3.5 Article 11 (Construction and maintenance of altered streets) provides that each of the streets constructed, improved or altered pursuant to the powers in article 10 (this includes the construction or improvement of public rights of way) must be completed to the reasonable satisfaction of the street authority and, unless otherwise agreed, be maintained at the undertaker's expense for a period of 12 months from their completion. Thereafter, maintenance will be the responsibility of the street authority. For the purposes of the New Roads and Street Works Act 1991, any street that is or will be a publicly maintainable highway is under the control of the Local Highway Authority. The purpose of this Article is to define who will be responsible for the maintenance of new and altered streets following their construction or carrying out of works and it is required to provide certainty as to who will be responsible for such maintenance.

4.3.6 Paragraphs (2) and (3) mirror the defence in section 58 of the Highways Act 1980 where the undertaker is subject to an action for damages and has taken such care as was reasonably required in the circumstances to secure that the street was not dangerous to traffic. This Article (and the incorporation of the defences in particular) is similar to Article 10 in the **Gate Burton Energy Park Order 2024**, the **Sunnica Energy Farm Order 2024** and the **Mallard Pass Solar Farm Order 2024**.

4.3.7 Article 12 (Temporary closure, restriction or prohibition of use of streets and public rights of way) provides for the temporary closure, prohibition of the use, restriction of use, authorisation of use, alteration or diversion, of streets or public rights of way for the purposes of constructing, maintaining or decommissioning the Authorised Development. Powers are also included in order to manage the use of public rights of way during construction. The public right of way and permissive path management plan, secured by Requirement 16, will manage how any temporary closures or restrictions of public rights of way take effect. Schedule 6 is comprised of three parts that are relevant to this (streets to be temporarily closed; public rights of way to be temporarily closed; and temporary use of motor vehicles on public rights of way).

4.3.8 The authorisation under Article 12 of the use of motor vehicles over public rights of way where there is no public right to use motor vehicles is necessary to enable the undertaker to access parts of the Authorised Development with construction and maintenance plant, equipment and personnel which would otherwise be severed by public rights of way. The Article broadly follows the approach in the model provisions (save that it expressly applies to public rights of way – whilst these are highways and a form of street, express reference has been made to assist with clarity and understanding) in that it contains provisions of general application and then also in relation to the specific public rights of way that are set out in Schedule 6 to the **draft DCO [APP/3.1]** and as shown on the **Access and Rights of Way Plan [APP/2.5]**. Article 12 mirrors Article 11 of the model provisions in providing that where the public right of way is specified in a Schedule to the **draft DCO [APP/3.1]** that there is a requirement to consult the street authority, but there would be no need to obtain its consent. In respect of other public rights of way not specified in a schedule to the **draft DCO [APP/3.1]** there would be a requirement to obtain the consent of the street authority. Article 16 (see below) deals with traffic regulation more widely.

4.3.9 Article 12(5) provides that compensation is payable in respect of loss suffered by the suspension of any private rights of way. This provision is required so that persons who experience a loss because of the suspension of a street or public right of way can be appropriately compensated.

4.3.10 Article 13 (Use of private roads) authorises the temporary passage by the undertaker, in common with other permitted users, over private roads within the Order limits by persons or vehicles for the purposes of, or in connection with, the construction, operation and maintenance or decommissioning of the Authorised Development. The article creates a power to ‘use’ a private road for a temporary period that is proportionate to the limited nature of the use, rather than extinguishing, suspending or permanently interfering with

the private rights of a landowner. This article is necessary because the undertaker will need to use private roads inside the Order limits.

4.3.11 Article 14 (Access to works) is a model provision which gives the undertaker powers to form new or to improve existing means of access for the purposes of the Authorised Development, as set out in Schedule 7 (access to works) to the **draft DCO [APP/3.1]**. This article is necessary because the undertaker will need to create or improve existing means of access for the purposes of the Authorised Development. The Article also provides that other means of access or works can also be provided in other locations reasonably required for the Authorised Development with the approval of the relevant planning authority, in consultation with the highway authority.

4.3.12 Article 15 (Agreements with street authorities) is a model provision which authorises street authorities and the undertaker to enter into agreements relating to strengthening, improvement, repair or reconstruction of any streets, stopping up, prohibition, restriction, alteration or diversion of any street, works authorised under Articles 8 (street works), 10 (power to alter layout, etc., of streets), 11 (construction and maintenance of altered streets) and 14 (access to works) of the **draft DCO [APP/3.1]** and the adoption of works.

4.3.13 Article 16 (Traffic regulation measures) provides the undertaker with a general power to make temporary traffic regulation measures for the purposes of the construction, operation and maintenance and decommissioning of the Authorised Development. Paragraph (2) provides the undertaker with powers to place temporarily traffic signs and signals in the extents of the roads specified in Schedule 8. This Schedule identifies the relevant roads and specifies the extents of the roads that will be subject to temporary traffic signal and banksman control areas. The inclusion of this power is justified as it allows a degree of flexibility to respond to changing conditions on the road network over the lifetime of the Scheme. The general power is appropriately regulated as it may only be exercised with the consent of the traffic authority concerned. The Article is not in the general model provisions but is common in orders granting permission for infrastructure projects where it is necessary in the interests of public safety during construction of the Authorised Development for the undertaker to put in place some temporary restrictions on road usage. The powers under this Article are provided for in section 120(5)(a) of the PA 2008. For example, similar provision is contained within the **Great Yarmouth Third River Crossing Development Consent Order 2020**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.4 Part 4 (Supplemental Powers)

4.4.1 Article 17 (Discharge of water) is a model provision that allows the undertaker to discharge water into any watercourse, public sewer or drain in connection with the construction, operation and maintenance and decommissioning of the Authorised Development with the approval of the owner of the watercourse, public sewer or drain and subject to certain other conditions, and its purpose is to establish a clear statutory authority for doing so. The reference from the model provisions to section 85 of the Water Resources Act 1991 has been deleted as this section has now been repealed. This has been replaced with a

reference to the Environmental Permitting (England and Wales) Regulations 2016. The reference from the model provisions to the Homes and Communities Agency has been changed to Homes England, as this body replaced the Homes and Communities Agency in January 2018. References to the harbour authority have also been removed as they are not relevant to the **draft DCO [APP/3.1]**. This article has precedent in numerous made DCOs, including the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.4.2 Article 18 (Removal of human remains) is adapted from the model provision which provides for the removal of human remains from the Order limits and for their reburial in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose or for their treatment according to the wishes of any personal representatives or relatives who come forward following the giving of the necessary notices. This Article has been included because there is a risk of human remains associated within the Order limits identified by the undertaker in the course of its archaeological investigations (these findings are summarised in **ES Appendix 8.7: outline Archaeological Mitigation Strategy [APP/6.4]**, along with the proposed archaeological mitigation in respect of each are where burial features have been identified). The undertaker is not able to rule out the presence of human remains within the Order limits. This provision is considered necessary so that the discovery of any remains does not delay the implementation of the Authorised Development. This article has precedent in the **A303 (Amesbury to Berwick Down) Development Consent Order 2023**, in the context of extensive historical burial grounds in the vicinity of Stone Henge, and appears in DCOs for solar projects where the potential for human remains has been identified, as in the case of this project, through archaeological surveys of the Order limits, including the **Cottam Solar Project Order 2024**.

4.4.3 Article 18 establishes a self-contained procedure governing the removal and subsequent treatment of any human remains encountered within the Order limits. In particular, it provides for notice of an intended removal, an opportunity for a personal representative or relative of the deceased to arrange the removal, reinterment or cremation of identifiable remains, the payment by the undertaker of the reasonable expenses of doing so, and the certification and recording of any reinterment or cremation. Where remains were interred more than 100 years ago and no personal representative or relative is likely to object, the undertaker may remove the remains without first giving notice, but must apply to the Secretary of State for directions as to their subsequent treatment and comply with those directions. Article 18 therefore provides defined procedural timescales while retaining protections for personal representatives and relatives and the Secretary of State's control over the subsequent treatment of older remains.

4.4.4 Paragraph (17) applies section 239 (use and development of burial grounds) of the Town and Country Planning Act 1990 (the 1990 Act) to land acquired for the purposes of the Authorised Development, rights acquired over land and land used temporarily under articles 31 and 32. Section 239(1) provides that land consisting of a burial ground or part of a burial ground which has been the subject of a relevant acquisition or appropriation

may, notwithstanding enactments relating to burial grounds and ecclesiastical or other obligations or restrictions, be used in accordance with planning permission. Section 239(2) provides that this does not apply until the prescribed requirements relating to the removal and reinterment of human remains and the disposal of monuments have been complied with. Paragraph (17) modifies the application of sections 239 and 240 so that, for the purposes of the Order, the procedure in paragraphs (2) to (16) of Article 18 constitutes the applicable requirements governing the removal and subsequent treatment of human remains. It also extends that statutory framework to the undertaker and to the acquisition of rights and temporary use of land authorised by the Order. This is relevant because the undertaker cannot rule out the presence of human remains within the Order limits and the powers granted by the Order include the acquisition of land and rights and the temporary use of land for the Authorised Development.

4.4.5 Paragraph (18) provides that the Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations 1950 do not apply to the Authorised Development. Those Regulations prescribe conditions governing the use of certain acquired or appropriated land comprising consecrated land, churches, places of religious worship or burial grounds, including requirements relating to the removal and reinterment of human remains and the disposal of memorials and registers. Their disapplication avoids the concurrent application of that separate statutory procedure where Article 18 applies. This is appropriate because paragraphs (2) to (16) of Article 18 provide the specific procedure applicable to the Authorised Development for notification, removal, reinterment or cremation, record keeping and directions from the Secretary of State. Paragraphs (17) and (18) therefore operate together so that the relevant protections and procedures are contained in a single, project-specific regime under Article 18 rather than two potentially overlapping regimes.

4.4.6 Article 19 (Protective work to buildings) is an adapted model provision which is included in most made DCOs to date. Its purpose is to provide powers to the undertaker to enter any building and land within its curtilage to survey to determine whether protective works are needed and to carry out protective works to buildings within the Order limits, subject to a number of conditions including the service of not less than 14 days' notice (except in cases of emergency) and the payment of compensation in the event that any loss or damage arises.

4.4.7 The Article includes compensation provisions in relation to the consequences of the protective works being undertaken, but also where the protective works are undertaken but they are inadequate to protect the building or land from damage (within a period of 5 years from the date of final commissioning). Where the undertaker serves a notice stating the intention to carry out protective works or to enter a building or land within its curtilage there is ability for a counter notice to be served by the land owner/occupier within a period of 10 days from the day on which the notice was served, to dispute the need for the proposed protective works.

4.4.8 Protective works can also be undertaken after the carrying out of the works forming part of the Authorised Development for a period of 5 years from the date of completion of the

part of the Authorised Development carried out in vicinity of the building. This wording is a minor update from the model provision wording, as the undertaker considered that the phrase 'open for use' which is used in the model provision is not appropriate given the nature of the Authorised Development. This Article is required because there are buildings within, and in close proximity to, the Order land that might feasibly require surveys and protective works as a result of the Authorised Development. This article has precedent in the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.4.9 Article 20 (Authority to survey and investigate the land) is a model provision that enables the undertaker to enter onto any land within the Order limits or which may be affected by the Authorised Development for the purpose of carrying out monitoring or surveys, including bringing equipment onto the land and making trial holes. The power is subject to a number of conditions, including a requirement of at least 14 days' notice on every owner and occupier of the land and the payment of compensation in the event that any loss or damage arises. This power is essential to implementation of the Authorised Development, for example in verifying ground conditions or the presence of statutory undertakers' apparatus.

4.4.10 The model provision has been modified so that no trial holes are to be made:

- in land located within the highway boundary without the consent of the highway authority; or
- in a private street without the consent of the street authority.

4.4.11 The Article applies section 13 of the Compulsory Purchase Act 1965 (refusal to give possession to acquiring authority) thereby providing an enforcement mechanism (by way of a warrant) where entry onto land under the Article is refused. This is considered necessary so that there is no delay in the implementation of the Authorised Development and has precedent in the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the We**st Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.5 Part 5 (Powers of Acquisition)

4.5.1 Article 21 (Compulsory acquisition of land) is a model provision that provides for the compulsory acquisition of such land as is required for the Authorised Development, or to facilitate, or is incidental to, the Authorised Development. The Article is necessary to secure the delivery of the Authorised Development as set out in more detail in the **Statement of Reasons [APP/4.1]** accompanying the DCO Application. The Article broadly follows the model provision, although reference to compensation for the suspension of a private right of way or for a private right of way to cease to have effect where land has been acquired has been deleted as this is dealt with in Article 25 (Private rights). This approach has precedent in the **Riverside Energy Park Order 2020**, the **Lake**

Lothing (Lowestoft) Third Crossing Order 2020, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.2 Article 21(2) makes clear that the powers in this Article are subject to the powers and restrictions in Article 22 (Time limit for exercise of authority to possess land temporarily or to acquire land compulsorily), Article 24 (Compulsory acquisition of rights) and Article 31 (Temporary use of land for constructing the Authorised Development) to ensure that, where relevant and in accordance with Schedules 9 and 11, the undertaker can only acquire new rights or take temporary possession of land and cannot acquire the freehold interest in that land other than by agreement. Article 21 is also subject to a time limit as set out in Article 22 (Time limit for exercise of authority to possess land temporarily or to acquire land compulsorily).

4.5.3 Article 22 (Time limit for exercise of authority to possess land temporarily or to acquire land compulsorily) is a provision which imposes a time limit of 5 years for the exercise of powers of compulsory acquisition from the date on which the **draft DCO [APP/3.1]** is made, via issuing notices to treat or executing general vesting declarations. The undertaker considers that 5 years is an appropriate time limit as it is consistent with the time limit for commencing the Authorised Development set out in Requirement 2 of Schedule 2 to the **draft DCO [APP/3.1]** and has precedent in the majority of made DCOs to date. Examples include the **Longfield Solar Farm Order 2023**, the **Cottam Solar Project Order 2024** and the **West Burton Solar Project Order 2025**.

4.5.4 Amendments have been made to this article since the making of the Orders used as precedent to reflect changes made to wider compulsory purchase legislation by the Levelling-up and Regeneration Act 2023, to use the concept of an *"applicable period"*. The amendments adopt this concept, such that the provisions in the Compulsory Purchase Act 1965 and the Compulsory Purchase (Vesting Declarations) Act 1981 that extend the period for compulsory acquisition to allow for any delays caused by a judicial challenge of the compulsory purchase order also apply to the period for compulsory acquisition permitted by the **draft DCO [APP/3.1]**. The time limit for the exercise of temporary possession powers in Article 31, and the time limit to commence the Authorised Development have also been tied to this concept of the *"applicable period"* to provide consistency and certainty for when the land powers may be exercised.

4.5.5 Article 23 (Compulsory acquisition of land - incorporation of the mineral code) is a model provision which incorporates Parts 2 and 3 of Schedule 2 of the Acquisition of Land Act 1981 (minerals). The mineral code is incorporated as a precautionary measure given the identification of interests in mines and minerals within the Order limits. The incorporation of the mineral code means that when the undertaker compulsorily acquires land under the **draft DCO [APP/3.1]**, it does not also acquire the rights to the minerals. This approach is commonly seen in existing DCOs, including the **Cottam Solar Project Order 2024**, the **East Yorkshire Solar Farm Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.6 Article 24 (Compulsory acquisition of rights) enables the undertaker to acquire rights or impose restrictive covenants over the Order land as may be required for any purpose for which the land may be acquired under Article 21 (Compulsory acquisition of land). The

Article also provides that rights may be created as well as enabling the undertaker to acquire those already in existence. It should be noted that this provision is subject to Article 31 (Temporary use of land for constructing the Authorised Development) which provides that the undertaker must not acquire, acquire new rights over or impose restrictive covenants over land listed in Schedule 11 to the **draft DCO [APP/3.1]** (i.e. Land of which only temporary possession may be taken).

4.5.7 The Article provides that, in respect of the Order land set out in Schedule 9 (Land in which only new rights etc. may be acquired) the undertaker's powers of acquisition of new rights and imposition of restrictive covenants are limited to the purposes set out in that Schedule. The ability to acquire new rights and impose restrictive covenants is required in order that the undertaker can construct and maintain the Authorised Development, and it ensures that the undertaker is able to seek a lesser interference with land where this is appropriate (whether in the context of new or existing rights) during the implementation of the Authorised Development. Providing the undertaker with powers to acquire rights only and impose restrictive covenants only over the Order land set out in Schedule 9 (Land in which only new rights etc. may be acquired) allows the undertaker to reduce the area of land that is required to be compulsorily acquired for the purposes of the Authorised Development, and therefore allows for a more proportionate exercise of compulsory acquisition powers. Paragraph (4) applies Schedule 10 (Modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants), which extends the compensation provisions relating the acquisition of the freehold to the more limited acquisition of rights and imposition of restricted covenants.

4.5.8 Paragraph (5) provides that where the undertaker proposes the acquisition of new rights or the imposition of restrictive covenant for the purpose of diverting, replacing or protecting the apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State transfer the powers to the relevant statutory undertaker.

4.5.9 This form of drafting originates from Article 19 of the model provisions, which grants broad powers of acquisition which are then subject to subsequent articles to limit that broad power. It is standard and well precedented drafting including in the **Cleve Hill Solar Farm Order 2020**, the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.10 Article 25 (Private rights) is adapted from the model provisions and (i) provides that private rights and restrictions over land cease to have effect so far as their continuance would be inconsistent with the exercise of the compulsory acquisition powers contained in Article 21 (Compulsory acquisition of land); (ii) provides that private rights and restrictions over land cease to have effect in so far as their continuance would be inconsistent with the exercise of compulsory acquisition of rights or the imposition of restrictive covenants under Article 24 (Compulsory acquisition of rights); and (iii) suspends private rights and restrictions over land so far as their continuance would be inconsistent with the exercise of temporary possession powers under the **draft DCO [APP/3.1]**. This is required because it enables the undertaker to take land with a clear, unencumbered title, thereby minimising

impediments to the delivery of the Authorised Development. It is not considered appropriate to automatically extinguish private rights where land is acquired outright for the Authorised Development as it will be decommissioned at the end of its life and is therefore temporary in nature.

4.5.11 Paragraph (5) provides that compensation is payable to any person who suffers loss as a result of the exercise of the powers in this Article and that such compensation would be payable under section 152 of the PA 2008 rather than the Compulsory Purchase Act 1965. Paragraph (9) confirms that the private rights cease to have effect or are suspended where the land is acquired by agreement, ensuring that the use of compulsory acquisition powers is not inadvertently made preferable to acquiring land and rights by agreement where private rights exist in the land. Paragraph (10) also clarifies that references to private land include references to any trusts or incidents to which the land is subject. This drafting is well precedented, including in the **Longfield Solar Farm Order 2023**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025**, the **East Yorkshire Solar Farm Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.12 Article 26 (Application of the 1981 Act) is a model provision which applies the general vesting procedures in the Compulsory Purchase (Vesting Declarations) Act 1981 to the exercise of compulsory acquisition powers pursuant to the **draft DCO [APP/3.1]**. This provides the undertaker with the option to acquire the land via the vesting process set out in the 1981 Act rather than the notice to treat procedure. Vesting declarations allow title in the land concerned to pass to the acquiring authority more quickly than using the notice to treat method. They also enable several parcels of land to be acquired under the same legal instrument and therefore more efficiently than under the notice to treat procedure. This article is standard and appears in all recent DCOs, including the **Longfield Solar Farm Order 2023**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025**, the **East Yorkshire Solar Farm Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.13 Article 27 (Power to override easements and other rights) provides that in carrying out or using the development authorised by the **draft DCO [APP/3.1]** and doing anything else authorised by the **draft DCO [APP/3.1]**, the undertaker may interfere with any easement, liberty, privilege, right or advantage annexed to land and affecting other land, including any natural right to support, or breach any restriction as to use of land arising by virtue of contract. It also provides that compensation may be payable under section 7 or 10 of the Compulsory Purchase Act 1965 for any such interference or breach. This is not a model provision, but is added to clarify the position with regard to rights burdening land required for the Authorised Development. It has precedent, for example, in the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.14 Article 28 (Modification of Part 1 of the Compulsory Purchase Act 1965) modifies the provisions of Part 1 of the Compulsory Purchase Act 1965 as applied to the **draft DCO [APP/3.1]** by section 125 of the PA 2008. This provision reflects changes introduced by

the Housing and Planning Act 2016 and is required to ensure that Part 1 of the 1965 Act is applied correctly to compulsory acquisition authorised under the **draft DCO [APP/3.1]**. Paragraphs (2) to (4) amend the provisions of the Compulsory Purchase Act 1965 so they are consistent with the terms of the **draft DCO [APP/3.1]**. These modifications have precedent in numerous made DCOs and other legislation including the **Longfield Solar Farm Order 2023**, the **Sunnica Energy Farm Order 2024** and the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.15 Article 29 (Acquisition of subsoil only) is a model provision that permits the undertaker to acquire only the subsoil of land, or rights only in the subsoil of land, which may be compulsorily acquired (pursuant to Article 21 – Compulsory acquisition of land or Article 24 – Compulsory acquisition of rights), thereby giving the undertaker the ability to minimise the extent of interests acquired from landowners. This Article is appropriate in the context of the cables or pipes to be laid underground as part of the Authorised Development, where acquisition of the 'entire' freehold may not be required. It therefore enables the undertaker to minimise as far as possible to extent of interests to be acquired, thereby reducing the impact on landowners. This article continues to have precedent including in the **Longfield Solar Farm Order 2023**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025**, the **East Yorkshire Solar Farm Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.16 Article 30 (Rights under or over streets) is a model provision which has been included in the majority of made DCOs to date to enable the undertaker to enter on, appropriate and use the subsoil of or airspace over streets where required for the purpose of the Authorised Development without being required to acquire that land. It is therefore required in order to reduce the amount of land that needs to be compulsorily acquired for the purposes of the Authorised Development.

4.5.17 The purpose of this Article is to allow the undertaker to appropriate and use land above or below streets within the Order land, without having to acquire the street or any right or easement in it. The exercise of this power without acquisition is prohibited in the circumstances set out in paragraph (3). Paragraphs (4) and (5) provide for the payment of compensation in certain circumstances. Recent precedent can be found in the **Sunnica Energy Farm Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.18 Article 31 (Temporary use of land for constructing the authorised development) allows the land specified in Schedule 11 (Land of which temporary possession may be taken) to be temporarily used for the carrying out of the Authorised Development. There is a clear limit on the length of time that the undertaker can use land in this way, which in the case of land that may only be used temporarily is the end of the period of one year beginning with the date of final commissioning of that part of the Authorised Development for which temporary possession of the land was taken. The Article also requires the undertaker to give 14 days' notice before taking possession, and to restore the land following the temporary works.

4.5.19 Wording has been added to paragraph (1)(a)(ii) in order to allow Article 31 to apply to land which may later be the subject of compulsory acquisition. This reflects a common approach to designing and building infrastructure projects, whereby possession is taken of a wider area required for the purposes of construction, and once the location of new apparatus is known definitively (after it has been built), then the final area of land or area of land over which rights are required permanently is defined and acquired. This allows a more proportionate approach to the extent of land and rights acquisition.

4.5.20 Wording has also been added to paragraphs (4) and (5) to take into account that the undertaker may, pursuant to Article 31(1)(a)(ii), temporarily use land that it may compulsorily acquire. This is also subject to a general requirement for the undertaker to not remain in possession of land for longer than one year, beginning with the date of final commissioning of the Authorised Development, unless the process to compulsorily acquire land or rights has been commenced.

4.5.21 Paragraph (10) makes clear that the undertaker cannot compulsorily acquire, nor permanently acquire rights or impose restrictive covenants over, the land specified in Article 31(1)(a)(i) (which is land of which temporary possession only is required).

4.5.22 Paragraph (11) makes clear that the Article does not preclude the creation or acquisition of new rights, imposition of restrictions or acquisition of rights in land specified in Schedule 9 (land in which only new rights etc. may be acquired), and nor are the powers under Article 29 (Acquisition of subsoil only) or Article 30 (Rights under or over streets) precluded.

4.5.23 Paragraph (12) applies section 13 of the Compulsory Purchase Act 1965 thereby providing an enforcement mechanism (by way of a warrant) where entry onto land under the Article is refused. This is considered necessary so that there is no delay in the implementation of the Authorised Development. Paragraph (13) confirms that the undertaker may take temporary possession more than once.

4.5.24 This article has recent precedent in the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.25 Article 32 (Temporary use of land for maintaining the Authorised Development) provides for the temporary use of land for maintenance of the Authorised Development. There are clear limits on the length of time that the undertaker can use land in this way, provisions requiring not less than 28 days' notice to be given and restoration of the land following the temporary possession. This Article provides for the payment of compensation for that temporary use of the land.

4.5.26 The maintenance period has been adapted from the model provision to apply to the period 5 years beginning with the date of final commissioning, as opposed to the date on which the project is opened for use, as this is more appropriate for this type of development. Similar wording has been used in other made Orders in connection with solar generating stations such as the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park**

Order 2024, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**. However, in order to be able to carry out the landscaping commitments set out in the **outline Landscape and Ecological Management Plan (oLEMP) [APP/7.11]**, the maintenance period has been extended to the period in the landscape and ecology management plan approved pursuant to Requirement 7 in relation to landscaping only. A similar provision was included in the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.27 Article 33 (Statutory undertakers) provides for the acquisition of land belonging to statutory undertakers within the Order land. This includes a power to move the apparatus of those statutory undertakers and to extinguish or relocate their rights. This article is subject to the protective provisions included at Schedule 15 of the **draft DCO [APP/3.1]**. Further details on statutory undertakers' land and apparatus are included in the **Statement of Reasons [APP/4.1]**. This power is required over the whole of the Order land and similar wording has been used in other made Orders including the **Cleve Hill Solar Park Order 2020**, the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.5.28 Article 34 (Apparatus and rights of statutory undertakers in closed or restricted streets) governs what happens to statutory utilities' apparatus (pipes, cables, etc.) under streets that are closed by the **draft DCO [APP/3.1]**. This Article is required because, without it, the statutory undertaker would not have access to the apparatus, since there would no longer be a right of way along the street. The Article is a model provision but has been amended in that paragraphs (2) onwards have been deleted from the model provision to avoid duplication with the protective provisions contained in Schedule 15.

4.5.29 Article 35 (Recovery of costs of new connections) provides that persons who have to create a new connection following the exercise of powers under Article 33 (Statutory undertakers) may recover the costs of new connections from the undertaker. It is a model provision, with the part of the model provision that referred to the permanent stopping up of streets deleted as this is not relevant in the context of the Authorised Development.

4.5.30 Both Articles 34 and 35 have precedent in recent DCOs including the **Longfield Solar Farm Order 2023**, the **Cottam Solar Project Order 2024**, the **East Yorkshire Solar Farm Order 2025** and the **Tillbridge Solar Order 2025**.

4.6 Part 6 (Miscellaneous and General)

4.6.1 Article 36 (Benefit of the Order) overrides section 156(1) of the PA 2008 (which is permitted by section 156(2)) and provides that the benefit of the **draft DCO [APP/3.1]** is for the undertaker, rather than anyone with an interest in the land. Paragraph (2) provides that the benefit of Work No. 4 and Work No. 5, being the work to connect the Authorised Development to the National Grid, is for the benefit of the undertaker and National Grid as

the new National Grid Substation will be owned and operated by National Grid. Overriding section 156(1) is common in DCOs that have been made, including the **Little Crow Solar Park Order 2022**, the **Longfield Solar Farm Order 2023**, the Cotta**m Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.6.2 Article 37 (Consent to transfer the benefit of the Order) is a standard article included in numerous made DCOs that makes provision for the transfer of any or all of the benefit of the provision of the **draft DCO [APP/3.1]**. This Article is required in order that the undertaker has commercial flexibility to transfer the benefit of the **draft DCO [APP/3.1]** to a third party, subject to the provisions of the Article. Under paragraph (3), the consent of the Secretary of State is needed before the undertaker can transfer or lease the **draft DCO [APP/3.1]** except where:

- the transferee or lessee is the holder of an electricity generating licence under section 6 of the Electricity Act 1989
- in respect of Work No. 9, being habitat mitigation areas, the transferee or lessee is a holding company or subsidiary of the undertaker (this is required as it is not necessary to hold a generation licence to operate a habitat mitigation area); or
- the compensation provisions for the acquisition of rights or interests in land or for effects on land have been discharged or are no longer relevant.

4.6.3 Article 37(2) has been amended from the model provisions so that it refers to ‘transfer or grant’, which is considered to be more accurate than ‘agreement’.

4.6.4 The justification for these provisions is that in such cases, the transferee or lessee will either be of a similar regulatory standing to the undertaker so as to protect the provision for compensation for rights or interests in land that are compulsorily acquired pursuant to the **draft DCO [APP/3.1]**, or there are no outstanding actual or potential compulsory purchase claims.

4.6.5 Article 37(4) provides that where the consent of the Secretary of State is not needed, the undertaker must still notify the Secretary of State in writing prior to the transfer or grant of the benefit of the provisions of the **draft DCO [APP/3.1]**. Article 37(5) to (7) provide further detail on the notification that is to be given. Similar provisions can be found in the **Cottam Solar Project Order 2024**, the **Gate Burton Energy Park Order 2024**, the **Mallard Pass Solar Farm Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.6.6 Article 37(8) provides that where the undertaker has transferred the benefit of the **draft DCO [APP/3.1]** or granted the benefit of the **draft DCO [APP/3.1]** then:

- the transferred or granted benefit will include any rights that are conferred and any obligations that are imposed
- the transferred benefit will reside exclusively with the transferee or the lessee and shall not be enforceable against the undertaker; and

- the benefits or rights conferred under paragraph (1) of the article are subject to the same restrictions, liabilities and obligations as applies to the undertaker.

4.6.7 This approach has precedent in the **Cleve Hill Solar Park Order 2020** and the **Longfield Solar Farm Order 2023**, as well as the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.6.8 Article 38 (Application of landlord and tenant law) is a model provision which is included in numerous made DCOs which would override landlord and tenant law so far as it would prejudice the operation of any agreement for leasing the whole of the Authorised Development or the right to operate the same or any agreement entered into by the undertaker for the construction, maintenance, use or operation of the Authorised Development. This provision is required to ensure that landlord and tenant law does not impede the construction, maintenance, use or operation of the Authorised Development.

4.6.9 Article 39 (Planning permission, etc.) is based on a model provision which is included in numerous made DCOs 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 1990 Act. The effect of paragraph (2) is to ensure that planning rights attaching to the undertaker in relation to operational land have effect as they would do if planning permission had been granted for the Authorised Development. The article also includes bespoke drafting to address the implications of the Supreme Court's decision in *Hillside Parks Ltd v Snowdonia National Park Authority [2022] UKSC 30*. In that case, the Court held that an existing planning permission will be extinguished if a later planning permission is commenced that, if fully constructed, would render the first planning permission impossible to implement. The grant of the Scheme, whilst in the form of a DCO, is considered to have the same effect on planning permissions and could therefore extinguish unimplemented or part-implemented planning permissions. This is not the intention of the Scheme, and the drafting is included to provide a clear statutory authority to manage the interaction of the authorised development with existing or future planning permissions. Paragraph (1) confirms that any planning permission that is unrelated to the authorised development will, when carried out, not constitute a breach of the terms of the **draft DCO [APP/3.1]**. This recognises that each planning permission will be subject to relevant planning conditions to manage the impacts of that specific development. It would not be appropriate for third party development to be carried out in accordance with that permission to give rise to a breach of the **draft DCO [APP/3.1]** by that party. Paragraph (3) manages the potential for the commencement of the Authorised Development to extinguish a permission pursuant to *Hillside*. It addresses the key rationale for extinguishment by confirming that, when assessing if a planning permission is capable of being implemented, any inconsistency arising from the Scheme must be disregarded when determining if the planning permission is capable of implementation. Similarly, where there is such an inconsistency, the **draft DCO [APP/3.1]** provides that no enforcement action may be taken under the 1990 Act in relation to development carried out in compliance with that planning permission. The effect of this is to ensure that the planning permission survives the grant of the **draft DCO [APP/3.1]** and the

commencement of the Authorised Development, protecting third party development from undue interference. Finally, paragraph (4) confirms that a planning permission that is carried out within the Order limits, is not a breach of the **draft DCO [APP/3.1]** and does not prevent the implementation of the Scheme or the exercise of the powers in the **draft DCO [APP/3.1]**. This drafting provides clarity that the development consent granted by the **draft DCO [APP/3.1]** is not itself limited or restricted by the operation of the principles set out in *Hillside*. The drafting has precedent in article 45 of the **London Luton Airport Expansion Development Consent Order 2025** and article 56 of the **A122 (Lower Thames Crossing) Development Consent Order 2025**.

4.6.10 Article 40 (Felling or lopping of trees and removal of hedgerows) is based on a model provision included in numerous made DCOs which provides that the undertaker may fell or lop or cut back the roots of any tree or shrub near any part of the Authorised Development to prevent it obstructing or interfering with the construction, maintenance or operation of the Authorised Development; constituting a danger for persons using the Authorised Development or obstructing or interfering with the passage of construction vehicles.

4.6.11 The Article also allows the undertaker to remove those hedgerows specified in Schedule 12 (Hedgerows to be removed) Schedule 12 is divided into Part 1 (Removal of hedgerows) and Part 2 (Removal of important hedgerows). Article 40(4) clarifies that the power is to remove hedgerows specified in Parts 1 and 2 of Schedule 12, to the extent set out in the Landscape and Ecological Management Plan approved pursuant to Requirement 7 in Schedule 2.

4.6.12 The Article provides that the undertaker may not fell or lop a tree or remove hedgerows under this Article within the extent of the publicly maintainable highway without the prior consent of the highway authority. Compensation is provided for if loss or damage is caused. The provision is required for safety reasons and its applicability is appropriately limited.

4.6.13 Article 40 does not address the statutory protection afforded to trees by virtue of being subject to a Tree Preservation Order (a 'TPO') as this is covered by Article 41.

4.6.14 Article 41 (Trees subject to tree preservation orders) provides that the undertaker may fell or lop or cut back the roots of any tree which is subject to a TPO to prevent it obstructing or interfering with the construction, maintenance, operation or decommissioning of the Authorised Development. Compensation is provided for if loss or damage is caused. The effect of the Article is that the works it permits, where carried out to a tree protected by a TPO, are deemed to have consent, and its inclusion is therefore consistent with the purpose of DCOs being to wrap up all of the required consents for a project. The Article also requires the undertaker to provide notice to the relevant planning authority before carrying out activities authorised by the Article, except where works are urgently necessary to remove an immediate risk of serious harm, in which case notice must be given as soon as reasonably practicable. The Article is a model provision included in numerous made DCOs. It applies to a TPO made after the submission of the DCO Application and either within or overhanging the Order limits. This approach is based on similar drafting in the

Cleve Hill Solar Park Order 2020, **Cottam Solar Project Order 2024** and the **A122 (Lower Thames Crossing) Development Consent Order 2025**.

4.6.15 Article 42 (Certification of plans and documents, etc.) is a model provision which provides for the undertaker to submit various documents referred to in the **draft DCO [APP/3.1]** (such as the **Book of Reference [APP/4.3]**, the relevant **plans [APP/2.1 – 2.11]** and **ES [APP/6.1 – 6.5]**) to the Secretary of State so that they can be certified as being true copies. The Article refers to Schedule 13 (Documents and plans to be certified), where all such documents and plans are listed, along with the appropriate document and revision numbers. The Article and Schedule 13 provide certainty as to which documents will be certified by the Secretary of State in relation to the **draft DCO [APP/3.1]**.

4.6.16 Article 43 (No double recovery) is not a model provision and is based on Article 44 of the model clauses for railway contained in Schedule 1 to the Transport and Works (Model Clauses for Railways and Tramways) Order 2006. This article has precedent in numerous Transport and Works Act Orders. It provides that compensation is not payable both under the **draft DCO [APP/3.1]** and any other enactment, contract or other rule of law. It follows that well established principle of equivalence that a claimant is compensated for no more and no less than their loss. Precedent for this article can be found in the **Medworth Energy from Waste Combined Heat and Power Facility Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.6.17 Article 44 (Arbitration) is an arbitration provision and it is a departure from the model provision. This drafting, and that in the associated Schedule 14 (Arbitration rules), and is adapted from the **Cleve Hill Solar Park Order 2020**, the **Mallard Pass Solar Farm Order 2024**, the **Heckington Fen Solar Park Order 2025** and the **Tillbridge Solar Order 2025** amongst others. It is considered that this approach will provide greater certainty to all parties involved in the process and is preferential to the approach adopted in the model provisions.

4.6.18 It applies Schedule 14 (Arbitration rules) to the **draft DCO [APP/3.1]**, which sets out further detail of the arbitration process. The detail of Schedule 14 is set out at **Section 5.14** of this document.

4.6.19 In addition, Article 44(2) provides that any matter for which the consent or approval of the Secretary of State is required under the **draft DCO [APP/3.1]** is not subject to arbitration.

4.6.20 Article 45 (Protective Provisions) provides for Schedule 15 (Protective provisions), which protects the interests of certain statutory undertakers, to have effect. This is set out in detail at **Section 5.15** of this document. This is a model provision.

4.6.21 Article 46 (Service of notices) governs how any notices that may be served under the provisions of the **draft DCO [APP/3.1]** are deemed to have been served properly. In particular it allows service by email with the consent of the recipient, and deals with the situation of service on an unknown landowner. The provision is necessary because the service of notice provisions under sections 229 and 230 of the PA 2008 only apply to

notices served under the PA 2008 itself and do not apply to notices served under the **draft DCO [APP/3.1]**. These provisions are based on those appearing in the Transport and Works (Model Provisions for Railways and Tramways) Order 2006, and numerous made DCOs including the **A66 Northern Trans-Pennine Order 2024**, the **Cottam Solar Project Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.6.22 Article 47 (Procedure in relation to certain approvals etc.) provides procedures in relation to consents and approvals required pursuant to the **draft DCO [APP/3.1]** (other than Requirements). Applications for consent submitted by the undertaker will be deemed to be granted if notice is not given of their refusal by the consenting authority within six weeks of the submission of the application (unless a longer period has been agreed between the parties). Where these provisions apply to an application, the undertaker is required to notify the consenting authority of the effect of the provisions when it submits the relevant application. The consenting authority must not unreasonably withhold or delay consent where an application has been submitted by the undertaker pursuant to this Article.

4.6.23 For any consent, agreement, or refusal pursuant to the Requirements a detailed procedure is provided for in Schedule 16 (Procedure for discharge of requirements) (refer to **Paragraph 5.16** of this document).

4.6.24 This Article has precedent in the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025** and is considered appropriate and justified in order to ensure that the Authorised Development can proceed in a reasonable timescale, and so that there is a consistent approach to consents that must be sought by the undertaker pursuant to the **draft DCO [APP/3.1]**.

4.6.25 Article 48 (Guarantees in respect of payment of compensation) restricts the undertaker from exercising the powers conferred under Articles 21, 24, 25, 31, 32 and 33 until it has either put in place a guarantee or other form of security approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under the **draft DCO [APP/3.1]**. This provision is included in order to protect the recipients of any compensation under the **draft DCO [APP/3.1]** by providing certainty that the undertaker can make good any compensation owed. The guarantee or alternative form of security is not required to be in place for more than 15 years from the date on which the relevant power is exercised. The wording appears in a number of made DCOs, for example the **Longfield Solar Farm Order 2023**, the **Mallard Pass Solar Farm Order 2024**, the **West Burton Solar Project Order 2025** and the **Tillbridge Solar Order 2025**.

4.6.26 Article 49 (Maintenance of drainage works) makes it clear that any realignment of award drains or other works to them that are carried out as part of the Authorised Development do not affect the existing allocation of responsibility for maintenance of those drains, unless this is agreed between the Applicant and the responsible party. The provision gives certainty to both the Applicant and to those that possess that responsibility, and enables agreement on reallocation of responsibilities to be reached where it is appropriate.

4.6.27 The provision is well precedented, including in the **M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022**, the **A66 Northern Trans-Pennine Development Consent Order 2024**, and the **London Luton Airport Expansion Development Consent Order 2025**, and the Applicant considers that it is a sensible inclusion to clarify who has responsibility for such works.

5 Schedules

5.1 Schedule 1 (Authorised Development)

5.1.1 This Schedule describes the Authorised Development in detail and split into different work numbers. Each of these work numbers represents a different part of the Authorised Development. This split of the Authorised Development between different work numbers is designed to enable the **draft DCO [APP/3.1]** to refer to different parts of the Authorised Development by citing the relevant work number. Paragraph 1 of the Schedule sets out a number of definitions that are used only within the Schedule and are not in other places in the **draft DCO [APP/3.1]**.

5.1.2 The works set out in Schedule 1 to the **draft DCO [APP/3.1]** are explained in detail in this document in **Section 1.4**.

5.1.3 The mechanics of the drafting in Schedules 1 and 2 ensure that the undertaker does not exceed the basis of the assessment in the **ES [APP/6.1 – 6.5]**. This is achieved through the following mechanisms in the **draft DCO [APP/3.1]**.

5.1.4 Article 3 and Schedule 1 provide the power to carry out the Authorised Development. Pursuant to Article 3(2) each numbered work must be situated within the area delineated on the **Works Plan [APP/2.3]** – thus the infrastructure can only be built within these areas. Given these overarching constraints, there is certainty as to where each element identified in Schedule 1 can be built, and that has been factored into the **ES [APP/6.1 – 6.5]**.

5.1.5 Schedule 1 provides that works or operations which do not form part of a specific work number can only be brought forward which fall within the scope of the Environmental Impact Assessment recorded in the **ES [APP/6.1 – 6.5]**.

5.1.6 In respect of the detailed design, Requirement 5 of Schedule 2 (refer to **Section 5.2** of this document) prevents the undertaker from commencing any part of Work Nos. 1 to 3A until it has obtained the approval of the relevant planning authority to the layout, scale, proposed finished ground levels, external appearance, hard surfacing materials; and vehicular and pedestrian access, parking and circulation areas. Requirement 5 requires that the details submitted must accord with the **Design Principles, Parameters and Commitments [APP/5.8]**, which is a certified document pursuant to Article 42 (Certification of plans and documents) and Schedule 13 (Documents and plans to be certified etc.).

5.1.7 The **Design Principles, Parameters and Commitments [APP/5.8]** contains the maximum Parameters for the Authorised Development and are the same as those used for the assessment of effects in the **ES [APP/6.1 – 6.5]**. These Parameters are based on the application of the Rochdale Envelope principle, such that maximum dimensions have been presented and assessed in the **ES [APP/6.1 – 6.5]**, recognising that the final features may differ from (but will never be larger than) these maxima.

5.1.8 The combined effect of, and relationship between, these provisions means that the final built form of the Authorised Development will not give rise to environmental effects beyond those which have been assessed. This approach, and what we have called the *"consent envelope"* is explained further in **Section 1.6** of this document.

5.2 Schedule 2 (Requirements)

5.2.1 This Schedule sets out the requirements that apply to the construction, operation, maintenance and decommissioning of the Authorised Development under the **draft DCO [APP/3.1]**. The requirements generally follow the model provisions where these are relevant, and where they have been amended this has been informed by the outcomes of the Environmental Impact Assessment and any discussions with the relevant planning authority or other relevant statutory consultee.

5.2.2 The requirements closely relate to the mitigation set out in the **ES [APP/6.1 – 6.5]** and a number of them specifically refer to the **ES [APP/6.1 – 6.5]** and other DCO Application documents (in particular, 'outline' strategies or plans) in order to ensure that the mitigation or other measures outlined in those documents are secured.

5.2.3 Many of the requirements require submission of details for approval by the relevant planning authority. In some instances, the relevant planning authority is under a duty to consult with a third party or parties in relation to the document submitted to them. This is a departure from the model provisions. Where consultation is required under the **draft DCO [APP/3.1]** it is, in each case, the relevant planning authority's duty to carry it out before approving a document submitted to it (rather than, as in some of the model provisions, the undertaker's duty to carry it out before submitting the document for approval). Where it is considered that it would be particularly relevant for the relevant planning authority to consult a third party, that third party has been named within the relevant requirement.

5.2.4 In the undertaker's opinion the requirements in Schedule 2 are all necessary and relevant to planning and the development to be permitted as they are outputs from the **ES [APP/6.1 – 6.5]**; enforceable and precise in their language; and reasonable in all other respects.

5.2.5 In all cases where a scheme or strategy or plan is to be submitted for approval there is a requirement for the undertaker to implement the approved scheme or strategy or plan as approved. This wording to ensure that compliance with the provisions contained in the scheme, strategy or plan, including any ongoing maintenance requirements, have been incorporated into the **draft DCO [APP/3.1]**. This approach is widely precedented, including in the **West Burton Solar Project Order 2025**. This is subject to Requirement 3, as explained in **Paragraph 5.2.9** of this document.

5.2.6 Where relevant and appropriate, certain requirements can be discharged in part, which is facilitated by the wording restricting *"part"* of the Authorised Development from proceeding until the relevant details have been submitted and approved in respect of that part. The *"parts"* are not pre-defined and this approach is designed to ensure necessary flexibility

for different aspects of the Authorised Development to proceed as and when appropriate in the overall development schedule following detailed design. The approach and drafting is precedented in recently-made DCOs such as the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024** and the **West Burton Solar Project Order 2025**.

5.2.7 Requirement 1 – Interpretation. This provides a definition in relation to *"relevant planning authority"*, applicable to this Schedule only, rather than the **draft DCO [APP/3.1]** as a whole. The definition means Breckland District Council, reflecting that Breckland District Council is the relevant planning authority for the Scheme (with Norfolk County Council being the highway authority).

5.2.8 Requirement 2 – Commencement of the Authorised Development. This requirement provides that the Authorised Development must commence no later than the expiration of five years beginning with the date the Order comes into force (once made). As set out above at **Paragraph 4.5.4**, this approach ensures that the timescale to commence the Authorised Development and to exercise compulsory acquisition and temporary possession powers is aligned, subject to any statutory amendment relating to a judicial challenge of the made DCO. The applicable period is five years beginning on the day on which the Order is made. The relevant planning authority must be notified within fourteen days of the date of final commissioning for a part or parts of the Authorised Development that the final commissioning of that part or parts has taken place.

5.2.9 Requirement 3 – Approved details and amendments to them. This requirement provides that where any documents have been certified under Article 42 (Certification of plans and documents, etc.) and where any plans, details or schemes have been approved by the relevant planning authority, the undertaker may submit for approval any amendments to those documents, plans, details or schemes and, if approved by the relevant planning authority, those documents, plans, details or schemes are to be taken to include the amendments approved by the relevant planning authority. Any amendments should not be approved unless it has been demonstrated that that the subject matter of the approval sought is unlikely to give rise to any materially new or materially different environmental effects in comparison with those reported in the **ES [APP/6.1 – 6.5]**.

5.2.10 Requirement 4 – Community liaison group. This requirement provides that the undertaker must establish a community liaison group prior to commencement of the Authorised Development, in order to facilitate liaison between representatives of people living in the vicinity of the Order limits, and other relevant organisations in relation to the construction of the Authorised Development.

5.2.11 Requirement 5 – Detailed design approval. This requirement stipulates that no part of Work Nos. 1 to 3A may commence until details relating to that part have been submitted to and approved by the relevant planning authority. The details submitted must be in accordance with the **Design Principles, Parameters and Commitments [APP/5.8]**. The Authorised Development must be carried out in accordance with the approved details. Additionally, Work No. 3B must be carried out in accordance with the **Design Principles, Parameters and Commitments [APP/5.8]**, however as this work number is located

entirely underground, there is no requirement for the other details specified in Requirement 5 to be approved as it will not be visible.

5.2.12 Requirement 6 – Battery safety management. This requirement stipulates that Work No. 2 must not commence until a battery safety management plan has been approved by the relevant planning authority (substantially in accordance with the **outline Battery Safety Management Plan (oBSMP) [APP/7.14]**). The relevant planning authority must consult with Norfolk Fire and Rescue Service and the Environment Agency before approving the battery safety management plan. The battery safety management plan must be implemented as approved.

5.2.13 Requirement 7 – Landscape and ecological management plan. This requirement stipulates that no part of the Authorised Development may commence until a written landscape and ecology management plan (substantially in accordance with the **oLEMP [APP/7.11]**) has been submitted to and approved by the relevant planning authority in consultation with the relevant statutory nature conservation body. The landscape and ecology management plan must be implemented as approved.

5.2.14 Requirement 8 – Operational traffic management plan. Under this requirement, prior to the date of final commissioning for any part of the Authorised Development, an operational traffic management plan for that part (which must be substantially in accordance with the **outline Operational Traffic Management Plan (oOTMP) [APP/7.9]**) must be submitted to and approved by the relevant planning authority. Before approving the operational traffic management plan the relevant planning authority must consult with the relevant highway authority. The plan must be implemented as approved.

5.2.15 Requirement 9 – Biodiversity net gain. This requirement states that no part of the Authorised Development may commence until a biodiversity net gain strategy for that part has been submitted to and approved by the relevant planning authority for that part, in consultation with the relevant statutory nature conservation body. The biodiversity net gain strategy must set out how it will secure a minimum of 10% biodiversity net gain in each of habitat units and hedgerow units, ~~as well as~~and paragraph (2) clarifies the metric to be used to calculate those percentages. The biodiversity net gain strategy must be substantially in accordance with the **oLEMP [APP/7.11]** and must be implemented as approved.

5.2.16 Requirement 10 – Fencing and other means of enclosure. The undertaker is required to obtain approval from the relevant planning authority for any proposed temporary or permanent fences, walls or other means of enclosure, for each part in question. Permanent fencing must be completed before the date of final commissioning in respect of that part.

5.2.17 Requirement 11 – Surface and foul water drainage. This requirement stipulates that no part of the Authorised Development may commence until written details of the surface water drainage scheme and (if any) foul water drainage system for that part have been submitted to and approved by the relevant planning authority in consultation with the

Environment Agency and Anglian Water. The approved scheme must be implemented as approved.

5.2.18 Requirement 12 – Archaeology. This requirement provides that the Authorised Development must not be commenced until a programme of further archaeological evaluation has been carried out in accordance with the Archaeological Mitigation Strategy. Before commencing any part of the Authorised Development, a written scheme of investigation (WSI) must be submitted to and approved by the relevant planning authority, containing the detail of the archaeological mitigation to be implemented in that area. The WSI must be substantially in accordance with **ES Appendix 8.7: outline Archaeological Mitigation Strategy [APP/6.4]**, which contains the overarching methodology for archaeological mitigation, and the WSI must be implemented as approved.

5.2.19 Requirement 13 – Construction environmental management plan. Under this requirement, no part of the Authorised Development may commence until a construction environmental management plan (which must substantially accord with the **outline Construction Environmental Management Plan (oCEMP) [APP/7.6]**) has been submitted to and approved by the relevant planning authority. Before approving the construction environmental management plan the relevant planning authority must consult with the Environment Agency. All construction works associated with the Authorised Development must be carried out in accordance with the approved construction environmental management plan and all permitted preliminary works must be carried out in accordance with the permitted preliminary works environmental management plan as prescribed by sub-paragraph (1).

5.2.20 Requirement 14 – Operational environmental management plan. Before the date of final commissioning for any part of the Authorised Development, an operational environmental management plan (which must substantially accord with the **outline Operational Environmental Management Plan (oOEMP) [APP/7.8]**) must be submitted to and approved by the relevant planning authority. Before approving the operational environmental management plan the relevant planning authority must consult with the Environment Agency. The plan must be implemented as approved.

5.2.21 Requirement 15 – Construction traffic management plan. Under this requirement, no part of the Authorised Development may commence until a construction traffic management plan (which must substantially accord with the **outline Construction Traffic Management Plan (oCTMP) [APP/7.7]**) has been submitted to and approved by the relevant planning authority. Before approving the construction traffic management plan the relevant planning authority must consult with the relevant highway authority. All construction works associated with the Authorised Development must be carried out in accordance with the approved construction traffic management plan.

5.2.22 Requirement 16 – Public rights of way and permissive paths. This requirement provides that the Authorised Development may not commence until a public right of way and permissive path management plan (substantially in accordance with the **outline Public Right of Way and Permissive Path Management Plan (oPRoWPPMP) [APP/7.12]**) has been submitted to and approved by the relevant planning authority. Before approving the

public rights of way and permissive paths management plan the relevant planning authority must consult with the relevant highway authority. The public right of way and permissive path management plan must be implemented as approved. The Requirement also confirms that the permission for the public to make use of the permissive paths ceases on the date of decommissioning for that part of the Authorised Development, reflecting that these are temporary and provided as a benefit during the lifetime of the Authorised Development.

5.2.23 Requirement 17 – Soil management. This requirement stipulates that no part of the Authorised Development may commence until a soil management plan (substantially in accordance with the **outline Soil Management Plan (oSMP) [APP/7.13]**) for that part has been submitted to and approved by the relevant planning authority. The soil management plan must be implemented as approved.

5.2.24 Requirement 18 – Skills, supply chain and employment. This requirement stipulates that no part of the Authorised Development may commence until an employment, skills and supply chain strategy (which must be substantially in accordance with the **outline Employment, Skills and Supply Chain Strategy (oESSCS) [APP/7.15]**) in relation to that part has been submitted to and approved by the relevant planning authority. The employment, skills and supply chain strategy must identify opportunities for individuals and businesses to access employment and supply chain opportunities associated with that part of the Authorised Development associated with that part of the Authorised Development and the means for publicising such opportunities. The employment, skills and supply chain strategy must be implemented and maintained as approved.

5.2.25 Requirement 19 – Site waste management. This requirement provides that no part of the Authorised Development may commence until a site waste management plan for that part has been submitted to and approved by the relevant planning authority in consultation with Norfolk County Council as the waste planning authority. The site waste management plan must be implemented as approved.

5.2.26 Requirement 20 – Decommissioning and restoration. This requirement provides that decommissioning with respect to each part of Work No. 1 must commence no later than 60 years following the initial date of final commissioning (being the earliest date of final commissioning of any part of Work No. 1). With respect to Work Nos. 2, 3, 6, 7, 8, 9, 10 and 11, the date of decommissioning must be no later than the date of decommissioning for the part of Work No. 1 to which such associated development relates (including the latest date, if the associated development relates to more than one part of Work No. 1). No later than 12 months before the undertaker intends to decommission any part of the Authorised Development, the undertaker must notify the relevant planning authority of the intended decommissioning date for that part of the Authorised Development. No later than ten weeks prior to the intended date of decommissioning the undertaker must submit to the relevant planning authority for its approval (in consultation with Norfolk County Council) a decommissioning plan (substantially in accordance with the **outline Decommissioning Strategy (oDS) [APP/7.10]**). No decommissioning works can be carried out until the relevant planning authority has approved the decommissioning plan submitted in relation

to those works, in consultation with the Environment Agency and the relevant highway authority. The decommissioning environmental management plan must be implemented as approved. Within 28 days of any part of the Authorised Development permanently ceasing to be in commercial use, the relevant planning authority must be notified in writing of the date of decommissioning for that part.

5.2.27 Requirement 21 – Mitigation at RAF Marham – this requirement provides that, unless otherwise agreed in writing with the MoD and approved by the relevant planning authority, no part of Work No. 1(a) within the three mitigation areas shown on the RAF Marham mitigation areas plan (as defined in Article 2(1)) may commence until a detailed plan has been submitted to and approved by the relevant planning authority in consultation with the MoD. The detailed plan must include details of the dimensions, layout and material composition of the shielding structures to be installed to ensure that any part of Work No. 1(a) within those mitigation areas will not be in radar line of sight of the precision approach radar at RAF Marham. The shielding structures approved under the detailed plan must be implemented prior to the construction of any part of Work No. 1(a) within those mitigation areas, and the shielding structures must be maintained in accordance with the approved detailed plan until the completion of decommissioning of all parts of Work No. 1(a) within those mitigation areas. This requirement is included in Schedule 2 at the request of the MoD and reflects the specific circumstances/objection of the MoD in relation to this particular Authorised Development.

5.2.28 Requirement 22 – Glint and glare management plan – this requirement provides that, unless otherwise agreed in writing with the MoD and approved by the relevant planning authority, no part of Work No. 1(a) may commence until a glint and glare management plan has been submitted to and approved by the relevant planning authority in consultation with the MoD. The glint and glare management plan must include details of specifications (including surface types and anti-reflective coating) of the solar modules and mounting structures comprising Work No. 1(a), illustrated with sectional plans as appropriate to show the angle of elevation and angle of azimuth of the solar modules comprising Work No. 1(a); a schedule of monitoring and maintenance of the alignment of the solar modules within Work No. 1(a); a protocol through which glint and glare complaints can be submitted by the MoD, investigated by the undertaker, and any issues resolved via procedures that ensure the required mitigation is implemented following consultation and approval by the relevant planning authority in consultation with the MoD; a procedure through which such complaints and associated resolutions will be recorded and made available to the MoD on request; a protocol for the undertaker and the MoD to urgently address incidents of any glint or glare impact that materially restrict aviation operations at RAF Marham, including the provision of air traffic control services from the air traffic control tower. The protocol must include the application of agreed interim mitigation measures that will stop the source of glint or glare impact until permanent mitigation measures are implemented; and timescales for completing investigations, implementing remedial works and the provision of interim and/or permanent mitigation measures. The provisions set out in the glint and glare management plan and any modifications/mitigation, as agreed in writing with the relevant planning authority, must be maintained until the completion of decommissioning of Work No. 1(a). This requirement is included in Schedule 2 at the request of the MoD

and reflects the specific circumstances/objection of the MoD in relation to this particular Authorised Development.

5.2.29 Requirement 23 – Aviation safety management plan – this requirement provides that, unless otherwise agreed in writing with the MoD and approved by the relevant planning authority, no part of the Authorised Development may commence until an aviation safety management plan has been submitted to and approved by the relevant planning authority in consultation with the MoD. The aviation safety management plan must include details of the locations and maximum dimensions of any cranes, high reaching plant equipment and temporal tower type structures that will be deployed within MoD statutory aerodrome safeguarding zones surrounding RAF Marham, to construct and later decommission the solar modules comprising Work No. 1(a), and communication protocols to be established between the undertaker and the MoD to ensure that the undertaker provides notification of its programme of works to construct and later decommission the Authorised Development. The undertaker must notify the MoD in writing, at least 14 days prior to the commencement of the Authorised Development, of its intention to deploy cranes, high reaching plant equipment or temporal tower type structures that will be located within MoD statutory aerodrome safeguarding zones surrounding RAF Marham. The undertaker must also notify the MoD of any changes to the information supplied in accordance with this requirement. This requirement is included in Schedule 2 at the request of the MoD and reflects the specific circumstances/objection of the MoD in relation to this particular Authorised Development.

5.2.30 Requirement 24 – Aviation safety – waterbodies and wetland design approval – this requirement provides that, unless otherwise agreed in writing with the MoD and approved by the relevant planning authority, no part of the Authorised Development may commence until details of the siting, design, any associated planting and management of any ponds, swales, surface water drainage systems, storm water attenuation systems including storage basins and channels or other wetland features that are to be created for that part have been submitted to and approved by the relevant planning authority in consultation with the MoD. The Authorised Development must be constructed and maintained strictly in accordance with those approved details and the undertaker must not vary or depart from those details without the express written consent of the relevant planning authority in consultation with the MoD. This requirement is included in Schedule 2 at the request of the MoD and reflects the specific circumstances/objection of the MoD in relation to this particular Authorised Development.

5.2.31 Requirement 25 – Aviation charting and safety – this requirement provides that, unless otherwise agreed in writing with the MoD and approved by the relevant planning authority, the undertaker must notify the MoD of the precise latitude and longitude and maximum height of each new or modified pylon above ordnance datum (including temporal pylons), as built, within 5 days of the completion of construction of each such pylon. The undertaker must notify the MoD of the removal of any existing pylons within 5 days of the completion of removal works for each such pylon. The MoD must be notified of any changes to the information supplied in accordance with this requirement. This requirement is included in

Schedule 2 at the request of the MoD and reflects the specific circumstances/objection of the MoD in relation to this particular Authorised Development.

5.3 Schedule 3 (Legislation to be disapplied)

5.3.1 This Schedule lists out the legislation that the **draft DCO [APP/3.1]** disapplies that relates to land, railways and water in the vicinity of the Order limits in so far as such legislation is in force and is incompatible with the powers contained within the **draft DCO [APP/3.1]**.

5.4 Schedule 4 (Streets subject to street works)

5.4.1 This Schedule sets out the streets that are to be subject to street works by reference to the **Streets Plan [APP/2.4]**. The Schedule relates to Article 8 (Street works).

5.5 Schedule 5 (Alteration of streets)

5.5.1 This Schedule sets out the streets that are to be permanently altered in Part 1 and temporarily altered in Part 2, and then maintained by the highway authority or the street authority by reference to the **Streets Plan [APP/2.4]**. This Schedule relates to Articles 10 (Power to alter layout, etc., of streets) and 11 (Construction and maintenance of altered streets).

5.6 Schedule 6 (Streets and public rights of way)

5.6.1 This Schedule sets out the locations of the public rights of way to be temporarily closed (Part 1), public rights of way to be temporarily closed (Part 2) and temporary use of motor vehicles on public rights of way (Part 3). It references Article 12 (Temporary closure, restriction or prohibition of use of streets and public rights of way).

5.7 Schedule 7 (Access to works)

5.7.1 This Schedule sets out the permanent means of access (Part 1) and temporary means of access (Part 2) to works to the Authorised Development. It references the **Access and Rights of Way Plan [APP/2.5]**. The Schedule relates to Article 14 (Access to works).

5.8 Schedule 8 (Traffic regulation measures)

5.8.1 This Schedule contains details of the streets that are subject to traffic regulation measures, by reference to the **Streets Plan [APP/2.4]**. This Schedule relates to Article 16 (Traffic regulation measures).

5.9 Schedule 9 (Land in which only new rights etc. may be acquired)

5.9.1 This Schedule sets out the areas of land over which only new rights may be acquired by the undertaker and the nature of the rights that may be acquired. The plot numbers in column 1 of that table correlate with the relevant plot numbers shaded blue on the **Land Plan [APP/2.2]** and the nature of the rights in column 2 explains the purposes for which rights over land may be acquired and restrictive covenants imposed. The Schedule relates to Article 24 (Compulsory acquisition of rights).

5.10 Schedule 10 (Modification of compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants)

5.10.1 This Schedule modifies existing compensation legislation including the Land Compensation Act 1973 and the Compulsory Purchase Act 1965. It is commonly included in made DCOs, including the **Cleve Hill Solar Park Order 2020**, the **Gate Burton Energy Park Order 2024**, the **Cottam Solar Project Order 2024**, **West Burton Solar Project Order 2025**, the **East Yorkshire Solar Farm Order 2025** and the **Tillbridge Solar Order 2025**. This has been updated to reflect any necessary changes arising as a result of the Housing and Planning Act 2016. The Schedule relates to Article 24 (Compulsory acquisition of rights).

5.11 Schedule 11 (Land of which temporary possession may be taken)

5.11.1 This Schedule sets out the land of which only temporary possession may be taken, pursuant to Article 31 (Temporary use of land for constructing the Authorised Development). This land is shown in yellow on the **Land Plan [APP/2.2]**, and the purpose for the temporary possession is described by reference to the relevant powers and work numbers and corresponding **Works Plan [APP/2.3]**.

5.12 Schedule 12 (Hedgerows to be removed)

5.12.1 This Schedule sets out the specific hedgerows to be removed pursuant to Article 40 (Felling or lopping of trees and removal of hedgerows) and lists in Column 2 the number of the hedgerow and extent of the removal. Schedule 12 is divided into Part 1 (Removal of hedgerows) and Part 2 (Removal of important hedgerows).

5.13 Schedule 13 (Documents and plans to be certified)

5.13.1 This Schedule lists the documents that the undertaker must have certified as true copies by the Secretary of State pursuant to Article 42 (Certification of plans and documents, etc.).

5.14 Schedule 14 (Arbitration rules)

5.14.1 This Schedule relates to Article 44 (Arbitration). The intention is to achieve a fair, impartial and binding award on substantive differences between the parties. Timeframes are imposed in relation to the arbitration process, in the context of the pressing need for new power generation, particularly by renewable means, identified in the Energy National Policy Statements, and it is considered desirable that any disputes are resolved promptly to enable delivery of the Authorised Development in as timely a way as possible.

5.14.2 Schedule 14 refers to the person who commenced the arbitration as the Claimant and the other party as the Respondent.

5.15 Schedule 15 (Protective provisions)

5.15.1 This Schedule sets out protective provisions for the benefit of statutory undertakers whose equipment may be affected by the Authorised Development. This schedule relates to Article 45 (Protective provisions) and ~~currently~~ contains protective provisions for the benefit of defined classes of service undertakers (electricity, gas, water and sewerage undertakers at Part 1 and electronic communications code operators at Part 2), as well as for the protection of ~~National Grid Electricity Transmission plc~~NGET, National Highways Limited, the Environment Agency, drainage authorities, Anglian Water and Eastern Power Networks Plc.

5.15.2 The status of negotiations with the relevant parties in respect of these protective provisions is set out at paragraph 3.3.5 above~~This Schedule will be updated with additional parts with bespoke protective provisions for the benefit of particular bodies in the post-DCO Application and Examination period. Negotiation with the relevant parties for these additional provisions is at various stages~~.

5.16 Schedule 16 (Procedure for discharge of requirements)

5.16.1 This Schedule provides a bespoke procedure for dealing with an application made to the relevant planning authority for any consent, agreement or approval required by the Requirements in Schedule 2 to the **draft DCO [APP/3.1]**. The Schedule also provides for consultation with the named requirement consultees where specified by the relevant Requirement, including in relation to applications under Requirement 3 to amend

approved documents. It sets out time periods within which decisions must be made. Appendix 1 of Advice Note 15: drafting Development Consent Orders from the Planning Inspectorate provides that this decision period from the discharging authority is 42 days and this period of six weeks has been provided for.

5.16.2 Paragraph 2(5) of Schedule 16 provides that the Applicant must also give notice of such application, and provide a copy of the application, to any requirement consultee if it is required, which goes beyond Appendix 1 of Advice Note 15. This consultation requirement applies both to applications for the initial discharge of Requirements and to applications seeking approval of amendments to documents previously approved under the Requirements. The Schedule also provides for deemed approval of the applications in certain circumstances.

5.16.3 The Schedule makes provision if the relevant planning authority requires further information to be provided in relation to that application and for appeals to be made in the event of a refusal of an application. Schedules similar to Schedule 16 have been used in various orders and can be seen in a similar form in the **Cleve Hill Solar Park Order 2020** which provides precedent for the use of a bespoke Schedule governing the procedure for the discharge of requirements. Other development consent orders, including the **Longfield Solar Farm Order 2023**, the **Gate Burton Energy Park Order 2024**, the **West Burton Solar Project Order 2025**, the **East Yorkshire Solar Farm Order 2025**, the **Heckington Fen Solar Park Order 2025**, the **Byers Gill Solar Order 2025**, the **Oaklands Farm Solar Park Order 2025**, the **Tillbridge Solar Order 2025**, the **Helios Renewable Energy Project Order 2025** and the **Fenwick Solar Farm Order 2026** provide precedent specifically for the inclusion of deemed approval provisions where the relevant planning authority does not respond within the prescribed period. The bespoke process is required in order to ensure that applications under requirements are dealt with efficiently so that the Authorised Development is not held up. Deemed approval of applications is required for the same reason and ensures that the nationally-needed Authorised Development will not be held up by the discharge of requirements. The Schedule relates to Article 47 (*Procedure in relation to certain approvals etc.*).

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