

We write on behalf of Innova Renewables Limited (Innova) in respect of their two projects - Parkgate solar farm and the Hall Farm BESS. Innova has made representations to the ExA at various stages during the Examination and has encouraged NG to engage with it throughout the Examination. NG has engaged with Innova albeit this has been more towards the end of the Examination whilst NG has been keen to achieve signed SoCG. There are seen a number of matters that are not agreed and/or subject to further discussion between Innova and NG, as well as a number of substantive matters that need to be finalised as part of separate legal agreements for both Innova projects.

Parkgate

Innova has a signed SoCG with NG and this was submitted to the Examination by NG at DL7. In the SoCG, NG has committed to Innova that it will move pylon TB94 and its associated construction compound entirely out of the Parkgate solar area. NG has also agreed that it will not prevent Innova from installing solar panels under the new N-T overhead lines and that there is sufficient minimum height clearance. As noted, these matters will be further confirmed in a binding legal agreement, which will also focus on the management of future construction interfaces.

Heads of Terms for the legal agreement are progressing. We expect to continue to work on it and seek a final legal agreement which settles Innova's concerns. Until that is in place, Innova maintains its objection to the scope of the rights sought over its land and seeks comfort from NG that it will not encroach on its site and infrastructure. From recent discussions with NG it is clear their scheme design is still iterating, whereas Innova's scheme design has full consent and is settled.

As set out in the signed SoCG (and which is being secured through the HoTs and subsequent legal agreement) a Construction Interface Management Plan (prepared by NG) will be agreed between the parties before any work takes place, which will be the platform to manage any interfaces in practice at a point in time when NG's plans are firmed up. Still, to date, Innova has received no detail on what land rights NG ultimately wants to secure over its site. Innova again encourages clarity on this as well as NG's commitment to seek these rights by way of voluntary legal agreements.

Reference has been made by NG's representatives in very recent correspondence to a separate Heads of Terms document relating to land rights which has not been provided to Innova yet. Innova looks forward to receiving the land HoTs so that land rights can be discussed with a view to securing these voluntarily as opposed to NG using powers of compulsory acquisition.

Hall Farm

NG submitted a 'final' SoCG into the Examination at DL7. From Innova's perspective this was outdated and also gave the impression that this was a final agreed version. However, Innova has signed a SOCG that is expected to be submitted at DL8 and adequately reflects, in particular, some of the most critical project interfaces.

Innova received comments back from NG on the Heads of Terms for a legal agreement on 31 July. Innova is in the process of reviewing these. Innova has, again, had no detail from NG on the land rights they will ultimately require over the site and Innova expects NG to open negotiations on these albeit it is very late in the DCO process to be doing so. Innova is pleased to see the removal of the Eastern swathe from the order limits and it will continue to discuss the interactions over the western parcel of its site with NG. As part of the ongoing discussions, Innova requires NG's acceptance to the design changes it requested to the consented Hall Farm BESS Drainage plans (in the event NG wishes to solve this fundamental interface without adapting its own proposals). Until the outstanding matters are resolved, Innova maintains an objection to including compulsory acquisition powers over this area of land. We are also pleased to see that NG has noted at DL7 that it is now content to accept that Hall Farm Solar BESS Limited (Innova's subsidiary company which has rights over the site, as well being the beneficiary of the generation licence) is a statutory undertaker for the purposes of s.127 of the Planning Act 2008. It is on this basis that Innova provides the attached preferred Protective Provisions which Innova considers should be included in the DCO as a new schedule to the Order in order to protect Hall Farm BESS Limited's statutory undertaking. Innova does not consider that the standard protections referred to by NG in the Statutory Undertaker Tracker afford sufficient protection to Innova.

Innova will continue to engage with NG post-Examination on these matters and will update the ExA and the Secretary of State on progress prior to a decision being taken on the NSIP.

SCHEDULES

SCHEDULE []

PROTECTIVE PROVISIONS

PART []

FOR THE PROTECTION OF HALL FARM SOLAR BESS LIMITED AS ELECTRICITY UNDERTAKER

Application

1. (1) For the protection of Hall Farm Solar BESS Limited the following provisions will, unless otherwise agreed in writing between the undertaker and Hall Farm Solar BESS Limited, have effect.

(2) Without limiting any other provision of this Part of this Schedule, the undertaker must use reasonable endeavours to avoid any conflict arising between the carrying out, maintenance and operation of the authorised development and the Hall Farm BESS project. For the purposes of this paragraph “reasonable endeavours” means-
 - (a) undertaking consultation with Hall Farm Solar BESS Limited on detailed design and programming of works for the authorised development and ensuring the plans as submitted for approval under the requirements do not unreasonably impede or interfere with the construction or operation of the Hall Farm Solar BESS Limited;
 - (b) having regard to the anticipated programme of works for Hall Farm Solar BESS Limited and facilitating a co-ordinated approach to construction programming, land assembly, and the carrying out of works in connection with the authorised development and the Hall Farm BESS Project; and
 - (c) providing a point of contact for continuing liaison and co-ordination throughout the construction and operation of the authorised development.
(3) Regardless of the remaining provisions of this Part of this Schedule the undertaker shall not be permitted to exercise any power of compulsory acquisition over the Hall Farm BESS Project without the written consent of Hall Farm Solar BESS Limited.

Interpretation

2. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of Hall Farm Solar BESS Limited to enable Hall Farm Solar BESS Limited to fulfil its statutory functions in a manner no less efficient than if the authorised development were not permitted;

“apparatus” means any electric lines or electrical plant as defined in the Electricity Act 1989, substations, cables or other apparatus or development belonging to or maintained by Hall Farm Solar BESS Limited for the purposes of Hall Farm BESS Project undertaking together with any alternative apparatus, replacement apparatus and/or such other apparatus or development constructed pursuant to the Order that becomes operational apparatus of Hall Farm Solar BESS Limited for the purposes of Hall Farm Solar BESS Limited’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“Hall Farm BESS land” means the land over which Hall Farm Solar BESS Limited hold an interest and which is contained within the Order limits being Plots 1/3, 1/5, 1/8, 1/9, 1/11, 1/56, 1/58 as shown on the land plans;

“Hall Farm Solar BESS Limited” means Hall Farm Solar BESS Limited (company number

15334472 whose registered office is at 3rd Floor St Georges House, 13-14 Ambrose Street, Cheltenham, England GL50 3LG) or its successors in title or successor bodies and/or any successor as an electricity generation licence holder pursuant to the Electricity Act 1989;

“Hall Farm Solar BESS Limited’s undertaking” means the rights, duties and obligations of Hall Farm Solar BESS Limited as an electricity generation licence holder within the meaning of the Electricity Act 1989;

“Hall Farm BESS project” means the 400MW Battery Energy Storage System development located at Hall Farm, Norwich;

“commence” has the same meaning as in article 2 of this Order and commencement shall be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement include operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, creation of working areas for remedial works, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, and the temporary display of site notices or advertisements.

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Hall Farm Solar BESS Limited including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

“plan” or “plans” include all designs, drawings, specifications, method statements, transport and construction assessments, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“rights” shall include rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which:

- (a) will or may be situated in, or within 15 metres measured in any direction of, any apparatus the removal of which has not been required by the undertaker; and/or
- (b) may in any way affect any apparatus the removal of which has not been required by the undertaker;

“undertaker” means the undertaker as defined in article 2 of this Order;

Acquisition of land

3. (1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of Hall Farm Solar BESS Limited otherwise than by agreement.
- (2) As a condition of agreement between the parties in sub-paragraph 6(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between Hall Farm Solar BESS Limited and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Hall Farm Solar BESS Limited and/or affects the provisions of any enactment or agreement regulating the relations between Hall Farm Solar BESS Limited and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Hall Farm Solar BESS Limited reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Hall Farm Solar BESS Limited and the undertaker acting reasonably and which must be no less favourable to Hall Farm Solar BESS Limited unless otherwise agreed by Hall Farm Solar BESS Limited, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

- (3) The undertaker and Hall Farm Solar BESS Limited agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Hall Farm Solar BESS Limited and/or other enactments relied upon by Hall Farm Solar BESS Limited as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.
- (4) Any agreement or consent granted by Hall Farm Solar BESS Limited under paragraph 9 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph 6(1).

Removal of apparatus

4. (1) If, in the exercise of an agreement reached between Hall Farm Solar BESS Limited and the undertaker, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Hall Farm Solar BESS Limited to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Hall Farm Solar BESS Limited and in accordance with sub-paragraph (2) to (5) inclusive.
- (2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Hall Farm Solar BESS Limited advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Hall Farm Solar BESS Limited reasonably needs to move or remove any of its apparatus) the undertaker must afford to Hall Farm Solar BESS Limited to its satisfaction the necessary facilities and rights:
- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Hall Farm Solar BESS Limited in respect of the apparatus);
 - (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Hall Farm Solar BESS Limited in respect of the apparatus); and
 - (c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Hall Farm Solar BESS Limited in respect of the apparatus).
- (3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Hall Farm Solar BESS Limited may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Hall Farm Solar BESS Limited to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to do so.
- (4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Hall Farm Solar BESS Limited and the undertaker.
- (5) The undertaker must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Hall Farm Solar BESS Limited of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded Hall Farm Solar BESS Limited to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Apparatus: protection of Hall Farm Solar BESS Limited

5. (1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Hall Farm Solar BESS Limited a plan in respect of those works.
- (2) The plan to be submitted to Hall Farm Solar BESS Limited under sub-paragraph (1) must include a method statement and describe—
- (a) the exact position of the works;
 - (b) the level at which these are proposed to be constructed or renewed;
 - (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
 - (d) the position of all apparatus;
 - (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
 - (f) any intended maintenance regimes.
- (3) The undertaker must not commence any works to which sub-paragraphs 1 and (2) apply until Hall Farm Solar BESS Limited has given written approval of the plan so submitted.
- (4) Any approval of Hall Farm Solar BESS Limited required under sub-paragraph (3) -
- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,
 - (b) must not be unreasonably withheld.
- (5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, Hall Farm Solar BESS Limited may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.
- (6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) and (2) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Hall Farm Solar BESS Limited and in accordance with all conditions imposed under sub-paragraph (4)(a), and Hall Farm Solar BESS Limited will be entitled to watch and inspect the execution of those works.
- (7) Where Hall Farm Solar BESS Limited requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Hall Farm Solar BESS Limited's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required prior to commencement
- (8) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

Protective works to buildings

6. (1) The undertaker, in the case of the powers conferred by article 21 (*protective works to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Hall Farm Solar BESS Limited and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of Hall Farm Solar BESS Limited or any interruption in the generation or transmission of electricity by Hall Farm Solar BESS Limited, as the case may be, is caused, the undertaker must bear and pay on demand the cost reasonably incurred by Hall Farm Solar BESS Limited in making good such damage or restoring the supply; and, subject to sub-paragraph (2), shall—

- (a) pay compensation to Hall Farm Solar BESS Limited for any loss sustained by it; and
 - (b) indemnify Hall Farm Solar BESS Limited against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Hall Farm Solar BESS Limited, by reason of any such damage or interruption.
- (2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Hall Farm Solar BESS Limited or its contractors or workmen; and Hall Farm Solar BESS Limited will give to the undertaker reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made by Hall Farm Solar BESS Limited, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Expenses

7. (1) Subject to the following provisions of this paragraph, the undertaker must pay to Hall Farm Solar BESS Limited on demand all charges, costs and expenses reasonably anticipated or incurred by Hall Farm Solar BESS Limited in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or rights or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including and without limitation—
- (a) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
 - (b) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
 - (c) the approval of plans;
 - (d) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
 - (e) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
 - (f) any watching brief fee.
- (2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

Indemnity

8. (1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Hall Farm Solar BESS Limited, or there is any interruption in any service provided, or in the supply of any goods, by Hall Farm Solar BESS Limited, or Hall Farm Solar BESS Limited becomes liable to pay any amount to any third party, the undertaker will—
- (a) bear and pay on demand the cost reasonably incurred by Hall Farm Solar BESS Limited in making good such damage or restoring the supply; and
 - (b) indemnify Hall Farm Solar BESS Limited for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Hall Farm Solar BESS Limited, by reason or in consequence of any such damage or interruption or Hall Farm Solar BESS Limited becoming liable to any third party as aforesaid other than

arising from any default of Hall Farm Solar BESS Limited.

- (2) The fact that any act or thing may have been done by Hall Farm Solar BESS Limited on behalf of the undertaker or in accordance with a plan approved by Hall Farm Solar BESS Limited or in accordance with any requirement of Hall Farm Solar BESS Limited or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Hall Farm Solar BESS Limited fails to carry out and execute the works properly with due care and attention and in a skillful and workman like manner or in a manner that does not accord with the approved plan.
- (3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of Hall Farm Solar BESS Limited, its officers, servants, contractors or agents.
- (4) Hall Farm Solar BESS Limited must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the promoter and considering their representations.

Co-operation

9. (1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or Hall Farm Solar BESS Limited requires the removal of or interference with apparatus or Hall Farm Solar BESS Limited makes requirements for the protection or alteration of apparatus under paragraph 4, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Hall Farm Solar BESS Limited's undertaking and Hall Farm Solar BESS Limited shall use its best endeavours to co-operate with the undertaker for that purpose.
- (2) For the avoidance of doubt whenever Hall Farm Solar BESS Limited's consent, agreement or approval is required in relation to plans, documents or other information submitted by Hall Farm Solar BESS Limited or the taking of action by Hall Farm Solar BESS Limited, it must not be unreasonably withheld or delayed.

Arbitration

10. Any difference or dispute arising between the undertaker and Hall Farm Solar BESS Limited under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Hall Farm Solar BESS Limited, be determined by arbitration in accordance with article 62 (*arbitration*).

Notices

11. The plans submitted to Hall Farm Solar BESS Limited must be sent to Hall Farm Solar BESS Limited at its registered office and addressed to the company secretary or such other address as Hall Farm Solar BESS Limited may from time to time appoint instead for that purpose and notify to the undertaker.