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Our Ref: EN010118

26 June 2023

Dear James Pateman,

PLANNING ACT 2008: APPLICATION FOR DEVELOPMENT CONSENT FOR THE LONGFIELD SOLAR FARM

1. Introduction

- 1.1 I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the report dated 18 April 2023 of the Examining Authority (“the ExA”), comprising one examining Inspector, Rory Cridland, which conducted an examination into the application submitted on 28 February 2022 (“the Application”) by Longfield Solar Energy Farm Limited (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Longfield Solar Farm (“the Proposed Development”).
- 1.2 The Application was accepted for examination on 28 March 2022. The examination began on 18 July 2022 and concluded on 18 January 2023. The Secretary of State received the report containing the ExA’s conclusions and recommendation on 18 April 2023. A total of 104 Relevant Representations (“RRs”) (as defined in the 2008 Act) were received by the Planning Inspectorate.
- 1.3 The Order as applied for, would grant development consent for the Proposed Development, which includes: the construction, operation, maintenance and decommissioning of a solar photovoltaic electricity generating facility and Battery Storage Energy System (“BESS”) with a total capacity exceeding 50MW and associated infrastructure. The Proposed Development includes an

export connection to the National Grid and includes upgrades, modification and an extension to the existing Bulls Lodge Substation.

- 1.4 The Application includes proposals for the provision of compulsory acquisition (“CA”) of freehold interests and private rights and the creation of new rights over land. The Application also contains provisions for the temporary possession (“TP”) of land [ER 8.2.1].
- 1.5 The principal matters considered by the ExA are considered in the report under the following broad headings: the Principle of Development regarding Need, Policy, Alternatives, and Site Selection; Air Quality; Ecology and Biodiversity; Landscape and Visual Effects; Cultural Heritage; Best Most Versatile (“BMV”) Agricultural Land; Socio-economic, Land Use, and Human Health; Transport and Traffic; Safety; Noise and Vibration; Water Environment; Effect Interactions and Cumulative Schemes; the Habitats Regulations Assessment (“HRA”); CA and TP; Environmental Impact Assessment (“EIA”) and the Environmental Statement (ES); and the draft Development Consent Order (“DCO”).
- 1.6 Published alongside this letter on the Planning Inspectorate’s National Infrastructure website is a copy of the ExA’s Report of Findings, Conclusions and Recommendation to the Secretary of State (“the ExA Report”). The main features of the development proposals, as applied for, and site are set out in chapter 2 of the ExA’s Report. The ExA’s findings are set out in chapters 4 to 6 and chapter 8 of the ExA Report, and the case for development consent and the ExA’s conclusions on the terms of the Order are set out at chapters 7 and 10 respectively.
- 1.7 Following the close of Examination, 8 representations were submitted by the Applicant and other Interested Parties (“IPs”). On 17 March 2023, The Applicant and Essex and Suffolk Water both provided updated protective provisions to replace Part 9 of Schedule 15 of the Order. The Secretary of State considers that the other representations supplement, but do not materially change, the information provided in the Examination and are considered where relevant in the sections below.

Submissions to the Secretary of State after Receipt of the ExA’s Report

- 1.8 On 5 May 2023 the Secretary of State requested clarification from the Applicant, Eastern Power Networks plc, UK Power Networks Limited, British Telecommunications plc (“BT”) and Openreach Networks, in respect of protective provisions and the coexistence of existing infrastructure with the Proposed Development. Responses were received on 12 May 2023 and the Secretary of State does not consider that the responses materially add to or change the information that was already available to him.

2. Summary of the ExA Recommendation

- 2.1 The ExA’s recommendation in section 10.1.12 (page 186 of the ExA Report) is as follows:

“For all of the above reasons, and having had regard to the LIRs produced by BDC, CCC and ECC as well as my findings and conclusions on important and

relevant matters set out in this report, I conclude that the case for the development has been made and that development consent should be granted through a DCO as recommended in paragraph 9.7.3 above and in the form set out in Appendix C.”

- 2.2 This letter is intended to be read alongside the ExA’s Report and unless it is specifically stated that the Secretary of State disagrees with the ExA’s conclusions or recommendations then any perceived difference in emphasis between the summaries in this letter and the ExA’s Report should not be inferred as conveying disagreement with the ExA’s Report. Where not otherwise stated, the Secretary of State can be taken to agree with the ExA’s findings, conclusions and recommendations as set out in the ExA’s Report and the reasons given for the Secretary of State’s decision are those given by the ExA in support of the conclusions and recommendations.

3. Summary of the Secretary of State’s views

- 3.1 The statutory framework for deciding NSIP applications where there is no relevant designated NPS, such as for solar farms, is set out in section 105 of the PA2008. In deciding the application, the Secretary of State must have regard to:
- any Local Impact Report (“LIR”) submitted before the deadline specified under s60(2) of the PA2008;
 - any matters prescribed in relation to development of the description to which the application relates; and
 - any other matters which the Secretary of State thinks are both important and relevant to their decision [ER 7.1.2].
- 3.2 The Secretary of State has considered the above matters, the ExA’s Report, and all other material considerations, including further representations received after the close of the ExA’s examination (“the post-examination representations”). The Secretary of State’s detailed consideration of these matters is set out below. All numbered references, unless otherwise stated, are to paragraphs of the ExA’s Report [“ER *.*.*”]. This letter is a statement of the reasons for the Secretary of State’s decision for the purposes of section 116 of the PA2008 and the notice and statement required by regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
- 3.3 The Secretary of State has considered the overall planning balance and, for the reasons set out in this decision letter, has concluded that the public benefits for the Proposed Development outweigh the harm identified, and that development consent should therefore be granted for the Proposed Development.

4. Matters considered by the ExA during the Examination

Principle of Development: Need and Policy

- 4.1 The ExA notes policies which are important and relevant to the principle and need of development [ER 5.2.1 et seq.]. The Overarching National Policy Statement (“NPS”) for Energy EN-1 sets out the need and urgency for new energy infrastructure to be consented and built as soon as possible [ER 5.2.3]. Draft NPS (“dNPS”) EN-1 explicitly includes solar generation within its scope, recognising the urgent need for such technology and the contribution it can make to achieving Net Zero, providing security of supply and an affordable, reliable system [ER 5.2.13 et seq.]. NPS EN-1 recognises the utility in electricity storage to combat intermittency of renewable generation and that the UK requires more total electricity capacity than it has now [ER 5.2.5]. The ExA notes that NPS EN-5 supplements EN-1 in relation to such electricity networks and infrastructure [ER 5.2.8].
- 4.2 The ExA also considered other policies which are important and relevant to the principle and need of development, including: dNPS EN-3, September 2021 [ER 5.2.15]; the National Planning Policy Framework (“NPPF”) [ER 5.2.22]; the National Planning Policy Guidance [ER 5.2.24]; Braintree District Local Plan (“BDLP”) Policy Local Planning Policy (“LPP”) 73 [ER 5.2.25]; BDLP Policy LPP73 [ER 5.2.26]; Chelmsford Local Plan (“CLP”) Strategic Policy S2 (Climate Change and Flood Risk) [ER 5.2.27]; and CLP Policy DM18 (Renewable and Low Carbon Energy) [ER 5.2.28].
- 4.3 The Applicant’s Statement of Need sets out its assessment and findings in the case for the need for the Proposed Development, and argues that in view of the urgent need for solar generation identified by both the designated and dNPSs, significant weight should be attributed to the contribution the Proposed Development would make to meeting that need [ER 5.2.29 et seq.]. The Applicant considers that large scale solar is now technically and economically feasible [ER 5.2.32], is competitive against other types of low carbon generation [ER 5.2.33] and can bring greater decarbonisation and economic benefits than a combination of smaller solar schemes of equivalent installed capacity [ER 5.2.34]. The Applicant concludes that the need for the Proposed Development is clearly demonstrated and will deliver large amounts of cheap, low carbon power, in a timelier manner than other technologies [ER 5.2.36 et seq.].
- 4.4 All three Host Authorities acknowledged there was an urgent need for electricity generation that the Proposed Development would help meet [ER 5.2.55]. A number of IPs commented on matters relating to the need for the Proposed Development, including that the size of the solar farm was not needed, that other forms of renewable electricity generation are more reliable, and that the British Energy Security Strategy (“BESS”) set no targets for solar [ER 5.2.56 et seq.]. One IP indicated support for the scheme, stating that the Proposed Development was needed to combat climate change [ER 5.2.58].
- 4.5 The ExA notes that the BESS and the dNPSs indicate that the Government expects a significant increase in the deployment of solar as part of the commitment to achieving net zero [ER 5.2.68]. The ExA also notes that no specific concerns were raised by IPs with the Statement of Need [ER 5.2.69].

- 4.6 The ExA considers that all forms of renewable generation, including solar, have an urgent role to play in contributing to increased energy supply and security in meeting net zero, and considers the need for the Proposed Development has been made out [ER 5.2.70, ER 5.2.77]. The ExA considers that there is no conflict between the Proposed Development and both designated and emerging policies which are important and relevant to the principle of development [ER 5.2.79, ER 5.2.81 et seq., ER 7.1.58], including local planning policy [ER 5.2.79]. The ExA notes that the Climate Change Act 2008 places a duty on the Secretary of State to reduce the net UK carbon account for 2050 to at least 100% lower than the 1990 baseline, and considers that the Proposed Development would make a modest contribution to the UK meeting that legally binding commitment [ER 5.2.82]. More recently, the ExA notes that Powering Up Britain (published March 2023), recognises the role of solar in achieving the decarbonisation and domestication of energy production and sets a goal to increase solar generation fivefold by 2035, recognising that ground mounted solar is one of the cheapest form of electricity generation and is readily deployable at scale [ER 4.6.9 et seq.]. The ExA concludes that the Proposed Development would positively contribute to the urgent need established in designated NPSs, and carried forward into dNPSs, for additional low carbon generation, and that this should be afforded significant positive weight [ER 5.2.80, ER 5.2.77, ER 7.2.6].
- 4.7 While the Secretary of State acknowledges that EN-1 does not have effect in relation to solar, and therefore section 104 of the 2008 Act does not apply, the need for solar is established in the dNPSs and is a matter he considers to be important and relevant to this decision under section 105 of the 2008 Act. The Secretary of State agrees with the ExA's conclusions and ascribes the Proposed Development's contribution to meeting this need substantial positive weight in the planning balance.

Principle of Development: Alternatives and Site Selection

- 4.8 The ExA notes relevant policy for the consideration of alternatives and site selection, including NPS EN-1 and dNPS EN-1. The ExA notes that NPS EN-1 does not contain any general requirements to consider alternatives, nor to consider whether a project represents the best option, but does state that applicants must include reference to the main alternatives studied in their Environmental Statement ("ES") [ER 5.2.18]. Further, the ExA notes that NPS EN-1 states that the consideration of alternatives should be carried out in a proportionate manner [ER 5.2.18] and dNPS EN-1 reiterates this [ER 5.2.19].

Applicant's approach - Overall

- 4.9 ES Chapter 3 sets out the Applicant's consideration of alternatives regarding sites, technologies, layouts, cable route corridors and points of connection to the National Grid, as well as alternative layouts for Bulls Lodge Substation Extension ("BLSE") [ER 5.2.38]. The Applicant did not consider a 'no development' scenario as an alternative as this would not deliver the additional generating capacity, but each chapter of the ES considers a future baseline scenario presenting the expected baseline conditions should the Proposed Development not proceed [ER 5.2.39].

Applicant's approach – Alternative Sites

- 4.10 The selection of the site of the Proposed Development was driven by the need for an available grid connection, within 5km of existing electricity infrastructure with a single, contiguous land parcel exceeding 300ha nearby, as beyond this distance environmental, and social effects are likely to increase and more land (including more CA) would be required, with the Proposed Development becoming less financially viable [ER 5.2.40]. Smaller multiple sites were not considered as they would not deliver the same generating capacity and are more challenging to deliver without additional impacts and costs [ER 5.2.44]. The location in Essex of the 400kV overhead line from Braintree Substation to the Rayleigh Substation was identified as having a capacity of up to 500MW to allow connection from a potential solar farm [ER 5.2.41 et seq]. The Applicant refined the design of the site to be located at Longfield based on topography, fields, landowners, minimising environmental and cultural effects and impacts, proximity to dwellings, use of BMV agricultural land, and ease of access [ER 5.2.43, ER 5.2.45]. Alongside the 500MW Grid Connection offer, the Applicant notes the site at Longfield is south facing, formed of large areas suitable for solar development, is owned by a single landowner who is agreeable to development, is not located within a designated landscape, has good connection routes, is located away from large conglomerations, and is outside of areas of protected habitats [ER 5.2.46].

Applicant's approach - Alternative Substation Locations

- 4.11 The Applicant discounted two locations at Hockley Wood and Porters Wood due to technical challenges, greater environmental effects, and feedback from National Grid on the practicability [ER 5.2.48]. National Grid and the Applicant preferred the Bulls Lodge location as it was adjacent to the existing Substation, would result in fewer environmental effects, benefited from existing access, and was considered to be a more economical and efficient solution [ER 5.2.49]. The BLSE site itself was selected due to being away from residential receptors and was screened by existing woodland, though this choice would result in more cabling [ER 5.2.50].

Applicant's approach – Cable Route Corridors

- 4.12 The Applicant identified 8 cable routes for consideration, all broadly travelling southwest from the Proposed Development site to BLSE, with the key considerations for all options being minimising disturbance to ecology, hydrology, and the Minerals Safeguarding Area [ER 5.2.51 et seq.]. Option 4 was taken forward as it was the best technical solution, would minimise impacts on mineral resources, and would be more acceptable in terms of its environmental and social impacts [ER 5.2.53].

Applicant's approach – Layout

- 4.13 The layout of the Proposed Development evolved iteratively taking into consideration environmental effects, environmental policy objectives, functionality, and feedback from stakeholders and public consultation. Resultantly, the area considered at the EIA scoping stage was reduced from 582ha to 453ha [ER 5.2.54].

View of IPs

- 4.14 Many IP's raised concerns over the Applicant's approach to site selection, the preference for solar panels on other types of land, and the potential to use alternative sites requiring less BMV agricultural land and more poorer quality land elsewhere in Essex [ER 5.2.60]. The Solar Campaign Alliance noted the BESS encouraged large scale solar to develop on lower quality land [ER 5.2.61], and the Community Planning Alliance stated that there is 30,000ha of lower quality land in Essex providing ample opportunities for alternative sites [ER 5.2.62]. Professor Mike Alder considered the Applicant did not make a serious attempt to look for less valuable land and that there were many other options with grid connections near the proposed site and across Essex [ER 5.2.63]. Other IPs, including Terling and Fairstead Parish Council, considered the Applicant could have considered sites already under its control as reasonable alternatives but did not identify specific proposals [ER 5.2.64]. Boreham Conservation Society asserted that the Proposed Development could connect to the National Grid via the overhead cable already located within the site, rather than connect at BLSE [ER 5.2.65]. Other representations on alternatives highlighted, amongst other matters, other large developments in proximity to the site, the utility of examining alternative energy types, and the sub-optimal conditions for generating solar energy at the site [ER 5.2.66].
- 4.15 The ExA notes that the Applicant provided more detail during Examination on why sites to the north and south of the Proposed Development were not suitable [ER 5.2.71 et seq.]. The Applicant also drew attention to dNPS EN-3 which indicates land type should not be the predominant factor in determining the suitability of a site location, and that brownfield or rooftop generation both generate much less electricity than that which can be achieved from solar at scale [ER 5.2.75 et seq.].

Conclusions

- 4.16 The ExA is satisfied that, although the key driver of site selection appears to be the availability and proximity of a grid connection, the Applicant has supplied sufficient details of the alternatives, including the approach to site selection, different technology, alternative routes for key components, and overall project design [ER 5.2.78]. The ExA is satisfied that sufficient detail has been provided to meet the requirements of NPS EN-1, dNPS EN-1, and the EIA Regulations [ER 5.2.78, ER 7.1.4].
- 4.17 The Secretary of State agrees with the ExA's conclusions on this matter.

Air Quality

- 4.18 The ExA notes the relevant policy and legislative considerations for air quality in NPS EN-1, adding that dNPS EN-1 mirrors the designated policy [ER 5.3.1 et seq.]. The ExA also notes that the NPPF, the National Planning Practice Guidance ("NPPG") and local development policies contain similar advice in respect of air quality [ER 5.3.3].
- 4.19 The Applicant's assessment in Chapter 14 of its Environmental Statement ("ES") focuses on the potential effects on air quality during construction and

decommissioning, as well as considering cumulative effects with other developments [ER 5.3.5]. The assessment recognises that construction will lead to a greater number of vehicles in the area but impacts on local air quality are not considered to be significant [ER 5.3.8]. The Applicant's dust risk assessment recognises that there is a large potential for dust emissions during construction but considers the implementation of good practice will avoid significant effects [ER 5.3.8]. Decommissioning is anticipated to generate similar or lower effects than the construction phase [ER 5.3.10].

- 4.20 Braintree District Council ("BDC") and Chelmsford City Council ("CCC") considered that, subject to controls and best practice, there would not be any significant impacts on air quality [ER 5.3.16].
- 4.21 The ExA notes that there is some potential for construction and decommissioning activities to impact on air quality, including from the production of dust, but that these are likely to be temporary and short term [ER 5.3.20]. The ExA concludes that, with the control and mitigation of residual effects set out in the Outline Construction Environment Management Plan ("oCEMP") and Requirement 13 of the Order, that there would be no significant effects as a result of changes to air quality [ER 5.3.21 et seq.]. The ExA ascribes this matter neutral weight in the planning balance [ER 5.3.22 et seq.]
- 4.22 The Secretary of State agrees with the ExA's conclusions and ascribes this matter neutral weight in the planning balance.

Ecology and Biodiversity

- 4.23 The ExA notes relevant policy and legislation for the consideration of effects on ecology and biodiversity, including the Environmental Impact Assessment Regulations [ER 5.4.1], NPS EN-1 [ER 5.4.1 et seq.], dNPS EN-1 [ER 5.4.6], dNPS EN-3 [ER 5.4.6], the NPPF [ER 5.4.7] and relevant local planning policy [ER 5.4.7].
- 4.24 ES Chapter 8 sets out the Applicant's assessment and findings in respect of ecology and biodiversity [ER 5.4.8]. This is supplemented by various documents [ER 5.4.8 et seq.], including the Habitats Regulation Assessment ("HRA") which is addressed separately in section 5 of this document. 31 non-statutory sites are identified as being within 2km of the Order Limits many of which have been designated as Local Wildlife Sites for their biodiversity value [ER 5.4.10]. Due to the potential effects on ecological receptors during construction, operation, and decommissioning, the Applicant has incorporated embedded mitigation measures, focussing on establishing new habitats and encouraging regeneration, to prevent or reduce these adverse impacts [ER 5.4.12]. After initial and further assessments of three ecological receptors [ER 5.4.14], the ES identifies no significant adverse impacts on important ecological receptors during construction, operation or decommissioning, and considers that there will be a significant beneficial effect as a result of Biodiversity Net Gain ("BNG") proposals [ER 5.4.15 et seq.].
- 4.25 There were no outstanding areas of disagreement between NE and the Applicant at the close of Examination [ER 5.4.18]. CCC considered the Proposed Development would deliver significant ecological and environmental

improvements [ER 5.4.19] and BDC noted biodiversity's key role in the design of the Proposed Development [ER 5.4.21]. BDC sought clarification on a potential BNG 'trading issue' in relation to the extent of the loss of Lowland Mixed Deciduous Woodland Priority Habitats and the compensation proposed, [ER 5.4.22], and requested an Arboricultural Impact Assessment [ER 5.4.23]. However, at the close of the Examination there were no outstanding matters of disagreement between the Applicant and Host Authorities in relation to ecology or biodiversity [ER 5.4.45].

- 4.26 Concerns including the loss of habitats, the adequacy of mitigation, and the effects on wildlife were raised by several IPs including local residents, interest groups, and the town and parish councils [ER 5.4.24]. Professor Mike Alder raised concerns regarding NE's biodiversity metric and considers that there is potential for negative impacts on biodiversity in allowing the development of large solar schemes [ER 5.4.26]. The ExA notes that many of Professor Alder's points were echoed by other IPs [ER 5.4.25].
- 4.27 The Applicant's Outline Landscape and Ecology Management Plan ("oLEMP") provides a framework for establishing, managing, and monitoring ecological mitigation and enhancement to achieve measurable net gain in biodiversity [ER 5.4.28]. The ExA notes that the Applicant intends to establish an Ecological Advisory Group of relevant and appropriate stakeholders to assist in the ongoing ecological management of the site [ER 5.4.32, ER 5.4.43]. The ExA notes that the Applicant added further detail to proposed remedial measures, provided the requested Arboricultural Impact Assessment [ER 5.4.36], and updated its biodiversity net gain report to clarify the 'trading issue' [ER 5.4.40].
- 4.28 The ExA notes the concerns of local residents but considers that the assessments undertaken by the Applicant adhere to the necessary guidance and that there is no evidence which would indicate they are materially flawed [ER 5.4.47, ER 5.4.50, ER 7.1.17]. The ExA notes that NE's biodiversity metric has been extensively tested [ER 5.4.48, ER 7.1.18] and that, despite relatively limited data on the long-term effect of large scale solar on biodiversity, the Proposed Development is likely to result in a significant beneficial effect on biodiversity [ER 5.4.47, ER 7.1.17]. The ExA concludes that the BNG demonstrated would represent a considerable benefit [ER 5.4.50] and ascribes it moderate positive weight in the planning balance [ER 7.2.7].
- 4.29 The Secretary of State agrees with the ExA's conclusions and ascribes this matter moderate positive weight in the planning balance.

Landscape and Visual Impacts

- 4.30 The ExA notes relevant policy and legislative considerations for landscape and visual impacts, including in NPS EN-1, which recognises that all proposed energy infrastructure projects are likely to have visual impacts which must be weighed against the benefits of the project [ER 5.5.6]. The ExA notes similarities in dNPS EN-1 [ER 5.5.8], whilst identifying that dNPS EN-3 outlines the potential impacts of solar sites on public rights of way ("PRoW") and glint and glare [ER 5.5.9]. The ExA also notes that dNPS EN-5, the NPPF, the NPPG and local development plan policies all contain similar advice on preserving the

local landscape, views and character whilst establishing well-designed green infrastructure [ER 5.5.10 et seq.].

Applicant's approach - Overall

- 4.31 ES Chapter 10 sets out the Applicant's assessment of effects on landscape and visual amenity during construction, operation, and decommissioning, and is supported by various other documents [ER 5.5.18, ER 5.5.20]. The Applicant states that both changing the design in ways that are within the parameters of the Outline Design Principles ("ODP"), and any differences between the Illustrative Concept Design ("ICD") and the final design, would not result in any worse effects than those assessed in ES Chapter 10 [ER 5.5.22, ER 5.5.23]. All landscape and visual mitigation is embedded in the design of the Proposed Development, as set out in the Mitigation Schedule, and secured in the Order [ER 5.5.32, ER 5.5.47].

Applicant's approach - Landscape

- 4.32 The Applicant agreed with Host Authorities on a more detailed analysis of the landscape character than existed at the local level and established 13 Local Landscape Character Areas ("LLCA") [ER 5.5.5]. The Applicant concludes that the only significant effects will be significant residual adverse effects on LLCA 02 (Western Farmland Plateau) and LLCA 07 (Toppinghoehall Woods) during both construction and operation (Year 1) [ER 5.5.32]. The Applicant notes that most of these effects would be temporary, medium term and reversible, and that the proposed planting of vegetation would mean there are no residual significant effects on the LLCAs at year 15 [ER 5.5.34 et seq.]. The Applicant assesses that the effect of decommissioning would be neutral to minor adverse and not significant [ER 5.5.36].

Applicant's approach - Visual

- 4.33 The Applicant notes in ES Chapter 10 that none of the main elements of the Proposed Development would be visible in its entirety at any location [ER 5.5.37]. However, the Applicant identifies eight residential receptors at which significant adverse effects are likely to occur due to the close proximity of construction and into the operational phase: Noake's Lane (Viewpoint ("VP") 8 and VP11), the western side of Terling Hall Road (VP10) the edge of Fuller Street (VP46), the eastern side of Waltham Road/ Boreham Road (VP7 and VP15), Fairstead Lodge (VP47), and at VP13 [ER 5.5.39, ER 5.5.40]. Through advance mitigation planting, new vegetation would be fully established at year 15 which the Applicant acknowledges would change the composition of some of the views. However, no residential receptors are predicted to experience significant adverse effects at year 15 [ER 5.5.41].
- 4.34 The Applicant identifies moderate adverse (significant) effects on users of PRowS at Essex Way (VP46 and VP45) and at Sandy Wood (VP5), but notes these will be relatively localised impacts of short duration [ER 5.5.42]. The Applicant also notes that users of the local PRowS within, or very close to, the Order Limits (VP6, VP9 VP16, VP55, VP56 and VP57) would experience significant adverse effects in construction and at year 1 of operation [ER 5.5.43]. At year 15, the Applicant considers that users of VP45 and VP46 would

experience minor adverse effects which are not significant, and that users of PRowWs 113_25 and 213_19 would continue to experience significant effects [ER 5.5.44]. Significant effects are expected along PRowWs 113_25, 213_19 and 213_18 during decommissioning [ER 5.5.45].

- 4.35 The Applicant identifies non-significant effects from Glint and Glare at seven residential receptors [ER 5.5.48] and does not identify any significant cumulative landscape or visual effects [ER 5.5.50].

Views of IPs

- 4.36 The Host Authorities sought the removal of Potential Development Area (“PDA”) 1 and its photovoltaic arrays [ER 5.5.54]. The Host Authorities considered that there would be a moderate adverse (significant) impact on LLCA: 03 Ter Valley North at year 1, reducing to minor adverse at year 15. The Applicant considered the effect would be minor in year 1, reducing to negligible adverse at year 15 [ER 5.5.52]. Further, the Host Authorities considered that, contrary to the Applicant, recreational users of Essex Way would experience moderate adverse effects at VP46 and VP45 at year 15 [ER 5.5.53]. The Host Authorities also considered that there would be moderate adverse cumulative effects to two District LCAs from the Proposed Development in conjunction with other planned developments [ER 5.5.55]. Several other IPs and local residents raised concerns including the significant negative impact the Proposed Development would have on the landscape and countryside, as well as the efficacy of vegetative screening as a form of mitigation [ER 5.5.56 et seq.].

Views of the ExA - Overall

- 4.37 The ExA concurs with the Applicant that the remote location of the site, the relatively flat landform, and existing woodland and hedgerow would limit views of the Proposed Development [ER 5.5.62, ER 5.5.61]. The ExA also agrees that, apart from major adverse significant effects for users of PRowW 213_19 and PRowW 113_25, no significant effects are expected on PRowWs once mitigation planting has been established [ER 5.5.62]. The ExA acknowledges that, whilst adverse impacts would be reduced by mitigation planting in the long term, in the intervening period residents would experience significant adverse visual effects [ER 5.5.64]. The ExA notes that the Applicant considered the main differences between the relevant parties to be one of professional judgement [ER 5.5.65]. The ExA notes that as a result of discussions during the Examination, the Applicant and Host Authorities agreed a position on vegetation removal limiting it where possible [ER 5.5.70]. This led to making a 3-dimensional virtual model available for the local community to interrogate the effectiveness of the proposed mitigation from any location, and ensured there were no matters outstanding between parties in respect of glint and glare at the close of Examination [ER 5.5.67, ER 5.5.69].

Views of the ExA – LLCA 03 and users of the Essex Way

- 4.38 At the close of examination, the Host Authorities’ concerns regarding LLCA 03: Ter Valley North and the recreational users of Essex Way remained [ER 5.5.70]. The ExA considers it is evident that PDA1 would be visible from the Essex Way footpath and would have an adverse impact on the landscape

character of this part of Essex, agreeing with the Host Authorities it would be difficult to mitigate the effect of installing solar arrays there [ER 5.5.73]. However, the ExA is satisfied that the proposed embedded mitigation would ensure that any residual effects on LLCA 03 would remain within acceptable levels and would not be significant [ER 5.5.76]. The ExA accepted that users of VP45 would continue to experience some adverse visual effects at year 15 despite mitigation, but that these effects would be highly localised and for only a short distance [ER 5.5.77]. The ExA therefore disagrees with the Host Authorities and considers that the inclusion of photovoltaic arrays at PDA 1 would not result in significant adverse visual or landscape effects at year 15 [ER 5.5.79, ER 5.5.80].

Conclusions

- 4.39 The ExA notes that the Proposed Development would result in significant adverse landscape impacts on LLCA 02 and LLCA 07 during construction and at year 1 of operation, reducing to non-significant by year 15, but with noticeable effects in the intervening period [ER 5.5.81, 7.1.22]. Eight residential receptors would experience significant adverse effects during construction which, although temporary and less impactful over time, would be perceived by those with views in those locations as long-term effects [ER 5.5.81, 7.1.23]. In addition, the ExA states that views from VP45 and VP46 on the Essex Way towards PDA1 would be significantly adversely affected during the construction and operation phases, but that these impacts would be limited in terms of extent and duration for users [ER 5.5.81, 7.1.24]. The ExA concludes the Proposed Development is generally well-contained, with localised impacts experienced by a limited number of receptors, and most adverse effects reversible on decommissioning [ER 5.5.81, 7.1.25]. However, the Proposed Development will nevertheless result in visual and landscape harm. The ExA ascribes the resultant harm moderate negative weight in the planning balance [ER 7.1.26].
- 4.40 The Secretary of State agrees with the ExA's conclusions and ascribes this matter moderate weight against the Proposed Development in the planning balance.

Cultural Heritage

- 4.41 The ExA notes relevant policy and legislative considerations for cultural heritage, including the Infrastructure Planning Decisions Regulations 2010, NPS EN-1, and NPS EN-5, noting that NPS EN-1 states that consideration should be given to whether the Proposed Development would affect heritage assets' significance, including their setting, regardless of whether they are designated or not [ER 5.6.3 et seq.]. The ExA notes that these themes are continued in dNPS EN-1, dNPS EN-3 and dNPS EN-5, stating that any harmful impact on heritage assets should be given significant weight when weighed against the public benefit of the development [ER 5.6.10]. The ExA also notes that the NPPF, the NPPG and local development plan policies contain similar advice [ER 5.6.12].
- 4.42 ES Chapter 7 sets out the Applicant's assessment of effects on cultural heritage [ER 5.6.13] and is supported by a range of other documents including the ES Chapter 5 EIA Methodology [ER 5.6.14]. The Applicant did not identify any

designated heritage assets within the Order Limits but did acknowledge that several designated and non-designated heritage and archaeological assets could potentially experience impacts on their setting [ER 5.6.17, 5.6.18]. Of these, the Grade I listed Ringers Farmhouse was the only asset identified by the Applicant to be subject to significant adverse residual effect which would arise during construction and continue throughout the operational phase, though the effect was described as reversible following decommissioning. All other effects were assessed to be negligible or minor adverse [ER 5.6.24].

- 4.43 Historic England (“HE”) and BDC also acknowledged the significant effect predicted on Ringers Farm, though both consider it would result in less than substantial harm to the building’s setting [ER 5.6.26 et seq.]. CCC acknowledged the Applicant’s detailed assessments but identified several locations where it considers there would be additional harm to that identified in the ES [ER 5.6.30]. At the close of examination, both BDC and CCC had outstanding areas of disagreement with the Applicant in relation to various assets of built heritage [ER 5.6.46]. Essex County Council (“ECC”) confirmed in the final Statement of Common Ground (“SoCG”) it had no outstanding areas of disagreement between it and the Applicant regarding archaeology [ER 5.6.33].
- 4.44 The ExA considered in full each of the heritage assets over which BDC and CCC remained in disagreement with the Applicant at the close of examination [5.6.48 et seq.].

Ringers Farmhouse

- 4.45 The ExA, like BDC and CCC, acknowledges that further mitigation than provisioned by the Applicant would not materially alter the level of harm to the setting of Ringers Farmhouse [ER 5.6.40, ER 5.6.49]. The ExA agrees with the Applicant, the Host Authorities and HE that a significant adverse effect would remain and there would still be harm, albeit less than substantial, to the asset’s setting [ER 5.6.48, ER 5.6.49].

Stocks Farm

- 4.46 The ExA concurs with the CCC that Stocks Farm and the wider farmstead may be of regional resource value [ER 5.6.53]. The ExA states Stocks Farm’s significance should be classed as medium [ER 5.6.54], and not low as the Applicant ascribed it [ER 5.6.51]. However, the ExA concludes that the magnitude of impact would be low, as the change to setting caused by the Proposed Development would be temporary, reversible on decommissioning, and would not materially alter the ability to appreciate the significance of the assets [ER 5.6.55].

Stocks Cottages, The Thatched Cottage, and Whalebone Cottages – Group value with Stocks Farm

- 4.47 The ExA disagrees with the view of CCC that the Proposed Development would materially impact on the group value of Stocks Farm and Stocks Cottages [ER 5.6.30, ER 5.6.59]. The ExA views that while there would be some changes to the setting of these non-designated assets individually, the group value would

not be significantly adversely affected or the relationship between them compromised [ER 5.6.59, ER 5.6.61]. Similarly, the ExA does not consider there would be any effect on the group value of Stocks Farm and the Thatched Cottage or Whalebone Cottages [ER 5.6.60, ER 5.6.61].

Little Holts

- 4.48 The ExA, the Applicant and CCC all recognise that the Proposed Development would affect the setting of this Grade II heritage asset, though the Applicant assessed the effect as minor adverse (not significant) with a low magnitude of impact [ER 5.6.30, ER 5.6.63, ER 5.6.64]. CCC consider the magnitude of impact should be medium, drawing comparisons with the Applicant's classification of the same magnitude for Stocks Cottages [ER 5.6.64]. Given that the photovoltaic arrays would be set back at least 100m from the asset's boundary and screened, the ExA believes the overall impact would be minimised and agrees with the Applicant that the magnitude of impact would be low [ER 5.6.65, ER 5.6.66]. The ExA concludes that Little Holt's group value with Stocks Farm would also not be materially affected [ER 5.6.67], and that additional mitigation is not necessary [ER 5.6.68].

Noakes Lane

- 4.49 CCC and the ExA acknowledge that this non-designated heritage asset may have some regional and group value [ER 5.6.69]. However, the ExA considers that strengthening the boundary of fields beside the lane, along with setting back the photovoltaic arrays, will significantly reduce impacts on the significance and purpose of the lane within the historical landscape [ER 5.6.70]. The ExA agrees with the Applicant that the Proposed Development's magnitude of impact would be low and would not result in a significant effect on Noakes Lane [ER 5.6.71].

Sparrows Farm, Little Russells and Rolls Farm

- 4.50 BDC disagreed with the Applicant's assessment that, although these assets would be adversely affected, the magnitude of impact would be low and the residual effect minor adverse (not significant) [ER 5.6.73]. The ExA, in considering the setting back of photovoltaic arrays and new planting, agrees with the Applicant that significant effects are unlikely to occur, and that further mitigation is not necessary [ER 5.6.74].

Other matters

- 4.51 The ExA notes that the effect of the Proposed Development on both Bird Farmhouse and Brent Hall would be minor adverse and negligible respectively, with no significant effects on either [ER 5.6.75].

Conclusions

- 4.52 The ExA notes that differences in views between the parties can be one of professional judgement [ER 5.6.54]. Whilst the ExA acknowledges there would be some harm to the setting of several assets, and affords it great weight, it states the harm would be both temporary and reversible to all assets except the less than substantial harm to the setting of Ringers Farmhouse [ER 5.6.83,

ER 5.6.77, ER 5.6.49]. The ExA's view is that the application meets the requirements of NPS EN-1, dNPS EN-1, the NPPF, the NPPG and local development plan policy [ER 7.1.27]. The ExA is satisfied that, with the exception of Ringers Farmhouse, with the mitigation measures secured, the Proposed Development would not result in significant adverse effects to any of the heritage assets identified [ER 7.1.28]. The ExA ascribes the resultant harm moderate negative weight in the planning balance [ER 7.1.33].

- 4.53 The Secretary of State agrees with the ExA's conclusions on each heritage asset and, overall, ascribes this matter moderate weight against the Proposed Development in the planning balance.

BMV Agricultural Land

- 4.54 The ExA notes relevant policy and legislative considerations for both BMV agricultural land (Agricultural Land Classification ("ALC") grades 1, 2 and 3a) and land of poorer quality (ALC grades 3b, 4 and 5) within NPS EN-1 [ER 5.7.2]. The ExA notes similarities in dNPS EN-1, the NPPG, the NPPF, local development plan policies and, in reference to solar projects specifically, in dNPS EN-3 [ER 5.7.4 et seq., ER 5.7.7, ER 5.7.9, ER 5.7.10 et seq.]. Further, the ExA notes that the 2015 Written Ministerial Statement ("WMS") of the former Secretary of State for Communities and Local Government is an important and relevant consideration which provides further context to the Government's general approach to the siting of solar farms on BMV agricultural land and advises that any such proposal would need to be justified by the most compelling evidence [ER 3.8.6 et seq., ER 5.7.8, ER 5.7.43].

Applicant's approach

- 4.55 ES Chapter 12 sets out the Applicant's assessment of effects on BMV agricultural land and is supplemented by Figures on the ALC grades of land and land to be permanently lost, as well as an Appendix on soil resources [ER 5.7.13]. The Applicant conducted a survey which assessed that 34%, or 156ha, of the Order Limits is BMV agricultural land [ER 5.7.14], and ES Chapter 12 notes that the Proposed Development would affect 150ha of the 156ha BMV land during construction and operation, but that this loss would be reversible after operation and the effect is therefore temporary and not significant [ER 5.7.15]. The Applicant identifies 6ha of BMV which would be lost permanently to provide habitat mitigation but, whilst BMV agricultural land is finite, the Applicant considers this loss is justified by the contribution of the Proposed Development to urgently required low carbon electricity generation [ER 5.7.19]. The Applicant further noted the lack of alternatives in the vicinity of the 400 kV power line between Rayleigh and Braintree with a lower ALC rating than the proposed Site and justified the Order Limits as an effective use of land [ER 5.7.33 et seq., ER 5.7.37]. Regarding soil quality, the Applicant submitted an Outline Soil Resource Management Plan which sets out measures to ensure the protection and conservation of soil resources on site, and it considers the vast majority of the site would be able to return to agricultural use [ER 5.7.17 et seq.].

View of IPs

- 4.56 The ExA notes that both loss of agricultural land and UK food security were key concerns raised by multiple IPs, including local residents and interest groups [ER 5.7.1]. The ExA notes that Professor Mike Alder suggested that because of the borderline nature of some of the ALCs, it could be possible that more BMV would be lost to the development than is acknowledged by the Applicant [ER 5.7.23]. Professor Alder further argued that grade 3b land could be considered BMV agricultural land and, therefore, the entire site of the Proposed Development should be protected from development [ER 5.7.24] and argued that it would be premature to make land use decisions on grade 3b land prior to the outcome of the government review into ALCs [ER 5.7.26]. Professor Alder further argued that the cumulative effect of solar farms on food security should be considered [ER 5.7.25]. The ExA notes that many of Professor Alder's points were echoed by other IPs [ER 5.7.27]. CCC notes that there would be a significant loss of BMV agricultural land during the 40-year operational period that would not be perceived by those in the area as temporary, but considers that this is outweighed by the benefits of the Proposed Development when considered in the wider context of the proposal in its entirety [ER 5.7.28, 5.7.29]. The ExA noted that BDC stated the significant loss of BMV agricultural land during construction and operation conflicts with BDLP Policy LLP73 [ER 5.7.30].

Views of the ExA

- 4.57 The ExA notes that the SoCG between the Applicant and Natural England ("NE") in which NE agrees the Proposed Development is unlikely to lead to a significant permanent loss of BMV agricultural land as a resource for future generations [ER 5.7.38]. The ExA notes the Applicant estimated the temporary loss of BMV agricultural land would represent 0.02% of all BMV agricultural land in East England, with the permanent loss of 6ha representing less than 0.001% [ER 5.7.45]. The ExA notes that the majority of land within the Proposed Development is grade 3b and therefore does not fall within the definition of BMV agricultural land [ER 5.6.46]. Further, the ExA notes that Powering Up Britain, published on 30 March 2023, makes clear that the Government will not be making changes to these classifications in ways that might constrain solar development [ER 5.7.46]. Furthermore, the ExA considers no robust evidence was submitted which would indicate that the loss of 150ha of BMV agricultural land over the 40-year duration of the Proposed Development would jeopardise the UK's food security either now or in the future [ER 5.7.48].

Conclusions

- 4.58 The ExA considers that the Proposed Development would be in accordance with both national and local policies [ER 5.7.54, ER 7.1.37]. The ExA notes that soil quality will be managed and maintained through Requirement 19 of the Order and the provision for submission of a Soil Resource Management Plan [ER 5.7.52, ER 7.1.35]. The ExA concludes that the loss of any BMV agricultural land is to be discouraged, and both the temporary and permanent loss of land weighs against the Proposed Development. However, the ExA considers that the Applicant has sought to minimise impacts and that, where BMV agricultural land is lost, it would be limited in extent and duration, as well

as justified by other sustainability considerations [ER 5.7.53, ER 7.1.36]. As such, the ExA ascribes the resultant harm a small amount of negative weight in the planning balance [ER 5.7.53, ER 7.1.26].

- 4.59 The Secretary of State agrees with the ExA's conclusions and ascribes this matter a small amount of negative weight in the planning balance.

Socio-economic, Land Use and Human Health

- 4.60 The ExA notes relevant policy and legislative considerations for the impacts of energy production on relevant land uses exist within NPS EN-1 [ER 5.8.2 et seq.], dNPS EN-3 [ER 5.8.5], NPS EN-5 and dNPS EN-5 [ER 5.8.9], and the NPPF [ER 5.8.6 et seq.]. The ExA notes that the NPPF particularly highlights that local planning authorities should not normally permit developments in areas of potential future mineral working [ER 5.8.7]. For the Proposed Development, the ExA considers the relevant policy reflecting this guidance is The Essex Minerals Local Plan 2014 ("EMLP") [ER 5.8.8]. Other local development policies are recognised as relevant by the ExA [ER 5.8.11].

Applicant's approach

- 4.61 ES Chapter 12 sets out the Applicant's assessment of the socio-economic and land use effects of the Proposed Development [ER 5.8.12]. The Applicant considers that there would be a minor beneficial effect on users of PRow [ER 5.8.20], particularly during operation as a result of new permissive routes [ER 5.8.33]. The Applicant assesses there will be no significant effects on employment from operation of the Proposed Development [ER 5.8.14], but significant benefits will occur during construction and decommissioning [ER 5.8.33]. The Applicant recognises that there will be a permanent loss of 18,000m³ of potential sand and gravel because of the Bulls Lodge Substation Expansion, but considers this would have only a minor adverse effect in reducing the mineral supply in Essex [ER 5.8.31, ER 5.8.33]. Accounting for residual effects on air quality, noise and vibration, traffic and transport, and landscape and visual effects, the Applicant considers that no other receptors are likely to experience significant effects on their amenity during any phase of the Proposed Development [ER 5.8.23].

View of IPs

- 4.62 There were no outstanding areas of disagreement between the UK Health Security Agency and the Applicant at the close of Examination [ER 5.8.35]. The Host Authorities were generally receptive to the Applicant's assessments and possible beneficial effects to the local economy [ER 5.8.36 et seq.]. However, ECC, accepting that the majority of the Proposed Development would be temporary and as such prior extraction of minerals is not practical or required, raised concerns that the Proposed Development would sterilise land already consented for mineral extraction. ECC concluded this could result in operational consequences for the Bulls Lodge Quarry and was, therefore, not compliant with Policy S8 of the EMLP [ER 5.8.39]. ECC and other IPs raised concerns regarding community legacy and local benefits [ER 5.8.40], the access and quality of new permissive routes, and provisions for local recreation and education within the plans [ER 5.8.41 et seq.].

PRoWs

- 4.63 The ExA notes that the Applicant accepts that during construction and decommissioning of the Proposed Development there would be some disruption to the use of PRoW [ER 5.8.16], and that any route diversions would be re-opened during the operational phase and that the creation of new permissive routes would improve connectivity [ER 5.8.19]. The ExA notes that the Applicant recognises the new permissive routes could be revoked following the operational phase of development [ER 5.8.20] but nonetheless, during Examination, the Applicant made provision for an additional permissive route to the north of PDA7 and confirmed that horse-riding, cycling and walking would be allowed on all permissive paths [ER 5.8.46, ER 5.8.48].

Employment and the Local Economy

- 4.64 The ExA notes that the Applicant estimates around 380 full time equivalent jobs would be created during construction, with 45% from within a 60-mile travel distance, and 8 jobs would be created to replace the 8 agricultural jobs lost during operation [ER 5.8.13, ER 5.8.14]. The ExA was made aware of the Deed of Development Consent Obligations and Other Covenants (“DDCOOC”) between the Applicant, the Landowner and the Host Authorities. The DDCOOC includes the obligation to submit a Skills, Supply Chain and Employment Plan to maximise opportunities for local parties and a contribution of £2.1 million to be used on local individuals in the renewable and sustainable development sector [ER 5.8.49]. The ExA considers that the Development Consent Obligations are necessary to make the Proposed Development acceptable in planning terms and, in doing so, considers they provide modest benefit to the application [ER 5.8.51].

Mineral resources

- 4.65 The ExA notes that most of the Order Limits fall within a Mineral Safeguarding Area but the only issue of dispute during examination between ECC, in its capacity as the Minerals and Waste Planning Authority, and the Applicant was regarding the Bulls Lodge Substation Extension [ER 5.8.24, ER 5.8.25]. ECC noted that the operator of Bulls Lodge Quarry had not expressed any intention not to work the area of affected land and that Policy S8 of the EMLP indicates that ECC will oppose proposals which would unnecessarily sterilise or conflict with minerals development [ER 5.8.54].
- 4.66 The ExA notes both ECC’s concerns [ER 5.8.55], and the Applicant’s Mineral Infrastructure Impact Assessment, the latter of which states that the permanent land take at Bulls Lodge Quarry would represent 0.1% of land within the wider quarry [ER 5.8.30, ER 5.8.31]. The ExA notes that the EMLP makes clear that all proposals will be considered on their own individual merits and that decisions will account for mineral importance, the use of safeguarded sites, the nature of any proposed development, and the degree of conflict [ER 5.8.55]. The ExA further notes that ECC has not suggested the minerals that would be lost are of national or local importance or that losing these resources would impact the ability to work the remaining area of the quarry [ER 5.8.56]. The ExA also notes that the operator of Bulls Lodge Quarry has not raised any concerns [ER 5.8.56]. Therefore, the ExA concludes that the loss of 18,000m³ of mineral

resource would have very little impact on the mineral resource available both nationally and locally, that the operation and extraction of minerals at Bulls Lodge Quarry would not be subject to material impacts, and that the proposal is in accordance with the NPS, dNPS, NPPF and EMLP Policy S8 [ER 5.8.57].

Human Health

- 4.67 ES Chapter 15 sets out the Applicant's assessment of the effect of the Proposed Development on Human Health [ER 5.8.58], and it indicates that, while there would be some minor negative impacts on health from the temporary loss of areas of the PRoW network during construction, no significant impacts are expected, and no additional mitigation is necessary [ER 5.8.59]. Impacts on human health are assessed to be positive during operation, due to increases in active travel and recreational opportunities arising from new permissive routes [ER 5.8.60]. The ExA concurs with the Applicant's conclusions on Human Health [ER 5.8.61].

Electromagnetic Fields

- 4.68 Regarding Electromagnetic Fields ("EMFs"), the Applicant acknowledged that while undergrounding would eliminate the electric field altogether, it would still produce a magnetic field [ER 5.8.64]. However, the Applicant stated that there were no residential properties within the Grid Connection Route and those outside the Order Limits were more than 10m away [ER 5.8.64]. Furthermore, the Applicant noted that any magnetic field generated by the underground cable would comply with the International Commission on Non-Ionizing Radiation Protection limits and that users of PRoW would be subject to EMF levels at a similar level to those associated with general household appliances [ER 5.8.63 et seq.]. The Applicant added a new parameter within the ODP ensuring that 400kV cable would be buried at a minimum of 0.9m depth when within 50m of sensitive receptors [ER 5.8.65]. The ExA concludes that the likelihood of adverse effects to human health as a results of EMFs is low [ER 5.8.66].

Conclusions

- 4.69 The ExA concludes that there would be no significant adverse impacts on employment, the local economy, PRoW, mineral resources, or human health [ER 5.8.69]. The ExA considers that the temporary effects on PRoW during construction would be sufficiently mitigated by the measures proposed [ER 7.1.41]. The ExA is satisfied the Proposed Development accords with relevant national and local policy and development plans [ER 5.8.70].
- 4.70 With regards to the planning balance, the ExA ascribes moderate positive weight to the moderate positive socio-economic benefits to the local economy during construction [ER 7.1.39]. In the longer term, the ExA considers that additional economic benefits are temporary and limited and so ascribes them a small amount of positive weight [ER 7.1.40]. The ExA considers that the amount of mineral resources lost represents a very modest amount and ascribes it a small amount of negative weight [ER 7.1.42].
- 4.71 The Secretary of State agrees with the ExA's conclusions and the weighting it has ascribed to the matters considered.

Transport and Traffic

- 4.72 The ExA notes that transport and traffic were not a main focus during the Examination as both the local highway authority and National Highways (“NH”) are content with the transport assessments taken [ER 5.9.1]. The ExA notes relevant policy and legislative considerations for transport and traffic in NPS EN-1, dNPS EN-1 and dNPS EN-3 [ER 5.9.2].

Applicant’s approach

- 4.73 The Applicant’s assessment in Chapter 13 of its ES sets out its consideration of transport and access and is supported by a range of documents [ER 5.9.8]. The ExA notes the details on embedded design mitigation measures to be implemented during the construction and decommissioning stages of the Proposed Development, including the restriction of HGVs to certain times and routes, maintaining and managing access to PRowS, encouragement of alternative travel arrangements and temporary traffic management [ER 5.9.10]. The ES also highlights the consideration given to a number of locations within the surrounding highway network which could be impacted by the Proposed Development [ER 5.9.12], particularly on Waltham Road and indicates there will be a total of 126 two-way vehicle trips during the AM development peak hour (07:00 to 08:00) [ER 5.9.15].
- 4.74 Additionally, it highlights that there are expected to be significantly fewer trips during the local network peak hours of 08:00 to 09:00 [ER 5.9.16] and notes that during peak construction, there will be generally up to 50 HGVs per day travelling to/from the Solar Farm Site (100 two-way movements) potentially rising to 75 HGVs per day (150 two-way movements) for a one month period [ER 5.9.16].
- 4.75 The ExA concludes that taking account of the mitigation efforts in place, and with the exception of Waltham Road, significant effects are not likely to occur during construction, operation or decommissioning [ER 5.9.17].
- 4.76 ExA concludes that taking account of the mitigation efforts in place, and with the exception of Waltham Road, significant effects are not likely to occur during construction, operation or decommissioning [ER 5.9.17].

Views of IPs

- 4.77 BDC and CCC considered that, subject to the mitigation plans in place and provided that the routing of construction vehicles is secured with certainty to avoid the Protected Lanes [ER 5.9.24], that the Applicant’s Transport assessment is thorough and that the proposal is not expected to lead to any significant residual effects in relation to highway safety and raised no concerns [ER 5.9.25]. NH in its RR also confirmed that they were satisfied that there would be no significant adverse transport implications for the Strategic Route Network once construction was completed [ER 5.9.22].
- 4.78 The ExA report notes that concerns were raised by Parish Councils, local groups and other IPs (Little Waltham Parish Council [ER 5.9.26], Terling and Fairstead Parish Council [ER 5.9.27], Boreham Conservation Society [ER

5.9.28] and Essex Bridleways Association [ER 5.9.29]] on a number of issues related to increased traffic and safety on narrow roads, increased congestion, use of HGV's and, impact on Protected Lanes access for emergency vehicles [ER 5.9.30]. At the close of the Examination, NH and the Host Authorities confirmed in their final SoCGs with the Applicant that there were no outstanding matters of disagreement in relation to transport and traffic [ER 5.9.40].

Conclusions

- 4.79 The ExA notes that there is some potential for construction and decommissioning activities to impact on the surrounding roads, highways, PRow's, but that the Traffic Assessment set out in the ES meets the requirements of NPS EN-1, dNPS EN-1 and dNPS EN-3 and accords with the NPPF and local development plan policies [ER 5.9.41]. The ExA is satisfied that no significant traffic or transportation effects are likely to arise from the Proposed Development either alone or in combination with other developments [ER 5.9.42]. Further, the ExA considers that the relevant control and management measures are sufficient to mitigate any likely adverse effects to an acceptable level, and as such ascribes the matter neutral weight in the overall planning balance [ER 5.9.43].
- 4.80 The Secretary of State agrees with the ExA's conclusions and ascribes this matter in neutral weight in the planning balance.

Safety

- 4.81 The ExA notes that the NPSs and dNPSs are silent on safety issues arising from battery energy storage systems ("BESS") [ER 5.10.1]. The ExA notes relevant policies and regulations, including Regulation 5 of the EIA Regulations, which require the significant effects of a proposed development to be identified, described and assessed, including the significant effects arising from the vulnerability of the proposed development to major accidents or disasters [ER 5.10.3].

Applicant's approach

- 4.82 The ExA notes the main purpose of the BESS is to provide peak generation electric energy time shifting and grid rebalancing services, to store electricity generated by the panels and to dispatch to the grid when required [ER 5.10.4].
- 4.83 The Applicant's approach to battery safety is set out in ES Appendix 16B (BESS Plume Assessment) [APP-103] [ER 5.10.6], which recognises that there is a potential fire risk associated with lithium-ion batteries and identifies the main ways in a lithium-ion cell might fail, as well as providing an assessment of the potential worst-case scenario air quality impacts of a fire incident at the BESS compound [ER 5.10.6]. The assessment notes that before commencement, a Battery Safety Management Plan ("BSMP") must be submitted with the application in accordance with the outline Battery Safety Management Plan ("oBSMP") [ER 5.10.7] and approved by the local planning authority in consultation with HSE, ECFRS and the EA. The oBSMP considers the risks of fire associated with the BESS equipment and aims to minimise the impact of an incident [ER 5.10.8].

Views of IPs

- 4.84 BCC raised no concerns with the safety of the battery technology, noting that the oBSMP is comprehensive and details measures which would be employed in the event of a fire [ER 5.10.10]. Essex County Fire and Rescue Service (“ECFRS”) had no comments but made a number of recommendations in relation to fire-fighting infrastructure [ER 5.10.11]. Issues regarding safety associated with the BESS technology were raised by a number of local groups and residents, and in general most were concerned with the fire risk posed by lithium-ion batteries and its potential impact on local residents, nearby woodland and wildlife [ER 5.10.13].

Views of the ExA

- 4.85 The ExA notes that the BESS Plume Assessment demonstrates that under day-to-day operations, there is a low risk of an incident and that the risk to the local population would be very low in the event of a fire incident, and that the oBSMP details the design measures and controls to be included to minimise the risk of a fire, and includes a framework for responding to an incident [ER 5.10.14 et seq.]. Further, the ExA notes that the Applicant confirmed that it had worked with ECFRS to estimate a flow rate which would be appropriate for firefighting based on the methods ECFRS would use when fighting a battery fire [ER 5.10.19].

Conclusions

- 4.86 The ExA considers that the Applicant has demonstrated a thorough understanding of the risks related to the BESS and the measures required to ensure the risks are suitably mitigated, and considers that while there is a very low risk of fire, suitable measures have been secured to ensure that any fire would not significant impact on surrounding areas [ER 5.10.24]. The ExA concludes that the identified risk can be suitably managed and mitigated through the safeguards and checks during final design, installation and thereafter in operation [ER 5.10.25]. and considers that the information and analysis provided satisfies the EIA regulations in respect of major accidents and disasters and would not be in conflict with national or local planning policy.
- 4.87 The Secretary of State agrees with the ExA’s conclusions and ascribes this matter neutral weight in the planning balance.

Noise and Vibration

- 4.88 The ExA notes the relevant policy considerations for noise and vibration in NPS EN-1, NPS EN-5 and dNPS EN-1 and dNPS EN-5 [ER 5.11.1 et seq.].

Applicant’s approach

- 4.89 Chapter 11 sets out the Applicant’s approach to noise and vibration and presents the findings of the Applicant’s assessment of likely significant effects (“LSEs”) [ER 5.11.9]. The ExA notes that the Applicant has included embedded mitigation in the design of the Proposed Development, to avoid, reduce, prevent or offset potential environmental impacts during construction and mitigation [ER 5.11.12].

- 4.90 Embedded design mitigation has also been included in the operational phase, including siting inverters away from sensitive receptors, in locations where ambient noise levels are higher and the use of acoustic barriers or other noise reduction measures [ER 5.11.14]. Furthermore, a construction noise monitoring system will be deployed prior to the commencement of construction works [ER 5.11.13]. The ExA notes that Requirement 16 of the Order restricts the commencement of work Nos. 1-3 until an operational noise assessment containing details of how the operational noise rating levels are to be complied with has been submitted and approved by the relevant local planning authority [ER 5.11.16].
- 4.91 ES Chapter 11 acknowledges that even taking into account embedded mitigation, construction and decommissioning noise may exceed the daytime SOAEL of 75dB and the Saturday afternoon/ Sunday daytime SOAEL of 65dB [ER 5.11.17]. However, the ES draws attention to paragraph 6.3 of BS 5228-1 which acknowledges that residents might be willing to accept higher levels of noise if they know that such levels will only occur for a short time, and states that occupants would be notified in advance of timings and duration of said works, as set out in the communication strategy included in the oCEMP and Decommissioning strategy [ER 5.11.18]. Further, the ExA notes that ES Chapter 11 identifies no significant noise effects by the Noise Sensitive Receptor (“NSRs”) at any stage of the Proposed Development [ER 5.11.20]. Cumulative effects are considered in ES Chapter 11, which summarises that any overlapping of construction phases between the Proposed Development and other nearby developments would not result in any in-combination cumulative effects at common NSRs [ER 5.11.21].

Views of IPs

- 4.92 The ExA notes that BCC considered the assessment of noise vibration comprehensive and subject to the controls being put in place, would comply with local policy [ER 5.11.22]. CCC state that the Proposed Development would be unlikely to lead to any significant effects on noise and vibration raised no objections [ER 5.11.23]. ECC noted that the noise from construction would greatly affect users of PRoW [ER 5.11.24]. Noise concerns were raised by a number of other IPs, such as noise negatively affecting the mental health of residents and noise from the BESS negatively impacting the tranquillity of the surrounding area, particularly Toppinghoehall Wood [ER 5.22.25].

Views of the ExA

- 4.93 The ExA notes that the Applicant, in response to the concerns raised by IPs, states that noise impacts have been assessed in ES Chapter 11 and no significant residual adverse effects were identified during construction, operation or decommissioning [ER 5.11.26] and explained that a CTMP (“Construction Traffic Management Plan”) will be developed, which will include measures to limit potential noise impacts from traffic while the oCEMP contains measures to limit the potential impact during construction and operation [ER 5.11.27]. The report notes that the ExA sought confirmation from the Host Authorities that they agreed with the methodology and conclusions of ES Chapter 22 [ER 5.11.28]. The ExA concludes the chapter on noise and vibration by noting that clarification was sought on the remedial action that would be

installed where the operational phase monitoring identifies remedial action is required at locations where silencers or acoustic barriers are already installed [ER 5.11.30]. The Applicant stated that it is not expected that remedial action will ever be needed and the operational noise levels would not exceed the significant effects presented in ES Chapter 11 [ER 5.11.31]

Conclusions

- 4.94 The Secretary of State agrees with the ExA's conclusions and ascribes this matter neutral weight in the planning balance.

Water Environment

- 4.95 The ExA notes relevant policy considerations for the water environment, including NPS EN-1, dNPS EN-1 and the NPPF [ER 5.12.1 et seq.].

Applicant's approach

- 4.96 ES Chapter 9 sets out the Applicant's assessment of the potential impacts on surface water bodies during construction, operation and decommissioning [ER 5.12.4]. The ExA notes that the Order Limits are located within the Anglian River Basin District, Essex Combined Management Catchment, and Chelmer Operational Catchment [ER 5.12.6], with several undesignated tributaries of these waterbodies present within the Order Limits [ER 5.12.7], and that there are also numerous ponds and still waters located across the Order Limits [ER 5.12.8]. The risk to watercourses from construction activity is assessed to be generally low, and the greatest risk of impacts arising are where direct works are required within a watercourse [ER 5.12.10].
- 4.97 The Applicant has included a host of embedded mitigation measures during construction to manage the impacts and reduce the effects on the water environment [ER 5.12.11], all of which are included in the oCEMP and secured in the Order [ER 5.12.12]. The Applicant concludes that the effects for surface water, groundwater or flood risk during construction would be negligible, slight adverse, neutral or no change, and consequently not significant [ER 5.12.13].
- 4.98 ES Chapter 9 also recognises that during the operational phase, there is potential for adverse impacts, including on water quality in waterbodies that may receive surface runoff or be at risk of chemical spillages from supporting infrastructure [ER 5.12.14], but following the implementation of the mitigation measures set out, the risks during operation are negligible and therefore not significant [ER 5.12.15].
- 4.99 The ExA notes that potential impacts from the decommissioning of the Proposed Development are similar in nature to those during construction, and that the Decommissioning Strategy includes measures to prevent pollution and flooding during this phase [ER 5.12.16]. Further, the Proposed Development is mostly located within a low flood risk area (Flood Zone 1) [ER 5.12.18] and the Flood Risk Assessment ("FRA") includes a full review of the flood risk and identifies measures to mitigate flood risk from all sources [ER 5.12.19]. The Applicant considers that there would be no significant residual effects for

surface water, ground water or flood risk during the construction, operation and decommissioning of the Proposed Development [ER 5.12.21].

Views of IPs

- 4.100 The ExA notes that very few comments were received from IPs in relation to effects on the water environment [ER 5.12.22]. Boreham Conservation Society raised a concern regarding the disturbance of local streams and water systems. The Applicant's response noted that the Grid Connection Route would Cross Boreham Brook using trenchless techniques and involve no direct works to the watercourse [ER 5.12.23]. The ExA also notes that the EA confirmed that it was satisfied that flood risk modelling of the River Ter and Boreham Brook did not need to be undertaken, and in its SoCG with the Applicant confirmed that there were no outstanding areas of disagreement between the parties [ER 5.12.24].

Conclusions

- 4.101 The ExA concludes that, taking the above matters into account, an appropriate FRA has been carried out [ER 5.12.25] and that the Applicant has provided sufficient information on flood risks to meet the requirements of NPS EN-1 and dNPS EN-1 [ER 5.12.26]. The ExA notes that, subject to the mitigation measures identified in the ES, there should be no adverse effects on water quality and resources during construction, operation or decommissioning, and finds that the Proposed Development accords with the requirements of the WFD [ER 5.12.27].
- 4.102 The Secretary of State agrees with the ExA's conclusions and ascribes this matter neutral weight in the planning balance.

Effect Interactions and Cumulative Schemes

- 4.103 The ExA notes relevant policy and legislation for the consideration of effect interactions and cumulative schemes, including the Environmental Impact Assessment Regulations, NPS EN-1, and dNPS EN-1 [ER 5.13.1].
- 4.104 ES Chapter 17 sets out the Applicant's assessment and findings in respect of potential effect interactions and cumulative effects as a result of the Proposed Development [ER 5.13.2]. The ES identifies significant cumulative effects on a number of landscape and visual receptors as result of construction activity with the Proposed Development and other nearby schemes, but that they would not be long term [ER 5.13.3].
- 4.105 The ExA notes that it has considered specific concerns in relation to cumulative effects in the relevant issue specific sections of the ExA Report [ER 5.13.5]. Similarly, in this decision letter, specific concerns in relation to cumulative effects have been considered in the issue-specific sections of this letter above – please see section 4.18 onwards. The ExA notes that, beyond those concerns considered in the issue specific sections, no other concerns were raised in respect of the Applicant's approach or the conclusions reached [ER 5.13.6].
- 4.106 The ExA notes that at the close of the Examination there were no further matters to be resolved in relation to cumulative or combined effects [ER 15.3.7] and is satisfied that there would be no long term, cumulative adverse impacts

likely to arise from construction, operation and decommissioning activities, and that the relevant policies and legislation are met [ER 5.13.8].

4.107 The Secretary of State agrees with the ExA's conclusions on this matter.

5 Findings and Conclusions in Relation to Habitats Regulations Assessment

5.1 This Section must be read alongside the published HRA (Annex C), which provides the full record of the Secretary of State's consideration of the Development in this regard.

5.2 The Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. Following the UK's departure from the European Union, these domestic regulations continue to apply. The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation ("SACs"). They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the UK and internationally. These sites are called Special Protection Areas ("SPAs"). SACs and SPAs together form part of the UK's National Site Network.

5.3 The Convention on Wetlands of International Importance 1972 ("the Ramsar Convention") provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the United Kingdom the same protection as sites within the National Site Network (collectively with SACs and SPAs referred to in this decision letter as "protected sites").

5.4 The Development is not directly connected with, or necessary to the management of a protected site. Therefore, under regulation 63 of the Habitats Regulations the Secretary of State is required (as Competent Authority) to consider whether the Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on any protected site. If likely significant effects cannot be ruled out, the Secretary of State must undertake an Appropriate Assessment ("AA") addressing the implications for the protected site in view of its conservation objectives. This process is collectively known as a Habitats Regulations Assessment ("HRA"). In light of any such assessment, the Secretary of State may grant development consent only if it has been ascertained that the Development will not, either on its own or in combination with other plans or projects, adversely affect the integrity of such a site unless there are no feasible alternatives and imperative reasons of overriding public interest apply.

5.5 It is noted that the Applicant submitted a Habitat Regulations Assessment Report ("HRAR") [APP-202] with the Application and supporting ES. The HRAR considered the potential for LSEs on protected sites within 10km of the Order limits boundary. A site screening radius of 10km was considered to

reflect the maximum likely distance over which impacts could reasonably be foreseen to occur for this Development. The relevant protected sites are:

- The Essex Estuaries SAC - approximately 9.3km to the south-west at the closest point;
- The Blackwater Estuary (Mid-Essex Coast Phase 4) SPA - approximately 9.3km to the south-west at the closest point; and
- The Blackwater Estuary (Mid-Essex Coast Phase 4) Ramsar - approximately 9.3km to the south-west at the closest point.

5.6 The Statutory Nature Conservation Body (“SNCB”), Natural England (“NE”) also identified these as the protected sites relevant to the Development.

5.7 The Secretary of State has carefully considered the information presented before and during the Examination, including the ES, HRAR, representations made by Interested Parties (“IPs”) including the SNCB, and the ExA’s Report. The Secretary of State has considered the conservation objectives and qualifying features for each of the three above sites against the potential effects of the Development.

5.8 The Secretary of State considers, on the basis of the information available to him that the Development is not likely to have a significant effect on any protected site either alone or in-combination with other plans or projects and that an AA is therefore not required. This conclusion and reasoning is consistent with the advice provided by NE and the ExA’s recommendation [ER 6.4.11 et seq.]. The Secretary of State also agrees with the ExA that sufficient information has been provided for him to determine that an AA under the Habitats Regulations is not required.

5.9 The Secretary of State notes that mitigation measures have been proposed by the Applicant and secured in the DCO to avoid and mitigate against local environmental impacts. He is supportive of the inclusion of these measures, but whilst they strengthen the above conclusions they are not intended or necessary to avoid significant effects on protected sites, nor have they been considered when reaching his above conclusions.

5.10 The Secretary of State is satisfied that the Development, either alone or in-combination with other plans or projects would not have a LSE on any protected site in other European Economic Area states.

6 Consideration of Compulsory Acquisition and Related Matters

6.1 The ExA has concluded that development consent should be granted and finds that there is a compelling case in the public interest to justify the inclusion of CA and TP powers sought in respect of the land shown on the Land Plans [ER 8.9.2].

6.2 The Application includes provision for the CA of freehold interests and private rights and the creation of new rights over land [ER 8.2.1, ER 8.4.1], and for the TP of land [ER 8.2.1]. None of the land included in the CA request is Crown Land, National Trust Land, Open Space or common land [ER 8.2.2]. The ExA is satisfied that each area of land affected by CA or TP is required for the

carrying out of one of more of the works, or their maintenance, identified in Schedule 1 of the Order [ER 8.3.3].

6.3 The Planning Act 2008, together with related case-law and guidance, provides that CA can only be granted if certain conditions are met. Under section 122 of the Planning Act 2008 CA may only be authorised if:

- the land is required for the development to which the consent relates, or
- it is required to facilitate or is incidental to that development; or
- it is replacement land which is to be given in exchange for the Order land under sections 131 or 132 of the Planning Act 2008; and
- there is a compelling case in the public interest.

6.4 In connection with this:

- the land required to be taken must be no more than is reasonably required and be proportionate;
- there must be a need for the project to be carried out;
- all reasonable alternatives to CA have been explored;
- the applicant has a clear idea of how it intends to use the land and can demonstrate that funds are available to pay for the acquisition; and
- the decision-maker is satisfied that the purposes stated for the acquisition are legitimate and sufficient to justify the interference with the human rights of those affected.

The Applicant's case

6.5 The purposes for which the CA and TP powers are required are set out in the Applicant's Statement of Reasons ("SOR") [ER 8.3.1, ER 8.6.10]. The Applicant explains that without powers of CA, it might not be possible to assemble all the land within the Order Limits, uncertainty would continue around the project, and that the objectives of both the Applicant and Government policy in meeting the urgent need for low carbon generation would not be achieved within a reasonable timeframe [ER 8.3.1. ER 8.6.11].

Alternatives

6.6 The Applicant's approach to the consideration of alternatives in relation to CA is set out in both the SoR and Chapter 3 of the ES [ER 8.6.20]. The SoR notes that the Proposed Development has been designed to take the minimum amount of land required while maintaining the benefits [ER 8.6.20] and the Applicant states that its main consideration of alternatives has been to actively pursue the acquisition of the land and rights needed by voluntary agreement and to minimise the need for CA powers wherever possible [ER 8.6.22]. The ExA is satisfied that the Applicant has demonstrated that all reasonable alternatives to CA have been explored [ER 8.6.24].

Adequacy of funding

6.7 The ExA is satisfied that the Applicant's Funding Statement has demonstrated that it can procure the financial resources required for the Proposed Development, including the cost of acquiring any land and rights and the

payment of compensation [ER 8.6.25 et seq.]. The ExA is satisfied that the Applicant would, through a guarantee or alternative form of security in the Order, have access to the necessary funds to cover the likely liability and costs of CA [ER 8.6.27 et seq.].

Consideration of objections and issues

- 6.8 At the start of the examination, Network Rail (“NR”), National Grid Electricity Transmission (“NGET”) and Mrs Mary Rance were all objected to CA and TP proposals [ER 8.7.1]. However, following the close of the Examination, both NR and NGET have confirmed in correspondence submitted to the Secretary of State, that agreement has been reached with the Applicant regarding their respective land within the 21 plots where agreement had previously not been met¹.

Plots 2/5, 2/6, and 2/6/1

- 6.9 The ExA notes whilst that no formal objection to the CA/TP of Plots 2/5, 2/6, and 2/6/1 were received, at the start of the Examination Mrs Mary Rance objected to CA and TP proposals [ER 8.7.1] and wanted assurances that the CA powers sought would not prejudice her ability to conduct road improvement developments of her own [ER 8.8.1]. After discussion between the Applicant and Mrs Rance during Examination, the owner demonstrated a willingness to work with the Applicant but remained concerned about the use of Plot 2/6/1 for temporary construction works [ER 8.8.4]. The ExA notes that Plot 2/6/1 runs parallel to Plot 2/6 and is intended to be used as a temporary construction laydown area to be used for the purposes of carrying out the works [ER 8.8.5]. The ExA is satisfied that these plots are either required for the Proposed Development, to facilitate it or are incidental to it, and as such meet the test set out in s122(2) of the PA2008 [ER 8.8.6]. The ExA is also satisfied that, whilst it notes the owner’s concerns for her own development, these plans are at an early stage and the ExA has seen nothing to indicate they would be materially prejudiced by the granting of the CA and TP powers sought [ER 8.8.7], nor would such powers result in any lasting detriment to the owner of these plots [ER 8.8.8]. The ExA concludes that, in view of the established need for energy generation and certainty in delivery, there is a compelling case in the public interest for that the land to be acquired compulsorily and that it meets the tests set out in s122(3) PA2008 [ER 8.8.9].

ExA recommendation

- 6.10 The ExA is satisfied that the Applicant has demonstrated that the land is needed and is no more than is reasonably required for the Proposed Development [ER 8.6.13 et seq.]. The ExA is also satisfied the land is required either for the development, to facilitate it or is incidental to it, and therefore considers the test set out in s122(2) of the PA2008 to be met [ER 8.6.13, ER 8.6.18, ER 8.8.16]. The ExA agrees with the conclusions of the Applicant that, despite the loss of private mineral reserve at Bulls Lodge Quarry [ER 8.6.15] and the infringement of private rights [ER 8.8.16 et seq.], there are a number

¹ Letter from Alexis Coleman on behalf of the Applicant dated 24 January 2023; Letter from Charlotte Jones on behalf of NR dated 24 January 2023; and Letter from Ian Graves on behalf of NGET dated 24 January 2023.

of public benefits that satisfy the test set out in s122(3) and make a compelling case in the public interest for land to be acquired compulsorily [ER 8.6.14, ER 8.6.17 et seq., ER 8.8.17, ER 8.9.1 et seq.]. Accordingly, the ExA considers that the powers sought meet the requirements of s127 and s138 of the PA2008 [ER 8.8.19, ER 8.9.1].

Secretary of State's conclusion on the powers for CA and TP sought

- 6.11 On 17 March 2023 the Applicant and Essex and Suffolk Water both provided post-examination representations which updated protective provisions to replace Part 9 of Schedule 15 of the Order. The Secretary of State considers that this replacement does not materially change the information regarding the powers for CA and TP sought which was provided in the Examination, and has updated the Order accordingly. On 5 May 2023 the Secretary of State requested clarification from the Applicant, Eastern Power Networks plc, and UK Power Networks Limited in respect of protective provisions. Responses were received on 12 May 2023 and the Secretary of State does not consider that the responses materially add to or change the information that was already available to him regarding CA and TP.
- 6.12 Therefore, the Secretary of State agrees with the ExA's conclusions, and is satisfied that the powers sought by the Applicant are necessary and that it is appropriate to include them in the Order.

7 The Secretary of State's Consideration of the Case for Development Consent and the Planning Balance

- 7.1 Although this is a decision under section 105 of the 2008 Act, the Secretary of State considers that both the designated NPSs and the dNPSs contain policy that is both important and relevant to this decision. All nationally significant energy infrastructure developments will have some potential adverse impacts. The ExA considers that there is no breach of NPS policy and that the Proposed Development would accord with the dNPSs in all material aspects [ER 7.1.3 et seq., ER 7.1.6, ER 7.1.8 ER 7.2.9].
- 7.2 The ExA considers that the harm identified is clearly outweighed by the substantial benefit from the provision of energy to meet the need identified in NPS and dNPS policies and by the other benefits of the Proposed Development [ER 7.2.9]. The ExA concludes that there are no adverse impacts of significant weight that would outweigh the benefits of the Proposed Development [ER 10.1.2], and that the Proposed Development is acceptable in planning terms [ER 7.2.10] and the case for Development Consent has been made out [ER 10.1.12].
- 7.3 In relation to cultural and heritage assets, the ExA concludes that the Proposed Development would result in less than substantial harm and should be afforded moderate negative weight [ER 7.1.33, ER 7.2.1]. The ExA notes that there would be some localised landscape harm as well as harm to a small number of residential and recreational receptors, which would peak during construction, and ascribes this moderate negative weight [ER 7.1.26, ER 7.2.2]. The ExA notes the permanent loss of 6ha, and temporary long-term loss of 150ha, of BMV agricultural land, and ascribes this a small amount of negative weight [ER

7.1.36, ER 7.2.3]. The ExA notes the temporary disruption to PRow users and noise and disturbance to local residents during the construction and decommissioning phases, and ascribes this a small amount of negative weight [ER 7.1.24 et seq., ER 7.1.42, ER 7.2.4]. The ExA concludes that some harm would result from the effective sterilisation of sand and gravel resource but notes that this represents a very small amount of mineral resource available locally and ascribes this a small amount of negative weight [ER 7.1.42, ER 7.2.5]. The Secretary of State agrees with the ExA's conclusions on these matters and ascribes the same weight to these matters in the planning balance.

7.4 The Secretary of State notes that the ExA ascribes neutral weight to air quality [ER 7.1.15], transportation and traffic [ER 7.1.46], safety [ER 7.1.50], noise and vibration [ER 7.1.54], and water environment [ER 7.1.57]. The Secretary of State agrees with these conclusions and ascribes the same weight to these matters in the planning balance.

7.5 The ExA considers the Proposed Development would result in a number of public benefits. The ExA acknowledges that both the designated and draft NPS make clear that there is an urgent need for additional electricity generating capacity, and concludes that the Proposed Development would support the growth of renewable energy, contribute to energy security, network resilience and towards a secure, flexible energy supply, and would make a meaningful contribution to the UK's transition to low carbon energy generation. The ExA ascribes this benefit substantial positive weight [ER 7.1.5, ER 7.2.6]. The Secretary of State agrees with the ExA's conclusions on this matter and ascribes it significant positive weight in the planning balance.

7.6 The ExA concludes that the BNG demonstrated would represent a considerable benefit and weighs positively in favour of the Proposed Development [ER 7.1.20] and ascribes this benefit moderate positive weight [ER 7.1.20, ER 7.2.7]. The Secretary of State agrees with the ExA's conclusions on this matter and ascribes it moderate positive weight in the planning balance.

7.7 The ExA concludes that the Proposed Development would result in some modest positive benefits to employment and the local economy and ascribes this moderate positive weight [ER 7.1.39, ER 7.2.8]. The Secretary of State agrees with the ExA's conclusions on this matter and ascribes it moderate positive weight in the planning balance.

Secretary of State's Conclusion and Decision

7.8 The Secretary of State has considered the matters discussed in the ExA's Report together with the ExA's view that the adverse effects and harm of the Proposed Development are outweighed by the significant benefit from the provision of energy to meet the need identified in NPS EN-1 and continued into dNPS EN-1 and dNPS EN-3 [ER 7.2.9]. The Secretary of State agrees with the ExA's overall conclusion that taking all the factors into account, including the adverse impacts identified, that they are not of sufficient weight either on their own or collectively, to argue against the case for development consent [ER 7.2.10].

- 7.9 For the reasons given in this letter, the Secretary of State considers that there is a strong case for granting development consent for the Proposed Development. Given the national need for the Proposed Development, as set out in the relevant NPSs, the Secretary of State does not believe that this is outweighed by the adverse impacts identified. In reaching his decision, the Secretary of State confirms regard has been given to the ExA's Report, the LIRs submitted by the Host Authorities, the National Policy Statements – both designated and drafts, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 105 of the Planning Act 2008. The Secretary of State confirms for the purposes of regulation 4(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.
- 7.10 The Secretary of State has therefore decided to accept the ExA's recommendation to make the Order granting development consent, including the modifications set out in section 9 of this document.

8 Other Matters

Human Rights Act 1998

- 8.1 The ExA notes that the draft Order would engage Article 1 of the First Protocol, Article 6 of the European Convention on Human Rights as given effect in the Human Rights Act 1998 [ER 8.8.20 et seq.]. The ExA is satisfied that in relation to the inclusion of CA and TP powers in the recommended Order, any interference with human rights would be for legitimate purposes, proportionate and justified in the public interest [ER 8.8.23]. The Secretary of State has considered the potential infringement of human rights in relation to the Proposed Development. He has no reason to believe that the grant of the Order would give rise to any unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.
- 8.2 The Secretary of State has considered the potential infringement of human rights in relation to the proposed Development. He has no reason to believe that the granting of the Order would give rise to any infringements.

Equality Act 2010

- 8.3 The Equality Act 2010 includes a public sector equality duty ("PSED"). This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age; gender; gender reassignment; disability; marriage and civil partnerships²; pregnancy and maternity; religion and belief; and race) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

² In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

- 8.4 In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the examination. The Act does not prohibit detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.
- 8.5 The ExA considered potential equality impacts during the Examination and within the report [ER 8.8.24]. The ExA finds that there is no evidence that the Proposed Development does not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic, and on that basis has found no breach of the PSED [ER 8.8.25].
- 8.6 The Secretary of State is confident that, in taking his decision, he has paid due regard to the above aims when considering the potential impacts of granting or refusing the Application and can conclude that the Longfield Solar Farm will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that neither the grant nor refusal of the Application is likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

Natural Environment and Rural Communities Act 2006

- 8.7 The Secretary of State has considered his duty in accordance with section 40(1) of the Natural Environment and Rural Communities Act 2006, where he is required to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.
- 8.8 The Secretary of State is of the view that the ExA Report, together with the environmental impact analysis, including the HRA (Annex C), considers biodiversity sufficiently to inform his decision to grant consent to the Proposed Development.

Climate Change Act and the Net Zero Target

- 8.9 The Secretary of State has considered that the UK's sixth Carbon Budget requires a 78% reduction of emissions by 2035 compared to 1990 levels. This was proposed to deliver on the commitments the UK made by signing the Paris Agreement in 2016.
- 8.10 The Secretary of State notes the Energy White Paper states that National Policy Statements continue to form the basis for decision-making under the Planning Act 2008. The Secretary of State does not consider that the amendment to the Climate Change Act 2008 has lessened the need for development of the sort represented by the Longfield Solar Farm which is, therefore, still in accordance with the National Policy Statements. Operational emissions will be addressed in a managed, economy-wide manner, to ensure consistency with carbon budgets, net zero and our international climate commitments. The Secretary of State does not, therefore need to assess

individual applications for planning consent against operational carbon emissions and their contribution to carbon budgets, net zero and our international climate commitments.

Draft NPSs

8.11 The ExA also note the updated draft NPSs (March 2023) and a response published by the Government to the consultation comments on the dNPS dated 2021 which reiterate the Government's commitment to increasing solar generation [ER 4.6.11, ER 10.1.7 et seq.]. The Secretary of State notes the ExA's suggestion that he could consider whether he is required to further consult IPs in relation to the March 2023 drafts. The Secretary of State has reviewed the changes made in the 2023 drafts and does not consider that there are any material changes with the potential to affect his decision. The Secretary of State is satisfied that, not only would the Proposed Development continue to accord with the dNPS, but that these alterations would provide clarification which strengthens the Governments' commitment to solar generation at scales like that of the Proposed Development.

9 Modifications to the draft Order

9.1 Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order.

9.2 The Secretary of State has removed Article 16 from the draft Order, which sought to mandate that the Applicant remove and rebury or cremate any human remains from burial grounds within the Order limits. There are no known burial grounds within the Order limits so the Secretary of State considers this article to be unnecessary. Provision for any human remains should be included in the written scheme of investigation, as required by paragraph 12 of Schedule 2.

9.3 The Secretary of State has removed Article 21(2)(c) from the draft Order, which had sought to allow for private rights or restrictive covenants over land subject to compulsory acquisition to cease to have effect on commencement of any activities authorised by the Order which interfere with or breach those rights. The Secretary of State considers this provision to be uncertain and does not agree that rights should be affected before the triggering of one of the formal processes set out in (a) or (b).

9.4 The Secretary of State has removed Article 33(1)(c) from the draft Order, which sought to allow the Applicant to transfer the benefit of the Order to a holding company or subsidiary without the consent of the Secretary of State. If the applicant is to transfer the benefit of the Order to a holding company or subsidiary, the Secretary of State would expect that company to be holder of a licence under section 6 of the Electricity Act 1989, and therefore considers this additional exemption from the need for consent to be unnecessary.

9.5 The Secretary of State has amended paragraph 9 of Schedule 2 to the draft Order to ensure that biodiversity net gain is calculated using the current version of Natural England's Biodiversity Metric. This will ensure that the assessment is based on the most up-to-date understanding of biodiversity net gain.

- 9.6 The Secretary of State has updated Part 9 of Schedule 15 to the draft Order relating to protective provisions between the Applicant and Essex and Suffolk Water. This reflects updated protective provisions provided to the Secretary of State by both parties after coming to an agreement after the close of examination.
- 9.7 In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to confirm with the current practice for statutory instruments and changes in the interests of clarity and consistency and to achieve consistency with other DCOs.

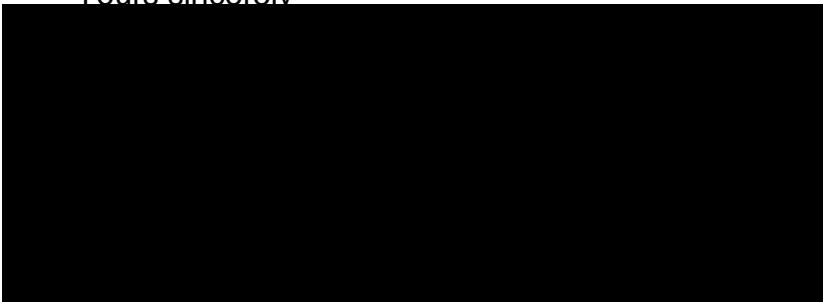
10 Challenge to decision

- 10.1 The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter (below).

11 Publicity for decision

- 11.1 The Secretary of State's decision on this Application is being publicised as required by section 116 of the Planning Act 2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
- 11.2 Section 134(6A) of the Planning Act 2008 provides that a compulsory acquisition notice shall be a local land charge. Section 134(6A) also requires the compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely



David Wagstaff OBE
Deputy Director, Energy Infrastructure Planning
Department for Energy Security and Net Zero

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/longfield-solar-farm/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).

Glossary of Terms

Abbreviation	Meaning
AA	Appropriate Assessment
ALC	Agricultural Land Classification
BDC	Braintree District Council
BLSE	Bulls Lodge Substation Extension
BNG	Biodiversity Net Gain
CA	Compulsory Acquisition
CCC	Chelmsford City Council
dNPS EN-1	Draft Overarching National Policy Statement for Energy (2021)
dNPS EN-3	Draft National Policy Statement for Renewable Energy Infrastructure (2021)
dNPS EN-5	Draft National Policy Statement for Electricity Networks Infrastructure (2021)
DCO	Development Consent Order
ECC	Essex County Council
EIA	Environmental Impact Assessment
EMF	Electro Magnetic Fields
ES	Environmental Statement
ExA	Examining Authority
HE	Historic England
HRA	Habitats Regulations Assessment
ICD	Illustrative Concept Design
LSE	Likely Significant Effect
LIR	Local Impact Report
NE	Natural England
NGET	National Grid Electricity Transmission
NPPF	National Planning Policy Framework
NPPG	National Planning Policy Guidance
NPS EN-1	Overarching National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure
NR	Network Rail Infrastructure Limited
oCEMP	Outline Construction Environment Management Plan
oCTMP	Outline Construction Traffic Management Plan
ODP	Outline Design Principles
PRoW	Public Rights of Way
PSED	Public Sector Equality Duty
RR	Relevant Representation
SAC	Special Area of Conservation
SPA	Special Protection Area
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SNCB	Statutory Nature Conservation Body
WMS	Written Ministerial Statement

