



Mallard Pass

Solar Farm

Mallard Pass Solar Farm

Other Consents and Licences

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1.1. Introduction

- 1.1.1. This document has been prepared on behalf of Mallard Pass Solar Farm Limited (the Applicant) in relation to an application for a Development Consent Order (DCO) (the DCO Application) to be made to the Secretary of State (SoS) for the Department for Business, Energy & Industrial Strategy (BEIS), pursuant to the Planning Act 2008 (PA 2008).
- 1.1.2. Mallard Pass Solar Farm is a proposed solar farm which will generate more than 50 megawatts (mw) of renewable energy connecting to the National Electricity Transmission System (NETS) at the National Grid's Ryhall 400kV Substation (the Proposed Development).

1.2. Purpose of this document

- 1.2.1. The purpose of this document is to provide information on the additional consents and licences that are or may be required to construct and operate the Proposed Development.
- 1.2.2. Section 37 of the Planning Act 2008 (PA 2008) governs the content of an application for a DCO, including the requirements for the necessary accompanying documents specified in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations).
- 1.2.3. Regulations 5 and 6 of the APFP Regulations provide the statutory requirements for what must accompany a development consent application. Guidance issued by the Department for Communities and Local Government: 'Planning Act 2008: Application Form Guidance' (June 2013) (paragraphs 45 and 46) requires that:

"Where the proposed development will also require other consents, licences, permits, etc, to enable it to be constructed and/or operational, and for which the Secretary of State is not the authorising body under the Planning Act, then the applicant must list and briefly describe these in Box 24. Reference should be made to any that have already been applied for, and a copy enclosed of any that the applicant may already be in the possession of.

The applicant should also, either in Box 24 or elsewhere in one of their application documents, set out whether there are, in principle, any reasons why such consents etc. might not be granted. In providing this information the applicant should reference responses received from the relevant authorising bodies regarding the likelihood of such consents etc. being granted."

1.2.4. This document lists those consents that the Applicant anticipates to be required either within the draft DCO or within other consents and licenses.

1.3. Approach to Consenting requirements incorporated within the draft DCO

1.3.1. Section 33 of the PA 2008 makes it clear that there is no requirement for certain principal conventional consents to be obtained where a DCO is required to authorise a project (as is the case for the Proposed Development). In that case, section 33(1)(h) provides that section 36 consent under the Electricity Act 1989 is not required.

1.3.2. Part 7 of the PA 2008, in particular section 120, makes it clear that the following can be included within a DCO:

- Ancillary matters (including those listed in Part 1 of Schedule 5 to the PA 2008);
- The application, modification or exclusion of statutory provisions for which the provision may be made in the DCO;
- Amendment, repeal or revocation of any local legislation, where thought necessary or expedient by the Secretary of State in consequence of or in connection with the DCO; and
- Incidental, consequential, supplementary, transitional or transitory provisions and savings.

1.3.3. Section 150 of the PA 2008 states that a requirement to obtain certain prescribed consents, or authorisations, under the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 can be removed by the DCO with the consenting body's agreement.

1.3.4. From the above, it is clear that the intention of the PA 2008 is to encourage as many consents to be 'wrapped up' in a DCO as possible creating a 'one-stop-shop' approach for construction-related consents.

1.3.5. The Applicant considers that the approach to including consents with a DCO should apply for both those that do, and those that do not, require the agreement of the relevant body under section 150 in order for them to be included in the DCO. The Applicant envisages the approach being as follows:

- The DCO contains an express provision disapplying the requirement for the consent in question.

- In exchange, the DCO includes either ‘protective provisions’ for the benefit of the body concerned or the body has a role in the discharge of DCO Requirements. Protective provisions are incorporated into the draft DCO for the Proposed Development at Schedule 15 and Requirements at Schedule 2.
- Protective provisions are specifically stated to have effect unless otherwise agreed between the Applicant and body concerned.
- Compliance with the provisions is a matter as between the parties and can be enforced accordingly.
- Either way, the protective provisions provide a means for the body concerned to monitor, enforce compliance and to review the effectiveness of the approval
- The mechanism of approval being given under the protective provisions allows the body concerned to approach a project in two stages (i) the DCO application stage, where the principle of the project is accepted by the body concerned and the detail of the protective provisions is negotiated and (ii) the subsequent approval stages under the protective provisions which cannot be unreasonably refused where detailed matters going to construction can be properly considered.

1.3.6. This is a tried and tested approach adopted in numerous local and public (hybrid) Acts, Harbour Act Orders, Transport and Works Act Orders for many decades and which is now firmly established in the case of DCOs.

1.4. Consents Incorporated in the draft DCO

1.4.1. The principal consent for the Proposed Development will be a DCO. The DCO process enables land acquisition, along with many consents and powers, to be dealt with at the same time. The DCO application may, however, need to be supplemented by other applications because:

- A particular consent cannot be contained in the DCO;
- A consenting authority declines to allow consent to be contained in the DCO; or
- It is not desirable or it is inappropriate to include consent within the DCO due to the stage of design development and the level of detail available at the time the DCO is made.

1.4.2. The majority of consents required are included, or addressed, within the **draft DCO [EN010127/APP/3.1]**, as permitted by various provisions of the PA 2008, although discussions in some of these respects are continuing with the principal stakeholders. These fall into the following categories:

- Authorisation of all permanent and temporary works for the Proposed Development, which is described as the "authorised development" in Schedule 1 to the draft DCO (equivalent to planning permission). Article 3 is the principal power in this respect;
- Compulsory acquisition of land and of rights over land, and the temporary possession of the land. Articles 20-33 of the draft DCO provide these powers;
- Consent to carry out street works. Article 8 of the draft DCO provides this power;

- Consent to alter the layout of streets and to form new, or alter or improve existing accesses. Articles 9 and 10 of the draft DCO provide this power.
- Consent to temporarily stop up public rights of way and creation of claimed public rights of way. Articles 11 and 12 provide this power.
- Consent to create permanent and temporary means of access. Article 15 of the draft DCO provides this power.
- Traffic regulation matters required during construction that are equivalent to Traffic Regulation Orders made under the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004. Article 15 of the draft DCO provides this power;
- Land drainage consent(s) under section 23 of the Land Drainage Act 1991. Article 6 provides this power,
- Consent or approval for the carrying out of the works required under any relevant byelaws made under the Land Drainage Act 1991. Article 6 provides this power,
- Consent or approval for the carrying out of the works required under any relevant byelaws made under the Water Resources Act 1991.
- Food risk activity permit(s) from the Environment Agency under the Environmental Permitting (England and Wales) Regulations 2016. Article 6 of the draft DCO provides this power, which is linked to protective provisions in Schedule 15 of the draft DCO;

1.4.3. Some of these consents are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. As a result, under section 150 of the PA 2008, the relevant

consenting body must agree to the inclusion of these consents within (i.e. disapplied by) the DCO. Discussions between the Applicant and these consenting bodies are ongoing, and the Applicant is confident that the necessary agreements will be obtained before or during the examination of its application, in exchange for the Applicant including in the DCO appropriate protective provisions **[EN010127/APP/3.1]**.

1.5. Other Consents and Licences

1.5.1. A summary of the additional consents likely to be required is set out in Table 1 below. lists the type of consent or licence required and the relevant consenting body, its purpose in relation to the Proposed Development and status of agreement with the relevant body.

1.5.2. This document will be updated by the Applicant during the examination of the Application and documents that have been superseded will be clearly identified as such.

1.6. Agreements

1.6.1. Agreements with third parties may be required in parallel to the DCO process and may take a variety of forms, including alongside protective provisions.

1.6.2. The preparation of Statements of Common Ground (“SoCG”) with third parties to identify the matters on which we are in agreement is fundamental to the DCO processes and serves to narrow the focus for examining the Application concerned and to make the examination process more efficient. SoCGs will be progressed with relevant parties by the Applicant where appropriate.

Table 1 Summary of additional consents likely to be required

Mallard Pass Solar Farm				
Nature of consent	Key legislation	Consenting authority	Purpose / function	Status
Grid connection				
Electricity generation license	Electricity Act 1989	Office of Gas and Electricity Markets (OFGEM)	Required at the operational stage of the project in relation to generating activities.	This was obtained in May 2022
Bilateral Connection Agreement	N/A	National Grid	Commercial Agreement – To connect the Proposed Development to the NETS	The Applicant accepted a grid connection offer on the 8th October 2021, further details of which are given in the Grid Connection Statement [EN010127/APP/7.4]
Highways				
Nature of consent	Key legislation	Consenting authority	Purpose / function	Status
Permit for transport of abnormal loads for delivery by road of loads that fall outside standard practice	Road Vehicles (Authorisation of Special Types) (General) Order 2003 or with authorisation from the Secretary of State under the Road Traffic Act 1988	Department for Transport, Highways Agency, Local Highway Authority or the police and bridge owners (if any) as appropriate	Required prior to commencement / delivery of the relevant Abnormal Indivisible Load (AIL).	Appropriate applications, in accordance with the outline Construction Traffic Management Plan (oCTMP) [EN010127/APP/7.11] , will be made by the contractor in advance of the delivery of any AILs.

Section 171 License	Highways Act 1980	Local Highways Authority	Required to erect temporary apparatus on the highway e.g signage	Appropriate applications, in accordance with the outline Construction Traffic Management Plan (oCTMP) [EN010127/APP/7.11], will be made by the contractor in the advance erection of temporary construction signage to the site prior to the commencement of the relevant construction activities.
Ecology				
Nature of consent	Key legislation	Consenting authority	Purpose / function	Status
European Protected Species Mitigation Licence	Conservation of Habitats and Species Regulations 2017	Natural England	Potential requirement for a (EPML) with regard to Newts and Badgers where avoidance is not possible.	Requirements to be reviewed prior to commencement
Water				
Nature of consent	Key legislation	Consenting authority	Purpose / function	Status
Water Discharge	Environmental Permitting (England and Wales) Regulations 2016	Environment Agency	Effluent from the welfare facilities may be treated and discharged to groundwater or stored in a cesspit and tankered offsite by a management company.	If discharging to groundwater an application for water discharge activity environmental permit will be made by the contractor before water is discharged.
Abstraction / impounding	Water Resources Act 1991	Environment Agency	Potential requirement for concrete batching during construction, and dust suppression during construction and decommissioning	Applications are to be made by the contractor before abstraction commences as appropriate

Other				
Nature of consent	Key legislation	Consenting authority	Purpose / function	Status
Health and Safety related consents	Health and Safety at Work Act 1974 and subsidiary legislation	Health and Safety Executive (HSE)		Applications are to be made by the contractor before construction commences as appropriate
Section 61 consent Control of noise on construction sites	Control of Pollution Act 1974	Local Authority	To agree construction noise limits	As agreed in the outline Construction Environmental Management Plan (oCEMP) [EN010127/APP/7.6] Applications may be made by the contractor a minimum of 28 days before construction commences

