

NGET – EAST ANGLIA 1 NORTH/EAST ANGLIA 2 DCOS
COMPULSORY PURCHASE HEARING 2 – 16 FEBRUARY 2021
SUMMARY OF NGET ORAL CASE

Agenda Item/Issue	NGET Response
<p>3. To hear objections from Affected Persons</p> <p>Statutory Undertakers will be heard at Item 9 of this Agenda</p> <p>The ExAs will hear from any persons whose land and/or rights are affected and who wish to object to either or both applications on the basis that the Applicants have not complied with the relevant legal tests, policy and guidance in respect of their individual interests in relation to:</p> <ul style="list-style-type: none"> • compulsory acquisition (CA) of land and/or rights; and/or • temporary possession (TP) of land and/or rights <p>and then from the Applicants in response</p>	
Mr Mahony	<p>Michael Humphries QC (NGET):</p> <p>NGET will respond to Mr Mahony’s representation on a plot by plot basis, as made. Relevant Documents are : Works are Works 38 to 43 and 34 (shared Access) – REP5-003, Land Plans REP1-004 (sheet 9), Works Plans REP1-005 (Sheet 7 and following), REP1-149 – asset plans, Also OLMP general arrangement REP4-015 (fig. 3) – (landscaping is the responsibility of the Applicant, and not NGET, however, the plan provides a useful illustration of what the works could be within LODs)</p>
Mr Mahony – Plot 116	<p>Kudzie Marawanyika (NGET):</p>

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	<p>The NGET asset plan at REP1 -149 shows the context of the NGET assets in this area, it shows the 4ZX and 4ZW Overhead Power Lines (OHL's). They are constructed as double circuit lines. This allows works to be done on one line while the other is operational and maintains supply.</p> <p>The main works in Plot 116 relate to (i) Work 40 - the temporary diversion of the 4ZX line as explained below and (ii) Work 43 - the works necessary to facilitate the re-stringing to the permanent alignment of both the OHL's.</p> <p>There will be no permanent re-routing of the OHL south west of towers 4ZX22 and 4ZW22. There will be no permanent works to the south of the 4ZW line, which will remain on its existing alignment once works are completed.</p> <p>Works to 4ZX Line</p> <p>In respect of the 4ZX line this will require the re-routing of 4ZX line temporarily by way of temporary structures to allow construction of the new permanent alignment of the 4ZX line. The temporary diversion will come off 4ZX22, divert north of mature trees, in order to bypass the mature trees, although potentially may need to lop the trees. The temporary diversion will connect to tower 4ZX20. Once the temporary diversion of 4ZX is in place, NGET will dismantle and remove existing tower 4ZX21 and construct new tower 4ZX21. Once the new tower is erected same sequence will be used in reverse to bring the permanent alignment back to the new tower.</p> <p>Re-Stringing of the Permanent OHL alignment</p> <p>Plot 116 is also required for scaffold protection to protect the B1121 road crossing during re-stringing works to the Permanent OHL alignment. This includes the land within Plot 116 falling within the Curtilage of Mr Mahony's land i.e. the triangle of land on Plot 116. Scaffold protection is required to be built on either side of the road and netted between. Then when NGET pulls the wires from one line onto the other, the road is protected by the netting to protect any vehicles or public walking on the road from any falling material. NGET anticipates part of the scaffold would need to extend into the triangle part of Mr Mahony's land and this will be confirmed through detailed design. Some lopping or removal of vegetation may be required in the triangle part of plot 116 but any vegetation removed would be minimised and where unavoidable replaced.</p> <p>NGET also requires temporary possession of plots 116, 117A, 119, 120, 121, 122A for the purposes of Work 43 notwithstanding that no temporary or permanent diversion works will occur in these areas. This is in order to allow NGET to carry out works relating to re-conductoring of the lines and changing the arcing gap distances between the</p>

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	<p>arcing horns in accordance with NGET technical specifications which require arcing horn gap distances to be amended 1 mile back from a new substation.</p> <p>Post Meeting Note: The question was raised in the CA2 Hearing as to the width of land required for re-stringing of the permanent OHL. The standard width required for working areas are:</p> <p>OHL (Limits of Deviation) - 60m corridor width (30m from route centre line) Tower Construction Areas – New Build 50m x 50m, Existing Modified/Dismantled 40m x 40m Crane Locations - 20m x 10m within main tower work area</p> <p>Additionally within plot 116 (and generally) as well as the above limits of deviation there is the need to erect scaffolding over roads which would typically be 20m (depth) x 40m (min) (length) and the length would vary depending on the angle of crossing. Also within Plot 116 additional land is necessary to allow for Work 40 (temporary diversion) to be carried out which sits in part outside the above limits of deviation. Furthermore, the extent of land subject to Work 43 and temporary possession powers is also wider than the OHL Limits of Deviation to allow for flexibility over access routes to NGET apparatus whilst taking into account the crop layout and access via tramlines and headlands to reach NGET Apparatus.</p>
Mr Mahony – Plot 115	<p>Kudzie Marawanyika (NGET):</p> <p>The works required to be carried out in Plot 115 is the removal of tower base 4ZX21. The replacement tower will be re-positioned locally just off Plot 115. However this will be within the same general alignment of the existing OHL route of the 4ZX line.</p> <p>Between new tower 4ZX21 and existing tower 4ZX22 the changes will therefore be limited to conductor level changes and minor changes to alignment as a result of the tower geometry.</p> <p>There will be a temporary storage area required for the duration of these construction works. The temporary storage area will be agreed with the landowner with the aim of avoiding/reducing any environmental effects and causing the least disturbance to current land use.</p>

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	<p>A detailed construction programme and the detail of the location of the working area has not yet been finalised which will be a matter for the main works contractor once appointed. It should be noted that the permanent works to 4ZX OHL will be required to be carried out within Work 39 and the working areas are identified by the extent of Work 43.</p> <p>Permanent rights for works being carried out in Plot 115 are required because the existing easement would need to be changed to reflect any minor change of alignment and the fact that the tower will no longer be on the Mahony land holding. Failing Voluntary agreement CA powers need to be available. Temporary Possession powers are also required in this plot for construction purposes.</p>
Mr Mahony – Plot 117A	<p>Kudzie Marawanyika (NGET):</p> <p>Generally in relation to plot 117A, NGET will require temporary possession rights to assemble and erect temporary netted scaffold protection required over the B1121 crossing during stringing works to permanent OHLs.</p> <p>Mr Mahony’s access/driveway falls at the western end of Plot 117A. At this point within the plot there is no requirement for scaffolding to be erected in front of or over Mr Mahony’s drive. Therefore NGET will not require any closure of the existing access or obstruction of the access. NGET may need to utilise this area to erect traffic management signage in connection with the scaffolds whilst they are in place but will not block Mr Mahony’s access.</p> <p>Netted scaffold is temporary and could encroach over the residential curtilage in southerly corner of the plot (Plot 116) as set out above.</p>
Mr Mahony – Plot 114/128/129	<p>Kudzie Marawanyika (NGET):</p> <p>Whilst NGET requires shared operational access to the NGET Sub-station, it is the SPR not NGET access requirements which drive the size requirements for the Operational Access so NGET pass this point to the Applicants to address.</p>
Why are DCO powers required when there are existing easements?	<p>Michael Humphries QC (NGET):</p> <p>NGET considers that the approach to seeking rights in the DCO even where there are existing easements is a standard approach in DCO applications nationwide. Whilst there are existing easements granted for the existing line as it currently stands these relate to existing works. NGET do not want to be in the position of having a legal dispute about the extent</p>

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The extent of Temporary Possession Powers required.	<p>of powers under existing easements and whether the intended use of the land is for another purpose which is broader than that permitted under the easement. All DCO schemes normally apply for all necessary rights for construction and operation in any event.</p> <p>The Temporary Possession powers in Arts 26 and 27 are very standard in DCOs. It is not appropriate that these are curtailed in respect of the land for which temporary possession is required by NGET. NGET could not exercise any temporary possession power transferred to it for anything other than purposes authorised by the DCO and the extent of Temporary Possession powers is of course limited by the fact that the Works specified in the DCO can only be carried out within the Work Areas specified within the Work Plans. Temporary Possession Powers are subject to the payment of compensation and re-instatement provisions in any event but NGET can confirm that given the nature of the land and the NGET works proposed, NGET does not need to demolish any buildings within Mr Mahony's land holding.</p>
<p>4. The Compulsory Acquisition Regulations</p> <p>The ExAs will hear an update from the Applicants on the application and operation of the Compulsory Acquisition Regulations and any consequent effects on the timetable(s) for the examination of either or both applications.</p> <p>The ExAs will hear from any additional Affected Person, that is to say any person affected by the Applications for the Inclusion of Additional Land [REP1-037] submitted at Deadline 1 (2 November 2020) (the 'proposed provisions') and who wishes to object to either or both of the proposed provisions on the 5 basis that the Applicants have not complied with the relevant legal tests, policy and guidance in respect of their individual interests in relation to:</p> <ul style="list-style-type: none"> • compulsory acquisition (CA) of land and/or rights; and/or • temporary possession (TP) of land and/or rights. <p>The ExAs will hear from any additional Affected Person on matters arising from the Agendas of CAHs1 held on 1 December 2020. Agendas, recordings of hearings and action lists for CAHs1 can be found on the relevant project page of the National Infrastructure Planning Website for East Anglia ONE North and East Anglia TWO. The ExAs will then hear from the Applicants in response</p>	
<p>5. The compulsory acquisition and related provisions as presented within the draft Development Consent Orders (dDCOs) and Land Plans</p> <p>Reference will be made to the onshore Land Plans [REP1-004], to the tracked versions of the dDCOs [REP5-004] and to draft Protective Provisions submitted by other parties.</p> <p>The ExAs will hear from the Applicants and other parties on:</p> <ul style="list-style-type: none"> • How each dDCO relates to the other East Anglia dDCO in the various possible consent, construction and operational programme situations, including 	

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	<ul style="list-style-type: none"> ▪ the need for a 70m wide cable corridor for each project; ▪ works accesses at Aldringham; ▪ the need to justify costs to Ofgem as part of the evaluation process; ▪ the need or otherwise for falling away provisions[REP4-014 - Deadline 4 Submission - EA1N&EA2 Applicants' Response to Hearing Action Point 5 CAH1]; ▪ the transfer to National Grid (NG); and ▪ whether or not the NG substation is to be treated as a separate NSIP; • How each dDCO will operate in the context of other nearby projects, including other projects with agreements to connect at Friston, and the Sizewell C project, in the various possible consent, construction and operational programme situations; • Whether the DCOs exclude the application of a compensation provision or modify it beyond what is necessary to enable that provision to be applied; • Whether protective provisions are in a satisfactory form and one that is agreed with the relevant parties; • Article 19 (time limit for exercise of compulsory acquisition powers) in view of the recent proposal to amend Requirement 1; and • Any other relevant outstanding matters relating to the articles.
<p>Transfer to National Grid (NG)</p>	<p>Michael Humphries QC (NGET):</p> <p>In accordance with their written response REP3-111 (CA Hearing Agenda item 4 bullet 4), NGET confirms that it requires the following land or rights to deliver its assets under the DCO:</p> <ul style="list-style-type: none"> • the freehold title of the land required for the sub-station and cable sealing end compounds (including reservations for drainage and access); • permanent rights/easements for the overhead line works and underground cables (between substation and sealing end compounds); • permanent rights/easements of access to all operational assets (substation, sealing end compound's, OHL's and Towers and cables); • a power of Temporary Possession for construction for all NGET temporary and permanent works, including Temporary possession for construction and use etc. of diverted masts, stays and conductors with working areas; and • a power of Temporary Possession for on-going maintenance of all assets.

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	<p>The Applicant and NGET have not determined how NGET will obtain the land and rights but NGET anticipates it will be one of the following:</p> <ul style="list-style-type: none"> • the Applicant (and where appropriate NGET) will seek to acquire land/rights by agreement; • NGET’s subsequent preference is for the Applicant to utilise its compulsory acquisition powers under the DCO and transfer the necessary land / rights / temporary possession to NGET; and • the fall-back to this would be for the Applicant to transfer the benefit of its compulsory purchase powers to NGET. NGET is not anticipating this to occur.
<p>Whether or not the NG Substation is to be treated as a separate NSIP</p>	<p>Michael Humphries QC (NGET):</p> <p>It was explained that the NGET substation could not be a separate NSIP as the development of a substation does not fall within parameters in s14 of the PA 2008. The development of a substation would simply be associated development to overhead lines.</p> <p>NGET acknowledged that the distance of the overhead lines to be developed in the DCO are over 2 km and so are correctly identified as an NSIP in their own right and this is identified as such within Schedule 1 of the dDCO.</p> <p>NGET were asked if they should promote the overhead line works as a separate DCO and NGET responded that:</p> <ul style="list-style-type: none"> • NGET could indeed promote the NSIP under the Planning Act 2008, however, it is entirely a matter for the Applicant to make that choice. • This Applicant has adopted the approach advocated in NPS EN1 (para 4.9.2) and follows the Government’s desire for an holistic planning regime; containing everything in this application is in line with this policy. • NGET has also provided a written response previously REP3-111, but in summary this is not an unusual approach and in many 2008 Act applications promoters have sought consent for NGET infrastructure, including new/extended substations and modified overhead lines. • Examples include: Sizewell C, Acquind, Neuconnect, Millbrook, Norfolk Vanguard and Boreas, Lower Thames Crossing (including NGET and NGG NSIPs for diverted apparatus but not yet submitted). • NGET has no issues with the Applicant’s approach and has a good working relationship with the Applicant.
<p>How each dDCO will operate in the context of other nearby projects, including other projects</p>	<p>Michael Humphries QC (NGET):</p>

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<p>with agreements to connect at Friston, and the Sizewell C project, in the various possible consent, construction and operational programme situations;</p>	<p>NGET has identified parameters for the size of its infrastructure that are designed to meet the needs of the NGET works and reflected in the limits contained in the Limits of Deviation for each Work No. and the more detailed controls in Requirement 12 of the dDCO. The limits of deviation are larger than the maximum dimensions in Requirement 12 to allow some 'micro-siting' of the works.</p> <p>It is possible that other projects may connect into the NGET substation, but the NGET substation has been designed to facilitate either or both of the EA1N/EA2 projects. Other projects would have to get a separate DCO in order to acquire the necessary land and authorise the development for any the substation extension.</p> <p>Points discussed at the hearing included:</p> <p>1 Single Build User Point - whether NGET elements of the DCO change if only EA1N or EA2 was consented/built out.</p> <p>Kudzie Marawanyika (NGET):</p> <ul style="list-style-type: none"> • NGET confirmed that only the customer connection bay will be removed from the substation if only one of the EA1N/EA2 projects proceeds and these are small elements of the overall substation design which do not therefore reduce the extent of the footprint required. • As per NGET's written response REP3-111 (see page 7), the NGET elements of the DCO do not change if only one of the projects is built because both overhead lines will still need to be connected into the new substation which due to its component parts will remain the same size whether or not both projects are connected. <p>2.How project will operate with other projects with connection agreements at Friston in consent, construction and operational programme</p> <p>(i) Other projects with connection points at Friston</p>

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	<p>Michael Humphries QC (NGET):</p> <ul style="list-style-type: none"> • The SPR 'Note on Regulatory Context' REP2-003 explains at section 3 the regulatory context for electricity generation and the separation of NGESO and NGET. In regulatory terms NGV is treated as equivalent to any other generator and so NGV projects are treated like other projects and, from NGET's perspective, at arm's length. • It is public knowledge that NGV is proposing to develop the two separate interconnector projects, Nautilus and EuroLink. • The SPR / NGV SoCG REP1-062 states (para 13) that the National Grid substation (for which the Applicants are seeking DCO consent) has been identified by the National Grid Electricity System Operator (NGESO) as a potential future point of connection to the national electricity grid for Nautilus and EuroLink, in accordance with their agreements with the National Grid System Operator. • In order to facilitate grid connection(s) at the National Grid substation for NGV's Nautilus and/or EuroLink projects, future extensions to the National Grid substation would be required within the areas as shown in Figure 1, Appendix 1 Draft SoCG with NGV • Any such works required to accommodate the NGV Nautilus and EuroLink projects connecting to the National Grid substation would be subject to NGV (or if NGV so decided, NGET) obtaining the necessary consents for such works at the appropriate time. • NGET is not aware that NGV has taken any final decision on this. • The location of extension areas would be considered by the relevant Promoter at the appropriate time in liaison with NGET and would be considered in their site selection process before being consented through a Development Consent Order or equivalent process. <p>(ii) Explain how someone else would connect if being connected here</p> <p>Kudzie Marawanyika (NGET):</p> <ul style="list-style-type: none"> • In order to facilitate grid connection(s) at the National Grid substation, future extensions to the National Grid substation would be required within the areas as shown in Figure 1, Appendix 1 of the Draft SoCG with NGV

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	<ul style="list-style-type: none"> • Extending the substation requires addition customer connection bays and additional land areas to build new bays and other equipment on <p>(iii) Interaction Consent Operational/Construction programme.</p> <p>Michael Humphries QC (NGET):</p> <ul style="list-style-type: none"> • NGET will seek to co-operate with the developers of any future consented project that connects at Friston and NGET's section 9 Electricity Act duty requires it to develop and maintain an efficient, co-ordinated and economical system. Currently, however, NGET is not able to comment in any meaningful way on the likely construction and operational relationship with other potential projects as NGET does not know if, when, where or how they will connect. <p>3. The dDCO retains the option for either AIS or GIS technology to be used for the NGET substation. Why does NGET require this optionality?</p> <p>Michael Humphries QC (NGET):</p> <p>NGET's current preference is to pursue AIS technology for the NGET substation as the AIS technology is easier to operate, maintain and repair and as such has lower operational costs which is important in meeting its s.9 duties. The GIS technology contains Sulphur Hexafluoride (SF6) which has the equivalent impact of ten times the carbon equivalent of AIS technology. NGET's current policy is to reduce its greenhouse gas emissions by 80% in advance of the 2030 target set by the UK government.</p> <p>Where appropriate, NGET has pledged not to carry out procurement of any 275kV or 400kV gas insulated switchgear containing SF6 (excluding circuit-breakers) from 2024.</p> <p>However, NGET recognises that GIS technologies are evolving and there may be potential options for greener GIS in the future. As such NGET is keeping the GIS option open to allow for its use in the future if such technologies become available.</p>

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Whether protective provisions are in a satisfactory form and one that is agreed with the relevant parties;	<p>Michael Humphries QC (NGET):</p> <p>The Protective Provisions for the benefit of National Grid were agreed with the Applicants on 10th February 2021.</p> <ul style="list-style-type: none"> • The agreed Protective Provisions will be incorporated into the dDCO at Deadline 7. • The dDCO submitted at deadline 5 REP5-004 does include Protective Provisions specifically for the benefit of NGET, however these were not fully agreed with NGET. <p>The version submitted at Deadline 7 will be fully agreed between the Applicant and NGET.</p>
Side agreement status	<p>Michael Humphries QC (NGET):</p> <p>The Side Agreement is still being finalised between the Applicant and NGET, however, the principles are now agreed. The next meeting is arranged for 1st March with the drafting anticipated to be agreed by Deadline 7 and engrossed by Deadline 8 (25th March).</p> <p>Once the Side Agreement is in place NGET's Relevant Representation will be withdrawn.</p> <p>The Side Agreement (which is not an inquiry document) is required to:</p> <ul style="list-style-type: none"> • ensure that Insurance and Surety are in place to back up the Indemnity Clause to protect apparatus, • address any site specific interactions arising from the DCO and NGET's apparatus and connection including securing that NGET: <ul style="list-style-type: none"> (i) will not commence works until an Interface Agreement governing shared areas/ construction is in place; (ii) will not commence works until a transfer of benefit is in place i.e. consent to build and operate as a minimum. Details to be resolved/agreed later; and (iii) will not commence works until all necessary land and rights including temporary powers for the construction, operation and maintenance of the NGET works are in place.
<p>6. Statutory conditions and general principles</p> <p>ExAs will hear from affected persons, and the applicants in response, as to:</p> <ul style="list-style-type: none"> • s122(2) PA08 – are the CA powers required for the Project or necessary to facilitate the Project? 	

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	<ul style="list-style-type: none"> • has consideration been given to all reasonable alternatives to temporary possession and compulsory acquisition? • Are the rights to be acquired necessary and proportionate? And • Is there a compelling case in the public interest for compulsory acquisition (need in the public interest v. private loss to those affected) <p>Planning Act 2008</p>
	<p>7. Review of the CA Schedule and related matters</p> <p>Reference will be made to the tracked version of the Schedule of CA and TP Objections – ExQ1.3.2 Schedule of Compulsory Acquisition and Temporary Possession Objections [REP4-052]</p> <ul style="list-style-type: none"> • The Applicants to summarise outstanding objections and progress on negotiations on alternatives to compulsory acquisition (CA);
	<p>8. Funding</p> <p>Reference will be made to the Funding Statement and appendices [REP1-008 to 014]</p> <ul style="list-style-type: none"> • The Applicants to present briefly the current situation in respect of options currently available including power purchase agreements, Contracts for Difference (CfD), CfD caps and programme, and the expected pipeline bidding for CfD in 2021 and subsequently; • any updates to the Funding Statement, including parent company guarantees and the costs of acquisition of land and rights; and • Guarantee or alternative form of security
	<p>9. Statutory Undertakers</p> <p>Reference will be made to the tracked versions of the Applicants’ responses on statutory undertakers ExQ1.3.4 [REP4-054] and to ExQ1.3.5 [REP4-056]</p> <p>The Applicants to give a brief update on</p> <ul style="list-style-type: none"> • The current position in respect of s127 and s138 including representations made and whether there are any remaining which have not been withdrawn; and • Any other relevant outstanding matters.
Protective Provisions	[NGET dealt with this at Item 5]
Side Agreement	[NGET dealt with this at Item 5]
	<p>10. Human rights and the Public Sector Equality Duty (PSED) [<i>N.B. the Inspectors permitted Affected Persons to comment on this item under Item 3</i>]</p> <p>To hear from Affected Persons and Interested Parties on</p> <ul style="list-style-type: none"> • Article 1 of the First Protocol to the European Convention on Human Rights (ECHR); • Article 6 of the ECHR;

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	<ul style="list-style-type: none"> • Article 8 of the ECHR; • The degree of importance to be attributed to the existing uses of the land which is to be acquired; • The weighing of any potential loss of ECHR rights against the public benefit if either or both DCOs are made; and • The PSED and consideration of the Public Sector Equality Statement [REP4-013]
	<p>11. Any other business relevant to the Agenda</p> <p>The ExAs may raise any other topics bearing on the Applicants’ strategic case for CA and/ or TP as is expedient, having regard to the readiness of the persons present to address such matters. The ExAs may extend an opportunity for participants to raise matters relevant to the topic of these hearings that they consider should be examined by the ExAs.</p>
	<p>12 Procedural decisions, review of actions and next steps</p> <p>The ExAs will review whether there is any need for procedural decisions about additional information or any other matter arising from Agenda items 3 to 11. To the extent that matters arise that are not addressed in any procedural decisions, the ExAs will address how any actions placed on the Applicants, Interested Parties or Other Persons are to be met and consider the approaches to be taken in further hearings, in the light of issues raised in these hearings. A written action list will be published if required.</p>
	<p>13 Closure of the hearings</p>