

THE NORTH LINCOLNSHIRE GREEN ENERGY PARK PROJECT

DEADLINE 8

28 APRIL 2023

1. INTRODUCTION

- 1.1 We act for Cadent Gas Limited (**Cadent**).
- 1.2 The draft DCO (**dDCO**) for the North Lincolnshire Green Energy Park project (**the Project**) being promoted by the North Lincolnshire Green Energy Park Limited (the **Promoter**) contains development which may affect Cadent's apparatus.
- 1.3 Cadent has several low, medium and high pressure gas pipelines and associated apparatus (the **Apparatus**) located within the order limits which may be affected by works proposed and for which further details on interactions will be required.
- 1.4 Cadent is the holder of a gas transporter licence (the **Transporter Licence**), granted pursuant to section 7 of the Gas Act 1986 (the **1986 Act**). Cadent owns and maintains the gas distribution network in the North West, West Midlands, East Midlands, the East of England and North London. The Apparatus forms part of Cadent's gas distribution network.
- 1.5 Cadent is required to comply with the terms of its Transporter Licence in the delivery of its statutory duties. It is regulated by the Network Code which contains relevant conditions as to safe transmission of gas and compliance with industry standards on transmission, connection and safe working in the vicinity of its Apparatus.
- 1.6 This submission is made on behalf of Cadent in response to the Examining Authority's (**ExA**) third round of written questions and the publication of the draft DCO (**dDCO**). In particular, this submission is made in response to Question 7.1.1.
- 1.7 For the purposes of the Planning Act 2008 and section 127, Cadent is a statutory undertaker and the land included within the order limits is statutory undertakers' land. Cadent require the protective provisions secured within the DCO to be in their preferred form to ensure that there is no serious detriment to the carrying on of Cadent's undertaking.
- 1.8 We make this submission further to Cadent's relevant representation (the **Relevant Representation**) and Cadent's response to the first written questions at Deadline 2 – REP2-090 (the **Cadent Response**). Cadent set out its requirements for adequate protection in the Relevant Representation and the Cadent Response.

2. QUESTION 7.1.1 AND DDCO

- 2.1 The dDCO does not include adequate protection for Cadent's apparatus and the gas distribution network. It does not include the specific protection provisions that Cadent requires to prevent serious detriment to his undertaking.
- 2.2 Cadent require all promoters carrying out development in the vicinity of their Apparatus to comply with various guidelines including: GD/SP/SSW22 – Safe Working in the vicinity of Cadent High Pressure's Gas Pipelines and Associated Installations; IGE (Institution of Gas Engineers) recommendations IGE/SR/18 Edition 2 Safe Working Practices to Ensure the Integrity

of Gas Pipelines and Associated Installations; and the HSE's guidance document HS(G)47 Avoiding Danger from Underground Services.

- 2.3 The industry standards referred to above have the specific intention of protecting: the integrity of the pipelines and thus the distribution of gas; the safety of the area surrounding gas pipelines; and the safety of personnel involved in working with gas pipelines.
- 2.4 Cadent requires specific protective provisions in place for an appropriate level of control and assurance that the industry regulatory standards will be complied with in connection with works in the vicinity of Cadent's Apparatus.
- 2.5 Cadent's preferred form of protective provisions are included at Appendix 1 (the **Cadent Protective Provisions**). The Cadent Protective Provisions are in Cadent's standard form and have been developed to afford full protection to Cadent and its undertaking. The Cadent Protective Provisions were submitted at Deadline 2 (REP2-091).
- 2.6 The Promoter did not comment on the substance of the Cadent Protective Provisions in its response to the Cadent Response at Deadline 3 – REP3-021 (the **Promoter's Deadline 3 Response**) and has not commented on the substance of the Cadent Protective Provisions during the examination.
- 2.7 As noted in the Promoter's Deadline 3 Response (at page 95) the Promoter is seeking extensive compulsory acquisition of freehold land, rights over land and temporary possession of land in respect of which Cadent has an interest and the Indicative Utility Diversion Drawings (APP-031) show the interaction between the Project and the Apparatus. This demonstrates the importance of securing the Cadent Protective Provisions.
- 2.8 In addition to securing compliance with industry standards to regulate the impact of the Project on the Apparatus, the Cadent Protective Provisions include necessary insurance and security measures which are required to be put in place before works which may affect Cadent's apparatus. These are required given the nature of the Promoter and the current financial standing of the Promoter, and security provisions are required to support the indemnity provided and to address a situation where the conditions of insurance are not met.
- 2.9 In particular, the security measures contained in the Cadent Protective Provisions are required in order to provide certainty that the indemnity afforded to Cadent can be relied upon in the event that damage is caused to the Apparatus and the gas distribution network. Article 22 of the DCO contains a requirement for a guarantee or security in respect of the exercise of compulsory acquisition powers by the Promoter. However, Article 22 only extends to liabilities in respect of compulsory acquisition powers and does not extend to damage that may be caused as a consequence of the construction or use of the Project. Therefore, the security provisions are essential for inclusion in the Cadent Protective Provisions.
- 2.10 As with Article 22, this security is required given that funding is not in place for the Project and the Promoter will not secure funding until after the dDCO is made. The same justification set out in Paragraphs 2.4 of the Promoter's funding statement (REP7 – 0004) that necessitate Article 22 (in respect of compensation for compulsory acquisition) necessitate the security provisions in the Cadent Protective Provisions (in respect of liability for damages).
- 2.11 In the current energy and security of supply crisis, providing full and proper protection to the gas distribution network is increasingly important. The Cadent Protective Provisions will help to achieve this and to avoid serious detriment to Cadent's undertaking.

- 2.12 The Cadent Protective Provisions have been included in substantially the same form in a number of previous DCOs in order to afford protection to Cadent's. For example, substantially similar protective provisions are included in the following orders: The A585 Windy Harbour to Skippool Highway Development Consent Order 2020, The M42 Junction 6 Development Consent Order 2020, The A38 Derby Junctions Development Consent Order 2021, The A47/A11 Thickthorn Junction Development Consent Order 2022, The A47 Blofield to North Burlingham Development Consent Order 2022, The A57 Link Roads Development Consent Order 2022, The M25 Junction 28 Development Consent Order 2022 and The M54 to M6 Link Road Development Consent Order 2022.
- 2.13 Cadent would be willing to enter into a side agreement to secure the Cadent Protective Provisions with the Promoter. Cadent has sought to engage in discussions with the Promoter to agree the Cadent Protective Provisions and will continue to do so with a view to reaching agreement and submitting an agreed set of protective provisions to the ExA before the close of examination.
- 2.14 Therefore, Cadent requests that the Cadent Protective Provisions are included at Part 4 of Schedule 14 to the dDCO.
- 2.15 Cadent expects that the form of the Cadent Protective Provisions to be submitted to the ExA if agreement is reached with the Promoter will be in the form of the Cadent Protective Provisions.

3. NEXT STEPS

- 3.1 Cadent request that the Examining Authority recommend that the final dDCO, if made, includes the protective provisions in the form of the Cadent Protective Provisions and that the Secretary of State include the protective provisions in the form of the Cadent Protective Provisions in the final DCO (if made).

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