

PLANNING ACT 2008

**THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE)
RULES 2010**

**APPLICATION BY RAMPION EXTENSION DEVELOPMENT LIMITED FOR
A DEVELOPMENT CONSENT ORDER**

**RESPONSE TO SECRETARY OF STATE'S REQUEST
FOR INFORMATION DATED 25 NOVEMBER 2024
ON BEHALF OF**

nationalgrid

NATIONAL GRID ELECTRICITY TRANSMISSION PLC

6 December 2024

Introduction

1. This document sets NGET's response to the Secretary of State's request for information dated 25 November 2024. It should be read in conjunction with NGET's Relevant Representation, Written Representation, answers to the Examining Authority's Written Questions, the "*Commentary on the outstanding issues between the Applicant and National Grid Electricity Transmission Limited in relation to the Protective Provisions*" document agreed with the Applicant and submitted by the parties at Deadline 6 ("**Issues Document**") and, in particular, NGET's Position Statement, which was also submitted at Deadline 6.

Update on Protective Provisions

2. NGET confirms that no further progress has been made in relation to Protective Provisions. The position therefore remains as set out in the Issues Document and NGET's Position Statement.

Summary of NGET's Position

3. NGET's position in relation to the Application may be summarised as follows:-
 - a. Section 127 of the Planning Act 2008 is engaged.
 - b. The Applicant's proposals to compulsorily acquire rights and impose restrictions over, and to take temporary possession of, any of NGET's land, and in particular Plots 34/25, 34/26, 34/27 and 34/28 ("**the NGET Land**"), would cause serious detriment to NGET's undertaking for the following reasons:
 - i. Other customers will be connecting to Bolney substation extension once it is built.
 - ii. The Applicant's proposals to acquire rights in and impose restrictions on the NGET Land make it more difficult to site those customers' cables and equipment in this area and may have the effect of sterilising the land entirely for that purpose.
 - iii. NGET needs to retain control and ownership of the NGET Land in order to facilitate those connections in the most economical and efficient manner.
 - iv. Further, connections to the high-voltage electricity transmission network in England and Wales ("**NETS**") are a highly valuable resource. The existing customer connections process coordinates connections to the NETS. The process takes a whole system view rather than considering this issue only in terms of the needs of individual applicants.
 - v. Allowing the Applicant to compulsorily acquire the rights and restrictions it seeks would unnecessarily interfere with the process and, in particular, with NGET's ability to carry out its part in co-ordinating connections. It may also prevent others from connecting to the transmission system or make such connections unnecessarily complex.
 - vi. Granting the Applicant such powers also risks setting a damaging precedent that will have implications beyond this Application, as similar situations are likely to arise elsewhere. Many new sources of generation will be seeking to connect to the NETS across England and Wales over the coming years. Such connections are essential if the Government's ambition for the UK to accelerate its transition from fossil fuel generation to renewable energy is to be achieved. Economical and efficient co-ordination of these connections is therefore vital. This should take place through the existing connections process managed by the National Energy System Operator Ltd and not on an ad hoc basis via individual development consent applications.
 - c. The serious detriment to NGET's undertaking that has been outlined above can only be addressed by including suitable protective provisions in the DCO. NGET has proposed that the use of powers of compulsory acquisition by the Applicant should be subject to NGET's consent. This restriction

is well-precedented and appears in NGET's protective provisions in almost all DCOs, as well as protective provisions in favour of other statutory undertakers such as Network Rail.

- d. The Protective Provisions also provide that whenever NGET's consent, agreement or approval is required for the taking of any action by the Applicant, this must not be unreasonably withheld or delayed. To the extent that the Applicant considers a refusal by NGET to agree to the use of powers of compulsory acquisition to be unreasonable, it would be able to use the arbitration procedure in the DCO to resolve the dispute. NGET submits that this represents a reasonable balance between the interest of the Applicant and the protection of NGET's undertaking.
 - e. In any event, the Applicant does not need the powers of compulsory acquisition it seeks, as it will obtain the rights it requires through the existing customer connections process. That process has been established specifically for the purpose of allowing such rights to be granted while also managing the issues explained in the preceding paragraphs.
 - f. Finally, NGET requires adequate insurance, security and indemnity provisions. The NETS is critical national infrastructure and must receive the highest degree of protection. Risks associated with a third-party project should not be for NGET (and, by extension, bill payers) to bear or subsidise. The scope, nature, or extent of the potential liabilities or damages that may arise from the Applicant's actions or omissions is not currently clear or quantifiable and all possible scenarios or contingencies must therefore be covered. An uncapped indemnity is the most efficient and equitable way of addressing this.
 - g. The Applicant has provided no justification either for its proposal to cap the indemnity at £25m or to for its contention that it should not be required to provide acceptable security. Given the potentially catastrophic consequences of damage to the NETS and the fact that it will be NGET and its customers who (through no fault of their own) will be exposed to the risk of vast economic loss, NGET submits that its proposed Protective Provisions should be preferred.
4. The above points are set out in greater detail in NGET's Position Statement, which the Secretary of State is invited to review. NGET would, of course, be happy to answer any further questions the Secretary of State may have in relation to these or any other issues.