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## Land Referencing Diligent Inquiry Methodology

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The purpose of this document is to set out the land referencing methodology for the National Grid Electricity Transmission Bramford to Twinstead Project (the 'Project').

The Project is categorised as a Nationally Significant Infrastructure Project ("**NSIP**") and consent to implement the proposals would be by Application for a development consent order ("**Application**") under the Planning Act 2008 ("**PA 2008**").

The Project will affect parties with an interest in land in its vicinity and the land referencing process has been undertaken to meet certain statutory obligations set out in the PA 2008 and the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("**APFP 2009**"). The methodology set out in this document has been used to identify all interests in land through diligent inquiry in order to consult under Section 42(1)(d), to produce the Book of Reference as part of Application submission and complete the process of issuing notices under Section 56 should the Application be accepted for examination.

## INTRODUCTION

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The legislation requires certain persons to be identified through a process of diligent inquiry, to be consulted about the proposals and their land interests and rights recorded and categorised prior to the Application.

Diligent inquiry is not defined in the PA 2008. For the purpose of this Application, diligent inquiry is to be regarded as the completion of the land referencing as set out in the remainder of this document.

The categories of persons that require identification for the purposes of consultation and notification under Sections 42 and 56 are set out in Sections 44 and 57 of the PA 2008. This involves undertaking diligent inquiry to identify persons with an interest in land within Categories 1, 2 and 3.

- **Category 1** includes owners, lessees, tenants (whatever the tenancy period) or occupiers of the land within the proposed project development area ("Order limits").
- **Category 2** includes parties that have an interest in the land or who have the power to sell, convey or release the land within the Order limits
- **Category 3** includes parties that the applicant thinks that, if the order sought by the application were made and fully implemented, the person would or might be entitled to make a relevant claim for compensation under section 10 of the Compulsory Purchase Act 1965 and/or Part 1 of the Land Compensation Act 1973 and/or section 152(3) of the PA 2008.

This document sets out how National Grid Electricity Transmission plc (“**the Applicant**”) identified and categorised these persons with interests in land inside and outside of the Order Limits by establishing clear Land Referencing Limits, taking account of the potential impact of the Project on their interests.

In addition to the above categories, the Applicant must record and categorise certain other types of interest that are subject to special procedures in relation to compulsory acquisition powers. These are as follows, and the method of identifying these are described in this document.

- Commons, fuel/field allotments and open space
- Interests held by the National Trust
- Interests held by statutory undertakers and local authorities

This document describes the methods used to compile and maintain a list for consultation under Section 42 of the PA 2008, and a Book of Reference, which is required as part of the Application.

## **SETTING THE REFERENCING LIMITS**

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The referencing limits were set to the widest extent that the Project considered parties may be within the draft Order Limits, or may have a relevant claim for compensation. This included referencing a wider area to facilitate the ongoing design development.

The referencing limits for Section 42 were drawn to identify all legal interests in the draft Order limits, including freeholders, leaseholders, tenants, occupiers, rights, beneficiaries, mortgagees etc. of all land and property that may be affected by:

1. Permanent acquisition of land;
2. Acquisition of permanent rights; and
3. required for use during construction, operation and maintenance of the project, such land being classified as temporary possession.

In addition the referencing limits extend beyond the draft Order limits to identify:

4. Any other land in which interests may have a relevant claim for compensation under:
  - a. Section 10 of the Compulsory Purchase Act 1965;
  - b. Part 1 of the Land Compensation Act 1973; or
  - c. Section 152(3) of the PA 2008

With regard to point 4, the extent of interests who may be entitled to claim have been identified as those who may incur a diminution in value of their property as a result of either the execution or use of the works.

The beneficiaries of restrictive covenants and other rights that would be overridden by the exercise of powers in the DCO would be capable of making claims under section 10 of the Compulsory Purchase Act 1965 and/or section 152(3) of the PA 2008. All such legal rights and restrictive covenants registered in the Land Registry titles within the draft Order limits have been identified and included within the Book of Reference (BoR) as category 2 interests. In addition, the Land Interest Questionnaire (LIQ) also requests information from landowners regarding any known rights which exist over the land in which they have an interest. Any such rights will also be included within the Book of Reference (BoR) as category 2 interests. Analysis has also been undertaken to identify any further informal (i.e. unregistered) private rights of access that may result in a relevant claim, using aerial photography and assumed routes for landowner access, and verified with landowners.

To identify Category 3 parties associated with Part 1 claims ahead of the section 42 consultation environmental experts preparing the environmental impact assessment advised on the anticipated impacts of relevant environmental factors in order to inform where properties might have an adverse effect as a result of the operation of the project to ensure we have included all those with a potential claim. Given the early stage of the project and the preliminary nature of assessments, a cautious approach was taken.

The physical factors listed under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by the use of public works) include:

- a. Noise;
- b. Vibration;
- c. Smell;
- d. Fumes;
- e. Smoke;
- f. Artificial lighting; and
- g. Discharge of any solid or liquid substance onto land.

Whilst there is the potential for short-term significant adverse effects as a result of construction, the long-term operational impacts will be adequately mitigated to avoid any diminution of property values and as such are unlikely to lead to a compensation claim.

However, at the point of statutory consultation, environmental assessments were still ongoing. Until the assessments for noise and vibrations were completed, a precautionary approach was used to include all properties in the proximity of noise monitoring receptors that may be impacted. This was identified as being all those noise receptors within or at the margin of 120m of the Limits of Deviation, being a buffer beyond which professional environmental advice and experience with other National Grid projects suggests it is unlikely that compensation claims may result from effects of noise, especially when taking into account existing conditions and local geography. In areas of undergrounding, it was not considered that any receptors would be affected by noise impacts that could result in compensation claims. The outcome of the ongoing assessment will determine if these Category 3 interests are affected and need to be included in the Book of Reference, but are not expected to be outside of the cautious assumptions made for inclusion in consultation.

It is not expected that smell, fumes and smoke will result in any compensation claims as a result of the scheme.

The potential impacts of artificial lighting and discharge of solid or liquid substances on the land are being determined but are not expected to impact any interests outside of the limits of the scheme or those receptors identified as potentially impacted by noise and vibration.

Once this exercise was completed and interests identified, they will only qualify for Category 3 if the Applicant thinks that they may make a relevant claim. A precautionary approach has been adopted to include these interests within the s.42 consultation process and Book of Reference. A valuation assessment will then be required once the Scheme design is finalised to consider whether there is likely to be any reduction in value of those interests. The identification of an interest and inclusion for section 42 consultation does not mean that a party may be able to make a claim nor succeed with that claim. Similarly, the exclusion of parties from the Book of Reference or consultation does not preclude them from being able to make a relevant claim.

## **DESKTOP REFERENCING**

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Land Registry data was received in the form of a digital shape file (a GIS layer) and digital copies of the Official Copy Registers and Title Plans. All relevant freehold, leasehold, mortgagee (for freehold and leasehold interests), beneficiary, other charges, private rights and restrictive covenant information was extracted and stored in WSP's land referencing database, PinPoint.

From this data, landownership parcels were created. The landownership parcels were drawn to reflect unique ownership information and stored spatially on a GIS application.

Where land was not registered, additional parcels to complete these gaps were created based on OS mapping and site data. As a result, all land within Land Referencing Limits (which extends beyond the draft order limits) was parcelled and given unique reference numbers.

Periodic updates are requested from Land Registry ensuring updates were received ahead of key milestones and this ensured that any changes that occurred prior to section 42 consultation, and again before the submission of the Book of Reference are captured.

### **Other Desktop Activities**

Additional desktop activities were undertaken to confirm information received through site enquiries and Land Registry. For example, Companies House searches were undertaken to ensure registered companies' details were verified and the registered office was appropriate for the service of notices and other correspondence. Searches of phonebook and 192 records were carried out where no other information had been received for an occupier of a property. Where this did not result in the identification of a named party, an additional interest named "The Occupier" was included as an additional entry to ensure the property received notification of the section 42 consultation.

## **CONTACT REFERENCING**

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### **Land Interest Questionnaires (LIQs)**

LIQs were posted using Royal Mail to all parties to confirm their interest and request further information. This included a request for information about a recipient's own interests, associated third party interests and the spatial extent of the property. Included with the questionnaires were individual plans showing the extent of land ownership boundaries.

Respondents were asked to complete the questionnaires, amend the boundary plans where required, and return the completed documents to the land referencing team in pre-paid envelopes provided.

The land referencing team analysed this returned information and entered it into the land referencing database or contacted the respondents to resolve any queries or conflicting information.

Recipients of the LIQ were also offered the means to respond or ask questions via an online portal, via email or via a dedicated hotline. The land referencing team recorded all information received and answered any queries raised.

### **Major Landowners (MLOs)**

MLOs are individuals or organisations that have ten or more land interests within the land referencing limits. Land interest information was requested from MLOs, including local authorities, statutory utilities and other landowners with multiple land ownerships through letter and email requests for information. These MLOs received a bespoke LIQ and set of plans.

Requests to local authorities also included requests to access the Councils' land terrier mapping; information about public highways and private roads; information about public rights of way; information about special category land (including public open spaces, common land, fuel and field garden allotments); information

relating to extant planning permissions which may alter the ownership of a land parcel and future public and privately funded developments. Where necessary, further enquiries were made to address changes, anomalies and gaps.

A list of statutory undertakers was compiled using data obtained from a 'LineSearchbeforeUdig' search, land interest information, site information, and experience on other projects. All statutory undertakers identified were consulted as s42(1)(a) consultees. Statutory undertakers were contacted to determine their interests within the draft Order limits of the scheme including the locations of any equipment and apparatus. The results of these enquiries and research were mapped resulting in a plan of interests and relevant apparatus. These interests and apparatus were included in the BoR against the relevant plot to which they relate.

### **Site Observations**

Site visits were undertaken in order to gain an understanding of the physical attributes on the ground such as occupation, use and potential likely ownership as well as to further familiarise the referencing team with the land and to identify potentially complicated sites (i.e. identify and examine sites that may have larger populations, unregistered land or probable multiple rights of access issues). All necessary updates were recorded in the land referencing database and GIS.

### **Contact Site Visits / Land Information Investigations**

Contact site visits to land parcels were undertaken in order to speak to land interests at their properties and identify and confirm the ownership and occupation details. This was in addition to confirming details which may have been gathered through desktop methods.

Where LIQs have not been returned from a property, site teams attempted to complete the questionnaires during contact site visits. Where there was no response at a property, a calling card was left for the occupants to request they contact the land referencing team to provide land ownership information by post, email, or telephone. If no response was received, the property was visited a minimum of two further times to attempt to gather the required information. On each occasion, a calling card was left at the property encouraging the occupier to respond by contacting the land referencing team. Where we were unable to contact a landowner on site, for example if they were shielding due the COVID-19 pandemic we ensured they were given the opportunity to communicate responses by other means including phone, emails and online response portal. All updates were recorded in the land referencing database and GIS.

### **Unknown Owner Site Requests for Information**

Where land ownership information could not be ascertained through desktop or site referencing methods, the land referencing team erected notices on site requesting information. The notice showed the land ownership boundary in question and provided details of how to contact the land referencing team with any relevant information. These notices were checked regularly for 6 weeks and replaced if they are removed or defaced. All updates were recorded in the land referencing database and GIS.

### **Section 52 – Requirement to Provide Information**

The Planning Act 2008: Infrastructure Planning (Fees) Regulations 2010 guidance sets out that where an applicant is refused information, they can submit a request to the Secretary of State who can require that the information is to be provided under s.52 of the PA 2008. A fee of £1,000 must be paid at the same time as any request is made. Applicants are expected to act reasonably, first seeking to obtain relevant information directly before seeking authorisation under these provisions. Specifically, applicants should only submit requests for those aspects of information where they consider they have been unreasonably refused that information.

While it was understood an application under section 52 is available, it is expected that the land referencing methodology will prove sufficient for obtaining information on interested parties and so Section 52 notices were not considered to be required. This was kept under regular review.

### **Requests for Confirmation of Information**

Prior to the submission of the Application the assembled land referencing data was confirmed by carrying out a Land Registry update to capture any changes that have occurred. A further Companies House and desktop review was also completed.

To confirm the accuracy of information held, "Request for Confirmation" forms were issued to all interested parties identified prior to submission of the Application. These consisted of a pre-populated questionnaire per land parcel and a schedule of other parties identified as having an interest in that land parcel. The forms were sent alongside land ownership boundary plans which, like the LIQs, were posted by first class mail. Recipients were requested to confirm information or amend it by providing corrections and/or updates and to return the documents through an online portal or by telephone, or by returning the documents by email or post in pre-paid envelopes provided. The land referencing database was updated with any new information.

## **DATA MANAGEMENT**

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Land referencing, diligent inquiry and data management for the Project was completed by WSP UK Limited. All information on potentially affected persons with an interest in land is stored on the land referencing database, PinPoint. This includes the nature of their interest and contact details. All correspondence was uploaded and attached to the relevant person with an interest in land ("**PIL**"). This includes LIQs and Request for Confirmation forms received by post or completed on site, incoming and outgoing emails, records of online responses and telephone conversations, letters and all project related correspondence such as notices. In order to ensure diligent inquiry has been carried out, the dates, times and outcomes of all site visits were recorded.

Land Registry titles and plans were uploaded against the relevant parcel and interested parties to not only show a detailed history of the investigation but to provide an easily available source for all land and property.

Should it be required, or if required to respond to queries from interested parties, all details of contacts and interests may be produced at short notice.

All data collected is (and continues to be) held in accordance with the General Data Protection Regulation (EU) 2016/679 (GDPR), the Data Protection Act 2018 and is covered by the scope of WSP's ISO 27001 Information Security accredited policies and processes using it solely for the purpose of supporting the proposed DCO Application.

### **Special Category Land**

Sections 130 to 132 of the PA 2008 govern DCOs that seek the compulsory acquisition of land and rights in land (including temporary acquisition) of "special category land".

"Special category land" is defined as "...the land identified as forming part of a common, open space, National Trust land or fuel or field garden allotment..."

These categories of land are further defined as follows:

- "common" includes any land subject to be enclosed under the Inclosure Acts 1845 to 1882, and any town or village green;
- "fuel or field garden allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;



- “open space” means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground.”

### **Commons**

Commons were identified through desktop research processes by identifying any such restrictions listed on Land Registry records and Ordnance Survey features, and using online mapping systems to ascertain Department for Environment, Food and Rural Affairs (DEFRA) records of registered commons, town and village greens. Each local authority were also requested to provide information relating to commons, town and village greens. Site visits were also undertaken to identify any land that appears to be a common (such as being known locally as a common or through inspection of signage), and a full review of aerial photography to identify areas that have the characteristics of a common or green (such as location in a village centre, or being a Site of Special Scientific Interest (SSSI). In these cases, further investigations were undertaken with the local authority to query these locations, and if no confirmation received, the land was included on a precautionary basis.

### **Allotments**

Allotments were identified through a request to each local authority for their records. Site visits were also undertaken to identify any land that appears to be an allotment (such as being known locally as an allotment or through inspection of signage), and a full review of aerial photography to identify areas that have the characteristics of allotments (such as a patchwork of individual gardens or peat works). In these cases, further investigations were undertaken with the local authority to query these locations, and if no confirmation received, the land was included on a precautionary basis.

### **Open Space**

Open space was identified through desktop research processes using online mapping systems to ascertain Department for Environment, Food and Rural Affairs (DEFRA) records of registered parks and gardens, publicly accessible leisure facilities and playing fields and publicly accessible nature reserves. Each local authority was also requested to provide information recorded and considered to be open space. Site visits and reviews of aerial photography were also undertaken to identify any land that appears to be open space (such as being set out as a public garden, appearing to be a disused burial ground (old gravestones etc.), used by the local community for recreation (sports, games, dog walking etc.), with evidence of potential recreational activities (such as park benches, picnic benches, local clubs (such as fishing or yachting clubs). While the above definition can be considered to be subjective, the Applicant has taken a precautionary approach to include all land that could be considered to be open space.

### **National Trust Land**

This was identified and considered if any land identified (through the methodology contained in this document) is owned by the National Trust.

### **Crown Land**

This was identified and considered if any land identified (through the methodology contained in this document) is owned by a Crown interest (including Her Majesty in right of her Crown, an interest belonging to a government department and other Crown interests noted under Section 227 of the PA 2008).

Checks and searches were undertaken (through the methodology contained in this document) to identify Crown land and interests (including Her Majesty in right of her Crown, an interest belonging to a government department and other Crown interests noted under section 227 of the PA 2008). The findings were recorded in Part 4 of the BoR and engagement continues with the relevant bodies as regards the Project requirements and seeking necessary consent.

Where the successor of an interest cannot be ascertained it may be transferred to the Bona Vacantia Division, and thus considered as Crown interest. Bona Vacantia means vacant goods and is the name given to ownerless property, which by law passes to the Crown.

## **DELIVERABLES**

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### **For Section 42 Consultation**

The land referencing activities outlined above culminated in the production of a Consultation List, comprising a schedule of names and addresses to be sent consultation material under s42(1)(d) of the PA 2008.

As per the Planning Inspectorate's ("**PINS**") guidance (Guidance on the pre-application process<sup>1</sup>), the land referencing team will continue to identify any new and additional interests within referencing limits throughout and after the conclusion of section 42 consultation but before the Application is submitted. The Applicant will provide a proportionate opportunity to any new person identified with a land interest to make their views known on the Application. Where new interests in land are identified very shortly before the intended submission of the Application, despite diligent efforts earlier in the process, the Applicant will be proactive and helpful in ensuring that the person understands how they can, if they so wish, engage with the process if the Application is accepted for examination.

### **For Application Submission**

The land referencing information data was used to produce the Book of Reference and associated Land Plans, Special Category Land Plans, and Crown Land Plans (if required) for submission as part of the DCO application, and will be used to populate and issue notices under Section 56 of the PA 2008 if and when the submitted Application is accepted for examination by the Planning Inspectorate.

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418009/150326\\_Pre-Application\\_Guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418009/150326_Pre-Application_Guidance.pdf)

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