

BT-NG-020621-545-0199

Bramford to Twinstead Reinforcement

Volume 8: Examination Submissions

Document 8.7.8: Applicant's Protective Provisions and Commercial Side Agreements Tracking List

Final Issue A

December 2023

Planning Inspectorate Reference: EN020002



The Infrastructure Planning (Examination Procedure) Rules 2010 Regulation 8(1)(k)

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1. Introduction

1.1 Overview

- 1.1.1 This document, which is submitted in accordance with Procedural Decision 9 of the Examining Authority's (ExA) Rule 6 Letter dated 7 August 2023 [**PD-002**], provides:
- a tracking list of commercial side agreements and contracts proposed and/or entered into between the Applicant and Interested Parties or other persons for reasons associated with the Bramford to Twinstead Reinforcement (the project); and
 - a tracking list of Protective Provisions included in the draft DCO (**document 3.1 (E)**), noting the requirement set out in Annex A (Examination Timetable) of the Rule 8 Letter dated 19 September 2023 [**PD-003**] for the Applicant to submit, at Deadline 5, final agreed Protective Provisions with all relevant statutory undertakers.
- 1.1.2 It is anticipated that this document will evolve and be updated as the Examination progresses.
- 1.1.3 The Applicant does not currently envisage that any planning obligations under the Town and Country Planning Act 1990 (TCPA 1990) or other legislative provisions relevant to planning are required and therefore has not included a tracker for these.

2. Commercial Side Agreements and Protective Provisions

2.1 Commercial Side Agreement Tracking List

- 2.1.1 The tracking list set out below provides a list of all relevant commercial side agreements under preparation (or agreed) between the Applicant and Interested Parties / other persons, identifying the subject matter(s) for which a commercial side agreement is being (or has been) prepared and its current status.
- 2.1.2 As is common with commercial side agreements, specific details under negotiation are subject to confidentiality provisions preventing public disclosure. Therefore, an outline summary of the subject matter is all that it is possible for the Applicant to provide.
- 2.1.3 The Applicant will update the ExA on the progress of each commercial side agreement through updates to this tracking list issued into the Examination at relevant deadlines.

Table 2.1 – Commercial side agreement tracking list

| Parties | Subject Matter | Status | Likelihood of Resolution |
|---|---|---|---|
| (1) National Grid Electricity Transmission Plc and (2) Eastern Power Networks plc (UKPN) | Overarching agreement containing the main commercial construction terms, ways of working and overall programme for the interaction between National Grid and UKPN for the BTNO project. | Final stages. Negotiation of the NEC terms (which are included in the “Overarching Agreement” is the main outstanding action) with a small number of points remaining to be agreed. | The Applicant anticipates resolution by the close of the Examination. |
| (1) National Grid Electricity Transmission Plc and (2) Anglian Water Services Limited (AWSL) | An Interface Agreement which it is anticipated will make provision for managing construction-related interfaces capable of arising as between the Bramford to Twinstead Reinforcement and AWSL’s Bury St Edmunds to Colchester Pipeline Scheme. | Discussions between the parties in respect of the Heads of Terms (HoTs) for the Interface Agreement are at an advanced stage, with one substantive point (relating to programming for the Pipeline Scheme) remaining with AWSL for confirmation. A draft Interface Agreement will be prepared by the Applicant once those HoTs have been agreed. | The Applicant anticipates resolution by the close of the Examination. |
| (1) National Grid Electricity Transmission Plc and (2) Network Rail Infrastructure Limited (NRIL) | A Basic Asset Protection Agreement (BAPA) which relates to the design and construction of underground electric cable works and 132kV overhead line removal works forming part | The BAPA has been completed and remains in force. The Applicant is continuing to seek to engage with NRIL in relation to the commercial agreement mentioned in | The BAPA has been completed and remains in force. The Applicant anticipates resolution in relation to the commercial agreement |

| Parties | Subject Matter | Status | Likelihood of Resolution |
|--|--|--|---|
| | of the project both beneath and above the Sudbury Branch Line near Lamarsh. The Applicant understands from NRIL's Written Representation [REP2-028] that a further commercial agreement may be needed in order to regulate the carrying out of works in proximity to the Sudbury Branch Line, and the grant of rights in relation to the same. | NRIL's Representation. | Written by the close of the Examination. |
| (1) National Grid Electricity Transmission Plc, (2) Essex County Council (ECC) and (3) Suffolk County Council (SCC) | A Framework Highways Agreement which it is anticipated will make provision for the carrying out by or on behalf of the Applicant of various highway works which it is intended will be authorised by the Development Consent Order. | Heads of Terms have been produced by the Applicant. Comments were provided by SCC on 6 November, and the Applicant understands that ECC are due to provide comments at Deadline 5 (1 December). The Applicant is continuing to engage with both SCC and ECC through regular highways thematic meetings. | The Applicant anticipates resolution by the close of the Examination. |
| (1) National Grid Electricity Transmission Plc and (2) Pivoted Power LLP | An Interface Agreement which it is anticipated will make provision for ensuring that access rights are maintained over the section of shared access road running between the public highway at Bullen Lane and the Applicant's Bramford Substation site, for the benefit of both the project and Pivoted Power LLP's Bramford Battery Energy Storage System project. | Heads of Terms have been agreed with Pivoted Power LLP. Commercial negotiations between the Applicant and Pivoted Power LLP in relation to the Interface Agreement are at an advanced stage. | The Applicant anticipates resolution by the close of the Examination. |
| (1) National Grid Electricity Transmission Plc, (2) East Anglia THREE Limited (EA3) and (3) Scottish Power Renewables UK Limited (SPR) | An Interface Agreement which it is anticipated will make provision for managing construction and other related interfaces capable of arising as between the Bramford to Twinstead Reinforcement and the East Anglia Three project. | The Applicant has issued Heads of Terms (HoTs) for the Interface Agreement. Those HoTs remain under consideration by EA3 and SPR. | The Applicant anticipates resolution by the close of the Examination. |
| (1) National Grid Electricity Transmission Plc and (2) Cadent Gas Limited | A Side Agreement which it is anticipated will make provision for certain commercial matters raised in Cadent's Relevant Representation [RR-024] | The parties are engaged in discussions, with the intention that an agreement will be entered into once | The Applicant anticipates resolution by the close of the Examination. |

| Parties | Subject Matter | Status | Likelihood of Resolution |
|---------|--|------------------------------------|--------------------------|
| | and Written Representation [REP2-020]. | commercial terms have been agreed. | |

2.2 Protective Provisions Tracking List

- 2.2.1 The table below provides an update on the current status of all relevant protective provisions.
- 2.2.2 The Applicant will update the ExA on the progress of these Protective Provisions throughout the Examination, with updates to this tracking list issued into the Examination at each relevant deadline (where applicable).

Table 2.2 – Protective provisions tracking list

| Statutory undertaker | Status Update | Likelihood of resolution |
|--|---|---|
| Network Rail Infrastructure Limited (NRIL) | Protective provisions for the benefit of NRIL have been included in Part 4 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)). The protective provisions have been agreed between the Applicant and NRIL. | No disagreement |
| UK Power Networks (UKPN) | Protective provisions for the benefit of electricity undertakers (which also includes gas, water and sewerage undertakers) have been included within Part 1 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)). The content of these protective provisions is not in dispute with UKPN. | No disagreement. |
| Anglian Water Limited (AWSL) | Protective provisions for the benefit of AWSL have been included in Part 3 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)). The protective provisions have been agreed between the Applicant and AWSL, subject to confirmation of AWSL's programme as referred to in Table 2.1. | No disagreement, subject to confirmation of AWSL's programme as referred to in Table 2.1. |
| Cadent (Cadent) | The Applicant was made aware of Cadent's requirement for bespoke protective provisions through its Relevant Representation [RR-024]. Protective provisions for the benefit of Cadent have now been included in a new Part 5 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)). The protective provisions in Part 5 have been agreed between the Applicant and Cadent, subject to completion of the Side Agreement referred to in Table 2.1. | No disagreement, subject to completion of the Side Agreement referred to in Table 2.1. |
| Gigaclear | Protective provisions for the benefit of operators of Electronic Communications Code Networks have been included within Part 2 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)). The content of these protective provisions is not in dispute with Gigaclear. | No disagreement. |

| Statutory undertaker | Status Update | Likelihood of resolution |
|---------------------------------|--|---|
| Virgin Media Limited | <p>Protective provisions for the benefit of operators of Electronic Communications Code Networks have been included within Part 2 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)).</p> <p>The content of these protective provisions is not in dispute with Virgin Media Limited.</p> | No disagreement. |
| Vodafone Limited | <p>Protective provisions for the benefit of operators of Electronic Communications Code Networks have been included within Part 2 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)).</p> <p>The content of these protective provisions is not in dispute with Vodafone Limited.</p> | No disagreement. |
| BT Group Plc (BT Openreach) | <p>Protective provisions for the benefit of operators of Electronic Communications Code Networks have been included within Part 2 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)).</p> <p>The content of these protective provisions is not in dispute with BT Group Plc (BT Openreach).</p> | No disagreement. |
| East Anglia THREE Limited | <p>Protective provisions for the benefit of electricity undertakers (which also includes gas, water and sewerage undertakers) have been included within Part 1 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)).</p> <p>The Applicant is not currently aware that East Anglia THREE Limited has any concerns with the protective provisions included within Part 1 of Schedule 14.</p> <p>East Anglia THREE Limited is, however, currently reviewing the same and hence there is a potential that the output of that review process may necessitate further changes to Schedule 14 after Deadline 5 (1 December).</p> | <p>No known disagreement, subject to East Anglia Three Limited completing its review of the Applicant's proposed protection provisions.</p> |
| TC East Anglia One OFTO Limited | <p>Protective provisions for the benefit of electricity undertakers (which also includes gas, water and sewerage undertakers) have been included within Part 1 of Schedule 14 to the draft Development Consent Order (document 3.1 (E)).</p> <p>The content of these protective provisions is understood not to be in dispute with TC East Anglia One OFTO Limited.</p> | No disagreement. |

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National Grid plc
National Grid House,
Warwick Technology Park,
Gallows Hill, Warwick.
CV34 6DA United Kingdom

Registered in England and Wales
No. 4031152
nationalgrid.com