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Bramford to Twinstead Reinforcement

Volume 8: Examination Submissions

Document 8.8.4.1: Applicant's Written Summaries of Oral Submissions to Issue Specific Hearing 5

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

nationalgrid



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1. About this document

1.1 Introduction

This document summarises the case put by National Grid Electricity Transmission plc (the Applicant), at Issue Specific Hearing 5 on 13 December 2023 for the Bramford to Twinstead Reinforcement (referred to as the project).

The virtual hearing opened at 14:00 on 13 December 2023 and closed at 16:40 on 13 December 2023. The agenda for the hearing [EV-029] was published on the Planning Inspectorate's website on 4 December 2023.

In what follows, the Applicant's submissions on the points raised broadly follow the items set out in the Examining Authority's agenda.

1.2 Attendees on behalf of the Applicant

Rebecca Clutten, Counsel instructed by Bryan Cave Leighton Paisner LLP (BCLP) appeared on behalf of the Applicant.

The following expert witnesses also made submissions throughout the hearing:

- Andy Wilson, Jacobs (Construction);
- Cheryl White, Jacobs (Environment); and
- Robert Jones, National Grid (Engineering and Design).

2. The Applicant's Summary of Case on Item 3: Review of Applicant's Schedule of Changes to the Draft Development Consent Order

2.1 Item 3. Review of Applicant's Schedule of Changes to the Draft Development Consent Order

Table 2.1 – Item 3. Review of Applicant's Schedule of Changes to the Draft Development Consent Order

Issued Discussed	Summary of Oral Case
i. Review of Applicant's Schedule of Changes to the Draft Development Consent Order [REP5-020]	
Applicant's Schedule of Changes to the Draft Development Consent Order [REP5-020]	<p>The Applicant directed the Examining Authority to the Applicant's Schedule of Changes to the Draft Development Consent Order [REP5-020], which shows in full the changes made to the draft Development Consent Order (draft DCO) at Deadline 4 [REP4-030] and Deadline 5 [REP5-005].</p> <p>The Applicant will submit an updated Applicant's Schedule of Changes to the Draft Development Consent Order (document 8.4.2 (E)) and draft DCO (document 3.1 (F)) at Deadline 6.</p>
Changes at Deadline 4	<p>The Applicant summarised the changes made at Deadline 4:</p> <ul style="list-style-type: none"> • Addressing matters arising from previous Issue Specific Hearings; • Responding to matters raised in Suffolk County Council's Comments on Deadline 2 Submissions and Responses to ExQ1 [REP3-078]; and • Consequential updates and correction of minor typographical errors.
Changes at Deadline 5	<p>The Applicant summarised the changes made at Deadline 5 (each reference to an Article, Schedule or paragraph is to that Article, Schedule or paragraph in the draft DCO [REP5-005]):</p> <ul style="list-style-type: none"> • Responding to Item 4.1b of Suffolk County Council's Post-Hearing Submissions or Other Documents Requested by the [Examining Authority] at [Issue Specific Hearing 2] [REP4-043];

Issued Discussed	Summary of Oral Case
	<ul style="list-style-type: none">• Addressing matters arising from previous Issue Specific Hearings;• Incorporating agreed protective provisions (in Schedule 14, Part 5) in favour of Cadent Gas Limited (those protective provisions being agreed subject to completion of a side agreement, as noted in the Applicant's Protective Provisions and Commercial Side Agreements Tracking List [REP5-029]); and• Consequential updates and correction of minor typographical errors.

3. The Applicant's Summary of Case on Item 4: Review of Parties' Current Positions on Requirement 7 – Construction Hours

3.1 Item 4. Review of Parties' Current Positions on Requirement 7 – Construction Hours

Table 3.1 – Item 4. Review of Parties' Current Positions on Requirement 7 – Construction Hours

Issued Discussed	Summary of Oral Case
i. Schedule 3, Requirement 7 of the draft DCO [REP5-005]	
Percussive piling	<p>The Applicant explained that percussive piling could be used when installing the foundations of the cable sealing end (CSE) compounds, grid supply point (GSP) substation and pylons. A piling rig would hammer piles into the ground, building the piles up before concrete foundations are laid over the top. Percussive piling is the noisiest of the anticipated construction activities, creating a 'thump' 'thump' type noise.</p> <p>The Applicant confirmed that ground investigations undertaken during the detailed design process would confirm whether percussive piling or an alternative approach would be undertaken.</p>
Boreholes	<p>The Applicant explained that the boreholes used for ground investigation are created by a much lower noise device, which screws into the ground and then pulls out a core. This is a smaller device, towed in behind a Land Rover (or equivalent vehicle), operating on a 12 to 15 foot A-frame.</p> <p>The Applicant noted that the boreholes already undertaken had not proven to be a contentious issue.</p>
Further restrictions on the construction hours in the draft DCO [REP5-005]	<p>The Applicant confirmed that it had designed flexibility into the construction schedule to allow it to deal with any delays or other unforeseen circumstances. Both Scenario 1 and Scenario 2, as considered in the Justification for Construction Working Hours [REP3-045], would remove that flexibility as operations would simply be pushed out further into the construction programme.</p> <p>The Applicant explained that it was not the case that all construction activities would need to be undertaken on all weekends, but that it would need provision for weekend working in the construction schedule to ensure that it can achieve the key construction milestones (e.g. Outage 4 Start on 9 March 2027).</p> <p>The Applicant noted that percussive piling is a small element of the overall construction schedule. Including the restriction at Schedule 3, Requirement 7(2) of the draft DCO [REP5-005] would not have a major impact on the construction schedule and</p>

Issued Discussed	Summary of Oral Case
	<p>therefore maintains the designed flexibility. It was further noted that any impact caused by the restriction would be mitigated by the availability of alternative construction methods to percussive piling.</p> <p>Regarding the restriction on heavy goods vehicle (HGV) activities proposed in Suffolk County Council’s oral submission, the Applicant noted the relatively low number of HGVs anticipated to be generated in the context of the project. In addition, as it is a long linear project, HGV traffic would be dissipated across the length of the project and throughout the construction period.</p> <p>The Applicant submitted that it did not consider it necessary or proportionate to impose any further restrictions on construction working hours to those already included in Schedule 3, Requirement 7 of the draft DCO [REP5-005].</p>
<p>Construction Environmental Management Plan [REP3-024]</p>	<p>The Applicant explained that, against the background of Schedule 3, Requirement 7 of the draft DCO [REP5-005], it is committing to a receptor-based approach for noise sensitive receptors which would be secured through the Construction Environmental Management Plan (document 7.5 (C)). The Applicant also explained that a list of noise sensitive receptors that would be affected by noise (either due to noise levels or duration) had been identified by the Applicant and had been issued to the local planning authorities to input any further specific receptors in respect of which there are concerns. However, given the project route is concentrated in rural locations at a distance from settlements, only a limited number of specific receptors had been identified by the Applicant.</p> <p>The Applicant confirmed the process followed in undertaking that assessment:</p> <ul style="list-style-type: none"> ● ES Chapter 14 Noise and Vibration [APP-082] had applied standard noise assessment techniques, identifying receptors where the standard threshold would likely be exceeded; ● Following feedback received in relevant submissions and earlier Issue Specific Hearings, the Applicant had undertaken further assessment using a lower threshold (weekend level) and had also considered the likely duration of works in any particular location; and ● This assessment had identified a further six noise sensitive receptors. <p>Once feedback has been received from the local planning authorities, the Applicant confirmed that it would review the list and seek to identify appropriate site-specific restrictions, which would then be secured through the Construction Environmental Management Plan [REP3-024].</p> <p>The Applicant agreed to submit its draft list of noise sensitive receptors into Examination at Deadline 6. Please refer to the Technical Note for Noise Sensitive Receptors (document 8.8.7) submitted at Deadline 6.</p>
<p>Response to Suffolk County Council’s oral submissions regarding further restrictions</p>	<p>The Applicant confirmed that it was committed to continuing discussions with Suffolk County Council regarding construction hours, but submitted that in its view, and with reference to the Construction Schedules with Critical Path [REP5-027], the further concessions being sought would have the potential to frustrate the delivery of the project.</p> <p>The macro-interdependencies of the construction schedule mean that there is a need to retain the designed flexibility in the overall construction schedule. The Applicant provided the following as examples of the macro-interdependencies:</p>

Issued Discussed	Summary of Oral Case
	<ul style="list-style-type: none"> • The project interacts with the Applicant’s North London Reinforcement Project and Third Thames Crossing (Grain to Tilbury). Both of those projects have outages scheduled after those for the project, meaning that missing the project’s planned outages would result in years (rather than months) of delay whilst awaiting alternative outage dates; and • The High Voltage testing equipment required for the project is used on projects throughout Europe. Hence, if the pre-booked window is missed, the equipment will move on to its next booking (potentially anywhere in Europe), thereby causing project delay whilst awaiting a window in which it could return to the project.
	<p>The Applicant submitted that although Schedule 3, Requirement 7(3) provides for operations to take place outside the core working hours (including the testing and commissioning of electrical plant, and the completion of works delayed by severe weather conditions), such scope provides no utility once an outage has been missed. In any event, the Applicant would prefer to work to the programmed construction schedule, rather than needing to rely on carve-outs and exceptions to meet the project timetable.</p>
ii. Applicant’s Response to November Hearings Action Points [REP4-042]	
Action Point 1 arising from Issue Specific Hearing 2	<p>The Applicant provided its response to Action Point 1 at Table 3.1 (Response to Issue Specific Hearing 2 (8 November 2023)) of the Applicant’s Response to November Hearings Action Points [REP4-042].</p> <p>The Applicant confirmed that although it will seek alternate weekend working in any particular location, it cannot commit to that due to the risk to the project of removing the flexibility designed into the construction schedule. The Applicant is looking to secure an envelope within which the project can be delivered, but within that envelope it will seek to limit any effects caused by the project.</p>
Action Point 2 arising from Issue Specific Hearing 2	<p>The Applicant provided its response to Action Point 2 at Table 3.1 (Response to Issue Specific Hearing 2 (8 November 2023)) of the Applicant’s Response to November Hearings Action Points [REP4-042].</p> <p>In response to a series of questions from the Examining Authority regarding the alignment of Appendix A of Construction Schedules with Critical Path [REP5-027] with ES Appendix 4.2 Construction Schedule [APP-091] the Applicant explained that:</p> <ul style="list-style-type: none"> • ‘Site establishment’ would include setting up construction compounds, establishing temporary access routes and bellmouths and carrying out vegetation clearance; • When carrying out the undergrounding between the Stour Valley East CSE compound and the Stour Valley West CSE compound: <ul style="list-style-type: none"> — The swathe needed to complete the works would be fenced off, providing the necessary clearance for both the topsoil and subsoil to be kept separately; — The temporary access route would typically be constructed in the centre of the swathe; — At the Stour Valley East CSE compound, the first team will begin creating the trenches and laying the ducts required for Circuit 1 (to the south of the temporary access road), and after a week or two of progress, the second

Issued Discussed**Summary of Oral Case**

- team will begin creating the trenches and laying the ducts required for Circuit 2 (to the north of the temporary access route);
- Once the first section has been completed, there will be a rough reinstatement by backfilling the subsoil over the ducts;
 - Near Sudbury, the first trenchless crossing would begin east of the B1508 and go under the road and the River Stour, coming out to the east of the railway line (18 larger bores for the high voltage cables and three smaller bores for fibre-optic cables);
 - The second trenchless crossing would then go under the railway line to minimise the disruption to Network Rail Infrastructure Limited's assets, coming out to the west side of Henny Road;
 - Once the trenchless crossings are completed as set out in the bullet points above, the teams would revert to creating the trenches and laying the ducts until the further trenchless crossing to the south of Ansells Grove;
 - From there, creating trenches and laying ducts would be continued until the Stour Valley West CSE compound; and
 - Sets of 400kV cable drums will be delivered to both the Stour Valley East and the Stour Valley West CSE compounds, from where the individual cable drums will be taken via the temporary access route in the centre of the swathe to the appropriate joint bay and then pulled through the existing ducts and joined at the jointing bays;
- Works to remove the 132kV overhead line are programmed to begin in 2024, the pylons needing to be removed before handing the section over to the cable contractor to carry out installation of the underground cables;
 - Cables and civils works are programmed to start in March 2025, allowing for the worst of the winter weather to have passed (and assuming that development consent is granted in September 2024), albeit certain operations (such as establishing the main construction compound, and installation of fencing and drainage) are likely to take place prior to March 2025;
 - While works would not be undertaken over the Christmas period (there being a two week shut down of operations), works may sometimes be carried out over the Easter period if this aligns with the start of the outages season; and
 - The Applicant, being a responsible developer and contracting with responsible contractors, has assumed standard 12-hour worker shifts, factoring in briefing sessions and a standard set of breaks (including a lunch break). Such "non-productive" time is already factored into the construction schedule.

The Applicant agreed to provide further analysis and detail in the Applicant's Response to the December Hearing Action Points (**document 8.8.3**) regarding any matters that might be viewed as inconsistencies between Illustration 2.1 in ES Appendix 4.2 Construction Schedule [**APP-091**] and Appendix A of Construction Schedules with Critical Path [**REP5-027**].

Issued Discussed	Summary of Oral Case
Robustness of the construction schedule	<p>The Applicant confirmed that its internal approval process would not be an impediment to carrying out initial works in Q3 2024 following a decision by the Secretary of State to grant development consent. The Applicant would carry out a pre-approval process ahead of the decision being taken by the Secretary of State, thus allowing it to be ready to commence works immediately following the grant.</p> <p>The Applicant noted that it would be able to begin activities during the judicial review period if that was needed to maintain the programme (such as discharging requirements under the draft DCO [REP5-005] and initial works on site). Any such works or operations would be undertaken ‘at risk’ from a judicial review perspective.</p> <p>The Applicant submitted that, whilst challenging, it is of the view that the construction schedule is realistic and deliverable, allowing it to meet the timelines required. The Applicant also submitted that the construction schedule was influenced by its own experience as a promoter of similar projects (such as the Hinckley Point C Connection Project), as well as the experience of specialist contractors who are used to delivering such schemes.</p> <p>The Applicant noted that it had already demonstrated its commitment to delivering the project at pace, by commencing works on the GSP substation pursuant to consents obtained outside of the DCO process.</p>
iii. Schedule 3, Requirement 7 of the draft DCO [REP5-005]	
Defining ‘severe weather conditions’	<p>The Applicant submitted that it would be inappropriate to define ‘severe weather conditions’ in the draft DCO [REP5-005].</p> <p>As the draft DCO [REP5-005] will be a statutory instrument and, hence, the approach taken to its construction will be that taken when interpreting all legislation, the Applicant explained that it will be presumed that Parliament intended to give the term its ordinary and natural meaning unless the context suggested otherwise.</p> <p>In any event, any definition in the draft DCO [REP5-005] would need to be stated to be non-exhaustive (i.e. ‘including, but not limited to,’ the matters set out) so as to mitigate the risk of unduly restricting the scope of the powers sought.</p> <p>The Applicant invited the local planning authorities to provide recent precedent of ‘severe weather conditions’ having been defined in any made development consent orders.</p> <p>In response to oral submissions made on behalf of Suffolk County Council, the Applicant explained that any attempt to define ‘severe weather conditions’ in a construction contract was a matter for the contracting parties. The Applicant noted that the legislative approach to drafting is entirely different to the contractual approach to drafting.</p>
Whether the construction hours would apply to ‘pre-commencement operations’	<p>The Applicant confirmed that Schedule 3, Requirement 7 of the draft DCO [REP5-005] does apply to all ‘pre-commencement operations’ (as defined in Article 2(1)).</p> <p>The Applicant explained that the ‘pre-commencement operations’ still comprise part of the ‘authorised development’, thereby placing them entirely within the scope of Schedule 3, Requirement 7 of the draft DCO [REP5-005].</p>

Issued Discussed	Summary of Oral Case
	<p>On this basis, the Applicant submitted that it did not believe there was any doubt regarding the position of 'pre-commencement operations' within the scope of Schedule 3, Requirement 7 of the draft DCO [REP5-005], but agreed to consider the point further following the hearing.</p>
	<p>The Applicant's response on this point is set out in the Applicant's Response to the December Hearing Action Points (document 8.8.3).</p>

4. The Applicant's Summary of Case on Item 5: Implications for the Councils of Draft Article 53 – Safeguarding

4.1 Item 5. Implications for the Councils of Draft Article 53 – Safeguarding

Table 4.1 – Item 5. Implications for the Councils of Draft Article 53 – Safeguarding

Issued Discussed	Summary of Oral Case
There was nothing that the Examining Authority wished to raise in relation to Item 5. Consequently, the Applicant made no oral submissions.	

5. The Applicant's Summary of Case on Item 6: Perceived Problems with Control Documents / Management Plans

5.1 Item 6. Perceived Problems with Control Documents / Management Plans

Table 5.1 – Item 6. Perceived Problems with Control Documents / Management Plans

Issued Discussed	Summary of Oral Case
There was nothing that the Examining Authority wished to raise in relation to Item 6. Consequently, the Applicant made no oral submissions.	

6. The Applicant's Summary of Case on Item 7: Temporary Construction Compounds

6.1 Item 7. Temporary Construction Compounds

Table 6.1 – Item 7. Temporary Construction Compounds

Issued Discussed	Summary of Oral Case
There was nothing that the Examining Authority wished to raise in relation to Item 7. Consequently, the Applicant made no oral submissions.	

7. The Applicant's Summary of Case on Item 8: Article 2 – ‘Pre-commencement Operations’

7.1 Item 8. Article 2 – ‘Pre-commencement Operations’

Table 7.1 – Item 8. Article 2 – ‘Pre-commencement Operations’

Issued Discussed	Summary of Oral Case
There was nothing that the Examining Authority wished to raise in relation to Item 8. Consequently, the Applicant made no oral submissions.	

8. The Applicant's Summary of Case on Item 9: Local Authorities' Suggested Amendments to the Draft DCO

8.1 Item 9. Local Authorities' Suggested Amendments to the Draft DCO

Table 8.1 – Item 9. Local Authorities' Suggested Amendments to the Draft DCO

Issued Discussed	Summary of Oral Case
There was nothing that the Examining Authority wished to raise in relation to Item 9. Consequently, the Applicant made no oral submissions.	

9. The Applicant's Summary of Case on Item 10: Any Other Business

9.1 Item 10. Any Other Business

Table 9.1 – Item 10. Any Other Business

Issued Discussed	Summary of Oral Case
i. Further Issue Specific Hearings	
Further Issue Specific Hearings	In response to oral submissions made on behalf of Suffolk County Council, the Applicant noted that it was content to leave the final decision on holding further Issue Specific Hearings in relation to the draft DCO [REP5-005] to the discretion of the Examining Authority.

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