

Bramford to Twinstead Reinforcement

Volume 8: Examination Submissions

Document 8.11.2: Applicant's Comments on Host Authorities Deadline 8 Letter

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Contents

1.	Introduction	1
1.1	Purpose of the Document	1
1.2	Applicant's Overall Position	1
1.3	Structure of the Document	2
2.	Adequacy of Management Plans	3
2.1	Introduction	3
2.2	Applicant's Position	3
3.	Adequacy of Landscape Mitigation and Compensation	11
3.1	Introduction	11
3.2	The Applicant's Position	11
4.	Control and Supervision of the Execution and Aftercare of Landscape and Ecological Mitigation, and Biodiversity Net Gain	13
4.1	Introduction	13
4.2	The Applicant's Position	13
5.	Finalisation of Management Plans and Discharge of Requirements	16
5.1	Introduction	16
5.2	The Applicant's Position	16

6.	Working Hours	19
6.1	Introduction	19
6.2	The Applicant’s Position	19
7.	Schedule 4 (Discharge of Requirements) Fees	21
7.1	Introduction	21
7.2	The Applicant’s Position	21
8.	Side Agreements (An Update On Community Benefits)	22
8.1	Introduction	22
8.2	The Applicant’s Position	22
9.	Conclusion	24

Bramford to Twinstead Reinforcement

Document control

Version History

Date	Issue	Status	Description / Changes
23 February 2024	A	Final	For submission at Deadline 9.

1. Introduction

1.1 Purpose of the Document

- 1.1.1 This Document provides National Grid Electricity Transmission plc's (the Applicant) comments on the Councils' Comments on Deadline 7 Submissions [REP8-044] received at Deadline 8 (9 February 2024) in relation to an application made for development consent for the Bramford to Twinstead Reinforcement (the project).
- 1.1.2 Essex County Council (ECC), Suffolk County Council (SCC), Braintree District Council (BDC) and Babergh and Mid Suffolk District Councils (BMSDC) ('the Councils') and the Dedham Vale National Landscape and Stour Valley Partnership submitted a Letter to the Examining Authority at Deadline 8 ('the Letter') outlining their concerns.
- 1.1.3 The Councils acknowledge the need for grid reinforcement, accept the principle of the scheme, and support the fundamental mitigation proposed (such as undergrounding in the Stour Valley and removal of redundant 132kV transmission lines). However, the Letter [REP8-044] identified seven remaining issues, these are:
- Adequacy of Management Plans;
 - Adequacy of Landscape Mitigation and Compensation;
 - Control and supervision of the execution and aftercare of Landscape and Ecological Mitigation and Biodiversity Net Gain, by Local Planning Authorities;
 - Finalisation of Management Plans and Discharge of Requirements;
 - Working Hours;
 - Schedule 4 (Discharge of Requirements) Fees; and
 - Side Agreements (An update on Community Benefits).

1.2 Applicant's Overall Position

- 1.2.1 The Applicant believes that the Project has benefited immensely from many years of productive engagement and dialogue with the Councils. This has directly led to changes to the project, substantially reducing impacts on the environment and communities, ultimately leading to a better Project. Key examples of this include:
- The decision to adopt Corridor 2 and therefore enable the removal of the existing UKPN 132kV overhead line;

- Additional undergrounding in the Stour Valley due to the highly valued landscape;
- The decision to route the new overhead line to the north of Hintlesham Woods SSSI as opposed to through the woods parallel to the existing line; and
- Restrictions on the siting the pylon in the setting of Hintlesham Hall Grade 1 Listed Building.

1.2.2 The Applicant is therefore disappointed to read the Councils' position at this stage of the examination. It is the Applicant's view that proposals for implementation and control of the construction of the project are proportionate (based on a policy and evidence-based approach), with precedent, and the level of control requested by the Councils is unnecessary and restrictive.

1.3 Structure of the Document

1.3.1 Each of the Councils' key issues outlined above have been addressed in separate Chapters (Chapter 2 – 8) of this Document. The Applicant then sets out its conclusion at Chapter 9.

2. Adequacy of Management Plans

2.1 Introduction

2.1.1 The Councils consider that the following Management Plans require substantial revision due to insufficient detail, and that these issues are exacerbated by the lack of a commitment to a two-stage, (outline and final) approval process.

- Construction Environmental Management Plan (CEMP);
- Outline Written Scheme of Investigation (OWSI);
- Construction Traffic Management Plan (CTMP);
- Landscape and Ecological Management Plan (LEMP); and,
- Public Rights of Way Management Plan (PRoWMP).

2.2 Applicant's Position

2.2.1 The Applicant's view is that the issue is not that the Management Plans have insufficient detail, but that there is a disagreement over what should or should not be included within Management Plans. It is not proportionate or necessary for all details of a development project and its construction to be controlled by management plans approved by the Councils. However, this is particularly unnecessary for Nationally Significant Infrastructure Projects (NSIP) where a principle of the Planning Act 2008 regime is to streamline both the process of securing development consent and the actual delivery of the NSIP itself.

2.2.2 The Applicant holds the electricity transmission licence in England and is an experienced developer of large linear projects and already subject to a framework of legislation and licence obligations that control its operations. This includes a licence duty to deliver transmission infrastructure in an economic and efficient manner with regard to preserving amenity. The Applicant is therefore unable to accept further controls or restrictions that ultimately result in costs for energy consumers or delays delivering the project that are not evidence-based (for example a policy requirement or outcome of the Environmental Impact Assessment (EIA) process, in particular mitigating significant effects).

2.2.3 The Management Plans provide the framework and parameters within which the Applicant would deliver the project including managing the potential environmental effects from construction activities. The measures within the Management Plans centre around best practice and industry standards. The Management Plans also provide the securing mechanisms for the embedded measures, good practice measures and the additional mitigation identified during the EIA process. The purpose of the Management Plans is to provide the Main Works Contractor with details of the desired outcomes of the project and to identify the controls required

to avoid and reduce significant effects, as reported in the EIA. Therefore, the Management Plans are based on desired outcomes, to ensure the stated objectives of the plan are met and not necessarily a prescriptive methodology that would constrain the contractor in fulfilling these outcomes or indeed further betterment. The Applicant does not consider that the purpose of the Management Plans is to confirm every 'final detail' relating to the construction of the project, as this would unnecessarily stifle flexibility and innovation for the Main Works Contractor to construct this important NSIP. The Applicant, therefore, considers the Management Plans to be fit for purpose in terms of controlling the likely significant effects identified in the EIA.

- 2.2.4 The approach taken and level of detail provided in the Management Plans is comparable to that approved by the Secretary of State on other development consent orders for electric lines (the National Grid (Hinkley Point C Connection Project) Order 2016 (Hinkley Connection Order) and the National Grid (Richborough Connection Project) Order 2017 (Richborough Order)).
- 2.2.5 Where some details cannot be provided at this stage (for example where they require the outcome of pre-construction surveys or detailed design) and the Applicant understands that it is appropriate to do so, there are existing mechanisms built into the Development Consent Order (DCO) which allow for the later submission of such details. Examples are provided in the separate Management Plan headings below. The Management Plans also have provision for secondary permits and consents that will be required at detailed design stage and provide further controls, for example Flood Risk Activity Permits, Ordinary Water Consents, Protected Species Licences and Section 61 Consent under the Control of Pollution Act 1974.
- 2.2.6 The Management Plans are listed in sub-paragraph (2) of Requirement 4(1) of the draft DCO (**document 3.1 (H)**) which states: *'All construction works forming part of the authorised development must be carried out in accordance with the plans listed in sub-paragraph (2) below, unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate to the relevant plan concerned.'*
- 2.2.7 The Applicant has worked closely with the Councils over many years and has also made substantial changes to the Management Plans in response to feedback received (both prior to application and during examination) in order to secure additional mitigation and detail. However, in the Applicant's view, the Councils have continued to press for unnecessary details to be provided and activities controlled without evidence as to why this is required.
- 2.2.8 The Applicant has endeavoured to review and respond to all revisions proposed by the Councils, explaining the rationale for incorporating amendments, or rejecting them where they cannot be accepted. Further detail on the specific concerns raised on each Management Plan and the Applicant's response is set out below. Comments concerning a two-stage process for the Management Plans are detailed separately in Chapter 5 (Finalisation of Management Plans and Discharge of Requirements) of this Document.

Construction Environmental Management Plan (CEMP)

- 2.2.9 Whilst the Applicant is not clear whether the Councils have concerns with only the CEMP or the CEMP including its Appendices (the Code of Construction Practice (CoCP) and the Register of Environmental Actions and Commitments (REAC)), for the purpose of this document, the Applicant will assume the Councils are referring to the CEMP in full.

- 2.2.10 There have been very few comments, and even fewer substantive comments received on the CEMP and its Appendices during the course of the Examination. The Applicant is, therefore, surprised that the Councils consider the CEMP to have inadequacies. The first substantive comments received in respect of the CEMP came in the form of ECC's Deadline 8 submission where ECC engaged a soil specialist to review the CEMP, who identified a number of perceived issues. The Essex Councils (ECC and BDC) endorsed the comments made by the soil specialist and requested that the CEMP be updated accordingly in response to these comments.
- 2.2.11 The Applicant considers that Chapter 11 (Agriculture and Soils) of the CEMP (**document 7.5 (E)**) contains all the information required to fulfil the role of a Soil Management Plan, and to manage likely significant effects on soil.
- 2.2.12 Notwithstanding the Applicant's primary position on this matter, the Applicant has, in response to ECC's and BDC's feedback, included a new Requirement 14 ('Approval and implementation of Soil Management Plan') in Schedule 3 of the draft DCO (**document 3.1 (H)**) at Deadline 9 which would require the Applicant to submit a Soil Management Plan for the relevant stage, setting out further details once pre-construction surveys and detailed construction planning have been completed, to the relevant planning authority for approval prior to construction.
- 2.2.13 In addition to the commitment made above regarding the provision of a Soil Management Plan, the Applicant acknowledges that further details would be necessary regarding specific matters once a Main Works Contractor is appointed. Other mechanisms within the DCO allow for the submission of these details. Examples include (not limited to):
- Details required for necessary permits and consents; this would include details of the temporary watercourse crossings in the form of Flood Risk Activity Permits for the main rivers and Ordinary Watercourse Consents for the non-main rivers and Section 61 consents for construction activities which could generate significant noise effects at a receptor or where noisy activities would be expected to take place outside of the Core Working Hours stipulated within the DCO. The applications for the permits and consents would be submitted to the 'relevant authority', which for the Section 61 consents would be the Local Planning Authorities and for the Ordinary Watercourse Consents would be the County Councils;
 - Details relating to the operational surface water management associated with the project would be provided by the Drainage Management Plan secured through Requirement 5 of the DCO. The Drainage Management Plan would be submitted to and approved by the 'relevant planning authority'; and
 - Details relating to the specific construction method chosen for the trenchless crossings and an assessment of the potential effects on hydrogeological receptors. The assessment and any further mitigation measures proposed would be submitted to the Environment Agency for approval, in accordance with good practice measure GH07 in the CoCP (**document 7.5.1 (D)**).

Outline Written Scheme of Investigation (OWSI)

- 2.2.14 Whilst the Letter submitted at Deadline 8 does not go into detail on the Councils concerns with the OWSI, SCC provided feedback on the OWSI to the Applicant between Deadline 6 and 7 and submitted these comments into the Examination at Deadline 7 [REP7-

034]. The Applicant responded to these comments at Deadline 7 **[REP7-022]**. At Deadline 8, SCC provided a response to the Applicants comments **[REP8-041]** Comments on the Applicant's Response to the OWSI Amendments. Updates have been made to the OWSI as a direct result of the feedback received from the Councils. In summary, comments on the OWSI details the following issues which have been raised by the Councils under matter 4.6.1 of the Statement of Common Ground Local Authorities **(document 7.3.1 (D))**:

- **Trial trenching on the overhead line sections:** The Applicant maintains its position that it is not proportionate to undertake trial trenching in the overhead line sections given the limited excavation required (access tracks and pylon bases). In many cases, existing accesses have been utilised and the temporary access route may use trackway matting or similar without the need to excavate soil. The footprint of the pylon bases and temporary access routes would be too small to warrant meaningful trial trenching. In any case, the location of the temporary access routes and the final pylon bases are not fixed and are unlikely to be confirmed until late in the detailed design process or even during construction. The Applicant considers that Archaeological Monitoring and Recording at such locations would be sufficient, given the small areas of soil that would be disturbed. This is consistent with what is typically done by the Applicant when constructing new pylons around the country.
- **Completion of archaeological evaluation in areas of targeted trial trenching to more accurately define the nature, scale and complexity of the archaeological remains within these areas:** The Councils have been sent details of what was found within each trench during the trial trenching in interim reports (Phase 1 and 2) and through daily site communications during the trial trenching as part of confirming that the trench could be closed. A final report will be delivered in March 2024 detailing all the trial trenching results. Archaeology was absent from a number of the trial trench locations, hence the proposed removal of many areas from further mitigation in the OWSI. Where archaeological remains have been found, mitigation has been proposed.
- **Adequate evaluation in any other areas of impact not yet assessed where topsoil stripping may be required:** In terms of areas proposed for landscaping, the Applicant does not consider there to be a need to trial trench these areas, as these are primarily located in previously wooded areas e.g. around Hintlesham Woods and at Ansells Grove. Indeed, the impact of the investigations is likely to have a greater impact than the proposed planting itself. The Applicant does not consider trial trenching to be a suitable evaluation of the temporary access routes, firstly as these are not fixed and could change any time up to and during construction. Secondly, as these are long linear features typically between 4-8m wide, which are narrow and would provide limited archaeological evaluation and understanding of the context, on that basis the Applicant considers the cost to be disproportionate to the information that would be gained;
- **Further detail on palaeoenvironmental and geoarchaeological investigation:** The Applicant maintains that the project would have a limited impact on palaeoenvironmental and geoarchaeological remains. Two areas have been identified where such remains may be present and impacted by the project (River Box and River Stour). These are both associated with trenchless crossings and therefore would have limited disturbance of the deposits. The Applicant is proposing to undertake further investigation of the deposits at the trenchless crossing send and receive pits and the works would be subject to a detailed Written Scheme of Investigation requiring approval from the County Archaeologist (Requirement 6(2) of the draft DCO **(document 3.1 (H))**). The Applicant does not consider that further extensive investigation is warranted given the limited

excavation footprint in these areas. The OWSI has been updated at Deadline 9 (**document 7.10 (D)**) to confirm that the Detailed WSI will include the following:

- A palaeoenvironmental sampling strategy proportional to the scale of likely impact, informed by consultation with the regional Historic England Science Advisor;
 - Provision for radiocarbon (C-14) dating for the top and bottom of peat sequences if present and affected by the project;
 - Provision for optically stimulated luminescence dating if needed for discovery of organic remains;
 - Liaison with groundwater specialists for advice in determining the potential impact on organic remains within waterlogged deposits; and
 - Consultation with the regional Historic England Science Advisor regarding potential impacts of hydrology, the palaeoenvironment and other sensitive buried deposits affected by hydrological change.
- **Formulation of an appropriate mitigation strategy taking into account the above bullet points:** The Applicant maintains that the mitigation set out within the OWSI is appropriate given the results of the surveys (including trial trenching) and the anticipated extents of excavation during construction.

2.2.15 The Applicant also notes that the OWSI (**document 7.10 (D)**) is already an outline plan with the details to be provided later in the form of a Detailed Written Scheme of Investigation, in accordance with Requirement 6 of the draft DCO (**document 3.1 (H)**). The Applicant has updated the OWSI and considers that sufficient information is given regarding these matters for an outline document, leaving the details requested to be presented in the Detailed Written Scheme of Investigation.

Construction Traffic Management Plan (CTMP)

2.2.16 The Applicant has met the Councils regularly throughout Examination and has provided significant additional information to proactively resolve issues. The Applicant has also incorporated a number of changes to the CTMP to address comments, in many cases directly accepting changes suggested by the Councils and securing details that go beyond what the Applicant considers necessary, in the spirit of reaching consensus.

2.2.17 The Applicant considers that there are a small number of specific issues where the parties have been unable to agree, details of which are recorded in the Statement of Common Ground Local Authorities (**document 7.3.1 (D)**). The Applicant considers that the most substantive highways points remaining, discussed throughout the Examination, are:

- **The Councils consider that the Applicant should secure daily traffic numbers per access (in addition to staff shift patterns, staff numbers and peak construction vehicles).** The Applicant notes that National Policy Statement EN-1 (2011) (paragraph 5.13.11) states that requirements may be attached to a consent to control numbers of HGV movements '*where there is likely to be substantial HGV traffic*'. (This is also reflected in paragraph 5.14.14 of National Policy Statement EN-1

designated in January 2024). There will not be substantial HGV traffic generated by the project (see the Transport Assessment [APP-061]). This paragraph also discusses only securing HGV numbers; whereas the Councils have gone further requesting that all traffic should be controlled. The Councils' request goes beyond even that considered for developments generating substantial traffic. Notwithstanding whether the requirement is necessary, it would also be impractical and unreasonably burdensome on a long linear project to control where vehicles may enter the project from a large number of different access points on a daily basis.

- **The Councils consider that vehicles should have a unique identifier** so local people know the vehicles are associated with the project. Again, the Applicant considers this unnecessary and from experience has found this difficult to implement in practice for this type of development.
- **The Councils consider that the Applicant should provide detailed designs for all accesses and a more precise indication of the level of vegetation pruning/ loss associated with those accesses prior to determination of the Application.** The Applicant has always been clear that providing the detailed design for all accesses during Examination would not be possible because detailed design has not been completed for any aspect of the project, the Main Works Contractor is not yet appointed (similar to most NSIP at the examination phase) and there was insufficient time to develop this detail even if there was sufficient understanding of the construction to do so. Instead, the detailed design of the accesses is secured by Requirement 11 of the draft DCO (**document 3.1 (H)**); and the vegetation removal by Requirement 8. Both Requirements are approved by the Councils.
- **At the Councils' request, the Applicant has altered the draft DCO to include a requirement for Road Safety Audits** and clarified that Requirement 11 applies to accesses utilised pre-commencement of development. The Applicant also agreed that a number of high priority accesses would be examined to demonstrate that the solutions at the Applicant's disposal were likely to mean that Requirement 11 could be discharged. This detail has been provided. Despite this, and the relatively high level of agreement at thematic meetings, the Councils have continued to request a level of detail that is not available and not necessary to provide at this stage.

2.2.18 Therefore, the first two issues are those where there is a difference of opinion in what it is necessary to secure; rather than insufficient detail being provided. If there were an additional stage to the CTMP for approval by the Local Highway Authorities, the Applicant's concern is that the same arguments would be replayed in the discharge of the requirement but would not likely change the position of either party. This has the potential to frustrate the delivery of an urgent infrastructure project. The third point is not a matter for the CTMP and is already secured in the draft DCO, and the fourth point has similarly been included in the draft DCO. Therefore, the Applicant is of the view that concessions have been made on numerous points to address comments on the CTMP and no further action is necessary.

Landscape and Ecological Management Plan (LEMP)

- 2.2.19 Generally, the Applicant understands that the concerns the Councils have in respect to the LEMP are largely attributed to wider concerns in respect to the current proposals for landscape and visual mitigation. They consider that a strategic landscape restoration scheme for the project is required, to mitigate and to compensate for the adverse effects on the landscape and the communities. The Applicant has responded to this point in Chapter 3 of this Document.
- 2.2.20 The purpose of the LEMP is not to provide details of survey and assessment, nor to provide detailed method statements, its purpose is to provide a framework for how impacts will be managed ('the outcomes-based approach'). The Applicant notes that Requirement 8 commits the Applicant to submitting the plans showing vegetation retention and removal to the Councils as part of the discharge of requirements. In addition, Requirement 9 commits the Applicant to providing the reinstatement (including embedded planting and mitigation) planting to the councils along with a schedule of trees, hedgerows or other plants or seedlings to be planted, noting numbers, species, sizes and planting density of any proposed planting or seedlings. Therefore, the Councils will have a further opportunity to comment on the extent of vegetation retention and removal and the planting proposals, outside of the Management Plan, once this detail is known.
- 2.2.21 The Applicant also updated Requirement 9 of the draft DCO to confirm that the reinstatement planting plan submitted to the relevant planning authority must include a landscape plan for each CSE compound, which will show the proposed hard and soft landscaping and proposed finishes for hard landscape features in response to comments from the Councils on this matter. This matter is now agreed with the Councils, as recorded in the Statement of Common Ground (**document 7.3.1 (D)**).
- 2.2.22 The Applicant has taken onboard a number of comments made by the Councils in updating the LEMP and is of the view that concessions have been made on numerous points to address comments on the LEMP and no further action is necessary.

Public Rights of Way Management Plan (PRoWMP)

- 2.2.23 The Applicant is unaware of any outstanding concerns with the PRoWMP, as this has since been agreed within the Statement of Common Ground Local Authorities (**document 7.3.1 (D)**), which states at 3.8.4, 'PRoW Management Plan (PRoWMP), subject to a limited number of further revisions which will be updated at Deadline 8, the Consultee agrees with the content of the PRoWMP [REP3-056]'.
- 2.2.24 In accordance with GG07 in the CoCP, any PRoW temporarily affected will be reinstated, to at least a similar style and quality to its pre-construction condition as noted in Article 15 (7) of the draft DCO. If any changes are required to the PRoWMP, these would be addressed through the change process documented in Section 6.5 of the PRoWMP. Further, in such cases, Article 15(5)(b) of the draft DCO, requires the Applicant to obtain the consent of the Relevant Highway Authority which may attach reasonable conditions to such consent.
- 2.2.25 As per the Council's requests during the course of the Examination, the PRoWMP was firstly created and then subsequently updated to include (amongst other revisions):

- Indicative sequencing details of the PRow closures;
- Confirmation that the exact details of the forms of closure will be developed by the Applicant and its Main Works Contractor and will be subject to discussion with the PRow Officers at ECC and SCC; and
- Confirmation that the Applicant's community relations team will notify the commencement and likely duration of the construction work activities to the community and user groups identified by the Councils.

2.2.26 The Applicant has taken onboard a number of comments made by the Councils in preparing and updating the PRowMP and is of the view that no further action is necessary.

3. Adequacy of Landscape Mitigation and Compensation

3.1 Introduction

3.1.1 The Councils state in their letter that they do not consider that the current proposals for landscape and visual mitigation are adequate, and that they consider a strategic landscape restoration scheme for the project is required to fully mitigate and to compensate for the adverse effects on the landscape and the communities affected by the project.

3.2 The Applicant's Position

3.2.1 National Policy Statement (NPS) EN-1 (January 2024), like its predecessor (2011, the primary policy upon which the decision will be made) recognises that virtually all large infrastructure projects will have adverse landscape and visual effects. The Applicant maintains the view that the Bramford to Twinstead Reinforcement is a well mitigated project, both in terms of rationalisation of existing infrastructure, undergrounding of the proposed infrastructure in the most highly valued landscapes (Dedham Vale National Landscape and the Stour Valley), by the use of trenchless construction practises at key landscape features and reinstatement and mitigation planting, and will result in long-term landscape and visual benefits in these locations. The project has also committed to a 10% Biodiversity Net Gain which will complement landscape and visual reinstatement and mitigation planting. As such, the benefits of the project will significantly and demonstrably outweigh the harm identified.

3.2.2 In this context, the project performs very well in landscape and visual terms, providing 29km of transmission infrastructure with very limited landscape and visual adverse effects and delivering beneficial effects in sensitive landscapes. The mitigation hierarchy has been applied and the project includes measures that have led to this positive outcome. In this context, the Applicant does not consider that any further compensation is required and is of the view that the project complies with policies on the mitigation hierarchy as presented in revised NPS EN-1 (January 2024) (though, the application will be determined in accordance with the extant 2011 NPS).

3.2.3 The term 'mitigation hierarchy' is not used in the Infrastructure Planning (EIA) Regulations 2017 (EIA Regulations). However, the EIA Regulations state in Article 14(2)(c) that an ES must include: *'a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment'*. The important points here being that:

- the ES must include a description of measures envisaged, but not that this must result in all significant effects being mitigated or offset; and

- the words 'if possible' are inserted before the word 'offset'. The EIA Regulations therefore do not treat offsetting (or the similar word 'compensation') in the same way as prevention or reduction.
- 3.2.4 The Applicant stands by its assessment presented in ES Chapter 6: Landscape and Visual [APP-074], which has been undertaken by suitably qualified landscape architects who are experienced in assessing and mitigating the effects of electrical infrastructure. The assessment is based on robust methodology set out in Guidelines for Landscape and Visual Impact Assessment 3 and has been informed by multiple site surveys. Overall, the assessment has identified a large number of receptors that would benefit from the project, including receptors in the Dedham Vale AONB and the Stour Valley.
- 3.2.5 The landscape and visual assessment has identified a small number of receptors that would experience residual significant adverse effects, namely in parts of Burstall and to the north of Hintlesham where there would be a new overhead line. Although, the Applicant has proposed planting at these locations, it is noted that this would not completely mitigate the effects to the receptors (and indeed any quantity of planting will not fully mitigate the effect of the additional pylons in the landscape). The Applicant maintains that the planning balance, and the significant beneficial effects that would be experienced at other receptors, including the receptors in the Dedham Vale National Landscape and in the Stour Valley, would outweigh the small number of adverse effects. Therefore, the Applicant does not consider there to be a need to include further planting to compensate for the effects of the project, which in any case, would not benefit the receptors adversely affected.
- 3.2.6 The Environmental Statement is fully compliant with the EIA Regulations; it clearly sets out measures incorporated to avoid, prevent, reduce and, if possible, offset likely significant effects. The 'mitigation hierarchy' is also not mentioned in the NPS EN-1 or EN-5 (2011), which remain the primary documents used for determining the application for development consent for the project.
- 3.2.7 The Applicant has provided further details in response to this matter in Table 2.1 (ref 5.8, pages 47 to 49) of the Applicant's Comments on Other Submissions Received at Deadline 4 [REP5-025].

4. Control and Supervision of the Execution and Aftercare of Landscape and Ecological Mitigation, and Biodiversity Net Gain

4.1 Introduction

4.1.1 In respect to the control and supervision of the execution and aftercare of landscape and ecological mitigation, and Biodiversity Net Gain, the Councils make two sub-points:

- The Councils consider that the aftercare period for some elements of the mitigation planting is inadequate and consider that if ecological mitigation fails, then Biodiversity Net Gain cannot be achieved; and
- Secondly, the Councils consider that there is a lack of control afforded to the relevant planning authorities in the process of aftercare, for mitigation and Biodiversity Net Gain, and consequently, there is an inability for the Councils to monitor and secure satisfactory outcomes.

4.2 The Applicant's Position

4.2.1 The Applicant considers that the project strikes the correct balance with regard to the duration of the aftercare period, having thought very carefully about an appropriate aftercare strategy at each location based on the specific needs of the local environment, the desired outcome, rather than applying a standard blanket duration across the project. The approach taken also needs to take account of land rights considerations. Generally, the Applicant does not acquire the freehold of land (with the exception of the non-linear sites) - instead it acquires rights from existing landowners who continue to own and manage their land (mainly for agricultural purposes). Therefore, the impact on landowners of any planting and subsequent obligations and restrictions must be considered. Where the Applicant has sought compulsory acquisition powers, the Applicant must demonstrate that there is a compelling case in the public interest for those powers. In this particular context considerations therefore included the constraints on landowners by virtue of the rights sought.

4.2.2 As noted in other submissions, landscape screening (incorporating reinstatement planting) at the GSP substation and the CSE compounds has been embedded into the design of the project and will be retained for the lifetime of the transmission asset as confirmed by embedded measures EM-D01, EM-F01, EM-G03, EM-G06 and EM-H02 set out within the REAC (**document 7.5.2 (F)**).

- 4.2.3 The Applicant has committed to up to 30 years of aftercare for mitigation planting MM09 at Hintlesham Woods, which is a priority site for the creation of mixed broadleaved native woodland planting, scrub planting and species rich grassland. The 30-year aftercare period for MM09 is considered necessary to enable the woodland planting to achieve the growth rates predicted and secure its long-term viability. This is also a strategic site which would connect Sites of Special Scientific Interest.
- 4.2.4 The Applicant has committed to maintaining the Biodiversity Net Gain for a period of up to 30 years, as described in paragraph 7.3.1 in the Environmental Gain Report [**APP-176**], despite not being a mandatory requirement. In accordance with the Applicant's transmission licence, the Applicant has committed to delivering at least a 10% Biodiversity Net Gain on the project and this is reflected in Requirement 13 of the draft DCO (**document 3.1 (H)**). The Applicant has used the Defra Metric and current guidance to quantify the habitats affected and how it would deliver 10% Biodiversity Net Gain on the project. Requirement 13 of the draft DCO requires the Applicant to provide written evidence (in the form of the outputs of the biodiversity metric) demonstrating how at least 10% in Biodiversity Net Gain is to be delivered as part of the authorised development.
- 4.2.5 Remaining planting typically consists of the reinstatement of hedgerow gaps as identified in the LEMP Appendix B: Vegetation Reinstatement Plans (**document 7.8.2 (D)**) and would be maintained for a five-year period, in accordance with good practice measure LV03, and as stated in Requirement 10 of the draft DCO. After that time, the planting would be established and therefore managed by the relevant landowner, as currently takes place in respect of existing planting on private land. A longer duration for this aftercare is not necessary and would be onerous for the affected landowner. The Applicant considers that five-years is appropriate in the context of these locations, based on the types of reinstatement and mitigation planting proposed, which is typically hedgerow reinforcement and planting. Planting sizes and species have been selected based on those which would naturalise more easily than larger trees stock, for example, smaller whips and transplants.
- 4.2.6 The purpose of the proposed reinstatement planting is to replace what is removed, in order to maintain the existing baseline. As planting will establish within these timeframes, there is no justification for the Applicant to seek to agree long term management with a landowner, where that landowner would ordinarily be entitled to manage existing planting on their land as they consider appropriate. Management of replacement or mitigation planting following the five-year period is not considered directly related to the project or necessary on the basis that the planting required would have been delivered and its establishment secured, which is the purpose of the replacement planting. Once the reinstatement planting is delivered and has been established through the five-year maintenance period the purpose of the reinstatement planting has been achieved. A five-year maintenance period for this purpose is standard on most planning permissions and the Applicant's previous DCOs.
- 4.2.7 The Applicant maintains that five-years maintenance at these locations would not affect the Biodiversity Net Gain that would be delivered. It is the Applicant's view that there should be no additional obligation on the Applicant (or private landowners) to manage or maintain planting on private land which forms part of the wider baseline, in the same way as the Applicant (or private landowners) would not be obliged to maintain existing baseline planting which is not affected by the project.
- 4.2.8 Each classification of planting serves a distinct purpose; as such, it is appropriate to adapt the proposed aftercare arrangements relative to the classification to ensure the project delivers its objectives in the most economic and efficient way and with regard to the needs of affected landowners.

- 4.2.9 Section 9.1 of the LEMP outlines the periodic checks that would be undertaken to check that reinstatement planting is establishing as expected and remedial measures that would be carried out should this not be the case.
- 4.2.10 The Applicant's view is that it is not necessary for control to be afforded to the Councils with respect to the establishment and monitoring of aftercare, for mitigation and Biodiversity Net Gain. The Applicant is a responsible developer who regularly undertakes construction projects of this nature nationally and is experienced in satisfying planning requirements and its obligations under its transmission licence. However, the Applicant notes the concerns of the Councils and has, therefore, added additional commitments to the CoCP and the REAC at Deadline 9 (**document 7.5.1 (D)** and **document 7.5.2 (F)** respectively) in this respect:
- *'LV04: A representative from the relevant planning authority will be present at the final inspection of reinstatement and mitigation planting prior to handover to the landowner, unless agreed otherwise with the relevant planning authority. Where applicable, remedial measures will be agreed between the Applicant and relevant planning authority during the site visit in accordance with the Development Consent Order.'*; and
 - *'LV05: The results of baseline vegetation surveys and post-construction vegetation surveys (aftercare monitoring) will be provided to the relevant planning authority.'*

5. Finalisation of Management Plans and Discharge of Requirements

5.1 Introduction

- 5.1.1 The Councils in their Letter consider that a further detailed finalisation stage of these plans, secured by requirements to discharge detailed versions of them, is essential. The Councils also note that they consider that the Management Plans are deficient that, without amendment, even a two-stage process via requirement would not overcome many of the issues identified by the Councils throughout the examination process.
- 5.1.2 The Councils state in their letter that they welcome the Examining Authority's amendment to extend the period of notice to the undertaker of the relevant authority's decision from 28 to 35 days, however, the Councils note that they would expect this to extend to 56 days. The Councils consider that this additional time is reasonable and appropriate, given the multiple simultaneous NSIPs that are being dealt with by the Local Authorities in Suffolk and Essex.

5.2 The Applicant's Position

Two stage Process

- 5.2.1 With regards to the first matter and the "deficient" Management Plans, please see the Applicant's position on this matter in Chapter 2 of this document, which is not duplicated here.
- 5.2.2 The Applicant understands that where the Councils refer to a "two stage" process they are requesting a further DCO requirement to be added whereby each of the Management Plans must be re-approved (presumably with additional detail and controls) by the Councils as part of the discharge of requirements prior to construction commencing. The Applicant does not consider that a "two-stage" process for the Management Plans is necessary or appropriate.
- 5.2.3 The Applicant considers that the ultimate jurisdiction of project controls should rest with the Decision Maker, the Secretary of State for Energy Security and Net Zero, for which Parliament intended in the drafting of the Planning Act 2008. The Applicant notes that paragraph 2.10.8 of EN5 states that a management plan should be developed '*at least in outline*'. This means that an outline plan is the lowest acceptable level, with the words 'at least' suggesting it is preferable for a final management plan to be developed. Indeed, on the Applicant's DCO projects to date it has been the case that the Secretary of State has approved (and certified) a similar suite of primary Management Plans as part of their decision (for example see The National Grid (Hinkley Point C Connection

Project) Order 2016 and The National Grid (Richborough Connection Project) Development Consent Order 2017 and (yet to be decided, proposed) Yorkshire Green draft DCO.

- 5.2.4 The Applicant acknowledges that there are some details that cannot be provided at this stage, for example where they require detailed design or the results of pre-construction surveys. In these instances, there are existing mechanisms in the draft DCO to allow the submission and approval of such details. Examples of which in relation to each Management Plan are set out in Chapter 2 above. The Applicant also acknowledges that things may change prior to completion of the project (either to the receiving environment or the design and construction methodology for the project) which may necessitate updates to the Management Plans. Mechanisms for responding to this are included within the Management Plans themselves and Requirement 4 of the draft DCO, subject to approval by the Councils (to the extent they will not give rise to any materially new or materially different environmental effects).

Period for Determining Discharge of Requirement Applications

- 5.2.5 With regards to the second point, pertaining to the period for determining requirement applications, the Applicant recognises the practical pressures faced by the Councils and remains committed to working closely with them to ensure that they are fully aware of when applications for consent, agreement or approval are proposed to be submitted pursuant to Schedule 4 of the DCO. However, such pressures are not a material planning consideration.
- 5.2.6 It is likely that the submission of a staging plan pursuant to Requirement 3 will be of particular benefit in this context, as will the pre-application 'shadow submissions', as per the proposed Planning Performance Agreement (PPA). The mechanism for discharging Requirements and Other Consents in the post-Examination period contemplates 'shadow submissions' (the number of which would be at the Applicant's discretion). This is based on a similar mechanism agreed on other National Grid DCO projects. After the 'shadow submissions' process is complete, a Final Submission is made in line with the process set out in the draft DCO. As such, whilst the official determination period is 28 (or 35) days; in reality, the Councils will have far longer to review the proposals, consult their internal specialists and 'test' the Applicant's proposals. The Applicant consider the 28-day period, subsequent to the informal negotiations (akin to a 'pre-app') sufficient to formally confirm the details as discharged.
- 5.2.7 In addition, from the Applicant's perspective, it is equally important to have regard to the fact that the Applicant is itself bound by, and subject to, various statutory and regulatory duties, including the requirement to maintain the national electricity transmission system safely, reliably, economically and efficiently, in accordance with the Applicant's statutory duty under Section 9 of the Electricity Act 1989. Allied to the immediate and pressing national need which the project is intended to address, a period of 28 days remains proportionate, appropriate and necessary. As a side note, the Applicant also respectfully disagrees with the Examining Authority's recommended amendment to Schedule 4(1)(1) to amend the period from 28 days to 35 days. See the Applicant's Response to the Schedule of the Examining Authority's recommended amendments to the Draft DCO [REP8-032] for further explanation.

- 5.2.8 The Applicant considers that the additional burden of adopting a two-stage process for the Management Plans would only exacerbate the Councils' concerns regarding resource constraints.
- 5.2.9 As a side note, The Planning Inspectorate is currently trialling the 'production of mature outline control documents' as part of the NSIP early adopters programme, which involves seven projects trialling potential components of a future enhanced pre-application service for National Infrastructure with the objective of speeding up the delivery of projects.
- 5.2.10 The Applicant considers the Management Plans are sufficiently mature at this stage of the DCO process, having been significantly revised during the course of the Examination to take account of the Councils' and other Interested Parties' feedback.

6. Working Hours

6.1 Introduction

6.1.1 The Councils letter welcomes the Examining Authority's amendment to restrict the working hours. However, the Councils suggest that this should be expanded to include Saturday afternoons, in addition to Sundays and Bank Holidays as proposed. This arrangement would align with the working hours that are used for quarries and related workings, which are consented and controlled by County Councils.

6.2 The Applicant's Position

6.2.1 It is unclear why the Councils feel the proposed transmission project should align with the working hours that are used for quarries and related workings, as they have very different environmental effects, quarries being relatively permanent operational fixed sites and the construction of transmission projects being temporary, linear and transient in nature.

6.2.2 The Applicant has provided a response to the Examining Authority's recommended amendments to the draft DCO as part of the Applicants Response to the Schedule of the Examining Authority's recommended amendments to the Applicant's draft DCO [REP8-032]. The Applicant considers that the project will avoid significant adverse impacts on health and quality of life from noise as a result of the construction working hours as per paragraph 5.11.9 of NPS EN-1 (2011) and paragraph 5.12.17 of NPS EN-1 (2023) and as such, further restrictions are not necessary and proportionate.

6.2.3 The Applicant would reiterate that the working hours suggested by the Councils do not comply with the industry standard working shift patterns of specialist contractors engaged in the energy sector and would extend the overall construction programme duration, as set out in the Justification for the Working Hours submitted at Deadline 3 [REP3-045].

6.2.4 The Applicant notes that each of The National Grid (Hinkley Point C Connection Project) Order 2016 and The National Grid (Richborough Connection Project) Development Consent Order 2017 provided for construction works to take place between the hours of 0800 and 1700 on Saturdays, Sundays and Bank Holidays, subject to a restriction which limited working on a consecutive Saturday and Sunday to two out of any four consecutive weekends in each relevant local authority area. Similar construction working hours to those proposed in respect of the project have been sought in respect of the draft National Grid (Yorkshire Green Energy Enablement Project) DCO. More widely these construction working hours are generally adopted across the Applicant's construction projects consented under other regimes. For example: the GSP Substation Town and Country Planning Act extant permission includes these working hours which are included in Condition 20 [REP1-037].

- 6.2.5 Following the feedback from the Councils in their Local Impact Reports, the Applicant undertook further work around the working hours to identify whether commitments can be made to reduce potential disturbance to local communities during construction. The Applicant made a new commitment to not undertake percussive piling (one of the noisiest activities anticipated on the project) on Sundays and Bank Holidays and this wording has been added to Requirement 7 of the draft DCO (**document 3.1 (H)**).
- 6.2.6 In addition, the Applicant undertook a review of the Noise Sensitive Receptors (NSR) using a lower noise threshold to determine whether additional NSR would meet the lower weekend level (noting that this is a rural location where the works are typically at a distance from community receptors). The Technical Note identified a very small number of additional NSR (six residential receptors) that would exceed the lower threshold value during construction activities. The Applicant has added a commitment to undertake additional measures to control noise effects at these NSR in Section 14.3 of the CEMP (**document 7.5 (E)**). Section 3.4 of the CEMP also sets out the details regarding community engagement. Paragraph 3.4.2 also states that local residents will be informed of the commencement and likely duration of the construction work activities through a letter drop.
- 6.2.7 The Applicant notes that the Essex Councils (ECC and BDC) accept the assessment presented in ES Chapter 14: Noise and Vibration [**APP-082**] and that they do not consider that any further NSR need to be included, as per their Comments on any other submissions received at Deadline 7 [**REP8-040**] submitted at Deadline 8. To date, no additional NSRs have been identified by the Suffolk Councils (SCC and BMSDC); as such the Applicant infers that the Councils agree with the conclusions of the Technical Note and there is no planning policy reason to restrict the working hours further.
- 6.2.8 Given the urgent need for the project set out in the Need Case [**APP-161**]; temporary, linear and transient nature of construction activities; and that there are a very limited number of receptors that lie close to the Order Limits, the Applicant considers that the working hours requested should not be restricted further.

7. Schedule 4 (Discharge of Requirements) Fees

7.1 Introduction

7.1.1 In their letter, the Councils express disappointment in the Examining Authority's amendment to the Schedule 4 Fees from £116 to £145. Instead, the Councils suggest adding a clause to (3)(1)(b) that reads as follows: '*a fee of £145 per request, unless otherwise agreed*'.

7.2 The Applicant's Position

7.2.1 The Applicant notes that The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023 came into force on 12 April 2023 and Regulation 12 (2)(b) Amendment of Regulation 16 (fees for confirmation of compliance with condition attached to planning permission) substituted £116 with £145.

7.2.2 The Applicant notes the Examining Authority's observations and confirms that the recommended amendment has been incorporated within the draft DCO submitted at Deadline 8. The PPA provides for the bespoke basis to agree any uplift of this. The Applicant has commenced negotiations with the Councils in respect to a supplementary PPA to cover the post examination period.

7.2.3 The Applicant has no further comments to make on this matter.

8. Side Agreements (An Update On Community Benefits)

8.1 Introduction

- 8.1.1 In their letter the Councils state that they understand that community benefits are not a material planning consideration, however, the Councils express concerned that the Applicant is not forthcoming in their commitment to the provision of community benefits, or the value of these benefits. The Councils suggested that a letter of comfort from National Grid and/or the regulator, Ofgem, would be appropriate, for the avoidance of doubt.
- 8.1.2 The Councils also express concern that the Applicant places socio-economic matters into community benefits, despite the fact that adverse socio-economic impacts are a material planning consideration. The Councils understand that this is due to the Applicant scoping out socio-economic impacts, however, the Councils consider that matters which should properly be dealt with by the application of the mitigation hierarchy should not be addressed through community benefits. Therefore, these should be included as part of the project's embedded mitigation or compensation, and secured by agreement.

8.2 The Applicant's Position

Community Benefits

- 8.2.1 The Applicant supports the delivery of community benefits associated with transmission infrastructure projects, and already has a number of established programmes which deliver this. As a regulated business and under its licence obligations, National Grid is required to operate an economic and efficient energy network and, as a result, is required to demonstrate the justification of any costs associated with the project, which includes community benefits. In order to inform this case, the Applicant has been keen to work with the Councils to understand priorities and have established a series of meetings in order to progress this understanding.
- 8.2.2 As discussed in the meetings with the Councils, the government has set out its intention to publish guidance (Community Benefits for Electricity Transmission Network Infrastructure: Government Response, Department for Energy Security and Net Zero, January 2024), setting expectations and parameters for communities and developers when developing community benefit packages. The Applicant supports this and believes it will help to bring clarity and greater certainty around community benefits for transmission infrastructure projects. Final government guidance has not yet been published or formally adopted, and the regulatory position on community benefit is yet to be confirmed. Therefore, it would be premature to set out firm figures at this stage.
- 8.2.3 The Applicant agrees with the view of the Councils that community benefits should be considered outside of the planning process and not to conflate any benefit with required mitigation, this is also in accordance with the Government consultation on the matter which states on page 8 '*To reconfirm our position within the consultation, it is critical that the planning process remains a robust*

system through which communities can raise any concerns with the proposed project. The proposals on community benefits for electricity transmission network infrastructure discussed within this document will remain separate to the planning process. It will not be a material consideration in planning decisions, and not secured through those decisions’ (Community Benefits for Electricity Transmission Network Infrastructure: Government Response, Department for Energy Security and Net Zero, November 2023).

- 8.2.4 As part of the Statement of Common Ground Local Authorities (**document 7.3.1 (D)**), the parties have agreed that ‘Community Benefits are not a material planning consideration and should be discussed outside of the planning process. The Applicant is committed to continuing engagement with the host authorities regarding their aspirations in respect of community benefits. Outside of the DCO process, the parties will work collaboratively to develop a strategy for community benefits whilst we await government guidance on this topic for electricity transmission network infrastructure. The parties will look to develop a strategy for community benefits by decision of the application for development consent (mid September 2024)’.
- 8.2.5 The Applicant hopes that this provides reassurance of the commitment to work collaboratively to develop a strategy in anticipation of Government guidance.

Socio-economic Impacts

- 8.2.6 Turning to comments on socio-economic impacts, which are separate from community benefits, the Applicant agrees that socio-economic impacts are a material planning consideration in the DCO process. However, on this project the EIA scoping assessment concluded that the project was unlikely to have significant socio-economics effects and it was therefore scoped out of the EIA. This decision was supported in the Scoping Opinion provided by the Planning Inspectorate [**APP-159**]. The Applicant reviewed this scoping decision, alongside undertaking an update of the socio-economic baseline data, as part of the application for development consent. This was reported in the Socio Economics and Tourism Report [**APP-066**], which confirmed that the conclusions presented in the Scoping Report remained the same and that the project was unlikely to result in significant socio-economic effects. Environmental Statement Appendix 15.5: Inter Project Cumulative Effects Assessment [**APP-144**] also considered the cumulative socio-economic effects with other proposed developments and concluded that significant cumulative socio-economic effects were also unlikely.
- 8.2.7 As previously stated in response to the Second Written Questions [**REP7-025**], no jobs will be created during the operation of the project, and during construction the project would not create a large number of jobs for the local area (anticipated to be in the order of 35 jobs at peak) or require a large demand of the local workforce. Given the low number of construction workers anticipated, and because no likely significant effects have been identified in relation to this matter, the Applicant does not consider there to be a need to incorporate any mitigation or compensation nor secure any measures by any other form of agreement to make the development acceptable in planning terms.

9. Conclusion

- 9.1.1 The Applicant welcomes the acknowledgement in the Councils' Letter [REP8-044] that there is a need for grid reinforcement, the principle of the project is accepted, and the fundamental mitigation proposed, such as undergrounding in the Stour Valley and the removal of the 132kV overhead lines, are supported.
- 9.1.2 Given these project fundamentals are supported (after many years of productive dialogue and refinement) the Applicant is surprised at the Councils' suggestion that the *'inadequacies are so profound that the Councils consider they are likely to render the promoter's proposal for the scheme unacceptable [...] moving to a position of formal objection'*. The Applicant is unclear how these relatively minor issues (non-significant effects and in some cases not even material considerations) could render the project unacceptable in planning policy terms. The Applicant has set out the planning case for the development in the Planning Statement [REP6-011] which concludes that *'Overall, the planning balance lies overwhelmingly in favour of the grant of development consent for the project, thus securing the project's benefits for generations to come'*.
- 9.1.3 In their Letter *'the Councils consider that the proposals for implementation and control of the construction of the proposed development, are inadequate'*. However, the Applicant is of the view that proposals for implementation and control of the construction of the project are proportionate (based on a policy and evidence-based approach), with precedent, and the level of control requested by the Councils is unnecessary and restrictive. The Applicant has made significant concessions with the aim of reaching consensus and is therefore disappointed that this has not led to further agreement on these matters.
- 9.1.4 The project is delivering essential electricity transmission infrastructure (a Critical National Priority) enabling energy security and decarbonisation of the UK's energy generation. In doing so, it would reduce the number of overhead lines in the Dedham Vale National Landscape and the Stour Valley. The project is also delivering significant levels of Biodiversity Net Gain. The Applicant has worked with the Councils and other Interested Parties over many years to avoid, reduce, mitigate and compensate for impacts of the development.

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