



The Planning Inspectorate Yr Arolygiaeth Gynllunio

The Planning Act 2008

King's Lynn B Connection Project

Examining Authority's Report of Findings and Conclusions

and

Recommendation to the
Secretary of State for Energy and Climate Change

Eira Hughes DipLA, MCD, MRPTI, CMLI.

Examining Authority

Examining Authority's findings and conclusions and recommendation in respect of an application by National Grid Electricity Transmission plc for an Order Granting Development Consent for the King's Lynn B Connection Project

Date: 10 October 2013

This page is intentionally left blank

File Ref EN020003

- The application, dated 26 July 2012, was made under section 37 (s37) of the Planning Act 2008 and was received in full by the Planning Inspectorate on 27 July 2012.
- The applicant is National Grid Electricity Transmission plc.
- The application was accepted for examination on 21 August 2013.
- On 24 October 2012, I was appointed as the Single Examining Inspector to examine and report on the examination.
- The examination of the application began on 11 January 2013.
- The proposed development comprises an overhead electricity line 2.8 kilometres (km) in length connecting the proposed King's Lynn B power station (not part of this application) to the existing 4VV overhead line to the south which connects substations at Norwich and Walpole.
- The examination ended on 10 July 2013.

Summary or Recommendation:

The Examining Authority recommends that the Secretary of State for Energy and Climate Change **grants consent subject to minor modifications and additional requirements.**

Section Contents

1	INTRODUCTION	1
2	MAIN FEATURES OF THE APPLICATION.....	6
3	LEGAL AND POLICY CONTEXT	14
4	EXAMINATION ISSUES, FINDINGS AND CONCLUSIONS	22
	A. The Proposed Connection Route - and Alternatives (Including Undergrounding)	
	B. Landscape and Visual Impacts (LVI)	
	C. Ecology	
	D. Flood Risk	
	E. Cultural Heritage and Archaeology	
	F. The Nar Valley - Recreation and Amenity	
	G. The Operational Railway - Protective Provisions	
	H. Construction Traffic	
	I. Socio-Economic Effects	
	J. Other Matters and Cumulative Impacts	
5	THE CASE FOR AND AGAINST DEVELOPMENT.....	102
6	THE PROPOSED DEVELOPMENT CONSENT ORDER (DCO), AND REQUIREMENTS	107
	Part One	107
	Part Two	117
7	COMPULSORY ACQUISITION.....	126
8	OVERALL CONCLUSION AND RECOMMENDATION.....	131

Appendices Contents

APPENDIX A	THE EXAMINATION
APPENDIX B	LIST OF THOSE WHO SPOKE AT HEARINGS
APPENDIX C	ABBREVIATIONS
APPENDIX D	EXAMINATION DOCUMENTS
APPENDIX E	REPORT ON THE IMPLICATIONS FOR EUROPEAN SITES (RIES)
APPENDIX F	THE EXAMINING AUTHORITY'S RECOMMENDED DRAFT DCO



ERRATA SHEET –Kings Lynn B Connection Project - Ref. EN020003

Examining authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy and Climate Change, dated 10 October 2013

Corrections agreed by the Examining Authority prior to a decision being made

Page No.	Paragraph	Error	Correction
16	3.10	<p>The current transport strategy for England is stated to be set out in the White Paper "Delivering a sustainable transport system". However, the White Paper was issued by the previous government, and DfT policy has since moved on. The reference to this White Paper in the Report was by way of background; the error does not impact on the findings, conclusion or recommendations of the Report.</p>	<p><i>Delete these sentences:</i> Broad transport policy for England is currently set out in the White Paper 'Delivering a Sustainable Transport System' (DaSTS) published by DfT in November 2008. The goals it sets for transport include inter alia: delivering reliable and efficient transport networks, to contribute to better safety, security and health; to promote greater equality of opportunity; and to improve quality of life. The objectives cover sustainable transport, the use of railways, cycling, the environment, amenity and safety matters. DfT has also recently issued a new report on roads, the policy paper / command paper 'Action for Roads – A Network for the 21st Century' (July 2013).</p> <p><i>Replace with:</i> DfT's current suite of policies covers a wide range of modes of travel, and it recently issued the Command Paper 'Action for Roads – A Network for the 21st Century' (July 2013).</p>

Page No.	Paragraph	Error	Correction
33	4.39	Typographic error	Replace "it" with "in"
59	4.158	Typographic error	Replace (last line) "in" with "to".
74	4.229	Typographic error	Replace "(CMTMR)" with "(CTAMR)"
75	4.233	Typographic error	Replace "School Lane" with "School Road"
77	4.245	Typographic error	Replace "School Lane" with "School Road" and replace "Church Lane" with "Church Road"
78	4.246	Typographic error	Replace "School Lane" with "School Road" and replace "Church Lane" with "Church Road"
82	4.271	Typographic error	Replace "School Lane" with "School Road"
82	4.272	Typographic error	Replace "School Lane" with "School Road"
83	4.278	Typographic error	Replace "School Lane" with "School Road"
86	4.286 (3 rd and 5 th bullet)	Typographic error	Replace "School Lane" with "School Road"
119	6.67 (in last subsection, headed 'Practicalities')	Typographic error	Insert "are" before "now".
App F page 3	Footnote (a)	Incomplete list of amending SIs	Substitute the following footnote: (a) S.I. 2009/2264, amended by S.I. 2020/439, 2010/602, 2012/635, 2012/1659, 2012/2654, 2012/2732, 2013/522, 2013/755.
App F page 3	Footnote (b)	Incomplete list of amending statutes	Substitute the following footnote: (b) 2008 c. 29. The relevant provisions of the Planning Act 2008 are amended by Part 6 of Chapter 6 of, and Schedule 13 to, the Localism Act 2011 (c.

Page No.	Paragraph	Error	Correction
			20).20), and by sections 22-27 of the Growth and Infrastructure Act 2013 (c. 27).
App F page 3	Footnote (c)	Error in list of statutory amendments to the Act	Substitute the following footnote: (c) 1961 c.33. Sections 1 and 4 were amended by the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (SI 2009/1307). Sections 2 and 3 were repealed by that Order. There are other amendments to the 1961 Act which are not relevant to this Order
App F page 3	Footnote (d)	Error in description of statutory amendments to the Act	Substitute the following footnote: (d) 1965 c. 56. The Act has been substantially amended by subsequent legislation. The principal amendments relevant to this Order are that the Courts Act 1971 (c. 23) amended section 12; the Statute Law (Repeals) Act 1973 (c. 39) amended sections 9, 25 and 29; the Rentcharges Act 1977 repealed section 24 subject to savings; the Acquisition of Land Act 1981 amended sections 1, 11, 30, 31 and 32; the Housing (Consequential Provisions) Act 1985 (c. 71) amended section 11; the Planning (Consequential Provisions) Act 1990 (c. 11) amended sections 1 and 10; the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990 (S.I. 1990/776) repealed section 27; the Planning and Compensation Act 1991 (c. 34) amended sections 3, 5, 20 and 31; the Courts Act 2003 (c. 39) amended section 1;

Page No.	Paragraph	Error	Correction
			<p>the Constitutional Reform Act 2005 (c. 4) amended sections 23 and 25; the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1) amended sections 11 and 31; the Tribunals, Courts and Enforcement Act 2007 (c. 15) amended section 13; and the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307) amended sections 5, 6, 8, 10, 11, and 15 to 20</p>
App F page 4	Footnote (b)	Error in list of statutory amendments to the Act	<p>Substitute the following footnote: (b) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraphs 4, 8 and 9 of Schedule 1 were amended by Schedule 1 of the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008.</p>

Page No.	Paragraph	Error	Correction
			<p>Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008.</p> <p>Paragraph 2 of Schedule 3 was repealed by the Capital Transfer Tax Act 1984 (c. 51). There are other amendments to the 1981 Act which are not relevant to this Order.</p>
App F page 4	Footnote (c)	Irrelevant statutory amendment referred to in the footnote	<p>Substitute the following footnote:</p> <p>(c) 1990 c. 8. There are amendments to the 1990 Act not relevant to this Order.</p>
App F page 9	Footnote (a)	Incomplete list of statutory amendments	<p>Substitute the following footnote:</p> <p>(a) 1991 c. 56 - Section 106(1) amended by Competition and Service (Utilities) Act 1992 c. 43 Pt II s.43(2); section 106(1A) added by Water Act 2003 c. 37 Pt 3 s.99(2); sections 106(4)(a)-(b) amended by Water Act 2003 c. 37 Pt 3 s.99(3); section 106(5A) added by Water Act 2003 c. 37 Pt 3 s.99(4); section 106(6) amended by Water Act 2003 c. 37 Pt 3 s.36(2) and 99(5); section 106(7) repealed by Competition and Service (Utilities) Act 1992 c. 43 Schedule 2, paragraph 1. There are other amendments to this Act that are not relevant to this Order.</p>
App F page 31	Contents list	Typographic error	18 Accumulations and deposits
App F page 34	8	Typographic error – omission of a sub-paragraph	<p>Insert:</p> <p>(1) In the event that contamination is found at any time when carrying out the approved development that was</p>

Page No.	Paragraph	Error	Correction
			<p>not previously identified it must be reported in writing immediately to the relevant planning authority. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the relevant planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the relevant planning authority.</p> <p>Renumber 8(1)-8(3) of Appendix F as 8(2) – 8(4)</p>
App F page 37	18	Typographic error	Amend heading to read: Accumulations and deposits
App F page 38	2(1)	Grammatical change	Delete: “....must have the right...” Replace by: “....shall have the right...”
App F page 38	4(1)(b)	Grammatical change	Delete: “...the Secretary of State must appoint a person...” Replace by: “...the Secretary of State shall appoint a person...”

1 INTRODUCTION

- 1.1 This document sets out, in accordance with s83(1) of the Planning Act 2008 as amended by the Localism Act 2011 (PA 2008), my findings and conclusions and my recommendation, to the Secretary of State for Energy and Climate Change, as to the decision to be made on the application.
- 1.2 The proposed development for which consent is sought, under s31 of PA 2008, comprises a 400 kV overhead electricity line 2.8 km in length connecting Centrica's approved Combined Cycle Gas Turbine (CCGT) 'King's Lynn B power station' (not part of this application, and yet to be built) to the existing 4VV overhead transmission line (OHL) to the south which connects substations at Norwich and Walpole. It is located in the East of England, and comprises a nationally significant infrastructure project (NSIP) as defined by s14 and 16 of PA 2008. The application form and supporting documents were submitted on 27 July 2012 (APP1-APP34). There is a small amount of 'associated development'.
- 1.3 The proposed location is in the West Norfolk area and the Order limits (outlined in red) are shown on the Location Plan (APP4).
- 1.4 The application is an Environmental Impact Assessment (EIA) development as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009. It was therefore accompanied by an environmental statement (ES)(APP22, 23) which taken together with the ES Supplementary Report (SES)(REP60) submitted on 18 February 2013, appears to meet the definition given in Regulation 2(1) of these Regulations.
- 1.5 Additional environmental information received during the course of the examination has been taken into consideration. In reaching a conclusion on the environmental information, as defined in Regulation 2(1), I have taken into account the ES and any other information available to me on the environmental effects of the development, in accordance with Regulation 3(2) of the EIA Regulations.
- 1.6 The ES is set out in the application documents APP22–26, and SES (REP60).

PROCEDURE FOLLOWED

- 1.7 The application was advertised by the applicant and five relevant representations were received (REP33, REP34, REP35, REP36, REP 37).
- 1.8 A Preliminary Meeting (HR1) was held on 11 January 2013 (held at the Corn Exchange in King's Lynn) at which the applicant and all Interested Parties (IPs) were able to make representations as to how the application should be examined. The procedural decisions under Rule 8 of the Infrastructure Planning (Examination

Procedure) Rules 2010 (the Rules) were issued by letter to all interested parties on 18 January 2013. The letter (PD11) set out the decisions I made under Rule 8 about how the application would be examined. The examination, subject to further procedural decisions, proceeded largely in line with this.

1.9 As set out in the timetable for the examination, and as a result of requests made, the following hearings were held:

at the Guildhall, in King's Lynn (on 10 April 2013) –

- an issue-specific hearing on the construction phase impacts (HR2-5)

at the Duke's Head Hotel, King's Lynn (on 12 April 2013) -

- an issue-specific hearing on the draft Development Consent Order (DCO), including requirements (HR6-8)

at the Duke's Head Hotel, King's Lynn (on 23 April 2013) -

- an issue-specific hearing on the proposed compulsory acquisitions (HR9-10).

1.10 I later decided to amend the timetable, to hold another hearing:

at the Duke's Head Hotel, King's Lynn (on 4 June 2013) -

- a further issue-specific hearing (ISH) on the draft DCO, including requirements (HR11-13).

1.11 The initial timetable reserved two potential slots for open-floor hearings (one near the beginning and another close to the end of the examination period), but, in the event, none was requested.

1.12 Local impact reports (LIR) were received from King's Lynn and West Norfolk Borough Council (the Borough Council) (REP52), and, Norfolk County Council (NCC) (REP51). Both were clear and informative.

1.13 The initial round of Written Questions explored: (a) a few specific issues; and, (b) a large number of drafting issues in respect of the Draft DCO. Three further sets of questions and requests for information or written comment were issued to explore further certain issues during the examination, under Rule 17 of the Rules, together with other details and updates to the timetables (PD11, PD18, PD20, and PD21). The Written Questions were issued on:

1st Round: 18 January 2013, in a Rule 8 letter (PD11)

2nd Round: 8 March 2013, in a Rule 13 letter (PD18)

3rd Round: 3 May 2013, in a Rule 8(3), 13 and 17 letter (PD20)

4th Round: 13 June 2013, in a Rule 8(3) and 17 letter (PD21).

- 1.14 In response to these requests, and follow-up hearings, a further 146 representations and submissions were received (REP71-REP212, AS1- AS5), and 18 supporting documents (HR14-32): a 164 in all.

SITE VISITS

- 1.15 During the course of my examination of the proposals, a number of unaccompanied site visits (USV) were undertaken, in relation to various matters of relevance raised by my study of the application documents and/or various representations received or matters raised at hearings.
- 1.16 I visited the site and surrounding settlements, initially on 10/11 January 2013 (PD12), in order to familiarise myself with the Site, the locality and neighbouring settlements, and the Landscape and Visual Impact (LVI) viewpoints, prior to undertaking the formal Accompanied Site Visit (ASV) on 27 February 2013 (PD17). Following the ASV, which also looked at LVI viewpoints, I undertook further USVs along public roads to look more closely at certain parts of the Site and surrounds, and the proposed construction routes on 11 April 2013 (PD20). I also noted certain features of the Site and surrounds as seen from public transport (by train) through the 'Site', south of King's Lynn (on 22/23 April 2013). A last USV, focussing on Low Road, was undertaken in response to a discussion at the second draft DCO ISH, at the applicant, National Grid (NG)'s, prompting, on 5 June 2013, to look at Low Road in more detail (PD21).

SECTION 127

- 1.17 During 2013, a parallel s127 (PA 2008) procedure was triggered by Network Rail's objection to a proposed compulsory acquisition of rights over land in their ownership. NG applied to the Secretary of State for Transport (DfT) for a s127 Certificate (SEC1), and presented a set of application documents (SEC2-SEC11). I was appointed to examine that application also, on 7 March 2013, in line with the procedure established by the DfT (SEC12). On 22 April 2013, I issued a letter setting out the 'agreed procedure' and timetable, and requesting written submissions SEC16, SEC17).
- 1.18 The two parties immediately requested more time – for their private negotiations. So, on 29 April 2013, I issued a revised timetable (SEC18, SEC19). On 13 May 2013, NG requested a further extension of time to complete their negotiations (SEC20). A further revised timetable was issued on 14 May 2013 (SEC21). An ISH, on 4 June 2013, was planned and being prepared. However, by 20 May 2013, the parties had reached an agreement, and NG's s127 certificate application was withdrawn (SEC22). Final letters formally closing the s127 examination procedure were issued on 24 May 2013 (SEC26). The second half of Appendix A lists the main events in that process in more detail. The

consequences for the draft DCO are noted in Sections 6 and 7 of this Report.

OTHER CONSENTS

- 1.19 In addition to the consent required under PA 2008 (which is the subject of this recommendation), the proposal is subject to the need for other consents and permits:
- (i) **INTERNAL DRAINAGE BOARD:** under the Land Drainage Act 1991 (s23) and s66 bye-laws consents were applied for: it was later confirmed that consents (for a box culvert, two other culvert drains, a stone road crossing and sheet piling), all in the Saddlebow area, had been obtained from the Drainage Board on 1st March 2012 and 8 February 2012 respectively, and would run for 5 years, and it was anticipated that the works would be completed within the timeframe permitted in the consents (REP66);
 - (ii) **ENVIRONMENT AGENCY:** under the Water Resources Act 1991 – four consents for works affecting a 'main river', the River Nar, for 2 two temporary pontoons (valid for 5 years from 12 May 2012 to 30 June 2015) and the installation of overhead lines over both the river crossing points (valid for 3 years from 27 April 2012) had been obtained (REP66).
- 1.20 During the examination period the applicant reached agreement with other utilities such as National Grid Gas plc, and responded to Future Utilities Solutions Limited on all the issues it had raised (REP170).
- 1.21 No undertakings were put forward in respect of this proposal, nor any agreements, under s106 of the Town and Country Planning Act, 1990. NCC expressed an intention to explore that possibility with the NG, initially, at the Preliminary Meeting in January 2013 (HR1). In the event, no such document emerged during the examination period. Towards the end of that period, I checked again (PD21) as to whether there might yet be an undertaking or agreement made to resolve certain issues. None emerged. No compensatory planting schemes were put forward by the applicant in respect of this proposal. These facts were relevant to the later consideration of the acceptability of the DCO in the form preferred by the applicant: considerations which inform Section 6 Part Two of this Report.

STRUCTURE OF THE REPORT

- 1.22 Section 2 sets out the main features of the proposed development and the local area. Section 3 summarises the policy and legal context applicable to it. Then, Section 4 contains the main findings and conclusions in respect of each of the main considerations. Section 5 sets out the case for, and against, the proposed

development in relation to relevant national policy. Section 6 considers issues and representations made concerning the content of the proposed draft DCO (including requirements). Section 7 deals with the proposed compulsory acquisition of rights over land. Section 8 presents my final conclusion and a recommendation on the Order sought.

- 1.23 Following on from the list of main examination events and main procedural decision taken (in Appendix A), Appendix B contains a list of those who spoke at each hearing. Appendix C provides a list of the abbreviations used in this report. Appendix D lists the documents submitted by the NG and others in connection with the examination, with the references used subsequently in this report. Appendix E comprises a 'Report on the Implications for European Sites' (RIES). Appendix F contains the Examining Authority's Recommended Draft DCO, for the Secretary of State's consideration.

2 MAIN FEATURES OF THE APPLICATION

THE LOCATION

- 2.1 The application Site lies wholly within the Borough of King's Lynn and West Norfolk, in the County of Norfolk.
- 2.2 The application plans submitted show that the proposed new electricity line would be located in an area immediately south of the built-up area of King's Lynn (APP4).
- 2.3 The proposed OHL would 'terminate', at the southern outer edge of King's Lynn's 'Willows Business Park' area, at a point where a substation would be built (on the northern side of the High Road) to serve a proposed (already consented) power station, referred to as King's Lynn B. The connecting cables would then need to run southwards, through open countryside in the Nar Valley - alongside the River Nar which flows (south to north) through the countryside there. The proposed new OHL would then connect with the existing 400 kV national grid line at a point 2.8 km south of the 'terminal point' on the southern edge of King's Lynn (APP 4).
- 2.4 A clear plan showing an area around the proposed OHL alignment, identifying 'The Site' of this proposal, on an OS base plan, can be found at Figure 1, in the ES, Part 2, TA-H (at the end of Phase One Environmental Survey Report) (APP23).
- 2.5 The relative positions of King's Lynn A (now closed) and the site intended for King's Lynn B, in relation to the proposed Kings' Lynn B Connection project ('The Project') can be seen clearly in Figure 2, ES, TA-H (at the end of Phase One Environmental Survey Report) (APP23).
- 2.6 The application site south of High Road consists of predominantly flat, open arable farmland. Most of the land in the East Corridor is Grade 2 Agricultural Land (APP29) and is in active agricultural use. The area is studded with farms, and a few residential properties. The land levels in the area are generally between 1 metre (m) and 5m above sea level. The higher elements in the landscape are local flood defences and embankments (APP29).
- 2.7 The application documents explain that the Wash Estuary is a large estuary c.7 km northwards of the application site (APP29); the town centre of King's Lynn lies well north of the application site and the large settlement of West Winch, lies 500 m eastwards of the application site, Saddle Bow 150 m west, Wiggenhall St Germans c.1.3 km south-west, and Wiggenhall St. Peter c.1.8 km to the south (APP22). A long-distance public footpath (the Nar Valley Way) follows the River Nar north and south through the application site (APP29). The West Winch Common lies c.700 m eastwards of the application site (APP22).

THE PROPOSAL SET OUT IN THE APPLICATION

- 2.8 The **Nature of the Application** is that it involves construction of a new 400,000 volt (400 kV) OHL in the County of Norfolk and the Borough of King's Lynn and West Norfolk. The project consists of a 2.8 km (1.75 mile) 400 kV line to connect the already consented proposed King's Lynn B Combined Cycle Gas turbine (CCGT) power station (DECC ref 01.08.10.04/124C) to the existing National Grid 400 kV high voltage overhead transmission line (NG Ref No. 4VV) connecting the NG substations at Norwich and Walpole. That existing OHL line lies c. 2.5 km south of the Centrica's proposed power station, King's Lynn B (APP29), which was granted consent by the Secretary of State for Energy and Climate Change (SoSECC) on 7 February 2009 under s36 of the Electricity Act 1989 (REP55).
- 2.9 The proposed line would run close to the electrified King's Lynn to Ely railway line (owned by Network Rail), and over several local highways, over a track used by the Environment Agency (EA) and the Ouse Amateur Sailing Club. It would cross over the River Nar - a tributary of the River Great Ouse and a linear Site of Special Scientific Interest (SSSI) – at two points: and it would need two temporary pontoons spanning the river to pull the cables into position. It would also cross over the Nar Valley Way (a long-distance public footpath).
- 2.10 The connection would extend from a proposed new substation, to be built under the consent already obtained by Centrica, and situated in a corner of the existing King's Lynn power station site. That substation does not form part of this current NSIP application (APP29). Its location can be seen on the 'Proposed Plant Layout' for the Centrica proposal, to be found attached to NG's 'Summary of Need Case' (APP33): Doc. 9.5.
- 2.11 The current NSIP application envisages 8 new pylons (NG refer to them as 'towers') and one replacement pylon at the point where the line meets the 4VV overhead line. The application also includes proposals to construct one new permanent access, several temporary access points, and temporary haul roads. The proposed pylons are between 51.5 m and 60 m high (including + 3 m vertical limits of deviation). The 'associated development' required is summarised in para 2.6 of the Explanatory Memorandum (APP14), and Schedule 1 of the draft Order.

CENTRICA KING'S LYNN B – CONSENTED PROJECT

- 2.12 A Statement of Common Ground (SoCG), prepared by NG and Centrica (REP55) explained that a 1020MW combined cycle gas turbine (CCGT) generating station had received 'deemed planning consent', and Condition 3 required commencement of the development to be not later than 5 years from 5 February 2009 (ie. a start on site before 5 February 2014). A connection date

needed to be achieved by 31 October 2017. To that end, Centrica planned to start by building a gatehouse. Meanwhile, NG would await clearance of a site area, by Centrica, to allow NG to build the substation needed *'in about May 2015'* (REP55).

STATUS AS NSIP

- 2.13 As the proposal consists of the installation of an electric line above ground, wholly in England, with a nominal voltage not less than 132 kV it is an NSIP under criteria set out in s14 and s16 of the PA 2008.

THE PROJECT NEED CASE

- 2.14 This is set out in a document accompanying the application (APP33), which was prepared to inform statutory consultees and other stakeholders of the need to extend NG's electricity transmission system in order to connect with the proposed Kings' Lynn B CCGT power station.
- 2.15 A few key points emerging from 'Issue No2' of the Need Case are:
- (i) NG is the operator of the high voltage transmission system for the whole of Great Britain, and the owner of the high voltage transmission network in England and Wales (only) and it is bound by legal obligations primarily set out in the Electricity Act 1989 (as amended) (APP33): Doc 9.5;
 - (ii) it is for generating companies to decide, within parameters set by the Government, whether particular investments are cost-effective ways of satisfying the demand for electricity (APP33);
 - (iii) a strategic optioneering exercise had concluded that *'Option KL2a remains appropriate'* (APP33).

PROPOSED LAND-TAKE

- 2.16 In terms of the proposed land-take, the NG application for an OHL connection seeks compulsory acquisition of various rights over land – rights of access, rights of landscaping, etc. The rights acquired would be 'temporary' in many cases. 'Permanent' rights are sought in some areas. But, the applicant does not seek to acquire any land outright as such. These proposed compulsory acquisitions of rights are, the application documents explain (APP15), intended to be used as a back-stop provision in case the voluntary agreements with individual landowners, which were being actively sought, could not be secured.
- 2.17 The connecting electricity cables would be suspended, on pylons, across open arable land in a variety of private ownerships. Some of the land is owned by the EA, and some by Network Rail.

- 2.18 No Crown land is affected and s135 of PA 2008 is not engaged.

OTHER ASPECTS OF THE PROPOSAL

- 2.19 Other features of the proposal would be the construction of long temporary stone roads to enable the construction works proposed, various temporary road closures and several new accesses off local highways. There are also potential impacts upon a National Cycle Trail (which runs along the rural lanes nearby, which may be used as construction traffic routes); the proposed construction traffic routes to run along rural lanes (and potentially through the village of Watlington). There was a potential flood risk issue, potential for impacts on groundwater, soils, air, water, paths and bridleways, etc., and wider impacts on local amenities (APP22, 23).

DESIGNATED AND PROTECTED SITES

- 2.20 The site is located c.7 km south of The Wash, an internationally important site for nature conservation, which is designated a Special Protection Area (SPA) for birds, a Special Area of Conservation (SAC) and as a Ramsar Site. It is also a National Nature Reserve (NNR) and a SSSI (APP22, 29). The site is also located c.25 km north of the Ouse Washes SPA site, which is also a Ramsar Site and SSSI (APP22).
- 2.21 Within the Nar Valley, the River Nar SSSI runs north-south through the site, joining the Great Ouse at King's Lynn. It is designated for its riverine flora and fauna. The Islington Heronry SSSI lies c.4.5 km due west of the Site.
- 2.22 The environmental statement (ES) (APP22-26) and the Habitats Regulations Assessment (HRA) Screening Report (APP21), submitted by the applicant in July 2012, concluded that there were no significant impacts on any European or Ramsar sites. But attention was drawn in particular to (i) the River Nar SSSI, and (ii) water voles, a protected species (APP22-26).
- 2.23 No significant impacts on protected historic sites or heritage interests were identified at the application stage (APP22). However, at the examination stage, I asked a question about possible impacts on a Grade 1 listed church in Watlington (PD20).
- 2.24 The information supplied on all these designated and protected sites was examined in some detail, and the conclusions on these issues are set out later in this Report (ER) (Section 4, et seq).

CONSULTATIONS UNDERTAKEN BY THE APPLICANT - PRE-APPLICATION

- 2.25 Once the need case had been confirmed, NG (APP22) had undertaken a 'strategic optioneering' study (APP33), and looked at

potential route corridors for the connection required, as set out in the Route Corridor Study (RCS) (APP23): TA-K.

- 2.26 A Stage One public consultation obtained the views of statutory bodies, other agencies and the public, on potential OHL route corridors. Following Stage One, the socio-economic effects of the connection options (West, Central and East) were studied (APP18).
- 2.27 The options were further reviewed, and underground options appraised, and NG then announced its 'Preferred Route Corridor' (the 'East Corridor'). This triggered a second (Stage Two) public consultation period. NG then undertook a screening exercise with respect to the Habitats Regulations Assessment process. A Preliminary Environmental Information Report (PEIR) was produced (APP18).
- 2.28 A Stage Three public consultation followed, which was published as a 'Statement of Community Consultation' (SoCC) (APP18), Doc 6.1, bearing in mind the duty to consult the local community under s47 of the PA 2008, and also inform NG's response to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2008 (EIA). Feedback was studied, and an EIA prepared, and the detail presented in an ES (APP22-26). The SoCC records in some detail the three public consultation stages, and major responses received at each stage. At Stage One (February 2010 - March 2011), the applicant received 100 responses; at Stage Two (March 2011 - March 2012), 198 responses; and at Stage Three (March 2012 - March 2013), 109 responses. The SoCC describes how the received feedback informed NG's iterative changes to the proposal, including changes to: maximise distance from individual dwellings, use fewer 'angle' pylons, avoid bird flight paths and water vole habitat, minimise potential impact on the River Nar SSSI, and minimise potential impact on agricultural activities (APP18).
- 2.29 By the end of Stage Two, the main concern raised by the local community was 'visual impact' (APP18). By Stage Three, fewer responses were received on the OHL alignment issues. At Stage Three there was a higher level of correspondence in relation to the proposed construction traffic routes (APP18).

THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA) AND ES

- 2.30 The EIA method, and approach to assessing the Project's effects on all the various 'receptors', is set out in the EI Scoping Report (APP23): TA-A.
- 2.31 The original ES sets out all the findings, in adequate detail (APP22-26) to cover all that is required, and it distinguished between the various 'project stages', as it should (cf EN-1, para 4.2.4). I sought more information on cumulative impacts, after the Preliminary Meeting (PM) (HR1) which led to the ES being

augmented by an ES Supplementary Report submitted on 18 February 2013 (REP60), which updated several sections, but did not lead to any changes in the topic or overall conclusions, although the list of 'other projects' was modified in February 2013 (see para 2.35, below).

MINOR CHANGES MADE DURING THE EXAMINATION

- 2.32 The application documents suggested a construction programme commencement in September 2014, and completion in December 2015 (APP22). However, I was advised during the PM (HR1) that there had been a major change in the construction programme.
- 2.33 Minor changes to the original application documents were advanced by the applicant during the examination period: the pylon designs would be L13s and not the other types mentioned as possibilities in the Planning Statement (APP29). It was also later clarified that only one of the new accesses (that to the substation) would become a permanent access; and, the road closures proposed would all be temporary closures.
- 2.34 In terms of other aspects of the Project / proposal: the ES Supplementary Report submitted on 18 February 2013 (REP66) contained various updates, particularly on cumulative impacts analysis, and construction traffic data. I cover that detail later in this Report. By the end of the examination it was clear that the project timescale had changed considerably to -
- Stage 1: substation works to commence: May 2015
- Stage 2: OHL works to commence: June 2016
- Final completion: January 2018.
- 2.35 The Supplementary ES (REP60) also explained that the list of 'other projects' for assessing cumulative impacts had been modified accordingly and now consisted of:
- (i) Centrica's King's Lynn B power station development (including NG's 400 kV substation), already consented;
 - (ii) NCC and Wheelabrator's proposed Willows Power and Recycling Centre: a new 'energy-from-waste' incinerator proposal proposed nearby at the Willows Business Park (a 'called-in' application, at public inquiry stage in February 2013);
 - (iii) re-routeing of two existing 33 kV OHLs to be re-routed by the district network operator (UKPN) being undertaken under permitted development rights; and

- (iv) a new 162 MW CCGT power station proposed to be built at the existing Palm Paper manufacturing plant, not then 'live', but thought unlikely to be brought forward in the timescales of this application.
- 2.36 The locations of these 'other developments' are shown clearly on a plan dated April 2013 (Figure 4.1) in a submission made by NG (HR21).
- 2.37 The omission, at the application stage, of one Public Rights of Way (PRoW) plan, was addressed. Late in the examination period, an issue arose on the correct naming of the road due south of the A47, on plans and in documents (HR 11-13). The ensuing debate concluded with an understanding that the term 'Saddlebow Road also known as High Road' would be used by NG (REP180).
- 2.38 With respect to the proposed compulsory acquisitions, the Book of Reference (BoR) and supporting plans were revised three times during the examination. The number of unknown ownerships reduced progressively during the examination period. My questions led to the sub-division of certain plots and related revisions to the BoR – all of which was clearly set out in the revised BoR and supporting plans. A final BoR was presented on 21 June 2013, in a clean copy (REP183) with a sister copy which highlights the changes made since 22 May 2013 (REP184). These changes are considered in more detail in Section 7 of this Report.

SIGNIFICANCE OF THE CHANGES MADE

- 2.39 I considered whether the various minor changes noted above were of such significance, separately or together, as to alter the substance of the application made ('the proposal'), as the examination proceeded, and at its conclusion. Having examined the detail, as set out in this Report, I concluded that the changes made, both separately and together, were not of such significance as to alter the substance of the application.
- 2.40 I also formed the view that the proposal, with the changes noted above, remained within the parameters of the EIA undertaken, and did not deviate appreciably from the material on which consultation had been undertaken during the pre-examination stage, as evidenced in the SoCC (APP18) which accompanied the application documents.

THE HABITATS REGULATIONS

- 2.41 The competent authority in respect of Habitats Regulations matters is the relevant Secretary of State (SoS).
- 2.42 The relevant documents submitted by the applicant on habitats (APP21) and detailed advice from Natural England on wildlife (REP48) informed the 'Report on the Implications for European Sites' (RIES) which advises the SoS that it is considered not

necessary for him as the 'competent authority' to undertake an 'appropriate assessment' (AA) of this application. The background to that is set out further in this Report (in Section 4) and the RIES is located in Appendix E.

3 LEGAL AND POLICY CONTEXT

INTRODUCTION

3.1 This application is for an OHL which is an NSIP. In deciding this application, therefore, s104 of the PA 2008 requires the Secretary of State to have regard to:

- Any national policy statement which has effect in relation to development of the description to which the application relates
- The appropriate marine policy documents (if any)
- Any local impact report (LIR)
- Any matters prescribed in relation to development of the description to which the application relates
- Any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

3.2 I have taken into account the fact that, in order to inform his decision, the SoS will also need to satisfy himself that the decision made on the application does not risk the UK Government breaching any international obligation, or the SoS breaching any duty imposed by law, or making an unlawful decision; and, the SoS must consider whether the adverse impacts of the proposed development outweigh its benefits, and whether any condition prescribed for deciding an application otherwise than in accordance with an NPS is met.

NATIONAL POLICY STATEMENTS

3.3 As this is a Project for electricity networks infrastructure, there are two relevant NPSs, published by DECC in July 2011:

- Overarching NPS for Energy (NPS EN-1); and
- Electricity Networks Infrastructure (NPS EN-5).

3.4 These NPSs (which are designated NPS statement for the purposes of s5 of the PA 2008) inform the findings and conclusions in Sections 4, 5, 6, 7 and 8 of this Report.

GENERAL PLANNING CONTEXT (ENGLAND) – THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

3.5 The application is for a development wholly in England. The UK Government's broad planning policy for England is now set out in the NPPF. Published in March 2012, it now comprises English national planning policy. However, Circular 11/95 entitled 'Use of Conditions in Planning Permission' (DCLG, 1995) remains relevant to the framing of any requirements set for NSIPs, and I will refer further to it later in this Report.

3.6 The NPPF refers to but does not contain specific policies on NSIPs. It explains that NSIPs are to be determined in accordance with the framework set out in the PA 2008, and relevant NPSs for major infrastructure, *'as well as any other matters that are considered both important and relevant (which may include the National Planning Policy Framework)'* (cf NPPF, para 3).

3.7 I have considered whether there may be any particular facets of the NPPF which may be important and relevant – in addition to PA 2008 and the relevant NPSs - in respect of this case, and whether there are any statements within the NPPF, which set out what is expected of planning applications in general across England, which should be noted. In that respect, I would simply note here the NPPF's emphasis on 'Achieving sustainable development' (cf NPPF, page 2), and 'healthy communities' (NPPF, pages 7, 9, 17 and 69 et seq) and the statement that:

'The purpose of planning is to contribute to the achievement of sustainable development' (cf NPPF, para 6).

3.8 The applicant's ES mentions the NPPF. In the section on land use, for example, it mentions sections 10, 11 and 12 of the NPPF (APP22) which deal with climate change and conserving and enhancing the natural and historic environment. There are also references to the NPPF in the transport evidence submitted by NG. I would simply note here that there are 'generic impacts' policies in EN-1 which cover these matters.

3.9 In the context of its analysis of 'Landscape and Views' the ES draws attention to the fact that *'The NPPF outlines that good design is a key aspect of sustainable development and should contribute to making places better for people'*. It then lists the qualities that NPPF specifies developments should achieve, starting with *'Functions well and adds to the overall quality of the area'* (APP22). I would simply note here that, in the relevant NPSs, which take precedence, EN-1 (cf para 4.5) specifically encourages 'good design' in relation to electricity networks; para 4.5.3, mentions 'functionality' and other aspects of good design: and EN-5, in para 2.5, states:

'Proposals for electricity networks infrastructure should demonstrate good design in their approach to mitigating the potential adverse impacts which can be associated with overhead lines, particularly those set out in Sections 2.7 to 2.10 below'.
[Note: The latter, 2.7 to 2.10, deal with biodiversity and geological conservation, landscape and visual impacts, noise and vibration, and electric and magnetic fields.]

OTHER NATIONAL POLICY AND CASELAW OF POTENTIAL RELEVANCE

- 3.10 I considered it necessary and appropriate during the course of the examination to refer to the Government's broad policy on transport and the notion of sustainable transport, in a hearing (HR2-5) and in later formal questions. This touched upon consideration of the construction phase impacts. Broad transport policy for England is currently set out in the White Paper 'Delivering a Sustainable Transport System' (DaSTS) published by DfT in November 2008. The goals it sets for transport include inter alia: delivering reliable and efficient transport networks, to contribute to better safety, security and health; to promote greater equality of opportunity; and to improve quality of life. The objectives cover sustainable transport, the use of railways, cycling, the environment, amenity and safety matters. DfT has also recently issued a new report on roads, the policy paper / command paper 'Action for Roads – A Network for the 21st Century' (July 2013).
- 3.11 The applicant referred in the ES, to the 'Government's Tourism Policy (March 2011) (DCMS)' which applies in England.
- 3.12 Given the recent *East Northants DC v. SSCLG [2013] EWHC 473 (Admin)* case, which reminded everyone of the importance of the duty set in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, it was necessary to assess carefully the potential impact of the proposal on the setting of listed buildings. I refer to that in more detail in Section 4E of this Report.

SOCG ON LOCAL PLANNING CONTEXT - PREPARED BY THE APPLICANT AND LOCAL PLANNING AUTHORITY (LPA)

- 3.13 The applicant and King's Lynn and West Norfolk Borough Council (the Borough Council) are agreed that the relevant policy documents at national level are NPSs EN-1 and EN-5. The Regional Spatial Strategy 'The East of England Plan' (2008) was in force at the time the application was made and accepted. But it was revoked on 3 January 2013. In their SoCG, the applicant and the Borough Council agreed that it was no longer relevant (REP56).
- 3.14 The SoCG with the Borough Council then agreed that the relevant local plans were: (i) the King's Lynn and West Norfolk Local Development Framework, Core Strategy (Adopted July 2011); and, (ii) the King's Lynn Local Plan, 1998. However, in their SoCG, the applicant and the Borough Council agreed that there were no relevant 'saved' local plan policies from the 1998 Plan (REP56).
- 3.15 The SoCG between the NG and the Borough Council also agreed that the '*relevant Core Strategy policies are those listed in the Planning Statement and Policy CS10*' (REP56). That means that

they are agreed on the relevance of policies CS01, CS06, CS08, CS10 and CS12.

THE CORE STRATEGY

- 3.16 Within the Core Strategy (CS), the Vision is that *'People want to be part of the success story which is West Norfolk, drawn here to live, work, invest and visit'*. There is a short 'vision statement' for the Borough's main town: *'King's Lynn is an urban centre of regional significance; an exemplar town balancing the needs of conservation with urban renewal and strategic growth'* (cf CS, para 4.2). And a vision for the environment, which is quoted in the applicant's Planning Statement (APP29), and the ES (APP23) states *'We want to safeguard our justifiably famous natural and historic environment, at the same time making sustainability a central principle to our vision. We want to build connections with other local and regional economies, reduce reliance on the car, and prepare ourselves for the challenges of climate change'* (cf CS, page 10).
- 3.17 In terms of simple planning facts and figures: King's Lynn is presented *'as a service centre and economic driver to a sub-region in excess of 200,000 population'*. The population of King's Lynn itself is stated as 36,400.
- 3.18 The CS's main transport routes include the A47 (Trunk road, Leicester to Yarmouth), three principal roads (A10, A17, and A134), and an electrified rail service (to Cambridge and London). The railway and A47(T) are said to be part of the Trans European Network. King's Lynn historic medieval core is mentioned (cf CS, para 3.1.2-3.1.9). And, Policy CS03 (King's Lynn area) refers to various regeneration areas within King's Lynn including the Nar Ouse Regeneration Area on built-up and brownfield areas of King's Lynn immediately north of the A47 (cf CS, page 22).
- 3.19 Of the five CS policies agreed by NG and the LPA to be the most relevant, those highlighted in the 'Planning Statement' (APP29) were these four:
- Policy CS01 (Spatial Strategy)
 - Policy CS06 (Development in Rural Areas)
 - Policy CS08 (Sustainable Development)
 - Policy CS12 (Environmental Assets).
- 3.20 The Borough Council's LIR simply listed the policies CS01, CS06, CS08, and CS12 (REP51) but it also cited CS10. It did not elaborate on the policy content and relevance. I requested more input from the LPA on that (PD11, REP74) which helped to inform the analysis below on the relevant CS policies. The County Council's LIR mentioned these policies: CS01, CS06, CS08, and CS12.

- 3.21 The five local development plan policies agreed in the SoCG (REP56) to be the most relevant by the applicant and LPA are clearly CS01, CS06, CS08, CS10, and CS12. To assist the SoS, I note below, for information, the most relevant parts of those five CS Policies.

POLICY CS01 (SPATIAL STRATEGY)

- 3.22 This Policy sets out the overall 'Development priorities for the Borough', and five aims, of which three, in the Borough Council's view as the local planning authority (LPA) (REP74), are relevant. They are, in full (cf CS, page 14):

- *'facilitate and support regeneration and development aspirations identified in the Regional Spatial Strategy'*
- *'encourage economic growth and inward investment'*
- *'protect and enhance the heritage, cultural and environment assets and seek to avoid areas at risk of flooding'.*

POLICY CS06 (DEVELOPMENT IN RURAL AREAS)

- 3.23 CS06 sets out four key aims, and the proposal touches on the second of these, in the LPA's view (REP74) (cf CS, page 26): *'Maintain local character and a high quality environment'*. This Policy also sets out a general policy for the rural / countryside areas, which includes this statement: *'Beyond the villages and in the countryside, the strategy will be to protect the countryside for its intrinsic character and beauty, the diversity of the landscapes, heritage and wildlife, and its natural resources to be enjoyed by all. The development of green field sites will be resisted unless essential for agricultural or forestry needs'* (cf CS, page 27).

- 3.24 The applicant's Planning Statement (APP29) also quotes this part of the policy.

POLICY CS08 (SUSTAINABLE DEVELOPMENT)

- 3.25 This is an 'area-wide' Policy which contains six key aims, and the proposal touches on the first three and the sixth in the view of the Borough Council as the LPA (REP74). In full, they read as follows (cf CS page 32):

- *'Protect and enhance the historic environment'*
- *'Enrich the attraction of the borough as an exceptional place to live, work and visit'*
- *'Respond to the context and character of West Norfolk by ensuring that the scale, density, layout and access will enhance the quality of the environment'*
- *'Achieve high standards of sustainable design'.*

- 3.26 It also includes a section on 'Flood Risk and Climate Change' which includes this policy test: *'Development proposals in high flood risk areas will need to demonstrate that: the type of development is*

appropriate to the level of flood risk identified in the Strategic Flood Risk Assessment, or; if the development vulnerability type is not compatible with the flood zone as set out in PPS25, proposals will need to demonstrate that the development contributes to the regeneration objectives of King's Lynn or the wider sustainability needs of rural communities.' The applicant's ES, when addressing hydrology and flood risk, also mentions this part of the policy CS08 (APP22): Doc 7.1.

POLICY CS10 (THE ECONOMY)

- 3.27 This Policy (cf CS page 44) starts by stating that *'The local economy will be developed sustainably: to facilitate job growth in the local economy...[and] to increase the proportion of higher skilled jobs while ensuring that opportunities are available for the development of all sectors of the economy and workforce.'*
- 3.28 It sets out a 'rural exception policy' for any new development within the countryside: *'Permission may be granted on land which would not otherwise be appropriate for development for an employment generating use which meets a local business need. Any development must satisfy the following criteria:*
- *it should be appropriate in size and scale to the local area;*
 - *it should be adjacent to the settlement;*
 - *the proposed development and use will not be detrimental to the local environment or local residents'.*

POLICY CS12 (ENVIRONMENTAL ASSETS)

- 3.29 This policy (cf CS, page 53) states at the outset that: *'Proposals to protect and enhance the historic environment, and landscape character, biodiversity and geodiversity will be encouraged and supported'*. Later on, it states: *'Development should seek to avoid, mitigate or compensate for any adverse impacts on biodiversity, geodiversity and heritage as well as seeking to enhance sites through the creation of features of new biodiversity, geodiversity and heritage interest. The design of new development should be sensitive to the surrounding area, and not detract from the inherent quality of the environment'*. It mentions use of s106 agreements where necessary *'to secure biodiversity, geodiversity and heritage needs'*.
- 3.30 It includes a section on 'Character Assessment' which states: *'Proposals for development will be informed by, and seek opportunities to reinforce the distinctive character areas and potential habitat creation areas identified in the King's Lynn and West Norfolk Landscape Character Assessment, the West Norfolk Econet Map and other character assessments. Development proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance the special qualities and local distinctiveness of the area (including*

its historical, biodiversity, and cultural character), gaps between settlements, landscape setting, distinctive settlement character, landscape features and ecological networks.' This latter sentence was quoted in the ES (APP22), Chapter 6, and in the NG's Planning Statement (APP29).

ADDITIONAL INFORMATION SOUGHT ON STRATEGIC PLANNING MATTERS

- 3.31 I requested that the local authorities spell out their strategic planning policy for the area on the southern edge of King's Lynn, following on the revocation of the East of England Regional Strategy on 3 Jan 2013, bearing in mind the fact that the DCLG, in its Strategic Environmental Assessment (SEA) on the revocation of the RSS, had stated that local plans were now to be the channel for strategic planning (PD11).
- 3.32 The Borough Council responded that the revocation of the RSS had little practical implication for the area, the context being set by Policy CS01, which envisaged King's Lynn as a main centre for development within the Borough and as a sub-regional centre in the East of England.

ADDITIONAL INFORMATION SOUGHT ON LOCAL PLAN CONFORMITY

- 3.33 I asked IPs, at the outset, whether the proposals conformed with the Local Plan / Core Strategy (PD11). In its reply, the Borough Council / LPA considered that the proposal did comply with all five policies – CS01, CS06, CS08, CS10 and CS12 (APP74).
- 3.34 It explained that the most significant role of the area immediately affected by the OHL was to accommodate additional employment growth on the 'EMP2 land' shown in the local planning documents – land near Willows Business Park, Saddlebow Industrial Estate and the Palm Paper plant. Appended to their reply were plans, showing (i) the EMPA 'employment expansion area' between Saddlebow Road (also known as High Road) and the River Nar; and (ii) the many fields and plots earmarked for housing development in and around the West Winch area (REP74). New development in the West Winch area would be physically close to and look out on the proposed NSIP site.
- 3.35 The Borough Council appended a King's Lynn Diagram 1 (cf CS, Figure 7) which indicated, for the area south of the A47: (i) the proposed employment expansion area east of the Willows Business Park, and (ii) the label 'Enhance Green Corridors' for the River Nar corridor alongside it, (iii) the rail corridor south of King's Lynn labelled as an 'Enhanced Rail Service'; and (iv) east of the A10, an 'Area of Urban Expansion' outwards from King's Lynn towards West Winch (REP74). These are important considerations as

context for the proposed NSIP site which is close to both the River Nar and the railway corridor and West Winch.

OTHER LOCAL PLANNING FACTS NOTED

- 3.36 Taking that response into account, when reading the CS, I noted the local planning policy intentions for the built up areas lying just north of the Site (but south of the A47) and the areas immediately east of the 'Site' of this NSIP proposal, and related to those two which form an important part of the planning context for the NSIP site, its detailed design and potential requirements:
- (i) the Adopted CS (Key) Diagram (July 2011) which identifies West Winch as a 'settlement adjacent to King's Lynn and the main towns' (cf CS, page 103); the CS plans and diagrams together with plans sent by the LPA (REP74), from the West Winch and North Runcton Development Plan Documents, illustrate a substantial planned expansion of West Winch, on to adjacent greenfield sites to become an 'urban extension'; and
 - (ii) a Strategic Green Infrastructure Plan (cf CS, page 91, Figure 12.2) which, on the southern edge of Kings' Lynn, identifies both the River Great Ouse and the River Nar corridors as strategic 'Green Corridors', and makes it clear that that description applies to those two corridors, not simply close to King's Lynn, but much further southwards as well (past and well south of the NSIP Site).

4 EXAMINATION ISSUES, FINDINGS AND CONCLUSIONS

THE PRINCIPAL ISSUES

- 4.1 In accordance with s88 of the PA 2008, I studied all the application documents received, the policies set for NSIPs in EN-1 and EN-5, and legal and policy documents and guidance of potential relevance and Relevant Representations, and on that basis, identified an initial list of Principal Issues (PD11: Rule 6 letter, Appendix C).
- 4.2 The principal issues at the start of the examination remained the main issues as it progressed, but they were not the only issues I considered. Some issues receded from the limelight as the examination progressed and evidence was gathered: others came more to the fore. To the extent that any new views were expressed by IPs, they remained related to the 'principal issues' as originally listed.

IMPORTANT ISSUES EMERGING AT THE PRELIMINARY MEETING

- 4.3 A few important issues which were raised immediately, at the Preliminary Meeting (in January 2013), were:

Cumulative impacts: this issue was of particular concern to one IP, Cambridgeshire County Council (because of potential impacts on the strategic road network);

Impacts on the operational railway: the extent of the issue between Network Rail and NG, in respect of protective provisions and proposed compulsory acquisition of rights over operational railway land, became very clear at the Preliminary Meeting;

Project timeframe slippage: announced at the PM, this was, later on in the examination, further adjusted to Commencement in May 2015 and Completion in January 2018. This led to adjustments in the list of 'other projects' which needed to be addressed in terms of cumulative effects (especially the potential cumulative transport effects relative the capacity of the A47 Saddlebow Roundabout).

LOCAL IMPACTS REPORTS – THE LOCAL ISSUES

- 4.4 There were LIRs submitted by the Borough Council and the NCC (REP51, 52). Both set out the Local Authorities' views on the likely impact of the scheme very clearly. They informed my examination of the application, throughout, as required under s60 of the PA 2008.
- 4.5 The Borough Council's LIR (REP52) mentioned the CS policies. It referred to a range of issues. In brief summary, they were:

- the principle of the development (measured against NPSs, the NPPF and the local development plan policies) and whether it represented good design and mitigation of potential adverse impacts
- landscape and visual impacts, upon wider views in more open countryside as seen from roads and public footpaths, especially footpaths along the River Nar
- highways and traffic issues, the need to assess alternatives to the proposed construction traffic routeing through the village of Watlington
- flood risk – especially whether the development passed the Exception Test
- heritage – the potential for non-designated assets (buried archaeological remains) to be affected, and a need for more precise requirements on archaeology
- residential amenity - impacts on Watlington (construction traffic), and the need for requirements to govern hours of work, piling, activities, and dust and noise management
- ecology - localised impacts during construction as a result of disturbance and the loss of hedgerows on the eastern side of the River Nar, and the need to secure compensatory planting to mitigate the impact of the development upon ecology and biodiversity.

4.6 The Borough Council requested that all the issues identified in the LIR be 'addressed' at the examination, with a focus on three specific issues (REP52):

'1. The assessment of the Sequential Test in the FRA should be amended as the reference to PPG25 is out-dated and the expectation that a Development Plan document would allocate a site for this type of development is flawed

2. The views of the Environment Agency on the technical acceptability of the FRA need to be sought to determine whether or not the Exception Test has been met

3. An alternative to the construction route through Watlington village should be sought in order to avoid unacceptable impacts upon residential amenity in that village.'

4.7 NCC's LIR (REP51) also drew attention to the CS policies. Elected members had raised no concerns or objections, but the NCC Member for the King's Lynn North and Central had recognised that there would be *'additional visual intrusion arising from more pylons'*.

4.8 The NCC was content with the situation in respect of hydrology and drainage, as it had studied the Flood Risk assessment and agreed that there would be no impact on drainage, no drainage works were required, and no formal application to the County would be needed on that matter. In terms of flood risk and

drainage, the proposal did not raise any significant concerns (REP51). On wildlife matters, the Preliminary Environmental Information Report's (PEIR) conclusions that the adverse impacts on the River Nar SSSI would be *'quite low and possible to mitigate'* were *'generally considered sound'*. Also, a SoCG with NG had been prepared on archaeological matters; and, minerals and fire matters were not an issue.

4.9 There were, however, two main issues of concern to NCC (REP51). In summary, they were:

- highways and traffic – what it termed a holding highway objection had been made, the issue being the proposed route for some of the construction traffic through Watlington village: and the construction works would require temporary highways works to be formally agreed with the County Council, and suitable highways conditions or legal agreements would need to be entered into with NG; and
- local landscape impacts – the LIR noted that *'some negative impact'* was predicted for the local area south of King's Lynn, and the closest views from the River Nar at the OHL crossings: although the conclusions drawn by the PEIR on LVI matters were *'reasonable'*.

OTHER RELEVANT AND WRITTEN REPRESENTATIONS RECEIVED

4.10 The representations received shortly after the commencement of the examination period covered a wide range of issues. Several such 'Written Representations' were received (18 February 2013). Key points emerging were:

- Watlington Parish Council – (first consulted in April 2012) objected to the proposed construction traffic routing through Watlington, and expressed concern about potential impacts on the village (REP50)
- NCC – as the Local Highway Authority (LHA) - expressed concerns about the impact on country lanes, and the lack of a legal agreement to cover repairs to any country lanes to be used; and its own lack of agreement with the proposed construction traffic routing to the southern section of the works proposed; and its own alternative 'least worst' solution utilising Low Road (Route 'A') (REP44)
- Natural England – submitted a very detailed report, which identified three main issues: potential impacts on the Ouse Washes SPA and The Wash SPA and corresponding Ramsar Site designations; River Nar SSSI; and protected species: but, it concluded that an Appropriate Assessment (in respect of the SPA/Ramsar Sites) would not be needed (REP48)
- Cambridgeshire County Council (CCC)– expressed concern about the likely cross–boundary traffic, if the Project's construction overlapped with that proposed at Palm Paper;

wanted more information about total vehicle movements and cumulative impacts; and, echoed the EA's concerns about the lack of information on piling-related waste storage and disposal (REP45)

- Health and Safety Executive – had no comments to make (REP46)
- Anglian Water (the relevant water and sewerage undertaker, and a statutory consultee) objected to the Draft DCO's protective provisions on their behalf, as drafted; but was otherwise broadly supportive (REP47).

I also accepted an 'Additional Submission' from the EA – containing very detailed suggestions (having liaised with NE) on potential requirements to protect water voles (REP49).

- 4.11 The most controversial issue at the start of the examination, and throughout, proved to be the potential routeing of some of the construction traffic through the village of Watlington and its potential impacts upon that village.
- 4.12 The remainder of this Section outlines my main findings, issue by issue.

MAIN FINDINGS AND CONCLUSIONS – ISSUES A-J

- 4.13 The rest of Section 4 is structured as follows:
- (A) The Proposed OHL Route and Alternatives (including Undergrounding)
 - (B) The Landscape and Visual Impacts (LVI)
 - (C) Ecology
 - (D) Flood Risks
 - (E) Cultural Heritage and Archaeology
 - (F) The Nar Valley - Recreation and Amenity
 - (G) Operational Railways – the Protective Provisions
 - (H) Construction Traffic
 - (I) Socio-economic Effects
 - (J) Other Matters and Cumulative Impacts
- 4.14 These are not set out in any order of precedence, and they need to be read together, especially sub-sections A and B.

A. The Proposed OHL Route and Alternatives (Including Undergrounding)

Introduction

- 4.15 On the exploration of options for making a connection between two points, EN-1 (para 3.7.10) makes it clear that: '*...there will be more than one technological approach by which it is possible to make such a connection ... and the costs and benefits of... alternatives should be properly considered as set out in EN-5 (in*

particular section 2.8) before any overhead line proposal is consented.'

Selecting a Route: Three Corridors: the 'East Corridor'

- 4.16 NG's application explained how three potential connection 'route corridors' had been delineated, evaluated and widely consulted upon initially: West (west of the River Great Ouse), Central (between the River Great Ouse and the Great Ouse Relief Channel, and East (east of the Great Ouse Relief Channel) (APP22). A Route Corridor Study (RCS) was undertaken (APP23: TA-K), and the three corridors were compared and assessed for potential environmental constraints (APP22).
- 4.17 NG had followed a process set out in a document entitled 'Our Approach to the Design and Routeing of New Electricity Transmission Links' which encourages a case-by-case basis for selecting routes and technology.
- 4.18 NG's comparison of corridors, set out in the RCS (APP23) had then concluded, on the basis of environmental considerations alone, that:
- the East Corridor was *'the least environmentally constrained'*: it was not the shortest but offered *'the greatest opportunities to utilise tree and shrub cover for screening'* plus also *'potential for greater separation from dwellings by using undeveloped land and slightly increased capacity to accommodate the scale of a 400 kV overhead line in a landscape where the visual effects would be prominent'*; the existing riverside vegetation would minimise visual effects along the River Nar corridor and footpath; and alignments could be considered to *'seek optimum opportunities to minimise the visual effects on the surrounding environment'*
 - the Central Corridor offered a shorter connection route than the other two, but there were *'no opportunities for backgrounding and screening within this corridor'*, and the landscape was *'very open in character'*
 - the West Corridor option would have potentially greater visual effects than the other two; it would be the longest option, and it had no environmental advantages over the other two.
- 4.19 NG also undertook a three-stage stakeholder consultation process, which addressed the three route corridor options, and that process appeared to favour the East Route Corridor over the others, overall (APP18). The East Route Corridor was then selected. It was: *'primarily selected to minimise the visual impact as a result of the Project, which in turn would reduce any potential socio-economic impacts. In addition to this a mapping exercise identified a third less tourism and related businesses operating in this area compared with the Western Corridor. This corridor was also found*

to affect a lower acreage of high value agricultural land. It also contained fewer relatively disadvantaged communities' (APP22). NG sought to minimise impact on views by avoiding wirescape, running the route perpendicular to the existing 4VVI line (at the southern end) and for only a short distance parallel to the existing 132 kV line (at the northern end) (APP22).

The OHL's Conformity with the Holford Rules

4.20 I started by considering whether the OHL as proposed was in step with the Holford Rules. I found that the application as presented and explained in hearings (HR2-13) and in responses to questions could readily be seen as broadly in step with several of Rules 1, 3, 4, 6: in that, it was clear that:

- cf Rule 1: the East Corridor is not in a National Park, AONB, or other nationally designated landscape;
- cf Rule 3: the line selected is fairly direct, and short, and an effort was made, by NG, to avoid angle towers (APP4);
- cf Rule 4: the landscape of all three Corridors considered would appear to be fairly flat, so there was not a great deal of 'tree and hill background' available; the proposed line would cross the landscape fairly directly; and there are a few thin short rows of trees / woodland strips in the centre of the Nar Valley and here and there along the sides of the Nar Valley, mapped in the ES (APP22);
- cf Rule 6: there are separate proposals mooted which might remove or underground parts of the 33 kV and 132 kV existing OHLs nearby under permitted development rights (APP66) (APP29).

4.21 However, it was harder to find good fit with Rules 2, 5 and 7 on the basis of the application documents, and what could be seen on site visits, as (cf EN-5, page 13 and related footnote):

- cf Rule 2: although the East Corridor was selected over the more environmentally sensitive West and Central Corridors, and the alignment was fine-tuned to avoid valued features, it would still run very close to, over and across the River Nar SSSI (APP18);
- cf Rule 5: the Nar Valley is fairly flat and open: and not all the viewpoints are currently 'broken by trees' (APP22),
- cf Rule 7: the proposed OHL would not approach an urban area 'through' an industrial zone: it would approach a substation on the urban outer-edge, through open arable countryside, which supported recreational functions, and which includes a number of rural residences. The East Route Corridor area is a block of countryside, situated well south of the historic town centre. The proposed OHL would cross intervening open countryside, the Nar Valley, which is threaded with recreational routes (riverbank paths, national cycle paths, country lanes and bridleways).

- 4.22 To the extent that any routing or alternatives or mitigation might be required to deal with any impacts, there is clear advice in EN-5 and that relates back to the Holford Rules:

'The [decision maker] should recognise that the Holford Rules, and any updates, form the basis of the approach to routing new overhead lines and take them into account in any consideration of alternatives and in considering the need for any additional mitigation measures' (cf EN-5, para 2.8.7).

Alternative Connection Methods

- 4.23 Additional mitigation of the adverse local LVI impacts (cf Section 4B) seemed unlikely on the basis of the early evidence presented, so I decided to take a closer look at the alternatives. Where there are adverse landscape impacts, EN-5 (para 2.8) states, that undergrounding should be considered, and *'...the applicant should have given appropriate consideration to the potential costs and benefits of other feasible means of connection or reinforcement, including underground... The ES should set out details of how consideration has been given to undergrounding ... as a way of mitigating such impacts, including, where these have not been adopted on grounds of additional cost, how the costs of mitigation have been calculated'* (cf EN-5, para 2.8.4).

NG's Pre-Application Consideration of Undergrounding

- 4.24 EN-5 states: *'The impacts and costs of both overhead and underground options vary considerably between individual projects (both in absolute and relative terms). Therefore, each project should be assessed individually on the basis of its specific circumstances and taking account of the fact that Government has not laid down any general rule about when an overhead line should be considered unacceptable'* (cf EN-5, para 2.8.9).
- 4.25 NG had considered the alternative undergrounding option. NG envisaged going underground in *'locations with physical difficulties in constructing an overhead line, such as in urban areas; wide river or estuary crossings; and the presence of highly valued landscapes such as National Parks, Areas of Outstanding Natural Beauty and other nationally important areas, and also particularly sensitive landscapes and iconic views or areas where potential impacts could only be mitigated by undergrounding'* (APP18: Table 40, page 126). That reflects NG's general practice to date, as described in the ES, which is generally to use undergrounding only in 'exceptionally constrained' urban or rural areas, and for estuary or major river crossings (APP22: TA-K).
- 4.26 The Planning Statement simply stated that NG had evaluated the undergrounding options and concluded that *'neither of the variants of the underground option would present an environmentally or*

economically preferable alternative to the overhead line connection' (APP29).

- 4.27 I found that NG had reviewed the connection options in the light of the recent Institution of Engineering and Technology (IET) report published in January 2012, which assessed the comparative costs of tunnelling, sub-sea and new OHLs (APP22). At that point there were three options being examined: KL2b (an underground option, estimated cost £93.7M); and, KL3a (an underground option, estimated cost £52.6M); compared with an OHL option KL2 (OHL, estimated cost £43.7M). NG then concluded that an OHL would achieve the most appropriate balance between its technical, economic and environmental obligations, according to the Planning Statement (APP29).
- 4.28 However, the test set by EN-5 is different. It starts with considering landscape and visual impacts (cf EN-5, paras 2.8.2 et seq).
- 4.29 EN-5, para 2.8.8 urges that: *'Where there are serious concerns about the potential adverse landscape and visual effects of a proposed overhead line....balance these against other relevant factors, including the need for the proposed infrastructure, the availability and cost of alternative sites and routes and methods of installation (including undergrounding).'*
- 4.30 The first task therefore, during the examination period, was to take stock and consider whether there were 'serious concerns' about the potential adverse LVI effects of NG's current OHL proposal.
- 4.31 The Borough Council requested that 'the principle of the development' be examined, bearing in mind the need for NSIPs to *'demonstrate good design in the mitigation of the potential adverse impacts'* (REP52). The LIR, when describing the undesignated countryside south of King's Lynn, drew attention to the small villages in the area, and the isolated dwellings and farms screened by vegetation which would obscure views of the new pylons to a significant extent, but anticipated some negative effects upon the wider views in more open countryside as seen from roads and public footpaths, particularly paths along the River Nar.
- 4.32 The County Council's LIR noted that the proposals would introduce a series of new tall structures into the landscape south of King's Lynn in an area which had existing industrial, power plants and pylons already in the landscape, with some negative impact in the local area south of King's Lynn. The impact on local views would, it considered, be minimal with the exception of the closest views from the River Nar at the two OHL crossings (REP51).

- 4.33 Scope for undergrounding had been mentioned several times in the pre-consultation correspondence (APP18). For example, the Royal Society for the Protection of Birds (RSPB), at the pre-application stage, had called for undergrounding, to protect birds (APP23: TA-A, Scoping Report, AppB; RSPB 6 May 2010). Also, at the re-application stage, West Winch Parish Council had stated that users of West Winch Common would be affected by the visual impact of the pylons, although it expressed overall support for the chosen route (APP22).
- 4.34 The applicant's evidence suggests that the East Corridor would be the least harmful of the three corridor options overall, environmentally. There was no evidence before me to suggest that there were any radically different options available, in terms of corridors or routes which would be superior to the East Corridor selected. There was, however, an alternative method of installation (undergrounding) for making an electricity connection between the planned power station substation, and the national grid line, somewhere south of King's Lynn.
- 4.35 The information supplied by NG in response to my first questions, on the alternative undergrounding option (as a potential mitigation of potential OHL impacts) explained:
- (i) on routes: that an exact underground alternative route line had not been determined, and NG had assumed an 'as the crow flies' basis for the high-level appraisal of alternatives (REP71);
 - (ii) on alternative sites, route costs and installation costs: that NG had analysed costs (REP71), and they could set out the indicative capital and lifetime costs of the overhead and underground routes. They also had to consider the costs of all the other works/apparatus to make such connections possible (eg. substations) to arrive at an 'Overall Project Option Capital and Lifetime costs' for the three main options. Both tables presented showed the 2011/12 estimates, the IET equivalent project estimates, and, following on from that, NG's latest 2012/13 cost estimates. The figures for the preferred overhead line option (KL2a) and the alternative, lower cost, underground connection option (U/G) (KL3a), updated in 2012/13 (taken from Table 2 of their response) (REP71) were:

	Capital cost	Lifetime cost
KL2a (OHL/preferred option):	£41M	£49M
KL3a (least costly U/G option):	£55M	£56M
Hence a difference of:	£14M	£ 7M

- 4.36 On flood risk, there was a concern that the substation which the KL3a undergrounding option would require, under the 4VV line, would be located in Flood Risk Zone 3A (REP 71).
- 4.37 NG stated that those cost differentials (£14M/£7M noted above) *'would remain largely unaltered, even considering further potential mitigation. Any further mitigation such as landscaping would be a smaller order of capital cost in comparison to project capital costs of £14M, or lifetime costs of £7M and therefore have minimal impact upon cost differential'* (REP 71).

Other Relevant Detail

There was some questioning and debate during the examination period on the potential alternative of undergrounding in respect of this project. In terms of undergrounding, EN-5 (para 2.8.9) encourages consideration of three strands of detail.

(i) landscape setting, residential, natural beauty, and heritage

Based on the information in the ES, the Nar Valley is not an AONB or National Park, but an open fenland landscape, on the edge of a historic and expanding town. The LVI and LCA work (considered in more detail in Section 4B which follows) concluded that in terms of natural beauty the Site area was not on a par with nationally designated areas, but it was not without interest. Its historic importance was not high. As detailed design work on an undergrounding option had not been done by NG, it was difficult for NG to be highly specific on the potential environmental impacts of adopting an undergrounding approach. I did ask NG to provide an OS plan showing the route that the cheaper (KL3a) of the undergrounding options might take through the East Corridor, and to explain the extent of likely disruption (PD11). In the response (REP71), NG explained that although their review suggested that the KL3a could be physically placed underground entirely, that would need to be *'verified by detailed surveys, searches and siting studies'*: and it would need to run between two points *'with suitable locations for establishment of above-ground cable termination compounds'*. NG said that the *'effects of undergrounding cables option KL3a have not been appraised because a route had not been determined'*.

(ii) the additional costs and practicalities of undergrounding

NG's analysis had only been done on an 'as the crow flies' notional line basis (REP71). It warned that avoiding dwellings, buildings, physical obstructions on the ground, services and utilities, habitats and archaeological sites *'could lead to routeing variations, and could cause increase in cable length. This would have a significant impact to both capital and lifetime costs and these are often disproportionately larger cost implications than those for overhead lines. This is due [to the] cost of underground cable being £4.4m per km for a single 'Lo' rated cable versus £1.8m per km for a 'Hi'*

rated double circuit overhead line. Therefore any required variations in cable distance would have a cost impact greater than seen for overhead lines for the same variation' (REP71). Further back-up evidence was also submitted to show that underground cabling was more expensive than OHL cable, in terms of length and higher 'by-the-metre' costs (REP71). It is not clear to me as to why such foreseeable potential 'extra-overs' had not been fully built in to the global cost estimates already presented to the Examination, at least on a provisional sum basis. I found that the IET Study, which had informed NG's calculations, did include allowances for 'build contingencies' in its costings for 3 km, 15 km and 75 km length connections - including for the direct-buried, tunnelling, gas-insulated and sub-sea cable variants, usually at a rate of 15%. The explanatory list of matters which the 'build contingencies' for a 3 km direct-buried underground cable would cover, specifically included 'route diversions' (cf IET Study, 2012, page 91). Also, at King's Lynn, a comparatively short proposed connection, of c.2.8 kms or perhaps a little more, would run through flat open land. It was and is, therefore, difficult to envisage circumstances where underground cables would have to deviate massively to run around major 'obstacles' (there are no woodlands there, for example) thus racking up very large 'over-extra' cabling costs, in this particular case.

(iii) other environmental and archaeological consequences

EN-5 (para 2.8.9) warns that undergrounding may entail environmental and archaeological consequences, as undergrounding a 400 kV line might mean disturbing a swathe of ground up to 40 metres wide (with impacts on sensitive habitats, soils, geology, and heritage assets greater than those of an OHL). In a response to my Written Questions, NG described in detail the work they would need to undertake on the ground, if undergrounding (REP71). That response established that there would be considerable short-term disruption of the landscape in the construction phase, with greater ground disturbance, and a new substation would be needed under the existing 400kV line which would create its own local landscape impacts.

Broader Mitigation Options for the OHL proposed

- 4.38 The IPs did not press the case for mitigation of the adverse visual impacts identified in the environmental statement. However, it is at least possible that the Secretary of State might reach another conclusion and decide that the benefits of an overhead line did not clearly outweigh extra economic environmental and social impacts of undergrounding (cf EN-5, para 2.8.9).
- 4.39 In that context, the SoS should note that NG did not undertake a detailed underground cable alignment assessment (REP71) thus a detailed comparison on environmental, social, economic and technical grounds, would be extremely difficult. It was also clear

that there might be complications in terms of flood risk for any alternative undergrounding proposal (REP71, 170).

- 4.40 EN-5, para 2.8.10, mentions scope for considering other options in order to mitigate potential adverse landscape impacts including the consideration of network reinforcement options and the selection of the most suitable type and design of support structure but no such alternatives were advanced or discussed at the examination.
- 4.41 During the examination stage, it became clear that the physical setting for the connection is also in the process of changing. The Borough Council's CS policies and the other major development applications in the pipeline for the area, including Centrica's CCGT power station with 80m 'exhaust stacks' (APP33), taken together, herald a more intensively developed, industrial, built-up edge to the south of King's Lynn immediately north of the Project proposed; and, north-eastwards and eastwards of the Site a large 'urban extension', effectively doubling the settlement of West Winch nearby, is planned (cf Section 3).
- 4.42 The planning evidence presented and the CS policies and proposals (see Section 3 of this Report) suggest that there will be more, and more sensitive 'receptors' conceivably in terms of LVI matters north and west of the proposed OHL Site, in the next few years. It will inevitably mean also that within a few years' time, more people will be living within easy walking distance of the Nar Valley and River Nar pathways, and the adjacent paths. The Nar Valley's perceived value as a local amenity might well grow as the local housing land allocations around West Winch are taken up.
- 4.43 Despite these sensitivities, the IPs did not press for undergrounding or any additional landscaping or screening or other mitigation of consequence, notwithstanding the scope for that identified in the relevant national policy statement (cf EN-5, para 2.8.11).

Conclusions on Routing and Undergrounding Matters.

- 4.44 NG has established a clear case for its selection of the Eastern Corridor route over the others. In the context of the detailed LVI analysis (covered in Section B) which identifies some 'high' and 'moderate high' adverse impacts, the scope for and need for other mitigations (including undergrounding) must be considered. The extra costs of undergrounding is not inconsiderable, and it would involve much disruption especially in the construction phase. Undergrounding of this proposed connection, would clearly be beneficial in visual terms overall, but it would be difficult to justify the additional effort and resources involved, given the LIRs which indicate that the Borough Council and NCC are prepared to live with the residual high/moderate adverse local LVI impacts on the

area south of King's Lynn. Therefore, I conclude that the routing proposed is acceptable.

B. Landscape and Visual Impacts (LVI)

Introduction

- 4.45 The Energy NPSs do not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option, other than on three matters: one of which is 'landscape and visual impacts' (LVI) (cf para 4.4.1, and 4.4.2, EN-1).
- 4.46 EN-5 acknowledges that electricity lines, above ground, *'can give rise to adverse landscape and visual impacts, dependent upon their scale, siting, degree of screening and the nature of the landscape and local environment through which they are routed. For the most part these impacts can be mitigated...however at particularly sensitive locations the potential adverse landscape and visual impacts of an overhead line proposal may make it unacceptable in planning terms, taking account of the specific local environment and context'* (EN-5, para 2.8.2).

Interested Parties' Concerns and Comments on LVI Matters

- 4.47 At the examination stage, both LIRs referred to some negative changes to and impacts on the landscape, in the context of rounded and measured comments about landscape issues in general. On landscape and visual impact issues:
- (i) NCC in its LIR (REP51) stated: *'The project would introduce a series of new tall structures into the landscape south of King's Lynn. The report indicates that this area is mixed in character with existing industrial, power plants and pylons already in the landscape. Notwithstanding this the new pylons would have some negative impact in the local area immediately to the south of King's Lynn.... With the exception of the closest views from the River Nar footpaths where the new OHLs would cross, the impact on local views would be quite minimal. The report concludes that the impacts on views 2 km or more would be limited. The conclusions reached in the PEIR are considered reasonable.'*
- (ii) the Borough Council in its LIR (REP51) stated: *'The pattern of development is predominantly small villages and isolated dwellings and farms. The development corridor is screened from most of these settlements and properties by planting that is sufficiently close to properties that it would obscure views of the new pylons to a significant degree. Wider views in more open countryside would be available from roads and public footpaths, in particular from the footpaths*

along the banks of the Nar, which is crossed twice by the new over-head line. However, pylons and over-head lines are already a feature of the landscape in the area affected by the proposals. For example, the Nar is crossed by two existing lines including the existing Norwich – Walpole 400 kV line. Consequently, whilst the development will cause some negative changes to the landscape these are not considered to be significant....'

- 4.48 The Borough Council, however, asked for the application to be addressed by the Examining authority in respect of landscape and several other issues, including the proposal's design quality, and other environmental impacts (REP52).
- 4.49 Responding to my first set of Written Questions, Natural England said that as there were no nationally designated landscapes affected it had not provided comments on landscape impacts (REP48).
- 4.50 The Environmental Agency (EA) recommended that a requirement should ensure that no development should take place until a 'landscape and ecological management plan' (rather than simply an 'ecological management plan') had been submitted and approved by the LPA (REP80) but that was in relation to ecological, rather than LVI, matters. That desire for close linkage of landscape and ecological matters is relevant and important and noted here because it would need to inform any general landscaping requirements set for this project had any, or were any, to emerge.

The Site - Landscape Character Assessment (LCA)

- 4.51 EN-1 (para 5.9.14) urges '*Outside nationally designated areas, there are local landscapes that may be highly valued locally and protected by local designation. Where a local development document in England or a local development plan in Wales has policies based on landscape character assessment, these should be paid particular attention.*' The Borough Council's CS makes it clear that King's Lynn is a small historic town with a medieval heart, but it has no Green Belt. There is no landscape protection for the area to the south of King's Lynn, nor other designations to protect landscape features to the south of the town.
- 4.52 The LDF/CS relies on Landscape Character Assessment, as set out in the Adopted CS (July 2011).
- 4.53 Two Landscape Character Assessment (LCA) informed the LVI analysis undertaken. They were: (a) Natural England (former Countryside Agency) Landscape Character Assessment Volume 6, East of England, 2005; and (b) the King's Lynn and West Norfolk Borough Landscape Character Assessment, 2007. These LCA documents were referred to, here and there, in the evidence

provided by NG and IPs and responses to questions, during the examination.

- 4.54 In respect of the NE LCA, the Project Site lies within 'The Fens' (LCA 46) area, and the North West Norfolk (LCA 76) area. In respect of the Borough LCA: the Site and surrounds lie in 'The Fens – Open Inland Marshes', and adjacent to 'The Fens – Settled Inland Marshes'.
- 4.55 The Borough's LCA includes 'Landscape Planning Guidelines' which encourage conservation of the existing character of the area (including its undeveloped character, remoteness/tranquillity, open views southwards, the tree rows and orchards); sensitive location of tall structures in relation to the prominent skylines; and, the screening of existing and new development (APP22).
- 4.56 I found that the Adopted CS, Policy CS12, married LVI and ecological concerns to a considerable extent. For example, it stated that: *'Proposals for development will be informed by and seek opportunities to reinforce the distinctive character areas and potential habitats creation area identified in the King's Lynn and West Norfolk Landscape Character Assessment, the West Norfolk Econet Map and other character assessments.'* The North West Econet Map (cf CS, Page 91) suggests that, in the area south of King's Lynn, the need is for *'general habitat enhancement'* and there is some overlap with *'wetland habitat enhancement'* and an *'orchard core area'*. Figure 3 (page 89) of the CS shows the Norfolk Ecological Network Map: and the Site appears therein to lie in a 'Zone of general habitat enhancement' and a 'Zone of wetland enhancement'. These CS maps – read together with the adopted policies - establish the Site area as an area where 'habitat enhancement' is likely to be an important consideration, planning-wise, and landscape-wise to the extent that any landscaping works are required.

The Applicant's Landscape and Visual Impacts (LVI) Assessment

- 4.57 EN-1, on LVI issues, guides the decision-taker as follows: *'Landscape effects depend on the existing character of the local landscape, its current quality, how highly it is valued and its capacity to accommodate change. All of these factors need to be considered in judging the impact of a project on landscape'* (EN-1, para 5.9.8). Studying the LVI documents during the examination period, I found that NG's LVI Assessment was undertaken in a very structured manner reflecting the then current 'Guidelines for Landscape and Visual Impact Assessment (LVIA) Second Edition' (Landscape Institute/Institute of Environmental Management and Assessment, 2002) (APP23: TA-A).
- 4.58 NG's LVI assessment had looked at landscape character, and the relative sensitivity of 'receptors' with the highest sensitivity

accorded to residential properties (lower storeys and gardens), public open space, and users of PRoW and other recreation routes. It had studied 19 public viewpoints, and 19 private viewpoints. The main conclusions NG had drawn from that LVIA exercise was that there were 'effects' (APP22: Chapter 6) some more adverse than others. I summarise the key effects/impacts, below:

- highly adverse effects in respect of views experienced by cyclists on Cycle Path No.1 (especially along the northern sections of High Road), and also users of the PRoW FP26, and Bridleway BR28
- moderate-high adverse impacts, from private viewpoints, for the residents at 2 and 4 High Road, and New Farm House on High Road: plus moderate adverse impacts on a number of other properties (including several on Low Road and Thiefgate Lane)
- moderately adverse effects on views from other parts of Low Road
- low-moderate adverse effects for the 'Willows Business Park' area, and for users of Thiefgate Lane; and in respect of the western, northern and southern parts, for private viewpoints in West Winch, and from West Winch Common (but low adverse impact on properties at the centre of West Winch)
- no adverse impact for users of the A47 (between the A17 and A10), and upon the North Norfolk AONB, (which lies 8 km north of King's Lynn and which was not inter-visible with the development site)
- some cumulative impacts - taking into account all the other development mooted for the area to the south of the A47 (moderate adverse in connection with the Centrica power station, and the proposed energy from waste plant) (APP22: Chapter 6).

4.59 Notwithstanding the adverse effects, the ES concluded overall that:

- the effects on landscape character would be 'minor adverse' and 'temporary' during the construction, decommissioning and major refurbishment phases; and 'minor adverse' and 'permanent' during the Project's operation;
- the effects on views, would be 'moderate to high adverse' and 'temporary' during the construction, decommissioning and major refurbishment phases; and 'minor adverse' and 'permanent' during the Project's operation; and
- 'embedded mitigation', taking into account the Holford Rules, was considered to have *resulted in the application of good design reducing the need for additional mitigation*' (APP22).

4.60 The conclusion drawn at the end of the ES was that *'There would be residual effects on the landscape character and views resulting from the Project, although in the main these would be of a low or moderate significance'*. It also stated *'A project of this scale and*

nature can be reasonably predicted to have some residual effects and this is acknowledged in EN-1' (APP22: para 17.6).

- 4.61 A Supplementary ES statement was submitted to the examination in February 2013, but it did not alter the analysis or the LVIA conclusions (REP60).

NG Reliance on 'Embedded Mitigation'

- 4.62 It became clear at the first hearing (HR2-5) that NG's approach to this application would be relying almost exclusively on the notion of 'embedded mitigation' which principally consisted of simply choosing the least visually intrusive and environmentally challenging route.
- 4.63 Given the NSIPs size and scale, with c.50m high pylons set within a wide sky fenland landscape. I encouraged discussion on this approach at the first hearing. NG defended its approach. At the finer scale, I put it to NG that it was an approach which demanded exemplary follow-up in terms of post-development site restoration (for example, on the removal of stone roads once the works were finished when restoring the arable land) (HR2-5). NG responded to my questioning at the first and subsequent hearings (HR2-13) which led to some minor changes in the DCO, and Code of Construction Practice (CoCP) – especially on the handling and restoration of soils on the arable fields, and ensuring that the maintenance of the very small replanting areas proposed was done effectively.

The Sensitivity of the Locality in LVI Terms

- 4.64 EN-1 (cf para 5.9.8) states: *'Landscape effects depend on the existing character of the local landscape, its current quality, how highly it is valued and its capacity to accommodate change. All of these factors need to be considered in judging the impact of a project on landscape. Virtually all nationally significant energy infrastructure projects will have effects on the landscape. Projects need to be designed carefully, taking account of the potential impact on the landscape. Having regard to siting, operational and other relevant constraints the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate.'*
- 4.65 NG's consultants' later summary view on the overall sensitivity of the receiving landscape, stated *'The landscape of the Site has existing overhead lines and large built development as existing characteristics which impinge on its character. However, it also retains an agricultural, rural fenland character with expansive fields and relatively few vertical elements. The large, expansive character gives good capacity for absorbing intermittent structures such as overhead line pylons, albeit that these punctuate the skyline which is characteristic of these landscapes. The landscape*

has a moderate sensitivity to the proposed development' (APP22: Chapter 6).

- 4.66 In a flat open landscape, visibility is usually greater, and overhead lines can be very prominent in such a setting. The EIA Scoping Report explained that *'An overhead line can be seen for distances of approximately 10 km, however visibility diminishes with distance. From distances of 5 km it may be possible to discern an overhead line on a clear day, however it would not form a prominent part of the view'* (APP23: TA-A, para 6.8.5). The LVI impacts identified for this proposal, however, were for close up views largely within 1 km of the proposed OHL route (APP22, APP23).
- 4.67 NG's LVI work included a range of desk and field studies, and produced photomontages plus visualisations to illustrate the likely visual impacts. Understandably, tall lattice steel electricity pylons and conductor lines are not easy to represent in illustrations. The naked eye makes them more highly visible in reality than they ever appear to be in photographs, drawings, etc. generally. So, it is not surprising that NG experimented with a wide variety of illustrative material, fly-through visualisations and even highlighting the proposed line in bright pink colouring (APP27, 28).
- 4.68 During the course of several visits to the site and surrounding areas, through three seasons (winter, spring, summer), during the examination, I saw all the viewpoints covered in the LVIA and more, from areas close to the line and within 1 km of the proposed alignment. These visits confirmed, in my mind, the 'moderate sensitivity' of the 'receptor' landscape, and also the ES findings that there would be some 'high-adverse', 'moderate-high' and 'moderate adverse' impacts (APP22, 23).
- 4.69 The LVIA conclusions were clear enough. I was able to appreciate the scale of potential impact on the local landscape at the ASV and other site visits undertaken. However, there was one LVI conclusion on Public Viewpoints which was not clear to me, and that was the suggestion that there would be negligible effect and no significance of effect on views from the A47 (APP22, 23). I found that, when crossing the River Great Ouse there is a very wide extensive open view south-eastwards across the River and over Palm Paper into the countryside south of King's Lynn. It is a striking panoramic view. The new OHL would, I consider, be quite obvious in the setting of King's Lynn in that local countryside, regardless of any other development mooted for that area, and notwithstanding the existing Palm Paper plant and River Great Ouse in the foreground and the existing 4VV line (far off in the distance).
- 4.70 In response to my first questions on landscape and visual impact and resilience on embedded mitigation (PD11), NG stated *'The character of the area and the nature of the views are of openness.*

To screen or filter views through planting would require identification of a specific view(s) where the line was to be screened or filtered with planting close to the receptor. National Grid has not identified views where it is considered that this screening was required or desirable compared to the otherwise open views' (REP71). NG acknowledged that tree planting was possible but considered it to be unnecessary (REP71). The Borough Council was not minded to press for additional landscaping as mitigation for the local adverse impacts revealed by the LVI analysis (REP74).

Finer Detail – Pylon Type and Design

4.71 The pylon designs selected were explained at the first hearing (HR2-5). It is clear, given the statement in EN-1 para 4.5.4, that the evolution of designs need to be explained, and the ultimate purpose of the infrastructure borne in mind. EN-1 in para 4.5.1 et seq encourages 'good design', and explains what that means. It embraces aesthetic considerations, functionality, fitness for purpose and sustainability.

4.72 NG proposed steel lattice pylons to match as closely as possible those on the existing '4VV Norwich–Walpole OHL' (HR2-5). They were numbered (north – south) KL01- KL08, and a replacement pylon, 4VV039R. The steel lattice pylons would be c.360 m apart (HR2-5) and would vary in function, height and shape:

KL01 –	51.5 m ('terminal' pylon – by the new substation)
KL02 –	57.0 m ('tension' pylon)
KL03 –	56.0 m ('suspension' pylon)
KL04 –	60.0 m (tension' pylon)
KL05 –	59.0 m ('suspension' pylon)
KL06 –	59.0 m ('suspension' pylon)
KL07 –	54.0 m (tension' pylon)
KL08 –	56.0 m ('suspension' pylon)
4VV039R –	56.5 m (the replacement 'junction' pylon),

4.73 These heights were described as '*Maximum heights (including +3m vertical limit of deviation)*' in response to a question on the DCO (PD11)(REP71).

4.74 There was considerable confusion during the examination as to which pylon type NG would use other than the fact that they intended to use lattice steel pylons prefixed 'L'. In February 2013 (REP71) they submitted details of the L6 type in addition to the L8 and L12 previously referred to in their documentation. Later in the examination, they indicated that the L8 and L12 were indicative only (REP102) and they were clear that the L13 would be the pylon type utilised for this Project. Later in the examination, in response to my third questions, NG stated that all potential pylon types were fully considered in the ES (REP118) and they submitted for comparison, drawings and photographs of the L6,

L8, L12 and L13 lattice pylon types in order to demonstrate the broad similarity (REP119).

- 4.75 At the time of the application was made, the newly emerging type of lattice pylon (L13) was still being tested in the Middle-East, as shown in photographs 1 and 2 of NG's submission following the first hearing (HR16). The new L13s are not yet used in the UK. They are a few metres higher than the L8 and L12 design reserve options (PD20, REP119). They appeared to be slightly wider and sturdier and taller in appearance than the current L6 pylon types on the existing 4VV OHL (Norwich to Walpole) to which they would connect); which can be appreciated by studying the drawings and photographs in REP119, the 3D images (1 and 2) in REP171, and photographs 1 and 2 (of the L6 types on the existing 4VV OHL) taken at the first ASV (PD17). The overall form and steel lattice style of the L13 is, in my opinion, very similar to, but slightly less elegant overall in appearance than the older L6 design used on the existing 4VV OHL. NG assured me, during the examination hearings, that they had based their LVI analysis on the L13 type (HR6-8) and their LVI analysis covered all of the lattice pylon designs referred to above (REP118).
- 4.76 National policy set out in EN-1 (para 5.9.22) urges that *'Materials and designs of buildings should always be given careful consideration'*. Pylons tend to last a long time as the ES states: *'The lifespan of the overhead may be longer than the 80 years anticipated, depending on its condition and refurbishments and depending on the transmission network requirements'* (APP23). The general construction of pylons, their maintenance and upgrade and decommissioning was explained in detail in the application documents in the ES (APP23). NG also rehearsed that detail very clearly at the hearings (HR2-13), in order to aid understanding of 'the life of a pylon', and the role of different kinds of pylon, from erection to decommissioning, which was helpful and informed fine-tuning of the DCO.
- 4.77 Bearing in mind the Policy set out in EN-5, para 2.4, I asked NG (PD21) to summarise its evidence on climate change resilience of the pylon design selected (L13s) for this Project, and its resilience to flood, wind, storm, higher average temperature, earth movement, and subsidence. NG then drew attention to the evidence provided in the ES (Chapter 7 and 8, and Table 6), and as additional evidence, NG referred to (i) their FRA; and, (ii) *'a significant amount of climate change research'* under the 'MET Office EP2' project (REP170). NG concluded that their design criteria were considered *'resilient for predicted future weather/climate conditions'* (REP170).

Sensitivity of the Location

- 4.78 From the evidence presented at the examination, it is clear that the East Corridor is a fairly open, flat, arable countryside, in good

agricultural order, on the very edge of a developing sub-regional and historic town in a tourism area. I have considered very carefully whether the site is a 'particularly sensitive location' (cf. EN-5, para 2.8.2) which might make the OHL's adverse landscape and visual impacts simply unacceptable in planning terms. In reaching a conclusion on this specific issue, I considered very carefully the actual site and surroundings, the LVI analysis, the evidence presented at hearing and in response to questions, and also the vision and major policies of relevance, set out in the CS (Adopted July 2011), which will determine the location, scale and intensity of new development in the locality over the next few years.

- 4.79 Overall, I concluded that it was not such a sensitive location that an OHL, with its inevitable visual impacts, would be simply unacceptable in planning terms. Adverse impacts appear to be limited to local views along the River Nar and experienced from cycleways and bridleways and possible the A47 and there was limited scope for reducing the adverse impacts and no great call from the IPs for any such action.

Exploring the Scope for Further Mitigation

- 4.80 EN-1 (cf para 5.9.8) asks whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to minimise harm to the landscape, including by reasonable mitigation. On the basis of the application documents, it was not clear to me as to why NG, having identified the high and moderate-high adverse visual impacts had not then offered some landscaping to reduce those impacts.
- 4.81 In my first Written Questions (PD11), I raised as a possibility the 'modest' screen planting in respect of views west of the A10, and south of the A47. NG defended its 'embedded mitigation' approach. But NG had *'not sought to introduce tree planting because the effects on views are not considered to require additional planting'*. But it conceded that *'subject to landowner agreement, trees could be planted to channel views away from and screen views of the new line from the northern section of the path (south of White House Farm)...'* (REP71).
- 4.82 The Borough Council's response was that the LVI analysis had demonstrated that the impact of the power lines would be acceptable given the prevailing character of the area, and that *'the character of the area is open and the introduction of additional planting could be seen as eroding this character for little practical gain. The basis of a landscape screening scheme should be to mitigate harm and the Council is not convinced that the harm is so significant as to warrant screening'* (REP74).

- 4.83 When the landscape impacts issues were discussed at a hearing (HR2-5) some concern was expressed by one IP (a local land owner) about the cumulative local landscape impacts (HR2-5). NG maintained that there has been close consultation with local residents. No requests were made for tree-planting. It would be disproportionate, in their view, to undertake a tree planting schemes to reduce LVI impacts upon West Winch (HR2-5). There had been no objections or parties seeking that response in the West Winch area. However, the Borough Council considered that there would be no great merit in pursuing mitigation options as the negative changes would be, they considered, not significant (REF51, REP74). NG concluded that a compensatory, landscaping scheme was unnecessary (HR2-5).
- 4.84 I concluded that the L13 pylons which NG stated they would definitely be using for this Project were of a satisfactory type and appearance as individual entities. In response to my fourth set of Written Questions, it was explained that NG had a uniform national 'colour and finish' for all NG pylons (REP207) and I concluded that the colour and finish would be appropriate for this Project, and it would be appropriate for the colour and finish to match that of the existing 4VV OHL to which it would connect. I also asked, in my fourth Written Questions, about logos and signs, bearing in mind the location near a town (and the requirement set in the Brechfa DCO). NG offered, on a without prejudice basis, a potential requirement wording, as follows: *'Logos and signs... (1) No part of Work No. 1 shall display any name, sign, symbol or logo on any permanent external surface unless such name, sign, symbol or logo has been previously approved in writing by the relevant planning authority. (2) Requirement 21 (1) shall not apply to any name, sign, symbol or logo required by law or for health and safety reasons'* (REP195). It was not included in the Preferred Draft DCO (REP198). However, I think it would be appropriate and useful for there to be a requirement to that effect given the location of the new pylons close to an expanding industrial estate, the long life of the project and the need to be confident that the scale of the adverse local visual impacts will not escalate, and will not exceed the impacts predicted in the Environmental Statement.

Conclusions on LVI matters

- 4.85 The opinions expressed by the Borough Council on LVI matters, in the LIR, other written and oral evidence and responses to questions during the examination were cautious and questioning and not entirely consistent (REP52) (HR2-13). The County Council had some concerns about the impacts on the area south of King's Lynn and one IP (a local landowner) expressed concerns about the cumulative impacts on the landscape (HR2-5).
- 4.86 I have to consider whether the proposal meets the national policy tests set in EN-1 and EN-5 on LVI matters. I note that EN-1, para

5.9.8 urges: '*...minimise harm ... providing reasonable mitigation where possible and appropriate*'. The evidence presented, taken as a whole, clearly points to high and moderate adverse impacts upon at least 6 Public Viewpoints, which the applicant has decided do not merit any further 'landscaping' or 'screening' action, plus adverse impacts upon a few Private Viewpoints. The applicant is content to regard those as residual effects. However, EN-5 policy does not rest on that approach: it does envisage the need in some situations for additional mitigation measures on LVI matters for electricity connections and EN-5 (para 2.8.7) suggests that the Holford Rules be taken into account when considering the need for any additional mitigation measures.

- 4.87 The Holford Rules have informed an application based on embedded mitigation. Additional off-site tree planting would assist in retaining landscape quality but to a very limited extent indeed given the physical size of the pylons proposed. Bearing in mind the LIRs which do not press for mitigation in the form of off-site landscaping to soften the adverse landscape and visual impacts, there would appear to be little or no scope for recommending a landscaping requirement.

C. Ecology

Introduction

- 4.88 EN-1 (para 5.3.1) reminds us that '*Biodiversity is the variety of life in all its forms and encompasses all species of plants and animals and the complex ecosystems of which they are a part*'. It points the 'decision-taker' towards the Government's biodiversity strategy, 'Working with the grain of nature' (which applies in England only); which aims inter alia to ensure a halting and if possible a reversal of the declines in priority habitats and species, and a general acceptance of '*biodiversity's essential role in enhancing the quality of life, with its conservation becoming a natural consideration in all relevant public, private and non-governmental decisions and policies*' (cf EN-1, para 5.3.5).
- 4.89 There are many international wildlife obligations, many enactments and, currently, much policy guidance to take into account on nature conservation and biodiversity matters in England. For NSIP applications, there is also the policy on ecological matters set out in EN-1 and EN-5 to consider. In general, EN-1 requires that; '*The applicant should show how the project has taken advantage of opportunities to conserve and enhance biodiversity...*' (EN-1, para 5.3.4).
- 4.90 EN-1 warns that proposals risk refusal if they damage habitats and species '*of principal importance for the conservation of biodiversity in England*' (cf EN-1, para 5.3.17).

Respecting the Major Designations

- 4.91 The ES (APP22, 23, REP60) set out all the designations, international, national and local, and proportionate environmental information, as required by EN-1 (cf para 5.3.3). It addressed the ecological matters (APP22) in a structured manner, and it considered the likely significant ecological effects and mitigation measures.
- 4.92 The EIA work undertaken included: a Phase 1 habitat survey of all three potential route corridors (2010); a wintering birds survey, and bird migration vantage point surveys, across all potential route corridors (2009-2010); an assessment of trees in the eastern corridor to determine bat roosting potential; surveys to identify the presence of water voles and otters; a badger survey; and, an amphibians survey and assessment (APP22).
- 4.93 Four 'key receptors' (APP 22) are identified:
- The Wash, The Ouse Washes, and SPA bird species – International Value
 - The River Nar SSSI, woodland, bats and riverine species – National Value
 - Wet ditches, otter and water vole – Local Value
 - Arable land, hedgerows and farmland birds – Local Value.
- 4.94 During the examination phase, I found some information on water voles in the ES, but considered that more was necessary, which was sought via formal questions (PD11).
- 4.95 During the examination, a Supplementary Report for the ES (REP60) was submitted which reviewed the matter of cumulative impacts, having identified a new list of 'other projects', and taken into account the revised Project implementation timetable, but it did not lead to any changes to the ES's conclusions on the overall cumulative effects (REP60).

SoCG – National Grid and Natural England

- 4.96 I issued a procedural decision with the Rule 6 letter of 3 December 2012 (PD8), asking for an SoCG on various ecological issues: briefly, the potential risk posed by the Project to swans (swan collisions), migrating swans, the River Nar SSSI, and water voles. The SoCG produced in January 2013 (REP41) addressed these issues, and some other ecology and protected species matters. I will refer to the agreed matters as they arise, issue by issue, below. In the SoCG, NG and NE agreed that the installation of bird diverters on this OHL proposal was not needed (REP41).

Structure of this Part of the Report

- 4.97 Bearing in mind the guidance set out in EN-1 and EN-5: I set out below my findings under these headings:

- (i) Internationally recognised sites and species
- (ii) Nationally important sites and species
- (iii) 'Large Birds' (as defined in EN-5)
- (iv) Conserving and enhancing local biodiversity
- (v) Biodiversity mitigation – summary
- (vi) Factoring in potential climate change.

i. Internationally Recognised Sites and Species

- 4.98 International obligations and considerations apply in respect of the internationally designated sites and species, and they are reflected in the various policy documents which apply to NSIPs. The Wash lies approximately 7 km north of the site, (APP29). It is a very large bay designated as an SPA/SAC/Ramsar site (and also as a SSSI and NNR site) (APP29). The Ouse Washes lie approximately 25 km south of the application site, and they are designated as a SPA/SAC/Ramsar (plus SSSI and NNR) site (APP29).

Main Findings

- 4.99 During early consultations on this project prior to examination, Natural England and the RSPB had expressed concern regarding the possible effects of the project on The Ouse Washes and The Wash. The concern related to potential effects on migratory swans (associated with those sites) which were considered vulnerable to collision with overhead lines (APP29).
- 4.100 The ES (dated July 2012) drew this overall conclusion on the 'SPA birds' (APP22: para 8.87): *'The East Corridor is not an important flyway for migrating SPA species and notably no Bewick's and only very low numbers of whooper swan were recorded on migration in the corridor in either spring or autumn. Furthermore, the East Corridor is not an important winter foraging ground for SPA species, with mallard the only species recorded in any numbers... Similarly, the East Corridor is not an important breeding ground for SPA species...'* Later on in the ES, collision risk is addressed, and the ES states: *'...it can be confidently asserted that there is no likelihood of any significant effect on the SPAs from collisions'* (APP22: para 8.144).
- 4.101 Nevertheless, early in the examination, Natural England's (NE) very detailed formal written representation on this NSIP proposal (REP48) identified as one of the main issues: *'Potential impacts to the Ouse Washes SPA and The Wash SPA and corresponding Ramsar site designations'*, noting that these were two sites *'designated for the species of birds they support during the winter and during the breeding season'*.
- 4.102 NE stated: *'One of the SPA qualifying features most relevant to the assessment of this project is the overwintering population of whooper swan at the Ouse Washes.'* The SPA designation, NE states, referred to 963 individuals, forming 17.2% of the GB

population: with more recent figures for whooper swan being 5316 individuals (peak mean, 2006/7 to 2010/11), rising to 5996 (peak mean, during 2007/8 to 2011/12). NE considered both displacement and collision risk to SPA birds, and stated that *'new large structures may render surrounding habitat less suitable for feeding or roosting'* (REP48). NE's written representation considered the applicant's survey and assessment work, including the swan surveys undertaken (2009 – 2011).

4.103 NE concluded (REP48: para 6.2.8):

'Given the low level of risk from collisions during migration and local feeding flights and the lack of feeding within the site Natural England advises that the proposal is not likely to affect the whooper swan and Bewick swan overwintering populations of the Ouse Washes SPA or The Wash SPA when considered alone. We have used the impact threshold of 1% of the SPA qualifying feature in considering likely significant effect. The estimated figure of up to 1 whooper swan collision per year equates to 0.02% of the most recent population estimate for the Ouse Washes (5316 birds). However even if the SPA citation figure of 963 birds is used the predicted mortality would still be 0.1% or less. However as some level of effect from collision risk to whooper swans has been identified rather than no effect Natural England has adopted a precautionary approach by requesting the applicant to consider the effects of the proposal on whooper swans in combination with other plans and projects.'

4.104 NE's written representation concluded *'the SPA and Ramsar qualifying features are unlikely to be affected by the proposed development as a result of displacement from feeding habitat or through collisions with the overhead line'*. The OHL proposed was *'not likely to have a significant effect on the interest features for which the Ouse Washes a SPA and The Wash SPA and Ramsar sites have been classified.'* Therefore, the (competent) 'Authority' was *'not required to undertake an Appropriate Assessment'* (REP48).

4.105 In terms of the Habitats Regulations Assessment, a process separate of and distinct from the ES but included at Technical Appendix–F (APP22), the applicant's advisors also concluded, having followed up Natural England's advice, that *'the King's Lynn project will not have a likely significant effect on the integrity of European sites either alone or with other plans or projects'* (APP22).

4.106 NE also referred to *'Potential impacts to protected species'* in their written representation (REP48), in respect of other European protected species identified in the ES (bats, otters, great crested newts). NE was satisfied with the survey work done, and noted that the surveys demonstrated the likely absence of these species

from the site. NE concluded (REP48) that *'No European protected species are likely to be affected.'*

The SoCG on Internationally Recognised Sites and Species

4.107 I asked a Written Question on the extent to which NE and NG were agreed that mitigation measures to minimise swan collisions had been fully considered and agreed not to be necessary (PD11). The SoCG pointed out (inter alia) that:

- NG had produced two relevant reports (i) an ornithological assessment (including desktop surveys, vantage point surveys and literature review), and (ii) a 'No Significant Effects Report' (in the ES, Technical Appendix E)(APP23)
- NE had advised in 2010, that selection of the East Corridor (the corridor with least bird flight activity) would be the most effective mitigation for collision risk and any adverse impacts on SPAs
- Literature review and other information gleaned on swan collisions in and around the Ouse Washes SPA (which has six power lines around it) suggested that mortality was *'perhaps more associated with lower voltage...wood pole lines...consistent with a theory that mortality occurs when swans make local flights during winter, moving from field to field...'* rather than higher-level flights (migratory, or flights to distant feeding grounds)
- location and orientation of the OHL (avoiding areas close to areas where vulnerable birds congregate, and avoiding cutting across migratory routes) could reduce collision risk: and adopting a north-south alignment for the OHL proposed was *'considered the best form of mitigation'*
- the literature review had concluded that bird diverters were beneficial where birds congregate or on known migratory corridors, but *'in this case, there is no perceived current benefit from installing deflectors at this location'*.
- NE/NG, in conclusion, agreed that:
 - *'mitigation measures to minimise collisions have been fully considered;*
 - *the proposed overhead alignment does not currently conflict with areas of known ornithological interest and does not cut across any established bird flightpath (either migratory or daily roost-feeding area flightpaths); and*
 - *the proposed alignment does not fall within the criteria for the likelihood of mortality due to collisions with the lines, and therefore there is no benefit to be derived from installation of diverters or any other form of mitigation.'*

4.108 Responding to a Written Question about retro-fitting OHLs (PD11): NE/NG were agreed that: (i) the choice of diverters *'would need to*

be informed by the nature of collisions' ; (ii) two systems 'available at the time of making the application' were plastic spirals, and plastic roundels: which NG advised could be retrofitted to an earth wire – using helicopters; and, (iii) there was no reason to predict that swan migration routes were likely to change: because swans were 'believed to follow' the River Ouse and Ouse Relief Channel further to the west, and also because 'the proposed route is aligned north-south (ie. along, rather than across a flyway)' (REP41).

- 4.109 In response to my Written Question about other wildlife matters related to the River Nar, the SoCG (REP41) noted that bats were a European protected species. Survey work (described in the ES Chapter 8) had *'not discovered any bat roosts'* and *'there is no perceived need for a licence to enable roost disturbance'*, and should any emerge, NG would modify the scheme or obtain a licence and/or provide alternative bat roost opportunities.

The Report on the Impact on European Sites' (RIES)

- 4.110 A RIES is appended to this Report, for the Secretary of State (as the 'competent authority') to consider, in Appendix E. It reaches the conclusion that an appropriate assessment is not required.

Bird Collision Risk

- 4.111 During the examination, in response to questions about bird diverters Natural England advised that they were not needed and added:

- (i) *'We acknowledge that bird flight deflectors can be effective in reducing collisions with overhead lines as stated in the DECC publication and that numbers of whooper swan overwintering at the Ouse Washes may continue to steadily rise. However, the collision risk appears to be extremely low in the context of the Ouse Washes whooper swan population and, given the proposed alignment and low importance of the wider study area to migrating swans, is unlikely to change'* (REP48).

Conclusions (on Internationally Recognised Sites and Species)

- 4.112 The Project lies between two very important, internationally recognised wildlife sites which support many thousands of birds (APP22, 23). I am satisfied that the risk of adverse impact upon the internationally designated sites, and the bird species that are associated with them (in respect of both The Wash and the Ouse Marches) has been carefully considered, and it is perceived by NE to be small, at present.
- 4.113 I would be more sanguine about the longer-term risk to SPA birds if it were clear that the OHL would definitely be retro-fitted with bird diverters by NG should the predictions of low mortality upon

SPA birds particularly prove to be wrong (although that would, possibly, increase the landscape and visual impacts of the OHL marginally). However, the perception of the experts is that the risk is low at present.

ii. Nationally Important Sites and Species

- 4.114 National policy in England seeks to conserve the best and most representative examples of various habitat types and rare or vulnerable flora and fauna; and they are given protection by virtue of national enactments and planning policy, including EN-1 and EN-5, in respect of this type of NSIP application.

Main Findings

- 4.115 Natural England's written representation concentrated on two SSSI: the River Nar SSSI and the Islington Heronry SSSI (REP48).

The River Nar SSSI

- 4.116 The River Nar SSSI citation is included in the ES (APP22: Appendix 8A). In the ES, the linear strips of woodland alongside it are described as '*plantation woodland*', not of County level importance, but adding to the value of the SSSI and '*providing a buffer between the River and the intensive agricultural activities of the surrounding land*' (APP22). The riverside trees are considered to be very suitable habitat for bats, but no bat roosts were found: there were bat records for the study area, although they were recorded '*within the wider area*' beyond (APP22).
- 4.117 The application documents reveal that the River Nar SSSI would be affected in two main ways: the overhead line would over-sail the river at two points, with cables being drawn across the River, and the proposal to construct two temporary pontoon footbridges across the River Nar SSSI, to enable the cabling works (APP22).
- 4.118 At pre-application, NG had already concluded from correspondence with NE that the latter had '*no objection to the line oversailing the River Nar twice*' (APP18).
- 4.119 However, during the examination, NE's formal written representation (REP48) identified as one of their 'main issues': '*Potential impacts to the River Nar SSSI*', as a chalk stream and fenland river habitat. It noted that the lower reaches, passing through the development site, had a slower flow and supported a less diverse but contrasting flora to the upper river. A small area of scaffolding structures might involve cutting back and removing some trees where the line would oversail. But, given the limited extent and temporary nature of the works, the project would not adversely affect the special interest of the River Nar SSSI.
- 4.120 In respect of the River Nar SSSI, NE thought the potential effects of the development proposed would not be significant, and would

be mitigated by the implementation of general good construction practices (REP48). That view was sustained during the examination period, but given NE's advice, I was alerted to take a careful look at the provisions in the proposed 'CoCP', and to ensure that they were discussed at hearings (HR2-13).

The SoCG (on River Nar SSSI matters)

- 4.121 The SoCG (REP41) stated that the direct physical effects which might arise in respect of the River Nar SSSI, would be in respect of *'installation, operation and removal of two pedestrian pontoon bridges; and from tree felling/pollarding to provide a corridor for the overhead line'*. The ES had concluded that *'these impacts are not likely to damage the special interest features of the SSSI'*. NE agreed with that conclusion (REP41). However, NG's Preferred Draft DCO (REP198) was amended to include a requirement for an ecological management plan which would apply to the River Nar SSSI.

The Islington Heronry SSSI

- 4.122 This SSSI's citation was included in the ES (APP22: Appendix 8A). The heronry was described as having *'an average 80 occupied nests each year'*. This SSSI continues to provide favourable nesting conditions for birds, but NE noted that despite the site continuing to provide favourable nesting conditions, the number of birds had declined in recent years, and during the pre-application surveys (REP48). NE concluded that the proposed development was unlikely to adversely affect the special interest of that SSSI.

Protected Species – Water Vole

- 4.123 NE referred to *'Potential impacts to protected species'* in their written representation at the commencement of the examination (REP48). The nationally protected species of concern is the water vole (protected under the Wildlife and Countryside Act 1981). The field surveys undertaken found evidence of water vole activity within field drains near the power station, and in the large drain south of Rose Cottage (just north of Diary Farm), and in a drain running between the River Nar and the railway line (APP22). NG's submission to the first ISH (10 April 2013) included photographs of typical water vole habitats (HR19).
- 4.124 The EA (REP49) recommended a requirement, included in the Preferred Draft DCO (REP198) as Requirement 11(3), that no development should take place until a water vole protection plan had been submitted to and approved by the LPA.

The SoCG on Water Vole

- 4.125 NE and the applicant agreed (REP41) that water vole is not a designated feature of the River Nar SSSI, but it has been known to be present there (REP48) and it is referred to in relation to the

ditches on the Site (REP48). The Ecological Management Plan (required under Schedule 8 of the Draft DCO) would include a Riparian Ecology Method Statement, to ensure effective protection of water voles during the development. It would cover pre-construction water vole surveys, vegetation management, inspections, fencing to keep water voles from entering 'works' areas, control of emissions and discharges, vegetation reinstatement, and notification of surveys and works to NE and the EA. The SoCG notes: *'On the basis of what is presently known about the location of water voles in the River Nar and other ditches, it is expected the water voles can be managed without the requirement to trap and translocate animals. On this basis, no licence from NE would be required for the works'* (REP48).

The SoCG on other Nationally Protected Species

- 4.126 NE and NG draw attention to one species in particular – the kingfisher – a bird listed in Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). It noted that mitigation was proposed in the ES in respect of the kingfisher: the Ecological Management Plan would *'... require further bird surveys to ensure that kingfisher are not nesting in or near the works footprint, with proposals to work outside [the] nesting season and reinstate potential nest sites'* (REP48).

Conclusions (on Nationally important sites and species)

- 4.127 I am satisfied that the SSSIs' wildlife interest has been considered. By the end of the examination period, there were convincing plans and proposals to deal with water vole habitat issues in order to inform the provisions in a DCO (Requirement 11).

iii. 'Large Birds' – as Defined in EN-5 (for NSIPs in England and Wales)

- 4.128 EN-5 para 2.7.1, et seq states that an applicant must consider (in its EIA work and within the ES) whether a proposed overhead line might cause problems, of collision and/or electrocution, for *'large birds such as geese and swans'* (EN-5, para 2.7.1). It says: *'Particular consideration should be given to feeding and hunting grounds, migration corridors and breeding grounds.'* (EN-5, para 2.7.2)
- 4.129 The term 'large birds' is loosely defined: 'swans' and 'geese' (fairly generic terms) are mentioned in EN-5. The 'Appraisal of Sustainability' (AoS) of the EN-5 (October 2010) mentions *'Large raptors can also be accidentally electrocuted when using power lines and pylons as vantage points to hunt'* (AoS, para 3.2.1). Common sense suggests that the term 'large birds' would also apply to other birds of similar large wingspan and/or physical size. The policy does not refer to the comparative rarity value of the 'large birds'. If that were the main or only consideration the policy

would surely say so. So, I take it that EN-5 expresses a concern about the potential impacts on 'large birds' of many species, and not simply internationally important 'large birds'. Study of the EN-5 AoS would appear to confirm that interpretation.

- 4.130 This is a specific UK-level national policy test, for OHL schemes in England and Wales, overlapping but distinct from the consideration of European sites and species and the RIES process. As such, I decided to assess it as a separate strand at a 'national interest' level. 'SPA birds' have already been covered in detail in an earlier part of this Section on ecology.
- 4.131 The early stakeholder consultation undertaken by the applicant included briefings for NE, the EA and the Royal Society for the Protection of Birds (RSPB) (APP18). At that Stage, the RSPB was calling for bird diverters to be added to all routes under consideration in the Study Area (APP18) The RSPB stated: *'Minimising the collision risk to birds at the design stage: A number of bird species of high collision risk occur within the area, including swans, geese, grey heron and raptors'* (APP22: TA-A, EIA Scoping, App.B; RSPB letter dated 6 May 2010).
- 4.132 NPS EN-5 was published in July 2011 and therefore in good time to inform the applicant's preparation. It explains (EN-5, para 2.7.1) that, apart from the risk of colliding with OHLs *'Large birds in particular may also be electrocuted when landing or taking off by completing an electric circuit between live and ground wires. Even perching birds can be killed as soon as their wings touch energised parts'*. EN-5 requires an applicant to consider whether a proposed OHL will cause problems (ie bird electrocutions) *'at any point along its length'* (cf EN-5, para 2.7.2) with particular consideration given to feeding and hunting grounds, migration corridors, and breeding grounds. The decision-maker was urged in EN-5 (para 2.7.3) to *'ensure that this issue has been considered in the ES and that appropriate mitigation measures will be taken where necessary'* (EN-5, para 2.7.3).
- 4.133 The ES (July 2012) mentioned EN-5 and the need to *'consider the issue of bird collision impacts (with particular consideration given to feeding and hunting grounds, migration corridors, and breeding grounds)'* It did not focus much on 'large birds' as such (APP22). It listed 19 species of 'SPA birds' recorded during field surveys of the East Corridor (2009-11) (APP22: para 8.85, T8.2). Among those are several 'large birds':
- (a) seen flying 'within the collision risk zone' for the proposed NSIP, were mute swan;
- (b) those listed 'above the collision risk zone' included pink-footed geese;

(c) those recorded 'close to the proposed alignment' included shelduck and whooper swans;

(d) 'within the East Corridor', marsh harrier; and,

(e) 'associated' with the Great Ouse Relief Channel (the western edge of the East Corridor) were mute swan, cormorant, and mallard.

- 4.134 Mitigation measures mentioned in EN-5 included siting lines away from known flight paths to reduce collisions, using bird diverters, and designing the parts of pylons and power lines to discourage perching (EN-5, paras 2.7.4-2.7.6).
- 4.135 Grey heron are mentioned in NE's evidence as collision-susceptible species. In respect of the grey herons, at the heronry (4.5 km to the west of the OHL) there was *'high quality feeding habitat in the fenland dykes close to the heronry suggesting the birds may not need to travel long distances for food'* (REP48). On the basis of *'the available information'* an adverse effect on the special interest at the Islington Heronry SSSI was unlikely (REP48). The heronry is a block of woodland which contains a large heronry. In the past it was used by many herons but it has not been greatly used by grey herons in recent years. NE stated, however, that the heronry still provided a suitable habitat for herons (REP48: para 7.2.5).
- 4.136 In my questions, I asked for information about the crops grown on, or likely to be grown (potential feeding grounds) on the fields around the proposed OHL. NG responding, noted that the fields in the area had been observed to grow *'wheat, barley, sugar beet, oil seed rape, field beans, and peas'* (REP115). The land around the proposed OHL supports a range of arable crops some of which are likely to attract birds. This helped to explain the bird scarers seen on fields immediately north and south of the proposed OHL site on site visits (PD20).
- 4.137 A submission made by Watlington Parish Council (HR25) mentioned the use made of the area between Watlington and the site by 'large birds'. Their evidence, from Mr Mike Reynolds, stated that grey lag and pink-footed geese were regular grazers, and migrating geese regular winter visitors, and he had seen a large flock of 250+ geese, in the fields north of Watlington, in January/February 2013. He has also noted in the Site area that, over the last two years, there *'has been a marked increase in geese day time feeding in the Watlington area...Nesting around the applicant's proposed work site has also increased over the last two years as many birds choose to nest near to a food source'*.
- 4.138 During various site visits undertaken in April and June 2013 (PD20, 21), I observed, by chance: a few 'large birds' (Canada geese) resting and feeding on the alignment route - within the Order limits - near the proposed KL02 pylon site; and, near the

existing 4VV OHL, moderately large parties of swans feeding in fields just south of the existing 4VV OHL; plus, mute swans, in pairs and groups (one on a roadside nest) in places just south of the 400 kV line.

- 4.139 Both NG and NE considered that such sightings simply confirmed the ornithological assessments undertaken for this proposed Project (HR26). However, bearing in mind the nearby Islington Heronry SSSI and other evidence submitted on 'large birds', I decided it was a relevant and potentially important issue which required further examination.

National Grid's 'Protocol on Bird Diverters / Deflectors'

- 4.140 Towards the end of the examination the applicant submitted a response on ecological resilience, and a NG 'Protocol on Bird Deflectors' (REP115: Appendix C). This explained how NG would, if evidence pointed in that direction, add bird deflectors, and listed case studies describing such action in past cases (REP115).
- 4.141 This constituted a considerable step forward in addressing the issue. But the wording of the 'Protocol' makes it clear that it depends critically on an in-flow of relevant information on what is happening in the real world, that is, the actual collisions and mortalities (cf its points 14 and 21 of the Protocol). To be effective, there would need to be an inflow of information from NG's field staff, and other reputable sources, and at least a simple file record of any collisions /mortalities notified. I put this to the applicant in a formal Written Question (PD20), suggesting the need for a requirement to cover the Protocol and a need for a 'light touch' record. However, the applicant declined that idea, listing in great detail the reasons for doing so (REP162: Appendix D). Therefore a requirement for a 'log' is not included in the applicant's preferred draft DCO.
- 4.142 Although declining the notion of maintaining a mortalities log, NG did give this assurance: *'However, in its periodic inspections of the overhead line and in response to any notification of bird collisions, National Grid shall proceed in a manner in accordance with 'National Grid Protocol on Bird Deflectors (dated 22 May 2013 pages 25-27 pf Appendix C, included in the Applicant's responses to 3rd Rd ExA Qs Table 1) or its successor document or guidance' (REP170: Table 2, A/Q/1(b)).*

Natural England's Further Comments (on Climate Change)

- 4.143 NE did not currently advise a long term process of assessment of collisions risk to be set up. If any such process was 'deemed necessary' it might benefit from assessing any change in feeding habits of the Ouse Washes swan populations, in terms of crops used or favoured feeding locations relative to the situation described in a JNCC/WWT publication (which we had discussed at

the first hearing (HR2-5)) and despite the likely relative low vulnerability to climate change of the farmland, a long-term risk assessment might wish to consider the possible impacts of climate change on the *'value of farmland surrounding the Ouse Washes to swans and possible links to the Kings Lynn Connection'* (REP112)

[* JNCC/WWT Waterbird Review Series, on Whooper swans, *Cygnus cygnus*, (Iceland population) in Britain and Ireland 1960/61 – 1999/2000, by J.A. Robinson, K.Calhoun, J.G.McElwaine, E.C.Rees (2004)]

- 4.144 In their response to my third set of Written Questions, NG (REP115) stated *'in the event that in the future, there are changes in the alignment that result in risks of bird collisions being greater than at present, National Grid would address these by the application of its established protocol'*. Thus it was acknowledged that the situation may change. But no mechanism to trigger follow-up action was added to the Preferred Draft DCO (REP198).

Conclusions (on Large Birds)

- 4.145 National policy in EN-5 suggests that 'large birds' are an issue of importance. It is undisputed that small-moderately large numbers of 'large birds' of various species of swans, geese, large raptors (such as marsh harriers) and grey herons (in variable numbers), rare and common, frequent the site for this proposed Project, and immediate surrounds, occasionally. NG's 'Protocol on Bird Diverters/Deflectors' is a step forward in acknowledging the situation, and the possibility that it might change.
- 4.146 I am satisfied that there is no significant immediate effect on large birds but there is a simple route by which future monitoring could facilitate further protection for large birds if evidence emerged that a problem was developing. A formal recognition of NG's Protocol and the reminder it provides to keep the issue under review should inform a DCO, and its implementation, through the construction, operational maintenance and decommissioning phases on this proposed Project, over 80 years or more. Therefore, a requirement to that effect is suggested in Section 6 Part Two.
- 4.147 The requirement recommended to be imposed is as follows:
- '(4) The landscape and ecological management plan must include a statement on 'large birds', which must include:*
- (a) a map showing the locations of the nearby Islington SSSI, The Wash SPA and the Ouse Washes SPA, and the River Great Ouse and Ouse Relief Channel in relation to the NSIP OHL route;*
- (b) a summary of and/or cross-reference to the information on 'large birds' set out in the Environmental Statement;*

(c) a statement that "...in its periodic inspections of the overhead line and in response to any notification of bird collisions, National Grid shall proceed in a manner in accordance with 'National Grid Protocol on Bird Deflectors' (dated 22 May 2013) or its successor document or guidance;

(d) a copy of the 'National Grid Protocol on Bird Deflectors' (dated 22 May 2013);

(e) details on how National Grid is to be contacted and notified of bird collisions, involving swans, geese, large raptors and herons, by individuals or organisation external to the undertaker.'

iv. Conserving and enhancing local biodiversity

- 4.148 EN-1 records that the Government's biodiversity policy for England is set out in 'Working with the grain of nature' and EN-1 also (para 5.3.2 and relevant footnote) refers to a (separate) guide on good practice in England (cf 'Planning for Biodiversity and Geological Conservation: a Guide to Good Practice', March 2006).

Elements of the Local Biodiversity

- 4.149 Study of the application documents revealed that the proposed development site lies within the Fens Natural Area (English Nature Natural Area No.37). The Phase I Habitats Survey noted 12 types of general habitats in the study area. Of these, four were considered to be *'important features which are considered of significant value for nature conservation'* (APP22). They are: arable (to the extent used by SPA birds); broad-leaved plantation woodland; running water/wet ditch/dry ditch; and, species poor hedgerow (intact and defunct). The ES also describes the arable land there as being *'characterised by intensive year-round cropping'* and providing a habitat for brown hare, badger and a variety of farmland birds (APP22). None of the hedgerows are classed as 'important' on ecological grounds under the Hedgerow Regulations 1997, but they are *'likely to be used by birds for shelter or foraging'* (APP22).
- 4.150 NG's analysis showed that, in terms of native species, there was evidence of badgers, bats, breeding birds, brown hare, otter, SPA birds, and water vole being present in the locality. All but the badgers were considered to be of a significant value for nature conservation, with the potential to be affected by the proposed development (APP22). No evidence of roosting bats was found, or brown hares recorded, or otter holts found (APP22). NE, in its Written Representation (REP48) stated that it was satisfied that the survey work carried out followed good practice and allowed the impacts on bats, otters and great crested newts (European protected species) to be adequately assessed.
- 4.151 The studies also concluded that, in respect of native breeding birds, the interest was *'... concentrated in the mature tree belts*

within the route corridor and the hedgerows and ditches on the Site boundaries' (APP22).

Exploring the Topic at the Examination

- 4.152 The Borough Council, in its LIR (REP52), also made observations on local wildlife: *'The proposal will have a localised impact upon the Nar SSSI during construction arising from physical works to install pontoons and the construction works themselves....Further localised impacts will be experienced during construction as a result of disturbance and the loss of hedgerows on the eastern side of the Nar. Timing of works to avoid bird nesting seasons and to secure compensatory planting should mitigate the impact of the development upon ecology and biodiversity'.*
- 4.153 Responding to these points and the ES's analysis, any protective measures, logically, should include, for example, careful removal and reinstatement of all the arable soils; care and protection in respect of any works near to and or affecting ditches and watercourses, hedgerows, and plantation woodland; and restoration and/or replacement planting for any unavoidable cutting-back or damage sustained by the latter. These were themes which informed some of the discussion I led at hearings (HR2-5), and follow-up questions about the direct and indirect impacts of the Project, as proposed. These discussions were of assistance in fine-tuning the detail of the provisions in the DCO and CoCP. The further detail on that is noted in Section 6.

Conclusions (on conserving and enhancing local biodiversity)

- 4.154 By the end of the examination period, sufficient information and evidence had been gleaned to conclude that proper regard had been had in general to the purpose of conserving biodiversity under s40 of the Natural Environment and Rural Communities Act 2006.
- 4.155 It would appear sound to conclude that the 'other local habitats and species' locally will be only minimally adversely affected by the NSIP proposed; provided the small changes made to the DCO to provide greater general environmental protection in that respect (as outlined in Section 6) are retained in a final DCO, if the Project is consented. But the Project, as proposed, is unlikely to add anything to the locality's local biodiversity.

v. Biodiversity Mitigation – In Summary

- 4.156 I noted that EN-5 has been subjected to an 'Appraisal of Sustainability' and one of the key points emerging from that was that *'effects on ecology are uncertain at this level of appraisal, as they depend on the sensitivity of the environment and the location and design of specific infrastructure'* (cf EN-5, para 1.7.2): which points to a need to look at the impacts of a particular scheme very carefully. EN-1 urges that significant harm to biodiversity should

be avoided, including through mitigation and consideration of reasonable alternatives, and where significant harm cannot be avoided, then appropriate compensation measures should be sought (cf EN-1, para 5.3.7).

- 4.157 NG had concluded, before the examination (APP22) that no mitigation measures were needed in respect of effects on The Wash, the Ouse Marshes and SPA bird species (there being no direct effects or significant displacement or collisions effects, in respect of SPA species). However, the ES noted a need for (i) general advice on minimising tree loss, and dealing with bat issues should bats be encountered in the River Nar SSSI; (ii) with respect to the many ditches in or close by the NSIP site, advice on suitable protection for water voles, in respect of any work near their sites; and, (iii) in respect of arable land – that apart from the small areas to be lost permanently under pylons, the arable land should be returned to active agricultural management on completion of the works (APP22, 23).
- 4.158 During the examination, the questions I asked at the first hearing (HR2-5) touched on all these matters. In summary, substantial progress was made on water vole issues, and arable land issues, but uncertain progress on minimising the risk of fuel and chemical spillages (despite the flood risk in the area) for streams and ditches, which raised questions about the need and scope for an enforceable requirement in be imposed.

Conclusions (on Biodiversity mitigation)

- 4.159 The responses and assurances given following discussions at hearings (HR2-5) then informed minor changes in the Draft DCO and CoCP.
- 4.160 Of these, the one unresolved matter of significance was the confusing wording in the draft CoCP on the storage of fuels and chemicals on site (in a flood risk area). I concluded that on the issue of storage of fuels and chemicals on the site, a requirement should be imposed to prevent it, given the flood risk, the water voles, the large number and extent of interconnected ditches in and around the NSIP site and the SSSI nearby, and the likelihood that it would be accompanied by bunding which would introduce further adverse local landscape and visual impacts. That matter is covered in more detail in Section 6 Part Two.
- 4.161 The requirement recommended to be imposed is as follows:

'Prohibition of storage of fuels and chemicals.

No fuels or chemicals are to be stored within the Order limits during the construction, operational, maintenance or decommissioning phases.'

vi. Factoring in potential climate change impacts

- 4.162 On decision-making in respect of biodiversity matters: EN-1, para 5.3.6 urged the (then) IPC to take account of the Government's biodiversity strategy, and also *'take account of the context of climate change' as 'failure to address this challenge will result in significant adverse impacts to biodiversity'*.
- 4.163 Overall, I did not find much evidence of relevance on this topic presented by the applicant and IPs, initially, other than rather general statements in the ES and elsewhere. A discussion at the Construction Phase Impacts hearing (HR2-5) touched upon climate change issues. NE advised that the farmland around the Ouse Washes was *'likely to have low vulnerability to climate change in comparison with other habitat types'* (REP112).

Conclusions (on Potential climate change impacts)

- 4.164 The most that could be concluded on this issue is that the applicant had noted the context of climate change.

Conclusion on ecological matters overall

- 4.165 On biodiversity, EN-1 (cf para 5.3.8) draws attention to international, national and local designations, protected species and other species of principal importance for conservation of biodiversity and to biodiversity interests in the wider environment. I have structured this 'ecology' section accordingly and found no immediate concerns in respect of international sites and species. One or two details, mentioned in the subsections C(iii) and C(v) above, however, are sufficiently important and relevant to be followed up and they need to inform new or expanded requirements in the DCO and I set out detail on that in Section 6 Part Two.

D. Flood Risk***Introduction***

- 4.166 EN-1 emphasises that new energy infrastructure is a long-term investment which will need to remain operational for decades in the face of a changing climate. It says *'applicants must consider the impacts of climate change when planning the location, design, build, operation and, where appropriate, decommissioning of new energy infrastructure'* (EN-1, para 4.8.5).

UK Climate Data

- 4.167 During the examination, I confirmed that the ES and supporting documents had – as EN-1, para 4.8.5 and 4.8.6 urge - taken into account the projected impacts of climate change, using the latest UK climate projections. Section 7.6 of the Flood Risk Assessment (FRA) in the ES (Appendix TA-G) (APP23) covered climate change

succinctly, referring to the body of scientific evidence on global climate change, predictions for the UK (including increased risk of river flooding and local flash flooding); and the UK Climate Change Impacts Programme (UKCIP). It presents data on the recommended contingency allowances for net sea level rise; the recommended national precautionary sensitivity ranges for peak rainfall intensities, peak river flows, offshore wind speeds and wave heights.

Flood Risk Assessment

- 4.168 In the examination phase, I found that the applicant's FRA for the East Corridor route, had been produced during 2010/11, in accordance with (then) national guidance (in 'Planning Policy Statement 25 on 'Development and Flood Risk', DCLG, 2010) and before the NPPF replaced it on 27th March 2012. That FRA was submitted as part of a suite of application documents (APP19: Doc. 6.2), in July 2012.
- 4.169 Shortly after the start of the examination, the applicant submitted an ES Supplementary Report (REP60) which addressed this timing issue, pointing out that the NPPF retained key elements of the PPS25 and that the NPPF did *'not alter the conclusions or recommendations of the FRA'* – and adding – *'For the avoidance of doubt, following review of the above an update to the ES chapter and supporting technical appendix is not considered necessary'* (REP60).
- 4.170 The proposed Site lies *'mostly within Flood Zone 3 with some of the land protected by the flood defences'* (APP19). The Strategic Flood Risk Assessment (SFRA) maps, produced for the Borough Council, also appended to the FRA (APP19), indicated that the Site was in an area of low to medium risk of fluvial flooding; but, taking into account climate change – the Site was *'within an area at high risk of both fluvial flood risk (western area) and tidal flood risk (eastern area)'*.
- 4.171 Advice from the EA, and the relevant Drainage Board and other undertakers, had informed the scope and content of the Project's Flood Risk Assessment (FRA).
- 4.172 The FRA does contain data on fluvial and tidal flood risk which covers the 80 year projected lifetime of the project, and the hazard zones. It looks at the flood level projections, and the effects of climate change, from the present for the design life of the development (cf para 9). The development lifetime and stages (construction, commencement, and decommissioning) could have been set out more clearly in the FRA, but that detail is available in the ES and other supporting documentation, and it was made available during the examination.

- 4.173 The FRA document recommended care to ensure no damage to or blockage of watercourses, and no damage to the integrity of flood defences; care to avoid polluting the watercourses and underlying soils; and, the provision of an emergency route (for the safety of the 'works'). It warned that *'Unpredictable weather may result in flash flood'* (APP19).
- 4.174 Flood compensation was not anticipated to be required as floodwater would flow past the pylons freely without obstruction, and the pylons would be located more than 60 m from the flood defences (APP19).
- 4.175 In terms of mitigation measures: the FRA analysis recommended that on-site compounds areas be raised above the 1 in 100 years flood level; adherence to best practice standards on flood resilient construction techniques; production of a Flood Plan to detail the actions to be taken in a flood event, with an assembly point outside the flood plain towards the east (in West Winch); and, given that the SFRA indicated that a *'small southern portion of the site is located within an area at risk of rapid inundation, if flood defences were to breach or overtop'*, an emergency route north to north-eastwards (APP19).
- 4.176 Read in conjunction with the other application documents/ES, plus all the responses from the applicant to questions asked during the examination, and the EA's responses, I concluded there is an adequate amount of information available on flood risk matters in the FRA, and it addresses all the current 'minimal requirements'.

The Sequential and Exception Tests for Energy NSIPs

- 4.177 A Sequential Test and an Exception Test were undertaken in the FRA in accordance with guidance in PPS25, during 2011. The PPS25 guidance, which guided that analysis, aimed at keeping all development out of medium and high flood risk area (Flood Zones 2 and 3) where possible; and, it encouraged a 'five step' approach: assess, avoid, substitute, control, and mitigate.
- 4.178 The Sequential Test was, the analysis concluded in the FRA, 'passed' (APP19).
- 4.179 An Exception Test process was duly undertaken (again following the guidance in PPS25) to provide 'further clarification'. The FRA analysis then appeared to hinge on just one relevant question: *'Would a significant community benefit arise that could not be realised in an alternative location at lesser risk?'* to which the answer offered by the consultants was *'Yes, the proposal will connect the proposed ... CCGT power station to the existing high voltage transmission overhead line that connects the substations at Norwich and Walpole'* (APP19).
- 4.180 That response describes the project and its perceived wider community benefit. It implies that there is no other transmission

route or solution which would be practically possible (avoiding Flood Zone 3). But the response leads to the question: is there another way of making a connection for the transmission that would avoid Flood Zone 3? Examination of the FRA Flood Zone 3 map (APP29) makes it clear that there is a small island of higher ground under and around the existing King's Lynn power station (and a few slivers of such across the Ouse Relief Channel in the Central Corridor), but there is no clear route between the new power station and the existing 4VV OHL which could avoid crossing many acres of Flood Zone 3 land). In that context, the response would appear to be reasonable.

- 4.181 The EA's formal written representation advised that the FRA for this project had satisfactorily considered the impact of flood risk to and from the development (REP80). The EA stated that it had no concerns, but listed many conclusions, plus advisory comments.
- 4.182 The EA also recommended (REP80) that a Flood (Warning and Evacuation) Plan be prepared, to include the method of flood warning and evacuation to ensure the safe use of the site in extreme circumstances during construction phases. NG, EA advised, should liaise with the Borough Council's emergency planner on that matter. I asked a Written Question, in January 2013, on the progress made on the Flood Plan (PD11). The applicant's response (REP71) confirmed that a Flood Plan was being discussed with the relevant body (the Borough Council). It would be incorporated into the 'construction phase health and safety plan', and be managed by the appointed contractor, in accordance with the Construction (Design and Management) Regulations, 2007. In its later comments on the EA's response to the same question, NG stated that its Construction Phase Plan was referred to in the Code of Construction Practice (CoCP), and that a requirement (Requirement 12) in the Draft DCO requires the development to be carried out in accordance with the CoCP (REP81).

Applying the Sequential Test

- 4.183 I now consider whether the proposal meets the Tests as set in the relevant NPS (EN-1), in section 5.7.13 (page 84 onwards), in more detail. The definition of the Sequential Test – for Energy NSIPs - is as follows: *'Preference should be given to locating projects in Flood Zone 1 in England...If there is no reasonably available site in Flood Zone 1...then projects can be located in Flood Zone 2...If there is no reasonably available site in Flood Zone 1 or 2..., then nationally significant energy infrastructure projects can be located in Flood Zone 3 ...subject to the Exception Test. Consideration of alternative sites should take account of policy on alternatives set out in Section 4.4 above'* (cf EN-1, para 5.7.13).
- 4.184 On flood risk matters, there is a policy requirement (cf EN-1, para 4.4) to consider alternatives. The ES looked at alternatives within

a swathe of countryside south of King's Lynn between the A47 and West Winch/A10. Various route corridor options were considered. A Route Corridor Study (APP23) looked at environmental constraints and touched, briefly, on flood risk issues (at paras 5.47-5.48). The NG's follow-on Route Corridor Preference report (APP23), took into account policy in EN-1 (and the draft EN-5), the pre-NPPF national planning policies, the 1998 Local Plan and emerging LDF, and listed flood risk as a factor in evaluating route corridor options (cf para 4.1). Its analysis (in paras 17.1-17.3), noted that all the potential route corridors were within an area of flood risk: but it was *'relatively straightforward to build flood resilience into overhead lines by addressing safety clearances from anticipated flood levels in line design'*. NG concluded that flood risk was not a basis for selecting a preferred route (from the options available).

- 4.185 The plans in the FRA show the extent of flood risk in the area south of King's Lynn. They suggest that flood risk reduces to Flood Zone 2 (FZ2) on a sliver of land on slightly higher ground (at West Winch Common and West Winch). A new OHL running north-south there would still have to turn westwards across Flood Zone 3 (FZ3) areas to join the substation where it would terminate. That potential variation on the East Corridor preferred route was not pursued.
- 4.186 Importantly, the Borough Council's LIR concludes that there are no sequentially preferable sites available. It states: *'...given the extent of Flood Zone 3, particularly to the west of the development corridor, it is unlikely that an alternative route at lower risk of flooding could be identified given the location of the King's Lynn B site in relation to the 400 kV line. Any attempt to move the line to the east and out of FZ3 would take it closer to more developed areas and move it on to higher ground with a commensurate increase in landscape and visual impact'* (REP52).

Addressing the Exception Test

- 4.187 The broad thrust of policy in EN-1 on development in high flood risk areas, is that: *'Where new energy infrastructure is, exceptionally, necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible, by reducing flood risk elsewhere'* (cf EN-1, para 5.7.3). EN-1's definition of the Exception Test, for energy NSIPs specifically (para 5.7.16), is:
- *'All three elements of the test will have to be passed for development to be consented. For the Exception Test to be passed:*
 - *it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk; and*

- *the project should be on developable, previously developed land or, if it is not on previously developed land, that there are no reasonable alternative sites on developable previously developed land subject to any exceptions set in the technology-specific NPSs; and*
 - *a FRA must demonstrate that the project will be safe, without increasing flood risk elsewhere subject to the exception below and, where possible, will reduce flood risk overall.'*

- 4.188 Sustainability benefits can include, EN-1 explains in Footnote 116, the need for the infrastructure (as set out in EN-1, para 5.7.16). Measured against this Test, the Project would appear to meet the first element because of the national need for energy and energy security, to benefit all communities. Any other 'wider sustainability benefits to the community' that come with the Project could count in the balance (and I will address that in Section 5). On the second, it is clear from the maps and the ES presented (and ASVs and USVs undertaken), there are demonstrably no 'developable previously developed land' along this or any alternative possible alignment for this Project (other than through the town). On the third element: I consider that the FRA, read together with the ES and the responses provided by the applicant during the examination, and advice from the EA (so long as it is respected) point to the Project being reasonably safe. There is no evidence to suggest that the Project would increase flood risk elsewhere. There is nothing to suggest that it will reduce flood risk overall, either.
- 4.189 The Sustainability Appraisal Report's assessment of 'Objective 4 : To reduce flood risk' stated that there would be low to moderate significant impact on the objective: the pylons were already of a design which would have no significant effect on flooding and the appraisal did not identify any further opportunities for enhancing the objective (APP32: Doc. 9.4).
- 4.190 Given the FRA's findings: adherence to the CoCP on setting up evacuation routes and all the other precautionary measures will be critical, and the risk of fuel spills, in flood events, potentially affecting the nearby SSSI, needs to be carefully considered.

Pylon Resilience in Flood Events

- 4.191 The EN-1 policies on flood risk require the applicant and the (then) IPC to take account of policy on climate change adaptation (cf EN-1, para 5.7.2).
- 4.192 In terms of the ability of the pylons proposed to withstand the occasional flood event, I noted that the FRA stated there is a '*remote but potential risk that the velocity of floodwater would lead the pylons to collapse or fall over during flooding*', but given the 'minimal' resistance and 'inherently flood resistant materials'

of the pylons proposed *'it was not anticipated that flooding will have an effect on the operation of the pylons and the overhead line'* (APP19).

- 4.193 In my fourth set of Written Questions, I asked (PD21) whether, in view of the policy set in EN-5 para 2.4, the applicant would summarise and expand their evidence on the climate change resilience of the L13 pylon design selected. On flood risk, the response largely reiterated previous documentation, saying that *'pylons and OHLs are already designed by National Grid to be resilient to the potential effects of climate change such as increased flooding, lightning and high winds'* (REP170).

Conclusion on Flood Risk Matters

- 4.194 Despite all the various assurances given, written and oral, it is clear that there is considerable vulnerability on this Site to flooding of various types. However, the paragraphs above suggest that the pylons proposed would have a high degree of flood resilience. Overall, I am satisfied that this NSIP proposal's FRA has been prepared in a manner which reflected the contemporary PPS25 guidance which informed its production. Although national guidance has changed a little since then, I found that the FRA – if read together with the ES and other supporting documents and various written responses presented, which have clarified the development timeline, and also the EA's judgement upon it - is broadly in step with the current guidance in EN-1.
- 4.195 I am satisfied that the resilience to flooding and safety matters have been considered, in the manner advised by the EA (to a 'basic FRA' standard). The EA appeared to be content with the FRA as a product, and it offered much additional advice in the response of 22 February 2013, in order to inform the Flood Plan. The applicant appeared to be taking active steps to prepare a Flood Plan towards the end of the examination period. That document will be a critical one, as a sub-document to the CoCP (which is covered by Requirement 12).
- 4.196 Read together with Section 5, which establishes the need for this development, this OHL proposal passes the Sequential and Exception Tests.
- 4.197 The relevant procedures have been followed to evaluate the risks over the expected lifetime, and with appropriate mitigations. The Sequential and Exception tests have been followed. Although this is a Flood Zone 3, the pylons themselves have been designed to cope with this. There are risks to manage during the construction and decommissioning periods but, during the operational phase, there appears to be reasonable confidence that the energy infrastructure network would not be unduly impacted upon by floods.

E. Cultural Heritage

Introduction

- 4.198 EN-1 requires developers to have regard to potential effects on the cultural heritage resource, and EN-1 (para 5.8.1 et seq) urges the decision-maker to take into account evidence provided with the application and any designation records on any heritage asset that may be affected by the proposed development, including by development affecting the setting of a heritage asset. The thrust of the policy is that specially designated sites, those awaiting designation, and undesignated sites with scope for designation in due course must all be carefully considered.

The Zone of Theoretical Visibility

- 4.199 I found the plan identifying and illustrating the Zone of Theoretical Visibility (ZTV) and Designated Assets particularly useful (APP22: Figure 7.2). It defined – beyond the 1 km 'Study Area A' - a wider 'Study Area B' (APP22), which usefully illustrated the likely inter-visibility between the Site and areas around it of heritage value, starting with those of high heritage value (such as Scheduled Monuments and Grade I listed buildings) within 10 km of the Site, and then Grade II buildings and conservation areas within 2.5 km. It had informed more detailed analysis of potential visual impacts on particular heritage sites.

The SoCG on Heritage Matters

- 4.200 A SoCG was produced between NG, English Heritage (EH), NCC (which has a Historic Environment Service), and the Borough Council in February 2013 (REP54), setting out their agreed position on the impacts on the setting of listed buildings in the vicinity and the impacts on local heritage interests.
- 4.201 The SoCG noted that the applicant had undertaken a desk based assessment, including an assessment of assets whose settings could be affected by the project, and a summary of observations made during a field reconnaissance survey and intrusive evaluation; and, a baseline environment study of all heritage assets within 1 km radius around the development footprint with regard to potential physical and visual impacts and all designated heritage assets whose setting could be affected within 10 km (REP54).
- 4.202 The SoCG concluded (REP54) on Listed Buildings that an adequate assessment of potential effects on the setting of Grade II listed buildings had been undertaken; any harm to them would be low; and no mitigation was required in relation to impacts upon their settings. On local heritage interests all three parties agreed that an adequate assessment had been undertaken; any harm to the significance of non-designated assets within the vicinity of the

Project would be low; and no mitigation was required in relation to impacts on those assets.

Listed Buildings and Scheduled Monuments

- 4.203 Three receptors of high importance are situated in the area just beyond the Site. These are Grade II listed buildings within or alongside built-up areas in West Winch or King's Lynn (APP22). In the wider Study Area B around the Site, the 34 designated heritage assets were identified which might be potentially visually affected. They were whittled down to a list of 10 'High grade designated heritage in Study Area B with potential visual impact' (APP23: TA-C). They were, almost all, churches in nearby villages (1.5 km – 7 km distant from the Site). The consultants' visited Wiggshall St German, Wiggshall St Peter and West Winch to see them and had established that the impact on them would be negligible: they were surrounded by other buildings, and sometimes mature trees (APP23: TA-C). During my first USV (PD12), I visited these villages, on route, and came to the same conclusion.

The Church in Watlington

- 4.204 Watlington Parish Council (WPC) expressed concern about their village church at the pre-application stage. I asked a question on the heritage interest of the church in the third Written Questions (PD20). EH confirmed that the St. Peter's and St. Paul's Church in Watlington, is a Grade 1 listed building. Given the temporary nature of the construction traffic which might use the proposed Southern Construction Route (SCR) and the distance of the church from the road, EH stated that it would not object to the proposed SCR in terms of its impact on the church's setting. It did not appear that a realignment of the carriageway or dismantling of the churchyard wall would be necessary to allow construction traffic to pass (REP105). The Borough Council stated that it did not believe that the construction phase of the development would affect the setting of any heritage assets, either designated or not: it was a transitory phase in the life of the assets and would not lead to any harm to them either 'less than substantial' or 'substantial' (REP113). I was satisfied, on that issue, by the responses.

Potential Impacts on Nearby Conservation Areas - in King's Lynn, a small historic town

- 4.205 King's Lynn has an historic town centre with many fine buildings, and an attractive waterfront alongside the Great Ouse River. The historic heart lies c.1.6 km north of proposed development site. None of the IPs identified this as an issue during the examination, but I give it some consideration here, for completeness, as NG's Planning Statement identifies King's Lynn as part of the built development in the area surrounding the Site (APP29), and it draws attention to the Borough Council's CS which deals with

heritage conservation across the Borough (APP29). NG's consultants, the ES reveals, did consider this issue. The ES states: *'In view of the high concentration of designated heritage assets located within the South Lynn conservation area (RSK CA1) a site visit to the location closest to the Project (along the Friars) was undertaken. This confirmed that no sight lines to and from the area of the proposed alignment exist'* (APP22: para 7.70). Having looked out from the South Lynn area towards the site on USVs (PD12), I can concur that the King's Lynn Conservation Areas are too far away for their setting to be adversely visually impacted by this proposed Project.

Archaeology

- 4.206 There was a discussion at the hearings on the DCO provisions in respect of archaeology. The Site's prehistoric and Roman archaeological potential was considered to be low, and the mediaeval potential moderate, and there were some potential buried features of an uncertain nature, and it was concluded that the pylon locations held no archaeological potential (APP22). Overall, the ES concluded that: *'the residual effects from the Project on the archaeological and cultural heritage resource would be neutral with regard to the physical effects from the construction phase, and low to negligible with regard to indirect visual effects on individual designated heritage assets'* (APP22). The DCO contains a provision in case archaeological finds are made, unexpectedly, during the construction phase.

Conclusion on Cultural Heritage

- 4.207 Having studied the evidence presented in the application documents, the hearings and in answer to questions, plus the LIR comments, and the SoCG, I concur that the listed buildings within 1 km radius of the Site and those for up to 10 kms around the site will not be impacted in terms of their setting. I am satisfied that there would be no significant harm to other features of cultural heritage in and around the Site - providing best practice is embraced in the CoCP, and on archaeological matters, in the DCO. I conclude that the proposed development lies too far south to be clearly visible from the South Lynn conservation area, and I am clear that the Project is sufficiently distant from King's Lynn's historic centre so as not to adversely affect its setting.

F. The Nar Valley - Recreation and Amenity

Introduction

- 4.208 NG acknowledged that EN-5 supports the statutory duty imposed on NG, under s9 of the Electricity Act 1989, which requires a licence holder to have regard to 'amenity', and, to mitigate 'effects' (APP29). The duty is also referred to in EN-5 (cf EN-5,

para 2.2.6). The ecological aspects of the Nar Valley and River Nar SSSI, have already been covered in Section 4 E of this Report.

The Amenity Value of the Lower Nar Valley

- 4.209 I asked a question (PD11) about the value of the Nar Valley as a resource. The Borough Council's response was that: *'The Nar Valley in this area was previously designated in the 1998 Local Plan (superseded by the Core Strategy) as an Area of Important Landscape Quality. There were two AILQ types in the Local Plan, that affected by this proposal being defined as 'Open'. In terms of the general value of the area to the south of King's Lynn in terms of recreation and access, opportunities are more limited here than in other parts of the Borough. Areas such as Roydon Common and the Sandringham Estate are more accessible and whilst the footpaths along the Nar are important, their value is more limited and, whilst no hard figures exist, the Council suggests that they are local value rather than Borough wide value when compared to, for example, The Peddars Way and Coastal footpaths'* (REP74).
- 4.210 The local landscape AILQ designation no longer applies.

West Winch Common

- 4.211 West Winch Common is a large Common lying east of and parallel to the proposed OHL. West Winch Parish Council was reported in the ES to be the only commenter on recreation and tourism factors. It is reported as having stated that *'users of West Winch Common would be affected by the visual impact of the pylons'* (APP22).

Access and Recreation – Nar Valley Way, and Fen Rivers Way

- 4.212 The Nar Valley Way is a long-distance path running from King's Lynn to Gressenhall (near Dereham) (APP22): the setting was judged to be a *'secondary consideration'* to the activity in the ES (APP22). The Fen Rivers Way runs alongside the Great River Ouse in this area, and onwards for 50 miles between King's Lynn and Cambridge: the ES found no visitor count data for it to help gauge usage levels (APP22). The level of visits to and other interest in the scheduled ancient monuments was unknown (APP22).

Watersports

- 4.213 Just west of the power station site, down an EA access road / track known as North Sea Bank which leads to the Tail Sluice at the end of the Great Ouse Relief Channel, and close to the Fen Rivers Way, there is a Water Sports Centre; and, the North Sea Bank is used to access sailing events at the Ouse Amateur Sailing Club (APP23).

Impacts on cycling – National Cycle Routes

- 4.214 Sustrans drew attention to the National Cycle Network running through the East Corridor area, and envisaged potential disruption during construction (APP22). Data submitted for St. Peters Road / Magdalen Road in the CTAMR (July 2012) suggested that <1% of the traffic using that road consisted (at the highest weekday peak observed in an NCC traffic survey) of cycles and motorcycles (APP23); and the highest number of cycles and motorcycles for any day (weekend or weekday / 12 hour count) covered by the survey was 7 (APP23). However, those surveys were conducted in winter (December 2010).

PRoW and Bridleways

- 4.215 There are several PRoW including a bridleway in the area. Four temporary PRoW closures (and diversions) were planned during the construction phase. There would be two two-day closures affecting King's Lynn Footpaths No. 8 to enable work on KL01; temporary four-week closures planned for parts of Footpaths No. 26 and No. 27 along the River Nar to enable work on KL03/4; and also temporary four-week footpath closures for parts of No.26, No.27 and the Bridleway No. 28 to enable work on the pylon 4VV40 (APP22: para 14.44 and 14.50). The proposals did not raise any controversy. There is a commitment made in the ES (APP22: para 14.52) to consult '*the local PRoW officer and the Sustrans Route Manager*' about the temporary closures.

Conclusions

- 4.216 I studied the application documents and proposals carefully in terms of their potential temporary or residual effects on these resources, and looked carefully at these resources during site visits. I concluded that these resources were important and relevant but not intensively used near the proposed OHL site, at present. I was satisfied that the impacts would be largely on the visual quality of the area and its potential enjoyment by users of these resources, rather more than any actual physical interference with these amenity resources, other than for short periods during the construction and subsequent phases.

G. The Operational Railway – Protective Provisions

- 4.217 A SoCG covered matters related to the applicant's proposed compulsory acquisition (CA) of rights over operational railway line, part of the King's Lynn to Ely railway line. It explained that CA of permanent rights over two existing level crossing sites (Clarke's Chase and Burt's) was proposed, and also at the places where the proposed OHL would cross the railway. Discussions were progressing on the rights to be acquired, protective provisions and land rights. On certain matters (eg easements, and basic asset protection) agreement had been reached, or was close to being

reached through negotiation. The outstanding issues, at that point, were the 'protective provisions' in the draft DCO, suggested by the applicant, which were not acceptable to Network Rail (NR). A few plots listed in the BoR as being in unknown ownership at the start of the examination have been identified as owned by NR, but NR would not agree to the CA of any rights over those plots (REP40).

- 4.218 The SoCG revealed that, aside from the temporary effect of the construction work, the rights sought to cross the railway at plots 46 and 58 would have implications for the longer term plans to phase out the level crossings. Other plots had operational and/or drainage roles. There was a concern about the rights of access without regard to the operation and safety of the railway (REP40). Discussions continued during the examination.
- 4.219 I asked a series of Written Questions on the practical implications of the proposed CAs in respect of the operational railway in the short, medium and longer term; whether there would be any serious detriment; progress on agreeing protective provisions; and whether a s127 certificate would be sought from the Secretary of State for Transport (PD11). A s127 certificate was sought, and the process followed was outlined in Section 1 of this Report. The outcome was a confidential agreement between the two parties and a substantial amendment to the draft DCO (see Section 6).

Conclusions

- 4.220 By the end of the examination, there were no further live issues regarding railway matters.

H. Construction Traffic

Introduction

- 4.221 Much of the dialogue at the examination revolved around the impact of the construction phase and construction traffic – upon the residential amenity of the people living near the site and along the proposed construction routes. This section attempts to cover the related issues systematically in the context of EN-1 and related policies on traffic, transport, and also wider policy concerns. The latter is relevant as EN-1, when addressing the potential impacts of energy developments, recognises that its own list of potential issues is not exhaustive, in para 5.1.2 *'The list of impacts (generic and technology-specific) and the policy in respect of the consideration of impacts in this Part and in the impact section of the technology-specific NPSs is not exhaustive.'* EN-1 does recognise that there can be consequential effects arising from traffic and transport generated by NSIPs including *'economic, environmental and social effects', 'noise and emissions', and 'disturbance'* (cf EN-1, 5.13.1); and it states *'The consideration and mitigation of transport impacts is an essential part of*

Government's wider policy objectives for sustainable development as set out in Section 2.2 of this NPS' (cf EN-1, para 5.13.2).

The Application – Facts and Figures on Construction Traffic

4.222 Specifically, NG proposes:

- (i) a Northern Construction Route (NCR): a route runs off the A47 Saddlebow Roundabout and down 'Saddlebow Road also known as High Road' and (a) off that, onto a purpose-built haul road southwards through the Site, through arable fields; or, (b) down to Willows Roundabout and then along High Road, a country lane flanked by hedges, towards North Sea Bank (a trackway). This 'NCR' arrangement would serve the Northern Works Area. The haul roads across the fields would consist of stone or 'Durabase trackway' (APP23);
- (ii) a Southern Construction Route (SCR): would serve the Southern Works Area, running off the A10, and along country lanes into Watlington, a village c.4.5 km due south of the Site, and then along other country lanes including St. Peters Road / Magdalen Road, crossing Mill Road, and onto Thiefgate Lane,
- (iii) Access points: The access points were designed to '*minimise construction traffic using the surrounding narrow, and unsuitable fenland 'By-roads''* (REP22), and
- (iv) Diversion Routes: for existing local traffic including one long diversion route (for approximately 4 weeks) also through Watlington.

4.223 The ES states '*Taking the worst case scenario it is predicted that there will be a total of 98 two-way construction vehicle movements per day (07.00 to 19.00hrs) on the local road network of which 68 are HGVs and 30 are made up of LGVs and cars. Northern Site is predicted to contribute 69% of the additional vehicle movements and the Southern Site 31% of movements'* (APP 22). [LGVs = Light Goods Vehicles]

4.224 In the ES and SES, construction traffic was identified as an issue to be addressed, in respect of both the NCR and SCR (APP22, 23) (REP60).

4.225 The public was consulted on the full detail of the proposed construction traffic routes during the Stage Three (statutory) consultation period, in April 2012 (APP18), only a few months before the application was submitted (in July 2012).

- 4.226 The strength of local concern about the associated traffic to be routed through Watlington became immediately obvious and NG indicated that they would review the alternative route then suggested by NCC, called 'Route A / Low Road', as an alternative to the Southern Construction Route proposed (APP18). But it did not figure as an option in NG's NSIP application.

H1: Proposed Northern Construction Route

- 4.227 On the northern construction route (NCR) proposed, to serve the Northern Work Area, the evidence suggests strongly that the NCR, off the A47 / Saddlebow Road (also known as High Road) and thence via an off-road haul road, is fit for purpose, not controversial, and acceptable to the IPs. The haul road merely needs to be constructed and then removed, and the site fully restored. Its impacts are manageable through suitable requirements. Minor changes were agreed and incorporated into the draft DCO and CoCP to that end (see Section 6 of this Report).
- 4.228 In terms of cumulative impacts on the A47 / Saddlebow roundabout, the ES (Chapter 14, para 14.4) makes it clear that there were '*large reserves of peak capacity*' there. The impact of the change of connection date on the cumulative construction traffic flows on the potential construction traffic routes also needed to be factored in to the new calculations. NG's final Synopsis, concludes that the cumulative traffic is unlikely to exceed 0.6% of baseline traffic on the A47 and traffic on Willows Roundabout and Saddlebow roundabout will remain within capacity at peak periods during the period of maximum traffic flows, and '*Cumulative impacts will therefore be insignificant...*' (REP180). NCC considered that it was very unlikely that there would be any cumulative traffic impacts there were 'Route A/Low Road' to be used, instead of the SCR route, to serve the Southern Work Area also (REP165).

H2: Proposed Southern Construction Route

- 4.229 The Construction Traffic Assessment and Mitigation Report (CMTMR) noted that the SCR would pass through the village of Watlington and some narrow stretches of road, but the existing base flow of traffic was low (using St Peters Road, December 2010 figures, as proxy).
- 4.230 NG's analysis suggested a 'minor adverse' effect but the effect was deemed to be 'not significant' (APP22). The conclusion drawn in the ES was that: '*There would be some low level effects relating to the use of roads by HGVs through Watlington village and along the surrounding minor roads, however, these would be temporary and largely restricted to the initial set-up and decommissioning phases of the Project*' (APP22).

- 4.231 The ES anticipated temporary disturbance to residents, effects on road users (including pedestrians and cyclists), some specifically involving Watlington village: *'Temporary disturbance to residents living on access routes (including the village of Watlington)'* (APP22).
- 4.232 Accompanying the ES, the CTAMR (July 2012) (cf ES, TA-J, para 6.1.4) identified the proposed SCR's three specific potential impacts upon Watlington as being: (i) *'Possible congestion and delay through Watlington village; (ii) Possible risk to pedestrians and non motorised users including primary school; and (iii) Temporary road closures, possible impact of diversions'*.
- 4.233 The anticipated cumulative effects of traffic were set out in the ES (APP22). The potential cumulative traffic impacts on the village of Watlington were not explored in much detail, but it was clear that (during the construction phase alone) Watlington would be subject to 12 weeks of 'mobilisation' phase traffic; plus 50 weeks of 'construction' phase traffic; and then 6 weeks of 'de-mobilisation' phase traffic, plus being at the centre of a local diverted traffic route (as part of the High Road Diversion Route) for c. 4 weeks. The two routes would overlap (on plan, at least) in School Lane in front of the public house in the very centre of the village, north of the village green (beyond which are located the primary school and a local medical centre).
- 4.234 The Local Impact Reports received from NCC and the Borough Council both referred to their concerns about the construction traffic routes proposed in respect of their potential impact on Watlington (REP51, 52). The Borough Council stated that the SCR route was *'narrow and involves tight corners on the approach to the village from the A10 and also going through the village by the playing field and village hall. Alternatives should be assessed'*. And it recommended that *'An alternative to the construction route through Watlington should be sought in order to avoid unacceptable impacts upon residential amenity in that village'* (REP52). Towards the end of the examination, the Borough Council informed me that *'It remains the position of the LPA that the issue of cumulative construction traffic should not be determinative of the construction traffic route for the KL B Connection Project as outlined in previous responses'* (REP166).
- 4.235 NCC and NG were able to agree on several matters: temporary closures for various public rights of way (PRoWs); on site routing, vehicle parking and storage areas; site access points; and the use of the NCR and the purpose-built haul road; and access to KL03 from the Willows Roundabout via a purpose-built haul road (REF39). However, the traffic route associated with the Southern Work Area **'is not agreed'**: and on that matter NCC and NG both requested that the SoS *'make a determination in relation to the construction traffic routes as part of the decision on the application'*. Also, they said: *'The nature of how damage, as a*

result of construction traffic, to the public highway is addressed is not agreed'.

- 4.236 NCC and NG had agreed when signing the SoCG that a s106 agreement was not required but it was agreed that NG would fund the reasonable and necessary costs of the LHA's promotion of statutory requirements relating to temporary closure of a PRow, and High Road and Thiefgate Lane, on behalf of National Grid.
- 4.237 NCC registered what they termed a 'holding highway objection' until such time as there was *'a satisfactory outcome to ongoing negotiations in relation to the temporary traffic management / highway works required during construction and these issues are dealt with appropriately through legal and/or other licensing agreements; and the conditions below are agreed as part of the final planning permission'* (REP33). At the Construction Phase Impacts Hearing, NCC also explained that NCC's 'Policy on Road Safety' which put considerable emphasis on *"vulnerable road users"*, as they were a priority for the LHA (HR2-5).

Road Hierarchy

- 4.238 NCC as the LHA, see the SCR as partly a 3B2 local access route (a lower access route), and the remainder as a 4A2 road (also a 'Remaining Road') for 4300m. (In comparison, their favoured alternative A47 / Low Road (Route A), part (along 'Saddlebow Road also known as High Road' south of the A47, was classed as a 3B1 (HGV route) in the 'Norfolk Route Hierarchy' with the Low Road component being classified as a 4A2 route (a 'Remaining Road' for c.2100m) (REP44).
- 4.239 However, NG maintained that NCC's Transport Asset Management Plan (TAMP), which sets the Norfolk Road Hierarchy, classified roads purely by their function (REP115). NG pointed out that NCC's definitions of best practice on highway matters suggested that the increase of all-traffic movements would need to be 20% before it became 'material' or 'significant' and the projected increase on the SCR was well within that (REF180).
- 4.240 NCC suggested that, in terms of conformity with NCC's local highways policy and road hierarchy, and reduced risk to vulnerable users, 'Route B / the SCR' was less appropriate than 'Route A / Low Road', and it was confident that the latter could be improved further to make it better fitted for carrying NG's construction traffic at a reasonable cost (REP44, REP110). The applicant disagreed.
- 4.241 In terms of amenity, NG rested on the TAMP which designated the SCR route roads through Watlington as an access road suitable *'for access to any local HGV generator'* (REP162).
- 4.242 On balance, I consider that the local highway authority's perspective is the more persuasive principally because of the risk

to vulnerable road users and the existence of a potential workable alternative shorter route to the strategic road system (NCC's Route A). In England, the following would usually be regarded as vulnerable users: pedestrians including people with young children; people carrying heavy shopping; older people; children; disabled people; cyclists; powered two wheelers; equestrians; and other non-motorised users, especially at bus stops and near services.

Post Application Revisions

- 4.243 A Supplementary Construction and Traffic Assessment and Mitigation Report (SCTAMR) dated 18 February 2013 (REP61) predictions were unchanged for the NCR and SCR (REP61, para 4.3.10, Table 2). The SCTAMR figures for the NCR were not controversial but the scale of impact on Watlington was a major issue during the examination. The predicted construction traffic flows for the SCR through Watlington, with the contractors working on a seven days per week basis, are below.

CONSTRUCTION PHASE TRAFFIC (ONLY) - Average Daily Traffic Flows								
<i>[Traffic Flows = additional construction traffic generated by the Project: not including existing baseline traffic or that generated by other projects in the area.]</i>								
Duration	Phase 1		Phase 2		Phase 2/3		Phase 4	
68 weeks	12 weeks		45 weeks		5 weeks (overlap)		6 weeks	
	HGVs	LGVs/ Cars	HGVs	LGVs/ Cars	HGVs	LGVs/ Cars	HGVs	LGVs/ Cars
SOUTHERN SITE (Via Watlington)								
Thiefgate Lane	20	10	2	6	16	12	14	6
Totals:	30		8		28		20	

NB. Information - extract from Table in SCTAMR (13 Feb 2013), para, 4.3.10. (REP61)

- 4.244 These figures remained unchanged. They did not seem high to NG. But the three relevant local authorities considered that they would create problems in this rural locality in terms of the impacts on the village of Watlington and its amenities and potential impacts on vulnerable users (REP110).
- 4.245 However, the results of NG's 2012 'independent traffic survey', presented during the examination suggested a significantly higher level of existing traffic already using the School Lane/ Church Lane roads through Watlington (the proposed SCR route) than had hitherto been appreciated by the applicant and/or NCC.

4.246 Between three and five times more traffic was moving through the centre of Watlington in 2012 than the December 2010 figures for the St Peters Road nearby (which was the best information available beforehand to the applicant to use as proxy) suggested.

	NCC Proxy count 2010 – Total (HGV)	NG's traffic count 2012 – Total (HGV)	Predicted worse case construction traffic – Total (HGV)
School Lane	754 (24)	3971 (68)	30 (20)
Church Lane	754 (24)	2506 (44)	30 (20)

NB. Extract from the Revised Traffic Counts Table in the SCTAMR (13 Feb 2013), para, 4.3.5 (REP61)

4.247 This 2012 traffic baseline figures, so much higher than the previous ones used, partly explained and added some weight, in my opinion, to the NCC and WPC's evidence on their concerns about current traffic volumes and the prospect of additional HGVs rolling through the village.

4.248 In response to my third set of Written Questions, NCC explained that the growth in HGV movements would be *'in the order of 29% and will be noticeable in the village'*, and in Church Road, against NG's traffic survey figures of 44 movements between 7.00 and 19.00, the additional 20 HGV movement represented, NCC stated *'an increase in HGV traffic of 45%'* (REP100).

4.249 Commenting on that, NG maintained that, in road wearing terms, the additional HGV traffic on the SCR equated to less than the volume of existing HGV traffic in any one day on the SCR, there would be little effect: and half of the vehicles would be *'returning empty with significantly less effect'* (REP162). NG's consultant produced a summary 'Synopsis of highway and traffic assessments' (including some new evidence on its technical assessments of the challenges involved in using and improving NCC's alternative Route A / Low Road option) (REP180).

4.250 It made various points (REP180) relating to impacts on Watlington, and 'significance', including these:

- *'Construction traffic is low in relation to existing traffic and it is within the daily range of variation of existing HGVs. Hence no significant amenity impact*
- *Construction HGVs will not pass through Watlington during school arrival and leaving periods*
- *There are no safety implications (source: NCC collision data) hence [it] provides safe and suitable access to the Southern Work Area in accordance with NPPF para 32*
- *A safe crossing facility between [the] residential areas and the shop is provided by the existing zebra crossing.*

- *All construction vehicles (including 200-tonne capacity crane) can safely negotiate the bends*
- *The Southern Access Route was assessed to be the best route for accessing the Southern Work Area*
- *No expenditure is required to make the Southern Access route useable by construction traffic, therefore it cost effectively limits the significant impacts of the development in accordance with NPPF para 32'.*

4.251 A great deal of supporting evidence was presented by both NCC and NG and during the examination and it was thoroughly examined. Few points of agreement emerged by the end of the examination on the routes for construction traffic needing to access the Southern Work Area. In addition, there were some professional clashes of views with NG suggesting that NCC attached disproportionate weight to the short term effects and NCC emphasising their wish to explore the least worst solution in the circumstances (HR2-13).

Fenland By-Roads

- 4.252 One of NCC's key concerns set out in their highway evidence (REP44) and follow-up points was the current condition and structural strength of the Fenland By-Roads proposed to be used by the applicant.
- 4.253 The current condition of the country lanes (including those proposed for the SCR) led to much evidence, some agreement and much disagreement between NCC and NG's engineers.
- 4.254 NCC considered that the proposed use of the SCR route would probably entail some strengthening/repair works to it, because of the visual evidence of 'longitudinal shear cracks' suggesting other potential structural issues (REP44). On the SCR route, NCC also referred to signs of stress failure possibly as a result of slippage towards the bridge or a failure in the road foundation (REP110).
- 4.255 However, NG's engineers were satisfied that the road in its current condition would '*continue to carry existing traffic and National Grid construction traffic without further intervention (including any surface repairs) beyond the programmed construction period for the project*' (REP180). NCC were not satisfied and expressed concerns about potential road failure and in response to my questions explained as NCC had experienced problems elsewhere of roads being damaged or failing in Norfolk (citing their experience in Upwell) (REP110).
- 4.256 NCC considered that '*to date, the applicant has not offered enough to mitigate the foreseeable likely impacts of the construction phase*' (REP165). The Local Government Association had asked Department for Transport (DfT) for guidance on NCC's behalf and DfT had referred them to a document 'Well Maintained Highways'

which essentially encouraged continual review. NCC had earlier urged that the DCO contain provisions to cover that: they suggested a 'Wear and Tear' agreement, under s59, Highways Act 1980). NG resisted that approach considering it to be of doubtful legality and explained that their pavement engineer considered the road to be in '*reasonable serviceable condition*' (REP115).

- 4.257 Should the road fail, NG stated that liability under s59 would arise only where the LHA incurred extraordinary expenses by excessive weight or extraordinary traffic. NG considered that the LHA could recover any such expenses under s59 powers under the Highways Act 1980 (REP102) (HR2-5).
- 4.258 Notwithstanding that, NCC was acutely concerned about the risk of damage to the soft verge country lanes which NG propose to use and it was not satisfied that there was effective controls and fall-back measures in place to deal with any problems that might arise should the construction traffic overrun the soft verges, or should the road fail. NG said they would employ wheel washers and deal with any problems arising and sweep away any mud on the highway if it became unacceptable (REP100) but NCC remained concerned and suggested the need for specific requirements to ensure restoration and or recompense direct to the local highway authority for any highway damage clearly attributable to NG's construction traffic (REP160).
- 4.259 NCC's call for an extra, specific, requirement on road reinstatement was supported by another IP, Cambridgeshire County Council (REP167).
- 4.260 I asked NG whether they might consider entering into a s106 agreement, or giving an undertaking of some sort, on the matters discussed (PD21). They said they would not. NG considered that it has put forward extensive evidence that '*the Project will not lead to excessive weight or extraordinary traffic on the highway*'; and, in any event there was '*adequate provision for an agreement in section 59 of the Highways Act 1980*' (REP170).
- 4.261 Having looked very carefully at all the evidence, and visited the proposed construction routes several times during the examination, and seen evidence on the narrowness of the roads and signs of the verges being overrun, I consider that the local highway authority are right to be concerned.

Cranes

- 4.262 The heaviest vehicles proposed by NG would be the cranes. The 200 tonne lifting capacity crane vehicles to be used would be 4 m high, 3 m wide, 16.5 m long, weigh 75 tonnes: with a large turning circle of 28.2 m. Thus, a large, long, heavy vehicle, but not an 'abnormal indivisible load' (REP71). It gradually emerged during the examination that these would be very large but not

abnormal vehicles and that they would only be required to come onto site once, and to leave once, during the construction period (REP115). NCC was content with that (REP100) and NG did indicate that it would liaise with NCC on the crane movements 'as appropriate' (REP162).

Watlington

- 4.263 The potential impact of the proposed SCR on Watlington was the focus of very considerable debate during the examination and those concerns triggered the local highway authority's decision to press for Route A to be used in preference to the SCR through Watlington.
- 4.264 The extent of vulnerable users and the local road condition and the physical configuration of the village were topics that were examined in some detail.
- 4.265 It is clear that the village has peculiar features of its own which include:
- the physical configuration of a series of tight bends, high walls, junctions, and surface road condition which has defects; and,
 - the various facilities used by vulnerable users who would be using various facilities on that route (village playing fields and common, a very active village hall (sports and leisure facilities, mothers and toddler groups, service and event at the church, a post office /store and public house which will rely on trade from the rest of the village almost all of which lies across the road, in the centre of the village.
- 4.266 NCC drew attention, at the Construction Phase Impacts hearing (HR2-4) in April 2013, to their 'Safe and Sustainable Development' document. Responding to my third questions, NCC explained that as the local highway authority it had *'always maintained that the reason for an alternative route was primarily amenity impacts and impacts upon vulnerable users through the village of Watlington'*. Road damage from HGVs was also a concern (REP110).
- 4.267 The proportion of HGV and other traffic potentially using the SCR (31% of the Project traffic), the actual quantities and the underlining base flow of traffic were considered in some detail. NG took the view that the construction traffic flow would be of no great consequence and minimal impact, consistently throughout the examination. Equally consistently, the local highway authority and the relevant Parish Council disputed that. Indeed, all three relevant local authorities (NCC, the Borough Council and WPC) were strongly of the view that NG's proposed additional traffic would create problems at a particular spot, the very centre of Watlington, when added to the existing traffic, as is clear from the LIRs (REP51, 52) onwards.

- 4.268 Having surveyed the SCR in more detail, during the examination, NG identified '*Structural defects on the Southern Access Route amount to an estimated 150 metres (in non-contiguous sections) in total, of which 50 metres is in St Peters Road and 100 metres is east of School Road. This equates to approximately 2% of the Southern Access route. Surface defects on the Southern Access route amount to an estimated 750 metres (in non-contiguous sections) in total, primarily through Watlington village. This equates to approximately 10% of the Southern Access route.*' (REP180).
- 4.269 NCC drew attention to the number of the residences along the route. They estimated that there were about 60 residences close to the SCR (but NG later disputed that tally), a post/office/store, a public house, a Zebra crossing, and expressed their concern about the '*interaction between construction traffic, residents and vulnerable road users*' (REP44).
- 4.270 WPC objected to the Project (REP50), and explained the local concerns:
'*... the proposed route from the A10 is via a narrow country lane, barely wide enough for two vehicles to pass, is unlit, no footways only soft verges to either side and traverses several sharp bends. On entering the built village Church Road is again narrow partially lit with a single footway only and is fronted by the Church, Playing field with pedestrian access and housing. Church Road joins Downham Road/School Road with the village shop and its small forecourt car park/service area and Angel PH and car park entrance. This is a busy junction with many confliction vehicle movements and much pedestrian activity. The route will continue along School Road and then into St Peters Road which is still a narrow country lane with housing to the southern side and across the Kings Lynn to Ely railway line via a level crossing and then northwards by Magdalen Road to the construction site east of Thiefgate Lane. This part of the route is extremely narrow barely wide enough for two vehicles to pass with few passing places.*'
- 4.271 At the first hearing, WPC explained further its concerns about the impact of the traffic on the villagers' daily quality of life. Accommodating the Project's traffic would be a backward step again, in WPC's view, following on the disruption occasioned by a recent housing development in the village, and they were concerned about yet further damage to roads (and potholes) developing. The number of young children potentially affected was a concern: as children congregated at the pedestrian crossing, on the village green, near the post office/store, and school buses arrived/departed there, twice a day, on School Lane (HR2-5).
- 4.272 A National Cycle Way (NCR1) runs on this SCR route through the village (along School Lane, then St. Peters Road - and then up Thiefgate Lane) (REP71).

- 4.273 WPC made a further representation, expressing their concerns (dated 27 February 2013) (AS4) and favouring the alternative Route A / Low Road proposed by the NCC as: *'this route only has to pass 4 properties, 2 of which are farms and the heavy vehicle movements are an everyday occurrence for them'* and acknowledging *'that the National Grid would have to bring the short stretch of road up to a standard for their vehicles'*.
- 4.274 WPC expressed *"major concerns...about protecting our environment and the Residents of Watlington."* The Parish Council's main points of concern, on the potential impacts upon the village's infrastructure (aside from the risk of grounding on the railway) were: (A) HGV's *"carrying 20 ton plus of stone"*, going through their village; (B) NG's reluctance to *"put up a bond"* to cover the cost of repairs to the infrastructure of their roads and their village; (C) the village's only shop (and Post Office) was on the other side of the road, on a busy junction, and *"97% of the village"* needed to cross at least two roads to get to it (but they acknowledged NG's intention to avoid school times) (AS4).
- 4.275 In its responses, NG explained that they would cease HGV movements *'during morning (08:30 to 9:30) and afternoon (15:00 to 16:00) school times'*. Their lorries, like refuse lorries, would have a gross laden tonnage of up to 26 tonnes. NG believed that the construction traffic would not adversely affect safety (REP100).
- 4.276 Having seen the village centre's unusual configuration myself, it was easier for me to understand the depth of local concern. As WPC pointed out, the developed part of the village lies mostly (c.97%) south of the route and therefore the bulk of local residents wanting to use the pub, post office/store, school bus, if walking to these facilities, would need to cross the road directly or use the Zebra crossing on the north side of the village green. Bearing in mind the strength of concerns expressed by the three local authorities and the peculiar functional configuration of the village, NG's proposal to use this route in preference to upgrading a short alternative road was open to debate.
- 4.277 Aside from the construction traffic flows, there would also be a 'High Road Diversion Route' through Watlington, shown on plan MMP00006 – 2 Figure 3A, in the CoCP (REP148) would last for *'approximately 4 weeks'* (REP155) and be used after the first 12 weeks of mobilisation. During that period, general traffic from the High Road would be directed through the centre of Watlington, also.
- 4.278 On my ASV and USV visits, I also saw the proposed route for the High Road Diversion Route. It would run through Watlington down Station Road and along School Lane in front of the public house - which would also form part of the SCR - and then along Downham Road. Station Road is also the road leading to Watlington Station.

Station Road and Downham Road also flank the local medical centre and primary school in the centre of Watlington.

- 4.279 NG predicted that as little as 25% of the traffic potentially diverted to use the High Road Diversion Route through Watlington would do so in practice, as the rest would probably take other routes (REP60). The 25% figure is explained in the SCTAMR as being derived as follows: with High Road closed, 60% of local drivers would divert to use Low Road, 20% to Mill Road, and 20% through Watlington – plus, as 5% of High Road traffic consist of HGVs, they would tend to opt for Watlington. Thus, NG estimated on the basis of their revised traffic counts, that an extra *'552 vehicles a day, of which 20 are HGVs'* would drive through Watlington on the diversion route. NG did not regard that as significant (REP61: SCTAMR).
- 4.280 Even so, the potential cumulative traffic impact on Watlington – with 'extra' traffic coming in to the centre, down all of the four routes into the village, at different times during the construction phase of this NSIP Project (and potentially the decommissioning phase in years to come), and at varying parts of the day, needs to be borne in mind, on top of the latest (NG) traffic counts which suggest that the village carried in 2012 far more traffic than the nearby count in 2010 suggested it did (REP61).
- 4.281 The series of tight corners on the eastern side of Watlington provoked some debate. NG's expert engineers pointed out that 'blind corner/s' is a non-technical term. They studied that series of 90° bends and the other junctions that their construction traffic including HGVs might have to negotiate on entering the centre of the village. Their expert technical calculations (taking into account the current speed limits), presented in evidence, suggested that *'Visibility is limited but is sufficient for oncoming vehicles to be seen and, if necessary to slow or stop in time'* (REP114).
- 4.282 Bearing in mind WPC's and the Borough Council's concern about residential amenities and impacts on Watlington, I asked a question about the possible use of temporary safety fencing to protect children and other vulnerable road users, possibly, for the duration of the construction period (now due to run from May 2015 to January 2018) in the village centre (PD21). The applicant responded that it would not be of any benefit: and, it would introduce further safety, technical and forward visibility issues of its own (REP170). Responding to my second set of Written Questions, NCC did not favour using protective temporary fencing either (REP97). There was also a discussion at a hearing (HR2-5) on the value of traffic warning signs. I posed a question about a parish council's powers to set up various signs in villages. WPC said they had not the means to do so. The applicant's representatives thought that NG might be able to offer some assistance in that regard (HR2-5).

- 4.283 The applicant regards the SCR as a cost-free solution and the least problematic solution: one that makes minimal impact on Watlington as the *'construction traffic will only lead to a maximum 1.2% increase (at certain stages) and of 0.3% at other stages and HGV construction traffic will be well within daily variances of current useage'* (REP207).
- 4.284 However, there is always a need to factor in the 'receptor', and to consider the acceptability of the impacts (cf EN-1, para 5.13.6).

Drawbacks of the Proposed SCR

- 4.285 The level of the new traffic relative to the daily variability in local traffic through the village was mentioned many times by the applicant. This may be correct in terms of pure highway use analysis, but I consider it a questionable emphasis in transport planning terms, as Watlington village is not at the heart of an urban transport system but a settled rural village situation where the daily traffic is what it is. Moreover, it is now clear from NG's 2012 Traffic Survey (REP61: SCTAMR) that it is far more than previously assumed. It is clear that 'extra traffic' over and above the usual daily traffic would be flowing on the route through that village. There would be three peaks - the mobilisation phase, the High Road Diversion Route phase, and the demobilisation phase, albeit with two lulls in between, where extra traffic would be going through Watlington. Those would sit within a likely contract period of '68 weeks', but that is now programmed to commence in May 2015 and end in January 2018 (thus stretching out over a 21 month period potentially). The HGV construction traffic would not run during school drop off and collection times, but it would otherwise run on the 'seven days a week' NG requires.
- 4.286 The volume of new traffic is not the only consideration. Having considered all the evidence presented in writing and at hearings, it is clear that the main drawbacks of the SCR construction route proposed by the applicant emerging from the evidence, in summary, are:
- its overall length and distance from the strategic highways system: 6.5 km as measured by the LHA (NCC)(REP44), raising questions about its sustainability (although NG disputes that);
 - the condition of the fenland by-way west of Watlington (St Peters Road / Magdalen Road) which shows signs of deformation and longitudinal 'shear cracking', disputed at first by NG (REP81), but now recognised by both NG and NCC although its significance is not agreed (REP110, 180);
 - the additional traffic pressures Watlington would face (over and above the need to use Watlington as part of the High Road closure diversionary route), in the centre of the village, on roads which the applicant's own surveys reveal, already show surface damage (REP180);

- the overall impact of the applicant's traffic proposals on the residential and other amenities within Watlington, in the very centre of the village (along Church Road/School Road especially), where the various shopping/leisure facilities are located, and bearing in mind the 'seven days a week' traffic flows NG proposes;
- vulnerable road users - bearing in mind the proximity of that SCR route to an active village hall/sports and social club and village playing fields with children's playing equipment, a church, a post office/store, a public house, an unfenced village green, school bus stops, properties opening out very close to the highway, narrow footways, and dozens of residences near the roadside: a larger factor because of the 'seven days a week' traffic flows NG says it must have;
- the fact that a National Cycle Route also runs through that part of the centre of the village (School Lane) and through two road junctions included in the SCR: cyclists are vulnerable road users;
- the LHA's sustained formal objection and strong opposition to the proposed use of the SCR route for anything other than 'one movement in / one movement out' of the very large but not abnormal crane vehicle;
- the LHA's concern about the local fenland by-roads, and roads being damaged by additional HGV traffic movements, not mitigated by any formalised commitment from NG to help address any 'wear and tear' or other damage which might develop;
- the strength of local concern expressed by the Parish Council; and
- the fact that the three relevant local authorities including the local highway authority, consistently questioned its acceptability throughout the examination.

Conclusions on H2

- 4.287 In my judgement, the potential impact of all this additional albeit temporary construction traffic on residential amenity and vulnerable road users in the centre of Watlington, because of the odd physical configuration of the village, is a genuine, relevant and important issue to address.
- 4.288 The longer term operational traffic would be light, but there are potential future major upgrades and/or decommissioning traffic (albeit many years into the future) to consider also.
- 4.289 Bearing in mind the broader planning policy context which now consistently refers to the need for sustainable development, healthy communities and respecting local views, I conclude that this is a transport-related issue to be seriously addressed, and one that demands consideration of alternative approaches (within the rather circumscribed range that planning law and the PA 2008 process allows), before weighing up the concerns against the other

aspects of this NSIP proposal, and national policy on energy infrastructure.

Scope for further mitigation

- 4.290 NG had built into their proposals some general and project specific measures to mitigate impacts including restrictions to avoid conflicts with journeys to the local Primary school, for example. During the course of the examination, two more substantial methods of mitigation or avoidance of impacts on Watlington came to the fore plus a few other ideas to explore.

A. Extending the NCR southwards, across the River Nar, with a temporary bridge, to access the Southern Work Area

- 4.291 Documents submitted by the EA (REP98), included an NG sketch design for a bridge and the accompanying notes attached explained that any bridge would need to be south of the proposed KL07/KL08 oversail. Notes accompanying it also explained that *'a bridge of the nature described could be constructed across the River Nar'* but would require *'approach ramps of substantial length'* and *'much greater quantities of stone to be sourced and transported to the application site as compared to the proposed scheme'*. The drawings showed clearly how such a bridge would be configured. NE, responding to my request in the second set of Written Questions (REP99), stated that such a bridge would *'cause greater disturbance to the River Nar and its surroundings than the proposed pontoon footbridge through temporary loss of habitats including grassland and scrub'*, NE did not fundamentally oppose the notion, going on to say – *'However, the SSSI interest at this location relates to the freshwater habitat within the river itself and the grassland and scrub habitat that would be affected do not form part of the SSSI notified interest features. Natural England does not consider that a vehicular bridge based on the sketch recently provided by National Grid would cause significant damage to the SSSI or its interest features'* (REP99).
- 4.292 Responding to my question about the detail and costings undertaken on it, NG confirmed a cost estimate for placing a bridge over the River Nar, not impacting on flood defences, as c. £400-£450K. They stated that they had not pursued it as they considered it to be disproportionate and unnecessary. On a cost-benefit analysis basis, NG suggested a figure of c. £250K. It would, however, they said, potentially generate an additional 400 traffic movements and at least 10 HGV movements along the SCR to access the west side of the river and it would have a number of other ecological, landscape, flood-risk and resource implications (REP100). NG also considered that building such a bridge would be contrary to their duties under Schedule 9 of the Electricity Act, and the duty to be economical and efficient under s9 of that Act (REP100).

- 4.293 NG is in possession of sketch plans (REP98) which demonstrate that there is a potential bridging point within the current Order limits, and it would appear from the sketch plans and other details presented that: (a) such a bridge could potentially be built without affecting flood defences; (b) there might be some scope for discussion with NE and EA on a bridging approach (with a suitable mitigation package, no doubt, within the Order limits); and (c) the overall cost financially is known and would appear to be not too great relative to the overall scale of the NSIP proposal as currently proposed.
- 4.294 However, the bridge option is not properly before me as a fully-fledged alternative, in the context of this NSIP application, as NG did not follow it up as an option. So, I can only note that it was identified as one potential way of organising construction traffic to get to and from the Southern Work Area, almost completely avoiding Watlington. I consider this to be a relevant option and a potentially important one but not one before me at this examination in sufficient detail to inform a firm conclusion on its suitability as an alternative.

B. Using 'Route A' and Physically Improving Low Road – to serve the Southern Work Area

- 4.295 NCC and NG engineers did appear to agree, at least, that some degree of physical upgrade of Low Road itself would be needed if Low Road were used as a construction traffic route. The structural condition of the Low Road was highlighted by NG in its early highways evidence as a concern.
- 4.296 NCC's engineers suggested, throughout the examination, that minimal works, undertaken within and realising the full potential width of the highway limits, improving the informal and formal passing-places there to the maximum they could justify under highway authority powers, would be sufficient to upgrade Low Road, to carry the construction traffic for the Southern Work Area. They stated that they could and would use NCC's own LHA powers, to the full, to enable that process. They could potentially do it under their own powers without further formal consultation with others, simply because they were the highway authority (REP110). *'No formal authorisations or consultations are needed. The road widening on the corners of the sharp bends could be done by the applicant using the county Council's Small Highway Works Permit...[which] takes 3 months to implement...so the applicant has ample time to ensure that the permit is in place and the highway works done prior to work commencing on the southern construction site'* (REP110).
- 4.297 Measured plans submitted by NG set out the current measurements for Low Road (REP71). I noted that they had adopted a conservative approach, noting the width of the current maintained carriageway and also the width of the two verges

alongside. NG's measured drawings (Ref Nos. HHG2853581_0100_DRG_0001/0002/0003/0004), in summary, showed:

- that the first 500 m or so of Low Road, south of Willows Roundabout, has a carriageway width increasing gradually from 4.56 m to 5.5 m, with a fairly wide verge on one side;
- further south but north of Freebridge, the carriageway width varied in width, between 4.6 m and 6.02 m, and the verges also varied in width, and were edged by ditches on both sides, with several field access points crossing the ditches;
- for the section between Freebridge and the Diary Farm area, the carriageway width was highly variable, fluctuating between 3.8 m to 5.9 m, with wide grass verge areas in some parts, and there were some lengths of adjoining ditches;
- further south, towards Thiefgate Lane: the carriageway varied between 4.4 m and 5.8 m wide and was flanked by narrower verges and small ditches, with several field entrance crossing points.

4.298 Measuring the inter-visibility between the 12 passing places suggested by NCC, and respecting the best technical DMRB principles, NG's engineers identified three 'passing place' areas where they considered that some widening slightly beyond the highway might be needed to create better passing places, and four places along the road with inter-visibility problems (although two of those were related largely to intervening vegetation) (REP170). NG's engineers advised that the small incursions into private land they anticipated and the ditch reinforcement work which might be needed (to create a 5.5 m width for two HGVs to pass), would need negotiation and possibly small land purchases, plus associated clearances from other agencies. They also appeared to suggest that such an upgrade to Low Road might need to be augmented by the use of traffic lights to some extent (REP81) (REP180).

4.299 NG's final summary 'Synopsis of highway and traffic assessments' (REP180, 181), towards the end of the examination, covered most of their technical evidence and listed the Low Road's current physical shortcomings relative to the role anticipated (width problems in some stretches, inter-visibility challenges, some surface deformation, possible deeper structural failings and the associated safety concerns). But, logically, many of those could be addressed by a physical upgrade to Low Road.

4.300 Towards the end of the Examination, it became clear that NG's objection to doing the engineering work on Low Road which would enable their construction vehicles to use it safely, thus avoiding having to run their construction traffic through a rural village, boiled down to concerns about:

- (i) **Technical Deliverability:** the slivers of extra land, minor permissions, licenses, etc. - which they thought they might need to acquire or arrange to improve Low Road to the standard they desired, in good time for the NSIP works to proceed (REP180);
- (ii) **Extra Costs:** the cost of the upgrade which would be required which NG considered to be 'unnecessary' and 'disproportionate', especially when compared with their preferred, no-cost, SCR option (REP180); and,
- (iii) **Natural Justice:** the use of Route A/Low Road for construction traffic had not been formally consulted upon for such a use as part of their formal NSIP application (REP162).

4.301 On (i) technical deliverability: NG's view was that '*There can be no assurance that any such works are possible within the existing powers and interests of the highway authority*' (REP114, 115).

4.302 On (ii) the costs implications: the two sets of engineers had different ambitions for the extent of upgrade required. NCC advised that the upgrade could be achieved to a satisfactory standard at a cost of c. £260K (REF180). NG estimated that more work would be required than envisaged by NCC and their cost estimate was c. £1.2M plus additional costs (REF180). It should be noted that EN-1 suggests that if an NSIP applicant will not fund infrastructure or mitigate adverse impacts, there is the option of refusing development consent (cf EN-1, para 5.13.7).

4.303 On (iii) natural justice: Many, but not necessarily all the landowners and residents alongside Low Road and the EA and other relevant agencies, will be very well aware of this Project and the ongoing debate. Those registered as IPs had the opportunity to comment on the 'alternative route' advanced by NCC at the examination. Those not registered obviously did not. Some individuals could argue that the 'Route A / Low Road' routeing would have implications (a mixture of good and bad points, no doubt) for them and their businesses which they have not yet had an opportunity to reflect upon and express, and/or which have not been fully considered and taken into account as yet. This is a planning decision and must be fairly considered. For that reason, I cannot now recommend that the SoS should consider simply 'determining' in favour of the Route A / Low Road rather than the SCR.

4.304 I consider that the Low Road Route A option is a serious, relevant, important alternative proposal. NG's case for not using the Low Road in preference to using the SCR through Watlington is very clear based on a mixture of technical and cost considerations (REP180). The technical challenges would, potentially, be considerably eased in practice by taking up NCC's repeated offers

of assistance to use its powers to the fullest extent to assist NG in bringing Low Road up to an acceptable standard.

- 4.305 NG pointed out that one-third of the traffic associated with the Southern Work Area is technically attached to that component of the work which NG will be undertaking, to the 4VV line, under the Overhead Lines Exemption Regulations (REP115). The implication is that NG can access that one-third component of their Southern Work Area work, as it wishes, using the public roads (presumably including the crane vehicle movements).

C. Other Potential Mitigations

Traffic Management Solutions and Additions

- 4.306 The scope for using one-way systems and other traffic management measures was discussed at hearings (HR2-5). NG had discussed some potential one-way traffic options with NCC, to reduce the volume of construction traffic potentially moving through the village of Watlington, without reaching an agreement (REP68).
- 4.307 Overall, I conclude on this matter that the potential for traffic management solutions (including one-way systems, for particular road stretches and/ or in particular Phases of the construction period) could have been explored more fully between NG and NCC (as the LHA), with a view to reaching an agreement.

More Use of the Railways – Sustainable Transport

- 4.308 EN-1 para 5.13.10 that '*Water-borne or rail transport is preferred over road transport at all stages of the project, where cost-effective*'. WPC suggested that there was potential for use of the railways to bring materials and labour to the site, using up-to-date, railway-based, materials delivery systems. I asked a few questions on the scope for making more use of the railway for moving some materials to the Site, bearing in mind the broad thrust of transport policy which favours sustainability, and increased use of the railways. The applicant had many reservations on the applicability of rail-delivery systems. However, I note that the applicant later stated in evidence that the option of using rail is still open to potential contractors: '*All contractor tendering for the project will have the option as to how to bring materials to site*' (REP115).

Further restrictions on HGV USE and movement

- 4.309 Given the strength of concern that HGV movements along the country lanes, I posed a question about the potential for setting a requirement, similar to that used recently in the Brechfa West Wind Farm Order 2013, Schedule 1, Req 8 (1)(j), which covered the making good of any incidental damage to highways by construction traffic identified by the parties – and whether that

might be adapted for this Project (PD21). NG, responding, considered that as there were no abnormal indivisible loads involved in his Project, the two situations were not analogous (REP170).

- 4.310 In response to my third set of Written Questions, NCC suggested restricting the construction traffic delivery hours, to 07:00-19:00 (Mondays to Fridays only) and no deliveries 08:30-09:30 and 15:00-16:30 (REP 110). NG commenting on that opposed it as NG's contractors worked on a '*12 working days followed by 2 days off*' basis, and construction traffic movements were planned on a '*7 days a week throughout the programme*' and any restrictions on construction access or deliveries would '*directly impact the total construction programme and deliverability of the Project*'. Also, such restrictions would '*increase the total vehicular movements and the length of construction periods*' (REP162).
- 4.311 I concluded that NG's working pattern would not allow anything other than seven days a week working on the site. Imposing further HGV delivery time and weekend restrictions on NG's HGVs on the SCR, going through the village of Watlington, would therefore appear to be highly problematic for NG and the deliver of the Project. If NG's HGVs must operate a on a 'seven days a week' basis, there is minimal scope to reduce any perceived adverse impact of the SCR in Watlington through imposing further HGV restrictions on the SCR route without impacting considerably on the Project's deliverability if consented.

Endorsing or not endorsing the SCR

- 4.312 EN-1 and EN-5 both commit to sustainable development, as does the NPPF, and the local development plan Core Strategy. EN-1 states: '*A new energy NSIP may give rise to substantial impacts on the surrounding transport infrastructure and the [then] IPC should therefore ensure that the applicant has sought to mitigate these impacts, including during the construction phase of the development*' (EN-1, para 5.13.6). EN-1's guidance is clear. The focus must be on making a good planning decision on an NSIP application, under PA 2008, in a manner consistent with national policy on NSIPs - which respects the aim of delivering sustainable development. But strong local concerns must be weighed carefully.
- 4.313 Notwithstanding NG's desire to use the SCR and its many reservations about the suitability or improvability of the Low Road alternative (REP180), it has failed to persuade the local authorities, especially the local highway authority, that its proposed use of the SCR, is reconcilable with its physical condition, the situation in the centre of Watlington and the related risks to all the vulnerable road users.

Conclusions on construction traffic issues

- 4.314 As natural justice issues preclude a recommendation in favour of using an upgraded Low Road Route A, I have to consider whether it would be appropriate to recommend use of the SCR as NG would like. Given the length and circuitous nature of the SCR and the peculiar configuration of the village of Watlington (the tight bends and the number of social, shopping and leisure facilities/services also along the route), and the number of vulnerable users therein. I conclude that it is far from ideal and best avoided.
- 4.315 The amenity impacts on Watlington are a relevant and important matter, and the three relevant local authorities for this area have expressed a view that the likely impacts would be unacceptable, in LIRs and other submissions. Due to the potential impacts on vulnerable road users, particularly in the village of Watlington, my recommendation must be that the SCR be confirmed only for use by the cranes as agreed with NCC. NG would then need to consider the option of extending access through the NCR or an alternative approach, under the umbrella of the CTMP process.
- 4.316 On the issue of potential damage to the country lanes, the Highways Act provides a mechanism for the recovery of expenses with respect to damage to a highway, by the relevant highway authority, in respect of exceptional loads (such as abnormal indivisible loads), although these are not expected during any phase of this proposed NSIP.

I. Socio-Economic Effects

Introduction

- 4.317 EN-1 requires regard to be had to the potential socio-economic impacts of new energy infrastructure (para 5.12.6).

Findings

- 4.318 In accordance with EN-1 (para 5.12.3) a socio-economic assessment was undertaken by the applicant.
- 4.319 The development was assessed in the ES as a 65 week project with 45 people being employed at the start and finish periods (weeks 1-9, and 60-68), and 70 in the construction stages (weeks 10-59): equating after taking into account the multiplier effect with a total estimated net additional 13 Full Time Equivalent jobs (APP22). This temporary employment was assessed as being a minor positive benefit (APP22).

Tourism

- 4.320 Within the 'East Route Corridor / Core Area' the ES (APP22, 23) identified 320 businesses, of which 7 relate to tourism and leisure businesses. They were surveyed to establish their views. Their

responses, the applicant's report, did not anticipate negative impacts from the Project (APP22). However, within the wider area around it (excluding the urban area of King's Lynn but including historical sites, gardens, nature reserves, theme parks, and so on) there were 2,289 businesses, of which 163 are in the tourism and leisure sector.

- 4.321 EN-1 (cf para 5.12.3) suggests that effects on tourism need to be considered. The applicant considered potential effects on cultural, sporting and recreation facilities, including the Nar Valley Way (running alongside the River Nar), the Fen Rivers Path (passing within a few metres of the King's Lynn power station site), and ancient monuments in the locality (APP22). Consultations were undertaken but the comments *'did not directly translate into any potential related adverse effects on socio-economic, tourism or recreation interests'* (APP22). A section of the ES that covers East of England Tourism Volume and Value makes it clear that in the East of England, 9.1% of employees worked in tourism-related posts. Also, the visitor figures available showed that Norfolk was *'by far the most popular tourism destination, accounting for 30% of all domestic trips, 38% of bed-nights and 41% of expenditure'* (APP22). With respect to the Government's Tourism Policy (March 2011) (DCMS), which applies in England, the ES considered that the Project was *'unlikely to contribute or detract from the achievement of its objectives'* (APP22).

Conclusions on Socio-Economic Matters

- 4.322 There are some benefits in terms of employment in constructing the proposed OHL, but they are not great. It does not appear to threaten other local employment directly on the basis of the evidence submitted, but the number of businesses with a tourism or leisure focus in the Borough as a whole needs to be borne in mind.
- 4.323 Tourism is a diffuse but important industry in Norfolk. National policy in EN-1 states that *'high quality design can improve the visual and environmental experience for visitors and the local community alike'* (EN-1, para 5.12.9). Such considerations should inform any further requirements attached to the DCO, and they have informed the further suggested changes and requirements recommended in Section 6 Part Two, in respect of the appearance of the pylons, and avoiding any further local adverse landscape and visual impacts.

J. Other Matters and Cumulative Matters

- 4.324 This section covers: construction related technical matters; other technical concerns with implications for human health; cumulative environmental impact issues; and, all other related matters.

Arable Land

- 4.325 EN-1 urges applicants to minimise impacts on the best and most versatile agricultural land (defined as land in Grades 1, 2, and 3a of the Agricultural Land Classification). The use of Grade 1, 2 and 3a land must be justified (cf EN-1, para 5.10.15). The Project site contains Grade 2 land. I asked for some figures on the extent of arable land affected (PD20). The total extent of arable land within the Order limits was c. 48 hectares, with 11.7 hectares within the limits of deviation. The temporary access tracks constituted 1.62 hectares. During the examination, it became clear that the amount of land to be taken permanently out of agricultural use would be that at the pylon bases (c.10m² x 8). EN-1 urges the minimisation of impacts on soil quality, and to that end there was discussion on what measures NG would take to ensure that all temporary roads were fully removed and the disturbed arable land replaced. NG gave that assurance orally, notwithstanding any pressures they might face from landowners to do otherwise (HR2-5).
- 4.326 In response to my third round of Written Questions, NG calculated that the total area of arable land to be stripped of its topsoil (mostly to clear the way for temporary haul roads) would be 5.5 acres (APP115). There was a discussion at the hearings about the importance of soil conservation and best practice in conserving soils, and DEFRA's best practice advice on handling, storing, and dust suppressing of soil on construction sites. NG were content to commit to working to those standards, as they were close to their own standards in any case (HR2-5), and it was agreed that a reference to the DEFRA standards or its successors would be added into the CoCP (see Section 6).

Noise and Vibration

- 4.327 EN-1 para 5.11.8 and 5.11.9 and 5.11.10 set standards in respect of decisions on NSIPs which generate noise as '*Excessive noise can have wide ranging impacts on the quality of human life, health... and use and enjoyment of areas of value such as quiet places and areas with high landscape qualities.*' (cf EN-1, para 5.11.1). I asked a Written Question about the potential impact of noise on the amenity of residential properties, specifically, in my first questions (PD11). NG responded that it had maximised distances from residential properties as far as possible, and it referred to the mitigation measures it had set out in the Chapters 3 and 6 of the CoCP (APP30) and Chapter 6 of the CTMP (APP31)(REP71).
- 4.328 EN-5 (paras 2.9.1 – 6) explains that specific noise effects are associated with overhead lines: they can generate noise under certain conditions, and the highest noise levels are generated by a line generally during rain, and, to a lesser extent, fog. The noise is generally a 'crackle', and with rain, 'hum' may occur as well. Audible noise can also occur at substations. National Grid has its own noise assessment procedure, described in a report TR(T)94,

1993 which reflects guidance in ISO 1996 (BS 7445:1991). EN-5 (para 2.9.9) suggests that this approach is appropriate. EN-5 (para 2.9.10- 2.9.13) urges relevant assessment methodologies be used. Noise minimisation (para 2.9.12, EN-5) can be achieved by measures including the positioning of lines to minimise noise, and, appropriate conductors; avoiding pre-installation damage to conductors; and, keeping conductors clean and free of surface contaminants during stringing/installation. The ES anticipated some noise effects associated with the construction traffic, plant and machinery, but no significant effect including upon residents of Low Road, High Road and Thiefgate Lane (APP22). The general impacts of noise (and changed landscape) on local human health and well-being, were considered to be 'not significant'. There might be some 'low', 'temporary' effects from noise on bats and nesting birds (APP22).

Air Quality

- 4.329 The ES noted that the dust emission potential of the works during construction was assessed as minor, as the use of potentially dusty construction material was limited to the foundation of the pylons only. There would be no residential properties within 20 metres of the works, and the sensitivity for human health was considered low. But the sensitivity of the River Nar to dust was considered high (APP22). The application of the DEFRA soil-handling standards within the CoCP (see the paragraph on soil above) may assist, in my opinion, in limiting the soil-dust risk to the River, at least.

Existing Trees and Hedges – Protection, Removal, Replacement

- 4.330 NG's arboricultural assessment identified 9 trees covered by Tree Preservation Orders, all mature oaks situated on the north side of High Road (APP23). Very few trees, groups of trees and pieces of hedgerow (just 15 features in all) were to be removed or protected during construction. Details of the protective fencing were set out plus a 'Recommended Replacement Species List' (APP22). NG's normal practice, of replacing any trees removed during construction in suitable nearby locations at a ratio of 1:3 '*would apply to the Project*' (APP29). Elsewhere, it was stated that NG would replace at a rate of 1:4 near the River Nar (APP22). There was some discussion at the hearings (HR2-4) about the practical care of replacement trees (especially the vulnerability of the 'tree whips' on which NG would be relying), which led to minor adjustments to the DCO and CoCP.

Groundwater

- 4.331 EN-1 encourages regard to River Basin Management Plans (EN-1, cf. para 5.15.6) and also any adverse effects on environmental objectives of the Water Framework (para 5.15.5). The ES

concluded that the Project's effects on the underlying aquifer would be 'not significant' (APP22). Responding to the first round of Written Questions, the EA (REP80) noted that NG's environmental consultants had informed the EA that the piling would not exceed 25 metres depth. A detailed design would become available when a contractor was appointed by NG. There are two licensed abstractions, which could be covered by a Construction Environmental Management Plan (CEMP). There was also a private water supply (a surface abstraction) to protect: it was unlikely to be affected. EA said it was *'the responsibility of the applicant to ensure that the development will not affect any water features (ie. wells, boreholes, springs, streams or ponds) in the area, including the licensed and unlicensed abstractions and the River Nar'*.

- 4.332 The EA requested more information on the proposed pylon foundations: but NG considered it did not need to supply any more, as the de-watering water would be collected and disposed of off-site (REP81). The EA had no concerns with respect to pollution prevention, land contamination or waste management as such (REP49). The EA recommended a requirement that the development should not commence until a CEMP had been submitted and approved by the LPA. NG would also have to serve a notice on the EA of their intention to de-water.

Waste and Contamination

- 4.333 EN-1 requires applicants to minimise the volume of waste (para 5.14.6). The EA was satisfied that the waste and contamination matters had been addressed in the application, and it provided some advice. It urged that the applicant should give further consideration to potential pollution as a result of flooding of the site during the construction phase. Potential for contamination during floods could be reduced by removing possible sources of contamination (such as fuel storage containers and vehicles) and minimising debris (REP49).

Health and Safety

- 4.334 The HSE asked the applicant to contact the operator of nearby natural gas pipelines, and to check whether a hazardous substances consent would be needed (REP 46). NG confirmed that NG Gas had no objections to the works proposed (REP81).

Electro Magnetic Fields (EMFs)

- 4.335 EN-5 (paras 2.10.1 – 2.10.11) explains that there are health protection guidelines for both public and occupational exposure to EMFs. Relevant agencies keep the scientific research under review. Government policy is that exposure of the public should comply with the ICNIRP (1998) guidelines and the electricity industry has agreed to follow that policy, and the Government and the electricity industry has developed a Code of Practice on power

lines and EMFs. There is a specific Code of Practice for high-voltage lines and the NSIP proposal must accord with those guidelines, and the related Electricity Safety, Quality and Continuity Regulations, 2002. EN-5, para 2.10.15 ('Mitigation'), suggests that if the line proposed *'complies with the current public exposure guidelines and the policy on phasing, no further mitigation should be necessary.'* The ES explained that EMFs would be evaluated against UK Government guidelines to demonstrate compliance with standards, and there was a reference to DECC's 'Code of Practice: Demonstrating Compliance with Public Exposure Guidelines' (APP22). The ES concluded that the Project would be compliant with public exposure guidelines for EMFs and there would be no significant effects resulting from this Project (APP22).

Mains Sewers

- 4.336 Anglian Water (AW), a statutory consultee, was in principle supportive of the proposed Connection, but objected at the outset (REP47) as it was concerned about the public water mains and surface water sewers near the Site. It suggested amending the proposed Protective Provisions to provide an adequate level of protection. It disagreed with the original DCO provisions in respect of public sewers, lateral drains or drains (REP47). This objection led to discussions between Anglian Water and the applicant. NG disputed whether there would be any impact on AW's assets to consider (REP81). But their discussions, during the examination period, resolved matters, and the Protective Provisions were adjusted to acknowledge AW's concerns, as noted in Section 6 of this Report (on the DCO). AW did not believe there would be any additional water resources infrastructure or waste water resources required as a result of the proposed connection (REP47).

OTHER LOCAL CONCERNS

- 4.337 National policy (cf. EN-1 para 5.6.3) recognises that some impact on the amenity of local communities is likely to be unavoidable, but it suggests the aim should be to *'keep impacts to a minimum and at a level which is acceptable'*. The Interested Parties (IPs) did raise general concerns about dust/light/noise/mess (amenity impact) issues. There were some concerns expressed at hearings, for example:
- (i) on the day-to-day impacts of the construction phase, on the quality and way of life of local residents and local farming families, mentioned by an IP, Mr. Doubleday (HR 2-5). I asked NG a Written Question about the effects of their works on farms, and farming (PD11). NG responded (REP71) that the Project had been developed in consultation with landowners, the construction routes would be pre-defined and agreed, stone roads installed and the land reinstated after completion. The only farm buildings affected were near the access track at White

House Farm: there were no residential properties in that cluster; and, speed restrictions would apply there. Landowners would have access to unaffected land by minimising the extent of parcels of land 'islanded' by works (REP71); and

- (ii) WPC's representatives addressing the last hearing (HR 11-13) made a final plea for their rural village to continue enjoying its current *"rural peace and quiet"*.

ON HUMAN HEALTH

- 4.338 It is required by EN-1 that there should be consideration to the *'cumulative impact on health'* (EN-1, para 4.13.2). Bearing in mind the ES (APP22), and ES Supplementary Report (REP60), and the various specific assurances given at the examination, some of which are referred to above, plus the minor changes to the draft DCO (see Section 6) proposed, I am satisfied that the cumulative impact on human health has been properly considered.

CUMULATIVE EIA MATTERS

- 4.339 Cumulative impacts are an important consideration under the relevant EIA Regulations and in policy terms.
- 4.340 Also, EN-1 states with regard to separate power station and connector applications, that: *'If this option is pursued, the applicant(s) ... must ensure they provide sufficient information to comply with the EIA Directive including the indirect, secondary and cumulative effects, which will encompass information on grid connections'* (para 4.9.3).
- 4.341 I asked a formal Written Question on the cumulative environmental impacts (in general) (PD11). After the PM, NG responded with an updated list of four 'other projects'. The situation was complicated by the later Palm Paper CCGT proposal, and Centrica's modification proposal (which meant that NG had a revised connection date of October 2017 to work towards): hence the need to submit an ES Supplementary Report which reviewed cumulative impacts, topic by topic, as well as a revised Construction Traffic Assessment and Mitigation Supplementary Report (REP60). The amended list of four 'other projects' to be taken into account was set out earlier in this Report (in Section 2).
- 4.342 NG looked again at the potential for change on LVI matters, and concluded that the LVI matters were covered by what was already said in the original ES about the landscape setting for the Project. I also asked NG whether the suite of proposals would lead to pressure for yet more OHLs to be installed in the locality. NG were not aware of any such, and had no reason to believe that it would (REP71).

- 4.343 The EA had '*no concerns with the cumulative impact of this development*' (REP80).
- 4.344 CCC remained concerned about the potential cumulative impacts upon the strategic highways system. A Joint Position Statement was received from Norfolk County Council (NCC), CCC, and the relevant Borough Council (REP111). The A47 was a trunk road, part of the strategic road network: and the applicant had been advised, in February 2013, in writing, by CCC, on its own behalf and NCC's, to consult the Highways Agency. It drew attention to the Department for Transport Circular 02/2007, and to EN-1 (para 5.13.3) and EN-5 (para 2.6.1). In summary, at that point the three authorities did not believe there would be significant cumulative impacts upon the highways controlled and managed by NCC; and they considered the impacts on the strategic road network to be a matter for the Highways Agency (HA). CCC also pointed out that functionally linked applications should normally be assessed together (for screening), and drew attention to the recent case, *Burridge v Breckland DC*, in the Court of Appeal [Ref. 2013 EWCA Civ 228] (REP111).
- 4.345 Responding to that, NG submitted copies of a series of letters to and from the HA between May 2011 and March 2012, which indicated that in 2011 the HA had already studied the applicant's Transport Assessment and was content with it. It demonstrated that the A47/Saddlebow Interchange would operate within capacity in '*the future year 2021 with the development in place and fully operational*'. The HA had no objection or further comments at that point. A further HA letter (dated 28 March 2012) indicated that NG had approached them again in March 2012. The HA had requested sight of the CTMP and a Construction Traffic Assessment and Mitigation Report, had issued its advice on the need to avoid the peak traffic hours (and abnormal loads) and NG had duly incorporated that into the CTMP (and confirmed there would be no indivisible abnormal loads) (REP162).
- 4.346 Agents acting for Royal Mail Ltd. (REP108) (not an IP) wrote to PINS in May 2013, welcoming the ExAs questions on cumulative traffic impacts and expressing concern about the '*potential disruption of it mail collection, transport and delivery during the construction phase*', particularly as this could take place at the same time as the other major developments. The applicant refuted the argument, based on its traffic evidence (REP162).
- 4.347 In conclusion, I considered all the submissions and other evidence on cumulative impacts, the potential cumulative impacts have been considered carefully. It would appear that construction traffic impacts cumulatively on the A47 / 'Saddlebow Road also known as High Road', will not be problematic. The cumulative landscape impacts will, the LVIA suggests, be minor. Although one IP was concerned about that issue, others IPs were sanguine overall about the likely adverse local impacts on landscape quality.

HUMAN RIGHTS

4.348 The applicant consulted widely on their proposals before hand as evidence by their SoCC (APP18). I have not come across anything which suggests that (a) the application; or (b) its examination; or (c) findings (as set out in Section 7, below), has disregarded anyone's human rights. In respect of any minor changes made to the application during the examination period, the public were able to access all that material on the PINS National Infrastructure website and at local deposit points (including King's Lynn's 'London Road Library', and the Borough Council's offices in the centre of King's Lynn); and all the materials initially considered by or submitted to the Examining Authority were published. All the hearings were held in public. No one who asked to speak was denied the opportunity to speak at those hearings.

EQUALITIES

- 4.349 The 'protected characteristics' under the Equalities Acts are: age, disability, gender, gender identity, race, religion or belief including lack of belief, and sexual orientation. No representations were made explicitly by or on behalf of any vulnerable groups in relation to this proposed NSIP development. WPC expressed general concern about the potential impacts of construction traffic on their village and its inhabitants, including vulnerable individuals (especially children and the elderly). These concerns have been taken into account in this Report.
- 4.350 There is a gypsy / travellers' caravan site near the A47 to the north of the Willows Industrial Estate and c. 500 m north of the site, surrounded by thick vegetation (trees and shrubs) on raised ground. The LVI analysis in the ES (APP22) identified no adverse effects on it as a viewpoint. I have seen the site, and looked at that evidence, and concur with that conclusion.
- 4.351 I have considered the equalities issues under the Equalities Act 2012, and whether the proposals would adversely impact or discriminate against any vulnerable groups. I conclude that there is no evidence of any lack of respect for equalities, or disregard to equality issues.

5 THE CASE FOR AND AGAINST DEVELOPMENT

Introduction

- 5.1 This section explains the national policy imperatives for this type of development and considers briefly the extent to which it meets that policy.

PART ONE – THE GENERAL NATIONAL POLICY TESTS

Planning Act 2008 (PA 2008)

- 5.2 PA 2008 requires that, in taking a decision, regard must be had to any NPSs, any LIR, any prescribed matters, and any other relevant matters (s104). It also states that the application must be decided in accordance with any relevant national policy statement (s104(3)) unless a number of other factors are of greater significance - including legal and/or international obligations. The key test is whether (or not) *'the adverse impact of the proposed development would outweigh its benefits'* (s104(7)).

Assessment

- 5.3 My assessment of the main impacts associated with the proposed development is set out in Section 4 of this Report, under Main Findings, which also sets out my interim conclusions on all the various topics and issues examined.
- 5.4 I must, however, give consideration to those Conclusions alongside the requirements of the NPSs, and with particular attention to the requirement in s104(7) PA 2008 to consider whether *'the adverse impact of the proposed development would outweigh its benefits'*.
- 5.5 EN-1 sets out a general presumption of need for development.
- 5.6 Both EN-1 and EN-5, however, acknowledge the importance of taking into account both benefits and adverse impacts (EN-1, para 4.1.3), and at all levels (EN-1, para 4.1.4).

Paragraph 4.3 states:

- *'In considering any proposed development, and in particular when weighing its adverse impacts against its benefits, the IPC should take into account:*
 - *its potential benefits including its contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits; and*
 - *its potential adverse impacts, including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.'*

- Paragraph 4.4 follows on, stating:

'In this context, the IPC should take into account environmental, social and economic benefits and adverse impacts, at national, regional and local levels. These may be identified in this NPS, the relevant technology-specific NPS, in the application or elsewhere (including in local impact reports).'

PART TWO - THE CASE FOR THE DEVELOPMENT (ITS BENEFITS)

National Need

- 5.7 Bearing in mind national policy, as set out in EN-1 and EN-5, both of which emphasise the importance of developing this type of energy infrastructure, it is clear that there is a need for development of this type. No evidence was put to me that fundamentally questioned the need for this type of development or the national need for it.

The Separate Application

- 5.8 It is clear from EN-1 and EN-5 that separate applications for generating stations and connectors, regardless of which comes first, need to be adequately explained.
- 5.9 The situation at King's Lynn appears to be that:
- (i) the 'separate application' element: is the result of NG being a separate organisation to the ones responsible for the power station proposal and one with a duty to respond to requests as and when made. A solicitor's letter dated 10 May 2013, Appendix B, explained NG's connection obligations, under its transmission licence (HR30);
 - (ii) cumulative effects: were covered in the ES, and addressed once again in the ES Supplementary Report with a revised set of 'other projects' to consider, including the Palm Paper CCGT proposal. All the ES topic heads were reviewed in that process. Two points need to be made on the ES/ES Supplementary Report, in this context: on LVI: the ES Supplement predicted an overall increase in the amount of development present in 'views' across the landscape although *'the addition of Palm Paper's CCGT would not result in a change to the cumulative assessment as reported in the ES...because it would be largely enclosed and seen with existing buildings and structures of a similar nature'* (REP60); and, other conclusions on cumulative impacts were deemed still valid;

- (iii) necessary approvals for the 'other elements': appear to be in place; and,
- (iv) different commercial and regulatory frameworks: NG is funded by the RIIO process, overseen by OFGEM: the Centrica power station is funded differently.

5.10 The connection proposed would make it possible for the planned gas fired CCGT power station, when and if it is built, to make electricity available to the nation. EN-1 (para 3.7.3) states *'It is important to note that new electricity network infrastructure projects, which will add to the reliability of the national energy supply, provide crucial national benefits, which are shared by all users of the system'*.

Local Support for the Development

5.11 The relevant Borough Council is broadly supportive of the proposal overall (REP52); and Norfolk County Council (REP51) likewise.

Good Design

5.12 EN-1 explains (para 4.5.1 – 4.5.6) what it meant by the term 'good design' in respect of NSIPs, in some detail, and EN-5 (para 2.5.1 - 2.5.2 and Sections 2.7 – 2.10).

- EN-5 (para 2.5.2) states: *'Proposals for electricity networks infrastructure should demonstrate good design in their approach to mitigating the potential adverse impacts which can be associated with overhead lines, particularly those set out in Sections 2.7 and 2.10 below'*.

[Note: EN-5's Section 2.7 deals with 'Biodiversity and Geological Conservation', 2.8 with Landscape and Visual impacts, and 2.10 with EMFs.]

5.13 Measured against the full text in the NPSs on 'good design', the stronger aspects of good design demonstrated by this NSIP application are:

- The pylon design selected (L13) is expected to be durable and have good climate change resilience and ability to withstand flooding to a reasonable extent, and to be otherwise fit for purpose
- The pylon design to be used will be visually similar to the existing 4VV OHL with which it would connect
- It will avoid adversely impacting on other areas (the West and Central Corridors) considered more environmentally sensitive
- The OHL is aligned to be well clear of flood embankments, other property, and local residences
- Very little Grade 2 land would be taken permanently out of arable farming use

- Assurances were given that the arable farming landscape will be carefully restored, and hedges and trees removed replaced
- The process of arriving at the finished design and supporting proposals has been explained in detail in the SoCC and ES
- Professional skills were employed on the design work.

PART THREE - THE CASE AGAINST THE DEVELOPMENT

- 5.14 The adverse impacts of the proposed development must also be summarised.

Weaker Points in the Design

- 5.15 Measured against the same yardstick, the weaker aspects of 'design' demonstrated by this NSIP application are:
- High and moderate adverse impacts on some LVI 'receptor' viewpoints – public and private
 - No compensatory landscaping offered
 - Impact on local communities - proposed routeing of HGVs and other construction traffic through a rural village against local people's wishes.

Local Concerns about the Development

- 5.16 The LIRs were qualified by concerns being expressed about the potential construction traffic impacts upon the village of Watlington, and the NCC's formal objection on highways grounds was persistent throughout the examination and has not been withdrawn (REP51, REP52). These objections relate to the Project's potential traffic impacts on residential amenities, highways, and potentially upon vulnerable users in Watlington; and local highway suitability, fragility and restoration matters more generally.

Progress Made During the Examination

- 5.17 To the extent that a few minor changes to the physical form of the proposals and the proposed construction standards were discussed and agreed during the examination process and incorporated in the NG's Preferred Draft DCO and CoCP, they have, in my view, taken the proposal a step closer to meeting the various tests set in the NPSs. In particular, in terms of sustainability, the proposal going before the SoS now definitely has the benefit of:
- a 'Water Vole Management Plan', and
 - a CoCP which will ensure that the arable topsoil will be managed and restored to best practice DEFRA standards.

Conclusion on the Case for and against Development

- 5.18 Based on this analysis there is an urgent national need for this type of electricity networks infrastructure development, and there is a clear need to create an electricity connection, of some type, between the planned power station and the national grid.
- 5.19 There are some very local adverse impacts, but they are not sufficient to outweigh the benefits of this proposal. To the extent that any such concerns can be addressed through further requirements or other minor changes in the DCO that would be beneficial and provide 'wider sustainability benefits' (cf EN-1, para 5.7.16) of relevance to the 'Exception Test'.

6 THE PROPOSED DEVELOPMENT CONSENT ORDER (DCO), AND REQUIREMENTS

6.1 This part of the ER is set out in two parts:

- in PART ONE of this section, I note the key changes made during the examination which led to the Preferred Draft DCO (PDDCO) of June 2013 (REP198);
- in PART TWO, I address other matters discussed at the examination, but not reflected in the PDDCO, which should also be considered by the SoS and resolved, as they are still disputed, unresolved or may need further requirements. The recommendations on those matters are set out in the Examining Authority's Recommended Draft DCO in Appendix F.

PART ONE

NG's Preferred Draft DCO

- 6.2 NG's original draft DCO, and explanatory memorandum, was submitted with the application (APP13, 14) in July 2012.
- 6.3 Following a range of questions and comments from myself and comments from interested parties (IPs), the first and subsequent drafts were modified and then discussed at two draft DCO (HR6-8, HR11-13) ISHs, where various further representations were made orally, and then in writing.
- 6.4 NG's Preferred Draft DCO was presented in July 2013, in clean copy format (REP198) and in a track-changed version (REP199, 200) which includes most but not all of the suggestions made during the ISHs.
- 6.5 Comments were invited on NG's Preferred Draft DCO (REP198). I have considered any such responses received from NCC, the Borough Council and the HCA (REP203, 204, 205).

General Matters

- 6.6 A large number of changes were made to the draft DCO. Many were minor corrections or grammatical improvements. Some were considerable changes to the text, but, in my judgement, not to the broad intent of the DCO.
- 6.7 A good number of minor adjustments were made to reduce ambiguity, bearing in mind the desirability of making the documents readily understandable to all the IPs, professionals other than lawyers, and the general public. A DCO for this type of NSIP would guide its development and potentially very substantial maintenance work for many decades down the line of the 80-year life project, requiring frequent check-backs to a permitted DCO, by

LPA staff and other agencies, thus personnel unfamiliar with the original. As the Examining Authority, I was anxious to ensure that the draft DCO was as clear as possible as to 'who does what, when', especially with regard to powers of approval, consenting responses, authorisation, notifications and any potential enforcement required.

- 6.8 NG was able to accept many of the suggestions, although not all, made by IPs, for minor changes to assist the LPA and other agencies and those are reflected in NG's Preferred Draft DCO (REP198).
- 6.9 At the ISHs we also discussed the content of the two main supporting documents, the CoCP and CTMP (which would in due course be for the LPA to approve), principally to check for overall consistency in approach and content with the changes made in the emerging Draft DCO, during and towards the end of the examination.

The Articles

- 6.10 **Article 2: Interpretation:** In NG's Preferred Draft DCO the 'approved construction routes' proposed remain essentially as originally defined:
- (i) a Northern Construction Route (NCR) to undertake work on the pylons KL01-KL07, which did not cause any great controversy at the examination stage; and,
 - (ii) a Southern Construction Route (SCR) to undertake work on pylons KL08 and 4VV039 (the latter a new pylon at the junction with the existing 4VV Norwich to Walpole line).

[Note: These two routes are also referred to in the accompanying June 2013, CMTP, FIGURE 1 and FIGURE TWO (REP188).]

- 6.11 The SCR, in particular, was the most controversial matter at the examination.
- 6.12 A new definition of the word 'maintain' is inserted to ensure that the work done under that term does not *'vary from the description of the authorised development in Schedule 1 nor the overall shape, size and lattice form of the towers'*. I consider the latter to be particularly important in order to ensure that the overall appearance of the pylons in terms of their design, and their overall landscape and visual impacts within West Norfolk, remain consistent with the application as presented, environmentally assessed, examined and authorised throughout the life of the development.
- 6.13 An important change to Article 2 makes it clear that the overhead line comes into 'operational use' when a certain part of the work

proposed (Work No. 1) *'first transmits electricity at 400 kV'*. Clarity on what constitutes a 'start' is very important as the commencement of operational use triggers several other clauses, and potential enforcement responsibilities, for the LPA. More precise definitions of the terms 'environmental document'; 'the land plans'; 'permitted substation', 'the requirements'; 'rights of ways plans'; 'the sections'; 'the undertaker' and, 'the works plans', have also been included in the Preferred Draft DCO.

- 6.14 **Articles 3-8.** Very minor changes / text corrections were made.
- 6.15 **Article 9: Application of the 1991 Act.** The highway authority, NCC, argued that the applicant had not listed a number of the provisions in the Street Works in England and Wales Act, 1991. After much dialogue at the first draft DCO-ISH (HR6-8), NG agreed to the highway authority's suggestions and amended the Article to introduce a reference to provisions under s56, 65, 67, 70, 71, 72, 73, and 75 of the PA 2008. It was also agreed that the term 'stopping up' be replaced with the term 'closure'.
- 6.16 **Article 10: Street Works.** It was agreed at the DCO-ISH that the reference to 'tunnelling and boring under the street' was not necessary, and could be removed.
- 6.17 **Article 11: Temporary [closure] of streets and public rights of way.** It was agreed that the words 'stopping up' should be replaced with the term 'closure'.
- 6.18 **Article 12: Access to works.** The LPA argued that a 42 day period for notification was preferable given the need to consult the highways authority on the details of the means of access before they responded and the applicant agreed to that change.
- 6.19 **Article 13: Agreement with street authorities.** It was agreed that the words 'stopping up' should be replaced with the term 'closure'.
- 6.20 **Article 14: Discharge of water.** Following on NG's discussions with the EA, this Article was edited to reflect EA's advice on the relevant separate regulatory processes under the Environmental Permitting (England and Wales) Regulations 2010 which would need to be respected. On that understanding, Anglian Water withdrew their objection to Article 14 as first proposed (REP109). NG confirmed the edit (REP118).
- 6.21 **Article 22: Acquisition of part of certain properties.** This Article, based on a model provision, was largely deleted by NG, to reflect Schedule 6.
- 6.22 **Article 23: Acquisition of subsoil or airspace only.** Minor changes were made to remove superfluous words, such as the reference to a 'manufactory'.

- 6.23 **Article 24: Temporary use of land for carrying out the authorised development.** There was a discussion at the DCO-ISHs (HR6-8, 11-13) as to how a landowner (in the case of this application usually an arable farmer) would know that the temporary possession of his/her land would end. It was agreed that a clause need to be added to ensure that the 'undertaker' of the works would provide the owner of the land over which temporary possession had been taken, with proper written notice of the date of completion of the work for which purpose it was taken.
- 6.24 **Article 25: Temporary use of land for maintaining authorised development.** Following discussion at the DCO-ISHs (HR6-8, 11-13), a small change was made at the end of this Article, to make it clear that the maintenance period (of 5 years) would begin with the date on which the authorised development was brought into operational use (which, linking back to the 'Interpretation' section, would be when Work No. 1 '*first transmits electricity at 400 kV*').
- 6.25 **Article 35: Procedure regarding certain approvals.** This article was based, not on a model provision, but on Article 4 in the Rookery South (Resource Recovery Unit) Order 2011 (cf Doc 4.2, para 10.13). The Article is tied to Schedule 9, provisions which seek to ensure very speedy responses from the LPA and other consenting authorities (based on those permitted in the case of the Hinkley NSIP proposal, recently approved by the SoS). There was a discussion on the suitability and relevance of using a provision designed to enable a nuclear power station to be built, to be used for an electricity network application at the DCO-ISHs (HR6-8, 11-13). NG agreed to review, and came back with a re-titled, substantially edited Article 35. Adjustments to the related Schedule 9, as drafted, were also made, which are addressed below.

The Schedules

- 6.26 **Schedule 1: Authorised development.** Minor changes were made to the description of the works proposed (Works No.1) and the Associated Development proposed, for relevance, and accuracy.
- 6.27 **Schedule 2: Street Works.** NG rewrote the Schedule to make it clear that the works they proposed to 'streets', within the Order limits, would involve work to Cycleway/Footpath No.8 and North Sea Bank.
- 6.28 **Schedule 3: Streets to be closed.** Discussion at the DCO-ISHs (HR6-8, 11-13), on the accuracy of the Schedule as originally drafted, triggered further review of the works really needed, and that led to two amendments: (i) to delete the reference to

Thiefgate Lane, and (ii) to add a reference to North Sea Bank to be 'as shown on the rights of way plan'.

- 6.29 **Schedule 4: Access to works.** Discussion at the DCO–ISHs (HR6-8,11-13) focussed on the fact that the original Schedule did not distinguish clearly between the different forms of access required, making it very difficult to understand. That was addressed by NG introducing sub-headings to distinguish between 'new permanent accesses', 'new temporary accesses' and 'improving existing accesses'.
- 6.30 **Schedule 5: Land of which temporary possession may be taken.** The numerous small changes to this Schedule and the introduction of sub-headings (on the type of temporary use involved) reflected NG's continual review of the Book of Reference undertaken during the course of the examination, questions put by me and discussion at the CA-ISH (HR9-10): all of which is covered in greater depth in Section 7 of this Report.
- 6.31 **Schedule 6: Modification of Compensation for Compulsory Purchase Enactments for Creation of New Rights.** A new clause was inserted into this schedule to clarify the procedure to be followed if a compensation dispute arose; with a consequential renumbering of clauses.
- 6.32 **Schedule 7: Protective Provisions.** The 'Part 1 Environment Agency' set of clauses was removed in its entirety following detailed discussions, during the examination period, between NG and the EA. In response to a Written Question (PD21), the EA confirmed in a letter dated 24 June 2012 that it no longer required any protective provisions in the DCO. Thus, the second Part became Part One, headed 'For the Protection of Electricity, Gas, Water and Sewerage Undertakers', with minor corrections. A new Part Two, headed 'For the Protection of National Grid Gas plc' was accompanied by a brief description of the agreement entered into with that company, dated 24 June 2013. Part Three's title was adjusted to 'For the Protection of Network Rail Infrastructure Limited', and substantially deleted, to be replaced with a brief statement on the agreement entered into with that company, dated 20 May 2013. Part 4 'For the Protection of Electronic Communications Code Networks' was retained, with a minor change in one definition. Negotiations were undertaken by NG with these other organisations, during the examination period, to ensure that the protective provisions proposed would deal with their respective interests. It was later confirmed that UK Power Networks were content; the Internal Drainage Board did not need such provisions; Energy Services and Solutions Ltd, were covered by Part 2, Sch.7; Anglian Water Services was content with provisions in Part 2, Sch 7; and other relevant companies' suggested amendments dealt with (REP118).

- 6.33 **Schedule 8: Requirements.** There was a considerable amount of discussion at the DCO hearings about the wording of the draft DCO on the Requirements, which led to the changes set out below. The second half of the Requirements were also re-numbered.

The Requirements

- 6.34 **Requirement 1: Interpretation.** The 'approved details' definition was removed and replaced with clear definitions, following on discussions at the DCO hearings, on what constitutes 'the environmental document', the 'relevant planning authority', a 'stage' in the works authorised; and, 'minor approvals in writing'.
- 6.35 **Requirement 3: Compliance with approved details.** It was clarified that the pylons selected would be 'lattice towers' (which is a critical commitment in terms of overall landscape and visual impact, and flood risk issues), and in accordance with a set of drawings (numbered according to the latest versions supplied); and making it clear that the towers constructed would be in general accordance with the vertical limits of deviation, and also substantially the same as those shown on the drawings listed). Following on discussion at the DCO hearings, the phrase 'in accordance with the principles shown in the approved details' was replaced, with the more precise 'in general accordance with approved drawings', and the revised plan numbers were listed. A sentence was added making it clear that the works should be substantially the same as those shown, subject to alignment variations within the lateral limits of deviation, in order to clarify the flexibility required for this type of infrastructure scheme.
- 6.36 **Requirement 4: Provision of landscaping.** The original requirement was replaced with one calling for a written landscaping scheme to be produced and submitted for the LPA's approval before the development was brought into operational use. The scheme would include trees, tree whips and shrubs, and cover the protection of all three. In the interest of clarity and effectiveness, an extra clause was added requiring the scheme to set out the maintenance regimes, and management responsibilities.
- 6.37 **Requirement 5: Implementation and maintenance of landscaping.** Flexibility was added by introducing sub-clauses which would enable the developer to apply to the LPA for approval in writing for minor variations to the landscaping scheme; and, more certainty of outcome in terms of managing visual impacts, by making it clear that any trees, tree whips or shrubs which failed would all be replaced. It had emerged that NG would be relying very considerably on tree whips in their landscaping scheme, and a discussion at hearings had focussed on the difficulty of ensuring the protection and replacement of tree whips in after-care regimes (H2-5, HR6-8).

- 6.38 **Requirement 6: Highway accesses.** This was altered to distinguish between the temporary accesses (which would need subsequent removal, and land restoration), and the one permanent access to be created (to the substation area); and, to reflect the fact that the approvals sought from the LPA (after consultation with the highway authority) would be on a stage-by-stage basis, as agreed with the Borough Council and NCC at the ISHs (HR6-8, HR11-13). An element of flexibility was also added by making it clear that minor variations could be approved in writing by the LPA.
- 6.39 **Requirement 7: Fencing and other means of enclosure.** This clause was changed to reflect the agreement forged during the examination for the LPA (and LHA) approvals of detail to be on a stage-by-stage basis; and an element of flexibility was also added by making it clear that minor variations to 'the barriers' required for the construction phase, or more permanently, could be approved in writing by the LPA.
- 6.40 **Requirement 8: Contaminated land and groundwater.** The original negatively worded requirement requiring a scheme to be approved before development commenced (by the EA and the LPA) was considered too general by other IPs. The Borough Council suggested modified wording for Requirement 8 (HR23). The requirement was then modified into a positive requirement. It was replaced with a positive requirement that any contamination discovered would be immediately reported to the LPA, and a specific scheme for dealing with it, and remediation for it, would need to be set out, approved, and implemented, and its effectiveness confirmed in a verification report to be approved by the LPA. This arrangement was considered closer to current best practice on such matters. Matters requiring early input from the EA were moved on to a separate, follow-on, new clause.
- 6.41 **Requirement 9 (new): Controlled water protection scheme** This new clause deals specifically with the authorisations that would require prior discussion with the EA. On this matter, a negatively worded requirement was considered necessary by the EA. It specifically covers the proposed pylon foundations, de-watering, and protection of water sources and ecosystems (including the River Nar).
- 6.42 **Requirement 10: Archaeology** (formerly Req. 9). This was changed to make it clear that the LPA - rather than NCC - would be the approving authority for the detailed 'watching briefs' and any investigations; and, that the latter would be produced on the same stage-by-stage basis as with other requirements.
- 6.43 **Requirement 11: Ecological management plan** (formerly Req. 10). This was changed to make it clear that the plan would require pre-consultation with the EA. It would need to include a riparian ecology method statement in respect of the watercourses (which

would have to include pre-construction water vole surveys), and a variety of other provisions to protect and reinstate watercourses and riparian vegetation, plus provisions on the related surveys, inspections, and reporting to NE and EA and to establish the maintenance, monitoring and management responsibilities. Very specific additional clauses were added as a consequence of the EA's submission of 22 February 2013, and follow-on discussions with NG on those.

- 6.44 **Requirement 12: Code of Construction Practice** (formerly Req. 11) This provision was strengthened and clarified by stating that the CoCP dated June 2013 would be the enforceable Code for this project.
- 6.45 The CoCP (June 2013) now includes important additional commitments, made by NG at the examination (REP148), which are:
- a stage-by-stage, phased, approach (REP148)
 - clarity that there is one permanent access, to the substation (CoCP, para 1.3.2)
 - on-site wheel-washing facilities (CoCP, para 3.2.1)
 - adherence to DEFRA's 'Code of Practice for the Sustainable Use of Soils on Construction Sites' (2009), to conserve soil and prevent dust blow (CoCP, paras 3.2.1, and 7.2.1.)
 - construction to be carried out in accordance with an ecological management plan (including a riparian ecology method statement) (CoCP, para 9.2.2)
 - compliance with the landscaping scheme approved pursuant to the DCO (CoCP, para 11.2.1)
 - measures to deal with any contamination encountered and its remediation, for the LPA's approval (CoCP, para 12.2.1)
 - a contamination and ground water management scheme, with no de-watering into the watercourses (CoCP, 12.4.1)
 - production of a Flood Plan, covering warnings, evacuation procedures and routes, a communications programme, procedures for site safety and securing equipment and facilities (CoCP, para 14.1.3).
- 6.46 NG has inserted into the preferred CoCP at para 8.2.3 (REP186), a provision which states that no fuels and chemicals are to be stored on the site (CoCP, para 8.2.3), but declined to delete the two bullet points above it which refer to the storage of fuels and chemicals on site. NG gave a clear verbal commitment at the first hearing that no fuels would be stored on site and all refuelling would take place off-site (HR2-5). When I posed a question as to whether that needed to be enshrined in a specific requirement, NG explained that *'adequate provision for the prevention of fuel storage on site has been incorporated'* into the revised CoCP (REP115).

- 6.47 **Requirement 13: External lighting** (formerly Req.12). Minor changes were made to reflect the stage-by-stage approvals process agreed at the examination hearings to clarify that the LPA would be the approving body for the written details on the external lighting proposals; and, following discussion at the CPI-ISH (HR2-5), to ensure that the intended duration of the external lighting would be clear to all (including local farmers and other residents, and the LPA who would need to enforce compliance if the lights were over-used).
- 6.48 **Requirement 14: Construction traffic** (formerly Req. 13). Changes were made to clarify that the developer would advise drivers of vehicles visiting the authorised development site of the approved construction routes, and of the measure to monitor compliance; to ensure that wheel-washing facilities would be provided on-site; and, to reflect a raft of additional points discussed and essentially agreed at the examination hearings (ie. the need for before and after road condition surveys for each phase of the works; strategic road signing; access point signing; liaison with the LHA; road sweeping and dust suppression; keeping local residents and stakeholders informed; provisions to update the plan; and, school hour restrictions) (HR2-13). Other minor changes were made to reflect the stage-by-stage local approvals process agreed, during the examination, and to make it clear that the LPA would approve the CTMP, and any subsequent changes to it.
- 6.49 It is normally for the LPA to approve the CTMP. The CTMP now contains important additional, new, public commitments made by the applicant at the examination. The related new sections in the CTMP (June 2013), presented at the end of the examination (REP188), are:
- not allowing HGV movements in Watlington during certain times in the morning and evening (cf CTMP, para 2.6.3)
 - joint highway condition surveys with the LHA (cf CTMP, para 6.5.1)
 - construction team personnel to be transported to and from the Site in vans (cf CTMP, para 6.4.2).
- 6.50 **Requirement 15: Control of noise during construction and maintenance** (formerly Req. 14). Minor changes were made to reflect the stage-by-stage approvals process agreed.
- 6.51 **Requirement 16: Construction hours** (formerly Req. 15) The words 'Monday to Friday' replaced 'weekdays' (at the request of the LPA); will apply in respect of piling operations; and a superfluous clause was removed.
- 6.52 **Requirement 17: Control of dust emissions** (formerly Req. 16). Minor changes were made to reflect the stage-by-stage approvals process agreed.

- 6.53 **Requirement 18: Accumulation of deposits** (formerly Req. 17). Minor changes were made to reflect the stage-by-stage approvals process agreed.
- 6.54 **Requirement 19: Restoration of land used temporarily for construction** (formerly Req. 18). A minor grammatical change was made.
- 6.55 **Requirement 20: Requirement for written approval** (formerly Req. 19) A minor grammatical change was made.
- 6.56 **Requirement 21: Amendments to approved details** (formerly Req. 20). Minor adjustments were made to bring it into line with the wording used in other requirements.
- 6.57 **Schedule 9: Discharge of Requirements.** This is a long new Schedule, which did not accompany the original draft DCO. It was introduced in a later draft, during the examination period.
- 6.58 The Borough Council expressed concern about the proposed new Schedule 9 at both DCO-ISHs (HR6-8 and HR 11-13). I asked the applicant (and others), after the 2nd DCO-ISH, to reflect further on the proposed Schedule 9 (c) and (d) clauses. The Borough Council, responding, stated that it had not been possible to reach agreement with the applicant on that matter, and clarified its concern. It was *'not the 8 week period for determining a submission to discharge a requirement that the LPA considers onerous but the intermediate requirement that allows the applicant to appeal before this time period expires if they receive a request for additional information that they consider unnecessary'* (REP166).
- 6.59 They also noted that SoSs had relied, in other NSIP cases (eg East Northants Resource Management Facility) on terms similar to those in s78 and 79 of the Town and County Planning Act 1990 (TCPA 1990) to set the terms for appeals, a form of words which the LPA suggested as an alternative to the Schedule 9 provision as drafted by NG.
- 6.60 The Borough Council, as the LPA, made three basic points in their case for reverting to the 'terms' usually set in NSIP DCOs, as follows:
- the contribution made by Hinkley Point scheme was *'a significant order of magnitude greater than that made by King's Lynn B power station that the grid connection would facilitate'*
 - *'the applicant had not demonstrated that the King's Lynn B Grid Connection was a more significant project than the Redditch Branch, etc.'*
 - the need to plan ahead for outages did *'not, in the LPA's view, justify the abbreviated procedure'*: on the contrary, the need to plan ahead should enable the applicant to submit for

discharge of a requirement *'well in advance of the scheduled outage and allow for a 8 week determination period'* (REP166).

- 6.61 NG, also responding on this issue, stated: *'There is no basis for delaying the appeal: if the Applicant is wrong on that appeal it is important for the information to be provided as early as it can be. In the absence of prejudice to the authority as they have already made their decision. There is always the sanction of costs if the power is exercised unreasonably under paragraph 4 (11) of Schedule 9'* (REF170).
- 6.62 I concur with the LPA's point on the relative scale of the projects.
- 6.63 NG wishes to embrace the terms set for the Hinkley Point Order for an abbreviated appeal process. But there is nothing to suggest that the need to observe the usual NSIP appeal conventions would be particularly challenging or problematic for the applicant. Also, they have not provided any evidence which points to the LPA being one that is administratively inclined to make unnecessary requests for additional information. I consider that the LPA makes cogent points in questioning the applicant's suggested approach. I have considered policy and advice in the relevant NPSs. I do not find anything in the relevant NPSs which suggests that an ultra-fast, abbreviated appeal procedure is particularly critical and desirable in respect of the delivery of electricity connections to combined cycle gas cycle turbine power stations. I am sure that the relevant NPSs (EN-1, and EN-5) would say so, if that were the case. I deal with this matter further in PART TWO below.

PART TWO

Further Recommended and Potential Changes to the Applicant's Preferred Draft DCO

- 6.64 Many issues discussed led to progress reflected in adjustments to the draft DCO, CoCP, and CTMP, as noted in Section 5, PART ONE above. But there are some issues where the parties were in fundamental dispute throughout the examination, and a few matters which were also of concern to me as the Examining Authority. Such issues and points impelled me to ask various questions during the examination.
- 6.65 Having reviewed all the evidence since the close of the examination, I recommend that the SoS considers a few more adjustments beyond those incorporated in NG's Preferred Draft DCO (REP198) to the Articles, Schedules, and Requirements (as suggested and discussed during the Examination period) to deal with those matters.
- 6.66 Several such adjustments, as set out below. Relevant policy support is noted. And, I have considered, where an additional

requirement is suggested, whether it would be consistent with the 6 tests set out in Circular 11/95 'Use of Planning Conditions'.

- 6.67 None of the changes put forward for the SoS's consideration would, in my view, be inconsistent with National Grid's duty under the Electricity Act 1989 to consider amenity, and '*have regard to the desirability of preserving natural beauty, of conserving flora, fauna...*' and so forth.

In Article 2: Interpretation of 'approved construction routes' - a new set of definitions for the construction traffic routes

Evidence and Conclusions: were set out in Section 4H, above.

Reason: in the interests of residential amenity, local amenities, and sustainable development.

Proposed Requirement: the definitions to be as follows:

- for all construction traffic serving towers KL01 to KL07 referred to in Work No. 1, the Northern Construction Route (reference MPP00006 – 2 Figure 1A); or

- for the 200 tonne lifting capacity crane vehicles serving towers KL08 and 4VV039 referred to in Work No. 1, the Southern Construction Route (reference MPP00006 – 2 Figure 2A).

Relevant Policy:

EN-1 (para 5.6.3) states '*For energy NSIPs of the type covered by this NPS, some impact on amenity for local communities is likely to be unavoidable. The aim should be to keep impacts to a minimum, and at a level that is acceptable.*'

EN-1 (para 5.13.2) urges '*the consideration and mitigation of transport impacts is an essential part of Government's wider policy objectives for sustainable development as set out in Section 2.2 of this NPS.*'

EN-1 (para 5.13.6) urges the decision-taker to '*ensure that the applicant has sought to mitigate these impacts, including during the construction phase of the development. Where the proposed mitigation measures are insufficient to reduce the impact on the transport infrastructure to acceptable levels, the IPC [decision taker] should consider requirements to mitigate adverse impacts on transport networks arising from the development.*'

EN-1 (para 4.4.3) urges that the decision-taker '*should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure*

capacity (including energy security and climate change benefits) in the same timescale as the proposed development'

Practicalities: There is a reasonable probability that NG and other relevant parties might agree a way forward on construction traffic routing for the southern works area which would avoid or, at least, minimise impacts upon Watlington. The OHL works now due to commence in June 2016.

Further Supporting Comments: The SoS would thus determine the route for the cranes only - which is agreeable to the LHA (REP100). The final decision on the routing of that element of the remainder of the construction traffic serving the Southern Work Area, would then remain at the discretion of the LPA (in consultation with the LHA / NCC) under the umbrella of the CTMP process, and NG would be free to consider and pursue the available options.

In Schedule 8: the Requirements – a new Requirement (Req. 20) (no advertising on pylons)

Evidence and conclusions: were set out in Section 4B, above.

Reason: in the interest of visual amenity, and predictable landscape and visual impacts, consistent with the application details as permitted and environmentally assessed.

Proposed Requirement: NG has offered a potential wording on a 'without prejudice' basis, as follows *'Logos and signs... (1) No part of Work No. 1 shall display any name, sign, symbol or logo on any permanent external surface unless such name, sign, symbol or logo has been previously approved in writing by the relevant planning authority. (2) Requirement 21 (1) shall not apply to any name, sign, symbol or logo required by law or for health and safety reasons'* (REP195).

Relevant Policy: in the interest of good design, visual amenity, 'sustainable infrastructure sensitive to place' (cf EN-1, para 4.5.1), and 'compliance with the approved details' (as set out in Requirement 3). Also, EN-1 (para 5.9.22) states *'Materials and designs of buildings should always be given careful consideration'*.

Practicalities: this could form a separate requirement (Requirement 20 in the Examining Authority's Recommended Draft DCO Appendix F). On Circular 11/95 compliance: I consider that it would be compliant unless it is duplicated by another regime(s) which would require it both in the interests of compliance with the approved shape, form and appearance of pylons approved by an NSIP consent, and respect for national policy on NSIPs. The advertisement regulations on their own do not cover that sufficiently, bearing in mind the certainty required

that the visual impacts do not exceed those allowed for in the embedded mitigation approach.

Further Supporting Comments: It is usual to see small safety warning signs on pylons, but not advertisements. NG sets its own policy on this, but that policy might not hold. It is important that signage on or adjacent to the pylons is limited to necessary safety information and no other signs and logos in order to minimise the visual impact in accordance with the embedded mitigation approach adopted by the applicant (APP22, 23). That would also respect the need not to undermine the conclusions reached in the EN-5 'Appraisal of Sustainability' on the overall impact of EN-5 on landscape and visual quality in England and Wales.

In Schedule 8: the Requirements – a new Requirement (Req. 21) (prohibiting fuels and chemicals storage within the Order limits)

Evidence: was set out in Section 4 (C) above.

Reason: in the interests of nature conservation, and the conservation of arable soil on Grade 2 farmland, and for the protection of the River Nar SSSI (given the Flood Risk 3 status of much of the Site); and to minimise adverse landscape impacts.

Proposed Requirement: No fuels or chemicals are to be stored within the Order limits during the construction, operational, maintenance or decommissioning phases.

Relevant Policy: EN-1, para 5.3.5, 5.3.6, 5.3.10 et seq)

Practicalities: a new requirement would be needed. Such storage could not take place without additional building works (to satisfy the EA), and such works would create a further visual intrusion. The Order limits are narrowly defined but they cross the River Nar SSSI at two points, and contain ditches connected to other ditches across this area of fenland. A clear enforceable provision is required. The CoCP does not provide that.

In Schedule 9: no abbreviation of the appeal process.

Evidence and Conclusions: were set out in Section 6, Part One, above.

Reason: in the interest of fairness and transparency of process in NSIP planning matters.

Proposed Requirement: remove the provision in the Preferred draft DCO which allows an abbreviated appeal process.

Practicalities: in Schedule 9: Clauses (c) and (d) in NG's current preferred draft DCO to be removed, plus a few other minor modifications to reflect the final form of the Hinkley DCO.

In Schedule 8 'Requirements': Requirement 11 'Landscape and Ecological Management Plan' – an extra strand regarding the 'NG Protocol on Bird Diverters'

Evidence and Conclusions: were set out in Section 4C above.

Reason: in the interest of maintaining local biodiversity, nature conservation, and local amenity.

Proposed Requirement: bearing in mind the 80 years plus anticipated life of the Project, and the possible future need for retro-fitting the OHL with bird diverters, I recommend that NG be required to include within the Landscape and Ecological Management Plan a statement on 'large birds', to include:

- a map showing the locations of the nearby Islington SSSI, the Wash SPA and the Ouse Washes SPA, the River Great Ouse, and the Ouse Relief Channel, relative to the NSIP OHL route,
- a summary of and/or cross-reference to the information on 'large birds' set out in the in the Environmental Document,
- a statement that *'...in its periodic inspections of the overhead line and in response to any notification of bird collisions, National Grid shall proceed in a manner in accordance with 'National Grid Protocol on Bird Deflectors' (dated 22 May 2013) or its successor document or guidance'*,
- a copy of that 'National Grid Protocol on Bird Deflectors' (dated 22 May 2013) (REP115),
- details on how the undertaker is to be contacted and notified of bird collisions - involving swans, geese, large raptors and herons - by individuals or organisation external to the undertaker.

Relevant Policy:

- EN-1 (para 4.8.5) states *'New energy infrastructure will typically be a long-term investment and will need to remain operational over many decades, in the face of a changing climate. Consequently, applicants must consider the impacts of climate change when planning the location, design, build, operation and, where appropriate, decommissioning of new energy infrastructure.'*
- EN-1 (para 5.3.19) (on biodiversity and geological conservation) states *'Where the applicant cannot demonstrate that appropriate mitigation measures will be put in place the IPC should consider*

what appropriate requirements should be attached to any consent and/or planning obligations entered into.'

- EN-5 (para 2.7.1) states: *'large birds such as swans and geese may collide with overhead lines associated with power infrastructure, particularly in poor visibility....'*

Further Supporting Comments:

In considering the need for this further requirement, I am bearing in mind:

- the long life of the project (c. 80 years, plus),
- the risk of climate change,
- the precautionary principle,
- the possibility that grey herons (a susceptible species) may choose to make more use of the Islington Heronry SSSI nearby (west of the OHL site) which remains a suitable site for them according to Natural England, in the years to come (REP48),
- the high quality and extensive arable cropped land on and around the development site, likely to remain as such, not least because of its Flood Zone 3 status, and NE's observations (REP112),
- the large waterways and international wildlife sites which support many thousands of 'large birds' nearby (APP22, 23),
- the numbers of 'large birds' observed in recent years near the site as reported by representatives of Watlington Parish Council, in areas on or near the Site, which NG and NE advised were in line with the ornithological assessments undertaken by NG (HR26).

In respect of the Circular 11/95 tests for planning conditions and requirements: I am clear that this is relevant to this proposal, and important given the statement in EN-5 on 'large birds'. I take it that this is a very serious matter as it is identified in EN-5 (and its 'Appraisal of Sustainability' in respect of EN-5). It may be that DECC already has follow-up work, research and other initiatives in hand on the 'large birds' issue which would obviate the need for the simple requirement I recommend, but these are not matters on which I am informed. I consider that there is a sufficient necessity, and reasonableness, in the circumstances. The requirement recommended would formally acknowledge and formalise an assurance given by NG to use the Protocol it has itself produced, which is an important and relevant matter. Incorporation into the DCO as suggested would serve as a reminder to those building, operating and decommissioning this

OHL NSIP over many years to come of the need to keep a watchful eye on that matter.

Practicalities:

- i. DCO placement: an extra strand in Requirement 11 to be retitled 'Landscape and Ecological Management Plan' as requested by EA (REP80) would suffice.
- ii. Conformity with Circular 11/95. I think it is necessary in order to ensure that the matter is kept under review as and when the Project is being built, if permitted, and thereafter as it is managed operationally. There needs to be an effective route for individuals other than National Grid staff to report bird collisions, and to know what if anything is done in response to their reports. No other regulatory or consenting body is likely to impose such a requirement. In the absence of that, I have concluded that it is sufficient necessity. On reasonableness, it cannot be considered an unduly onerous requirement, since a 'Protocol' has already been produced by NG. As to whether it is proportionate, this is a 400 kV OHL, and an NSIP, and the issues a national EN-5 policy (England and Wales level) issue. I cannot see that such a simple requirement would be seriously burdensome to the electricity networks industry, or in any way imperil its forward progress and contribution to addressing the urgent national need for energy infrastructure.

Other Requirements Considered

6.68 Several other requirements were suggested during the examination, by other IPs. Such suggestions were resolved through discussion or influenced NG's Preferred Draft DCO / CoCP / CTMP.

6.69 One which was not resolved at the examination was a suggested highways reinstatement requirement submitted by NCC (REP160) that:

'If the after road condition surveys undertaken in accordance with Requirement 14 (1)(e) showed a deterioration in the road condition of any highways and the deterioration is attributable to the construction traffic, the undertaker must within 12 weeks of the completion of the authorised development either –

- (a) reinstate the relevant highways to at least their condition as shown in the first 'before' survey to the reasonable satisfaction of the highway authority; or*
- (b) pay to the highways authority such sum as it reasonably requires to reinstate the relevant highways.'*

6.70 NG, responding (REP162), opposed this suggested requirement. NG maintained its firm position in relation to the unlawfulness of

imposing such a requirement, citing Mr Robin Purchase QC's oral submissions to the second DCO ISH (on 4 June 2013) (HR11-13) which included inter alia an assertion that the *'traffic to be generated by the Project will not be abnormal or excessive'* and that *'section 59 provides a statutory procedure for determination of liability if there has in fact been extraordinary expenses by extraordinary traffic and the onus is on the Council to demonstrate this'*. And, also *'paragraph 13 of Circular 11/95: Use of Conditions in Planning Permission provides that a condition cannot require an applicant to enter into an agreement'*.

- 6.71 However, CCC backed NCC's call for this new requirement suggested by NCC (REP167).
- 6.72 EN-1 refers, specifically, to the need to mitigate transport impacts (EN-1, para 5.13.6) stating: that the (then) IPC *'should therefore ensure that the applicant has sought to mitigate these impacts, including during the construction phase of the development. Where the proposed mitigation measures are insufficient to reduce the impact on the transport infrastructure to acceptable levels, the IPC should consider requirements to mitigate adverse impacts on transport networks arising from the development...'*. And it suggests in para 5.13.12 that: *'If an applicant suggests that the costs of meeting any obligations or requirements would make the proposal economically unviable this should not in itself justify the relaxation by the IPC of any obligations or requirements needed to secure the mitigation'*.
- 6.73 Sufficiency of mitigation is an issue in respect of this NSIP application, especially in relation to potential impacts from construction traffic. However, it appears that a DCO cannot impose a legal obligation or agreement.

Important and Relevant Matters

- 6.74 I consider all the matters above in PART TWO to be important and relevant. EN-5 (para 2.6.3) stresses that the decision-taker *'should consider any impacts which it determines are relevant and important to its decision'*.

CONCLUSION ON THIS SECTION 6

- 6.75 In summary:
- (i) the original Draft DCO submitted with this NSIP application has been substantially modified and improved during the course of the examination, especially during the hearings (HR2-13);
 - (ii) NG's current Preferred Draft DCO now goes a fair way towards addressing many of the issues and concerns raised during the Examination by IPs and the Examining Authority;

- (iii) the further changes and requirements recommended by the Examining Authority have been outlined above and are set out in an Examining Authority's Recommended Draft DCO, (together with some modernisations of language) in Appendix F, for the Secretary of State's consideration.

7 COMPULSORY ACQUISITION

THE DRAFT ORDER POWERS

- 7.1 The draft DCO seeks to include compulsory acquisition powers for rights over land, only.
- 7.2 The rights sought are of both a permanent and temporary nature, for the purposes of constructing the route, and maintenance thereafter, to protect the works, and to ensure access can be taken for construction, operation and maintenance. They would enable work to proceed on a variety of matters: for example, setting up temporary scaffolding (flanking and protecting the operational railway), creating construction compounds and temporary access tracks, carrying out environmental and ecological measures, and a small extent of tree felling and 'landscaping' (REP92).

EVOLUTION OF THE BOOK OF REFERENCE

- 7.3 The originally submitted Book of Reference (BoR) (APP17) was refined during the course of the examination in three stages:
- First Amendments – 25 March 2013 (REP88, 89)
 - Second Amendments – 22 May 2013 (REP139, 140)
 - Third Amendments – 21 June 2013 (REP183, 184).
- 7.4 The final BoR (REP183,184) dated 21 June 2013 is accompanied by a revised Statement of Reasons (REP150, 151) which concludes that sufficient reasons have been given in relation to all the plots of land over which compulsory powers may be exercised under the DCO.
- 7.5 NG has stated that it plans to use the powers of compulsory acquisition granted as a back-stop, in case voluntary agreements cannot be reached with landowners (REP150). However, consideration of the draft DCO must be on the basis that it is capable of being exercised to the full extent, as drafted.
- 7.6 The proposed DCO also creates powers of entry over and temporary possession of land for the purposes of maintaining the proposed development. NG considers that this is justified as a practical approach for maintaining an electricity network. Regular inspections for maintenance and repair, and occasional refurbishment will be needed over the Project's lifetime, as explained by NG at hearings, and in its written responses. These powers extend over farmland, but not to residential dwellings.

THE TESTS FOR COMPULSORY PURCHASE

- 7.7 Section 122 of the PA 2008 precludes the inclusion of compulsory powers in DCOs unless:
- the land or rights to be sought are required, and they must be no more than is reasonably required for the development, or to facilitate it, or to be given in exchange; and
 - there is a compelling case in the public interest for the land to be acquired compulsorily.
- 7.8 In summary, the public benefit must be balanced carefully against the loss of private rights. The derivation of the public benefit stems from the need for and benefit of the proposed development, together with any associated development. The general considerations are:
- All reasonable alternatives to compulsory purchase have been explored;
 - A clear use for the land must be identified by the applicant;
 - Funds for the development must be demonstrated to be available; and
 - The ExA (and SoS) must be satisfied that the purpose stated for the acquisition are legitimate, and sufficiently justify the interference with the human rights of those affected.

THE APPLICANT'S CASE

- 7.9 NG's case for compulsory acquisition powers is set out in the revised Statement of Reasons (REP150) and the revised Funding Statement (REP141, 142), and the Funding Letter from the applicant's Chief Financial Officer of 15 May 2013 confirming the earlier assurances given and the availability of the funds for this Project and the proposed acquisitions of rights over land (REP157).
- 7.10 The original BoR was revised shortly after acceptance, as the ownership and lessees of several plots became known. I asked NG to look at their proposals to see whether any permanent rights sought might be revised to temporary rights sought (PD11), and to ensure that all the land in all the plots were truly needed for the proposed build. NG made a few refinements, sub-dividing a few plots in the process.
- 7.11 At the start of the examination, there were several quite large plots in unknown ownership, but as the examination period progressed, a few more owners and lessees emerged. By the end of the examination, the remaining extent of land in unknown ownership was very small indeed.
- 7.12 Having studied an updated BoR, I requested (PD21) illustrative colour-coded maps for different classes of proposed temporary uses, to assist my understanding of the detail of the BoR. They

were provided (REP122-128). These were useful and helped to inform discussion at the two final hearings (HR9-10, HR11-13). I urged NG to review the extent of land needed for various uses proposed for such temporary uses 'one more time'. NG's review led to some further scaling-back, and subdivisions of certain plots, to exclude land which would not 'clearly' be needed.

- 7.13 A final revised BoR list and accompanying plans, was presented on 25 June 2013 (REP183) together with a version showing all the changes made since the application version (REP184).
- 7.14 I requested, and was sent a fuller expression of the case being made 'in the public interest' for the proposed CAs, and NG duly submitted a fuller statement on the ways in which the CAs proposed would be 'in the public interest' (REP129). I also requested and received a 'Structured Rationale' with a one-sentence per Class / per plot explanation for the need to acquire each of the 78 numbered plots in the BoR (REP170), which was very helpful.
- 7.15 I am now satisfied that the latest version of the BoR (REP183) and accompanying land plans (dated 25 June 2013) show the land for which rights of CA will really be needed, in reserve, in case voluntary agreements cannot be reached with the relevant owners, or unknown owners.

UNKNOWN OWNERSHIPS

- 7.16 CA rights are particularly likely to be required in respect of the few small areas of land still in unknown ownership, which towards the end of the examination period amounted to about c.0.46% of all the land covered by the BoR (REF121) and I received plans showing their locations (HR32).
- 7.17 I am satisfied that NG has made a sufficient effort to establish the true ownership of all the land in question, and the extent of land in unknown ownership is now very small indeed.

CROWN LAND

- 7.18 No Crown land was identified as affected by the proposed development.

LOCAL AUTHORITIES

- 7.19 There were several plots owned by NCC (plots 13, 17, 18, 26, 27, 28, 33, 34, 67, 67A, 67B), but it did not object to their acquisition.

STATUTORY UNDERTAKERS

- 7.20 Some of the plots affected are owned by the EA, and other statutory agencies but by the close of the examination no objections were sustained in regard to any of those.

THE NETWORK RAIL LAND – AND THE PARALLEL S127 CERTIFICATE PROCESS

- 7.21 NR originally objected to the compulsory acquisition of rights over land held for operational purposes. A s127 process followed, as outlined in Section 1. Close to the date set aside for a hearing on the s127 certificate, the two parties reached an agreement and it was agreed that the original Protective Provisions in the draft DCO would be replaced by a new summary reference to that agreement. NG subsequently withdrew its application for a s127 certificate.
- 7.22 The resulting changes to the draft DCO are covered in Section 6 of this Report.
- 7.23 Issues in respect of the railway crossing were also resolved, as explained in NG's response to a question I asked in the third round of questions (PD20). NR would continue with the process of formally closing the two crossings, but acknowledged that they would need to provide a temporary crossing for NG in that event (REP118).

FUNDING

- 7.24 The Funding Statement submitted with the application (APP16) was not sufficiently informative, so in my first set of Written Questions I asked (PD11) for more information. And more information was duly supplied during the examination (HR16, REP141).
- 7.25 In response to my request at the CA hearing (HR9-10), I then received a formal letter from NGET's UK Finance Director (REP157), confirming NG's earlier evidence, and NG's responses to earlier questions, and explaining:

'As part of our current regulatory deal (RIIO-T1, which covers the period 2013-21). National Grid Electricity Transmission (NGET), as the electricity transmission licence holder, is funded to deliver the Kings' Lynn B Connection Project. The RIIO-T1 funds NGET to deliver a number of outputs, one of which is the connection of new generation, which includes the connection of Kings' Lynn B. There is no requirement for NGET to request any additional funds for the connection of King's Lynn B, or any of the works (including land costs) associated with the delivery of this project.'

- 7.26 A revised Funding Statement was presented by NG (REP141, 142).

CONCLUSION ON THE COMPULSORY ACQUISITION POWERS SOUGHT

- 7.27 Having considered the application and the information presented during the examination process, including the written

representations, the hearings, and the ExA rounds of questions, I am satisfied that:

- the proposed development is for a legitimate public purpose;
- no more land is to be subject to compulsory purchase than is really necessary;
- the refinements to the BoR and associated plans – which reduced the amount of land over which CA powers were sought – did not change the nature of the application, and remained within the scope of the ES as submitted; and
- the necessary funding is in place for the development and in order to cover the costs of the compulsory acquisitions proposed.

7.28 The powers sought would appear to be proportionate.

8 OVERALL CONCLUSION AND RECOMMENDATION

- 8.1 In this section, I set out my overall conclusion in relation to all the evidence submitted to the examination, during the examination phase. No late submissions of evidence have been received since the examination closed on 10 July 2013.
- 8.2 The principle of the King's Lynn B Connection project is supported by relevant national policies (EN-1 and EN-5), and other relevant and related national level policies. It is broadly consistent with local planning policies. However, the overall conformity with the local planning policies (those identified in Section 3 of this Report) will be better satisfied, to my mind, if the eventual DCO contains requirements to achieve more mitigation of potential local impacts.
- 8.3 The two Local Impact Reports were supportive of the application on the whole, but also listed many items which they wanted examined in detail and a few concerns. These were examined carefully during the examination, and in this Report, as the LIRs recommended.
- 8.4 In examining this application, I pursued the Principal Issues list and various matters raised by the interested parties and all other matters I considered to be relevant and important. Minor adjustments were made to the draft DCO and related documents including the proposed CAs, acknowledging the substance of various concerns, as well as addressing the drafting points raised, and other matters arising. Discussions held in parallel with the examination, between the applicant and several statutory agencies, led to substantial modifications in the relevant protective provisions. The final conclusions on cumulative impacts are set out at the end of Section 4 above.
- 8.5 The Preferred Draft DCO (REP198) is considerably clearer than the original submitted. I recommend that the additional changes set out in Section 6 Part Two, be added to it. They are, briefly: (i) a restriction on the definition of the 'approved construction routes' so that the Southern Construction Route is only permitted to be used for cranes; (ii) new requirements to prevent advertising logos and signs (other than those legally necessary and health and safety notices) on pylons; (iii) no provisions for an abbreviated appeal process; (iv) an extra strand in the 'landscape and ecological management plan' to enable reporting of collisions to inform the NG bird diverters protocol; and, (v) a prohibition on storage of chemicals or fuels within the Order limits. The possibility of damage to the country lanes is clearly an issue of concern to the local highway authority (NCC). However, if the country lanes were to be clearly damaged by NG's construction traffic, there is a lawful way forward to recover expenses under the Highways Acts.

- 8.6 The need (and urgency) for this type of infrastructure is to be regarded as already demonstrated by the Government. EN-1's direction is that substantial weight must be given to the contribution such a project might make towards satisfying that need (cf EN-1, para 3.1.1). Making a connection between the national grid and a CCGT power station would undeniably be an important link in the nation's energy system. It would help to maintain an appropriate security of electricity supply for the nation, bearing in mind also that *'energy underpins almost every aspect of our way of life'* (cf EN-1, para 3.2.1).
- 8.7 Having considered all the above, the Secretary of State for Energy and Climate Change, for the reasons set out above in my findings and conclusions, is **recommended to grant consent** for this NSIP proposal, **subject to minor modifications and additional requirements being made** to NG's Preferred Draft DCO. Those recommended additions are set out in Section 6 Part Two, and have been incorporated into the Examining Authority's Recommended Draft DCO in Appendix F.

APPENDICES

APPENDIX A – THE EXAMINATION

The Table below lists the main 'events' occurring during the examination and the main procedural decisions taken by the Examining Authority.

It is followed by a list of the main 'events' in respect of the parallel, Section 127 Certificate examination.

DATE	EXAMINATION EVENT
11 January 2013	Preliminary Meeting
18 January 2013	Notification by ExA of procedural decisions including confirmation of examination timetable and the first written questions from the ExA under Rule 8 of the Infrastructure Planning (Examination Procedure) Rules 2010
29 January 2013	Notification of details for the accompanied site visit
31 January 2013	Deadline for receipt by the ExA of: <ul style="list-style-type: none">▪ Statements of Common Ground requested before the Preliminary Meeting
4 February 2013	Deadline for itinerary suggestions for the accompanied site visit
18 February 2013	Deadline for receipt by the ExA of: <ul style="list-style-type: none">▪ Written Representations▪ Local Impact Reports (LIR)▪ Responses to the ExA's (first) written questions▪ Further Statements of Common Ground (and two other statements) noted in the Rule 8 letter▪ Comments on Relevant Representations▪ Notification of wish to make oral representations at any Issue Specific Hearings▪ Habitats Regulations Matrices
25 February 2013	Notification of wish to make oral representations at the first date reserved for an Open-floor Hearing (ie. 11 April 2013)
27 February 2013	Accompanied site visit
8 March 2013	Issue by ExA of the ExA's second written questions
25 March 2013	Deadline for receipt by the ExA of: <ul style="list-style-type: none">▪ Comments on Written Representations

- Comments on LIRs
- Comments of responses to the ExA's first questions
- The applicant's revised draft DCO
- The applicant's updated BoR, statement of reasons and land plans

5 April 2013	Deadline for receipt by the ExA of responses to the ExA's second written questions
10 April 2013	Issue Specific Hearing: The Construction Phase Impacts
12 April 2013	Issue Specific Hearing: The draft DCO
17 April 2013	Issue of the 'Report on the Implications for European Sites' (RIES) – by PINS/the ExA for consultation
23 April 2013	Notification of wish to make oral representations at the second date reserved for an Open-floor Hearing (ie. 4 June 2013)
3 May 2013	Issue of ExAs third written questions, timetable adjustments and related notifications
10 May 2013	Deadline for: <ul style="list-style-type: none"> ▪ Receipt of responses to the ExA's second written questions (all except one specific question) ▪ Notification of wish to make oral representations at a second ISH on the draft DCO
20 May 2013	Withdrawal by Network Rail of their objection to the Draft DCO
22 May 2013	Deadline for receipt of the applicant's further revised draft DCO
28 May 2013	Deadline for receipt of any comments upon the RIES
29 May 2013	Deadline for receipt by the ExA of responses to (one specific) ExA third written question
4 June 2013	Issue Specific Hearing: The second ISH on the draft DCO
14 June 2013	Deadline for receipt by the ExA of comments on: <ul style="list-style-type: none"> ▪ the applicant's further revised draft DCO ▪ comments upon responses to the ExA's third written questions

24 June 2013	Deadline for receipt by the ExA of the applicant's final 'preferred' DCO
5 July 2013	Deadline for receipt by the ExA of comments upon the applicant's final 'preferred' draft DCO
8 July 2013	Last letter received from the applicant: no further comments on any responses to their Preferred DCO
10 July 2013	Examination closes.

SECTION 127 APPLICATION TIMETABLE

The application was made by National Grid to the Secretary of State for Transport on 31 January 2013. It concerned the proposed compulsory acquisition of rights over a statutory undertaker's land (land owned by Network Rail).

The Examining Authority (Eira Hughes) was appointed by Dr. Pauleen Lane (of PINS), on 7 March 2013, to examine the s127 application – as defined by and in accordance with procedure established with the Department of Transport in a letter dated 8 May 2012.

4 April 2013	Notification by the ExA – on the proposed procedure and a draft timetable for the examination of the application for a s127 certificate under the PA 2008
15 April 2013	Deadline for receipt by the ExA of comments and/or suggested amendments – on the proposed procedure and timetable
22 April 2013	Issue by the ExA of: <ul style="list-style-type: none"> ▪ the agreed procedure and the timetable (reserving 3 June 2013 for an ASV, and 4 June 2013 for a ISH into the s127 matters) ▪ a request for full written submissions from each party in respect of the s127 PA 2008 Certificate application, to be received by the ExA (by 10 May 2013)
23 April 2013	1st formal request received by the ExA – from the applicant and statutory undertaker - for more time (as they were still in active discussions) in order to prepare their 'full written submissions'
29 April 2013	Issue by the ExA of a revised timetable and deadlines for: <ul style="list-style-type: none"> ▪ receipt by the ExA of 'full statement submissions' (rolled forward to 15 May 2013)

- for notification by the ExA of time, date, place for the ASV and ISH (rolled forward to 29 May 2013)

13 May 2013	2nd formal request received by the ExA – from the applicant and statutory undertaker - for more time (as they were still in active discussions) in order to prepare their 'full written submissions'
14 May 2013	Issue by the ExA of agreement to extend the deadline for 'full written submissions' further (rolling it forward to 22 May 2013)
20 May 2013	Withdrawal of the application by National Grid (as they had reached an agreement with Network Rail)
20 May 2013	Withdrawal by Network Rail of their objection to the draft DCO
24 May 2013	Letters were sent to Network Rail and National Grid formally closing the s127 examination.

APPENDIX B - LIST OF THOSE WHO SPOKE AT HEARINGS

EN020003 King's Lynn B Connection List of Speakers at Preliminary Meeting and Hearings	
Preliminary Meeting (11 January 2013) King's Lynn Corn Exchange	
List of attendees (speakers only)	
<i>Name</i>	<i>Organisation</i>
Stephen Faulkner	Norfolk County Council
Liz Poole	Norfolk County Council (Highways Agency)
John Doubleday	Affected Person
Kathryn Taylor	Anglian Water
Wendy Hague	Cambridgeshire County Council
Amanda Beresford	Network Rail
Andrew Connolly	National Grid
Adrian Bramwell	Not applicable
Accompanied Site Visit (27 February 2013) Ramada Hotel, King's Lynn	
List of attendees (all attendees)	
<i>Name</i>	<i>Organisation</i>
Will Bridges	National Grid
Andrew Connolly	National Grid
Simon Chandler	National Grid
Carolyn Gratty	National Grid
Liz Poole	Norfolk County Council
Russ Blackshields	Norfolk County Council
Wendy Hague	Cambridgeshire County Council
David Parkin	Borough Council of King's Lynn and West Norfolk
Sue Miller (Chairman)	Watlington Parish Council
Michael Reynolds	Watlington Parish Council
Ross Holdgate	Natural England
Issue Specific Hearing on Construction Phase Impacts (10 April 2013) King's Lynn Town Hall, King's Lynn	
List of attendees (speakers only)	
<i>Name</i>	<i>Organisation</i>
Sue Miller (Chairman)	Watlington Parish Council
Michael Reynolds	Watlington Parish Council
Ross Holdgate	Natural England
Liz Poole	Norfolk County Council
Russ Blackshields	Norfolk County Council
John Doubleday	Affected Person
David Parkin	Borough Council of King's Lynn and West Norfolk
Robin Purchas QC	National Grid

Stephen McNaught	National Grid
Andrew Connolly	National Grid
Tim Ingelhearn	National Grid
Mike Carter	National Grid
Ian Grimshaw	National Grid
Francis Hesketh	National Grid

**Issue Specific Hearing on Draft Development Consent Order (DCO)
(12 April 2013)**

The Duke's Head Hotel, King's Lynn

List of attendees (speakers only)

<i>Name</i>	<i>Organisation</i>
Amanda Beresford	Network Rail
Roger Brighthouse	Network Rail
Liz Poole	Norfolk County Council
Chris Skinner	Norfolk County Council
David Parkin	Borough Council of King's Lynn and West Norfolk
Stephen McNaught	National Grid
Andrew Connolly	National Grid
Kathryn Taylor	Anglian Water
Tim Ingelhearn	National Grid
Ian Grimshaw	National Grid
Iain Lindsay	National Grid

**Compulsory Acquisition Hearing
(23 April 2013)**

The Duke's Head Hotel, King's Lynn

List of attendees (speakers only)

<i>Name</i>	<i>Organisation</i>
Amanda Beresford	Network Rail
Roger Brighthouse	Network Rail
Sue Miller (Chairman)	Watlington Parish Council
Sherril Dixon	Watlington Parish Council
Robin Purchas QC	National Grid
Andrew Connolly	National Grid
Tim Ingelhearn	National Grid
Iain Lindsay	National Grid
Ian Grimshaw	National Grid
Paul Roberts	National Grid
Neil Carter	National Grid

**Second Issue Specific Hearing on Draft Development Consent Order (DCO)
(4 June 2013)**

The Duke's Head Hotel, King's Lynn

List of attendees (speakers only)

<i>Name</i>	<i>Organisation</i>
Liz Poole	Norfolk County Council
Sue Miller (Chairman)	Watlington Parish Council
Michael Reynolds	Watlington Parish Council
Ross Holdgate	Natural England

Robin Purchas QC	National Grid
Stephen McNaught	National Grid
Andrew Connolly	National Grid
Tim Ingelhearn	National Grid
Iain Lindsay	National Grid
Ian Grimshaw	National Grid
Wendy Hague	Cambridgeshire County Council
David Parkin	Borough Council of King's Lynn and West Norfolk

APPENDIX C – ABBREVIATIONS

AA	Appropriate Assessment
AONB	Area of Outstanding Natural Beauty
AoS	Appraisal of Sustainability
APDDCO	Applicant's Preferred Draft DCO
ASV	Accompanied Site Visit
BoR	Book of Reference
CCC	Cambridgeshire County Council
cf	cross-refer to...
CoCP	Construction Code of Practice
CS	Core Strategy (part of a Local Development Plan)
CTAMR	Construction Traffic Assessment and Mitigation Report
CTMP	Construction Traffic Management Plan
DaSTS	Delivering a Sustainable Transport System
DCLG	Department of Communities and Local Government
DCMS	Department for Culture, Media and Sport
DCO	Development Consent Order
DECC	Department of Energy and Climate Change
DEFRA	Department for Environment, Food and Rural Affairs
DfT	Department for Transport
DNO	Distribution Network Operators
EA	Environment Agency
EARDCO	Examining Authority's Recommended Draft DCO
EIA	Environmental Impact Assessment
EPS	European Protected Species
ER	Examiner's Report
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExAQs	Examining Authority Questions
FRA	Flood Risk Assessment
Ha	Hectare
HA	Highways Agency
HGV	Heavy Goods Vehicle
HMP	Habitat Management Plan
ICNIRP	International Commission on Non-Ionizing Radiation Particles
IDB	Internal Drainage Board
IP	Interested Party
IPC	Infrastructure Planning Commission (now abolished: and its work transferred into PINS)
ISH	Issue Specific Hearing
JNCC	Joint Nature Conservation Committee
km	kilometre/s
kV	kilovolts
LCA	Landscape Character Assessment
LDF	Local Development Framework
LGV	Light Goods Vehicle
LHA	Local Highway Authority
LIR	Local Impact Report

LOD	Limits of Deviation (shown in 'Works' plans)
LPA	Local Planning Authority
LVI	Landscape and Visual Impact
LVIA	Landscape and Visual Impact Assessment
m	metre/s
M	Million
NCC	Norfolk County Council
NE	Natural England
NETS SQSS	National Electricity Transmission System Security and Quality of Supply Standards
NG	National Grid Electricity Transmission plc
NNR	National Nature Reserve
NPS	National Policy Statement
NPS-EN1	National Policy Statement for Energy
NPS-EN5	National Policy Statement for Electricity Networks
NSIP	Nationally Significant Infrastructure Project
OFGEM	Office of Gas and Electricity Markets
OHL	Overhead (Electricity) Line
PA 2008	Planning Act 2008 (as amended)
PEIR	Preliminary Environmental Information Report
PIL	Person with an Interest in Land
PINS	Planning Inspectorate
PPS	Planning Policy Statement (now replaced by the NPPF)
Project	This current National Grid's current NSIP application
PRoW	Public Right of Way
QC	Queen's Counsel
RCS	Route Corridor Study
Report	this Examiner's Report (ER)
Req.	Requirement (under the DCO, Schedule 8)
RIIO	Revenue = Incentives + Innovation + Outputs
RSPB	Royal Society for the Protection of Birds
RSS	Regional Spatial Strategy (now all repealed)
s	Section (as in Planning Act)
SCTAMR	Supplementary Construction Traffic Assessment and Mitigation Report
SES	Supplementary Environmental Statement
SEA	Strategic Environmental Assessment
SFRA	Strategic Flood Risk Assessment
Site	The area within which this proposed NSIP would be built
SoCC	Statement of Community Consultation
SoCG	Statement of Common Ground
SoS	Secretary of State
SSSI	Site of Special Scientific Interest
SUDS	Sustainable Urban Drainage System
TA	Technical Appendix
TCPA	Town and Country Planning Act
U/G	Underground (Connection Option)
WPC	Watlington Parish Council
WWT	Wildlife and Wetlands Trust
4VV	NG's terminology for the existing double-circuit 400 kV overhead line Norwich to Walpole

APPENDIX D - EXAMINATION DOCUMENTS

CONTENTS

The documents are grouped together by document type, and then grouped by the submission deadlines where relevant.

Each document has been given an identification number (ie APP1), and all documents are available to view on the Planning Inspectorate's National Infrastructure Planning website at the King's Lynn B Connection Project page:

<http://infrastructure.planningportal.gov.uk/projects/eastern/kings-lynn-b-connection-project/>

INDEX

- | | |
|------------|--|
| APP | Application Documents – documents submitted by the applicant under s37 of the Planning Act 2008. |
| PD | Project Documents - documents relating to the project excluding the application documents. Includes the procedural decisions made by the Examining Authority. |
| REP | Representations and Submissions – representations and submissions submitted to the Planning Inspectorate in accordance with the procedural deadlines specified in the examination timetable. Also includes Adequacy of Consultation responses received from Local Authorities. |
| AS | Additional Submissions - submissions received by the Planning Inspectorate between the acceptance of the application and the start of the examination but which were not able to be treated as relevant representations. Also additional evidence or documents received during the examination outside the deadlines specified in the examination timetable issued in the Rule 8 letter at the start of the examination. |
| HR | Hearings – summary of case made; audio recordings of the Preliminary Meeting and Hearing sessions. |

DOC REF	TITLE	DATE
APPLICATION DOCUMENTS		
	Application Form	Submitted 27 July 2012
APP1	Application Form (Doc Ref 1.1)	
APP2	PINS Electronic Application Index (Doc Ref 1.2)	
APP3	Copies of Newspaper Notices (Doc Ref 1.3) Copies of Newspaper Notices cover	
	Plans	Submitted 27 July 2012
APP4	Location Plan (Doc Ref 2.1) Location Plan cover	
APP5	Land Plans (Doc Ref 2.2) Link to the Planning Inspectorate website folder for 'application documents'	
	Land Plans cover - SUPERSEDED	
	Land Plans - Key Plan, Ref 2.2 SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Key Plan	
	Land Plans-Land Plan 1 Doc Ref 2.2 SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Land Plan 1-3	
	Land Plans-Land Plan 2 Doc Ref 2.2 SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Land Plan 1-3	
	Land Plans-Land Plan 3 Doc Ref 2.2 SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Land Plan 1-3	
	Land Plans-Tower 1-Sheet 1A Doc Ref 2.2 SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Land Plan 1A	
	Land Plans-Land Plan Tower 1 Sheet 1B Doc Ref 2.2 SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Land Plan 1B	
APP6	Works Plans (Doc Ref 2.3) Link to the Planning Inspectorate website folder for 'application documents'	

DOC REF	TITLE	DATE
	<p><u>Works Plans cover-SUPERSEDED (Amended by NG submission 5 April 2013)</u></p> <p><u>Works Plans-Key, Doc Ref 2.3</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Key Plan</p> <p><u>Works Plans-Work Plan (1) Doc Ref 2.3</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Works Plans 1-3</p> <p><u>Works Plans-Work Plan (2) Doc Ref 2.3</u> Works Plans 1-3</p> <p><u>Works Plans-Work Plan (3) Doc Ref 2.3</u> Works Plans 1-3</p>	
APP7	<p><u>Construction Layout Plans (Doc Ref 2.4)</u> Link to the Planning Inspectorate website folder for 'application documents'</p> <p><u>Construction Layout Plans cover</u></p> <p><u>Construction Layout Plan Key A0 Doc Ref 2.4</u> Key Plan</p> <p><u>Construction Layout Plan-Tower 1-2 Doc Ref 2.4</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Sheets 1 to 8</p> <p><u>Construction Layout Plan-Tower 2-3 Doc Ref 2.4</u> Sheets 1 to 8</p> <p><u>Construction Layout Plan-Tower 3-4 Doc Ref 2.4</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Sheets 1 to 8</p> <p><u>Construction Layout Plan-Tower 5-6 Doc Ref 2.4</u> Sheets 1 to 8</p> <p><u>Construction Layout Plan-Tower 7-8 Doc Ref 2.4</u> Sheets 1 to 8</p> <p><u>Construction Layout Plan-Tower 8 Scaffold Doc Ref 2.4</u> Sheets 1 to 8</p> <p><u>Construction Layout Plan-Stone road-sheet 8 Doc Ref 2.4</u> Sheets 1 to 8</p> <p><u>Construction Layout Plan-Tower 8.9 TEMP TOWER Doc Ref 2.4</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Sheets 1 to 8</p>	
APP8	<p><u>Rights of Way Plans (Doc Ref 2.5)</u> Link to the Planning Inspectorate website folder for 'application documents'</p> <p><u>Rights of Way Plans cover</u></p>	

DOC REF	TITLE	DATE
	<p><u>Public Rights of Way - Key Plan, Doc Ref 2.5</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Key Plan</p> <p><u>Public Rights of Way - SHEET 1, Doc Ref 2.5</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Sheets 1 to 6</p> <p><u>Public Rights of Way - SHEET 2, Doc Ref 2.5</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Sheets 1 to 6</p> <p><u>Public Rights of Way - SHEET 3 Doc Ref 2.5</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Sheets 1 to 6</p> <p><u>Public Rights of Way - SHEET 4, Doc Ref 2.5</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Sheets 1 to 6</p> <p><u>Public Rights of Way - SHEET 5, Doc Ref 2.5</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Sheets 1 to 6</p> <p><u>Public Rights of Way - SHEET 6, Doc Ref 2.5</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Sheets 1 to 6</p>	
APP9	<p><u>Landscaping Plans (Doc Ref 2.6)</u> Link to the Planning Inspectorate website folder for 'application documents'</p> <p><u>Landscaping Plans cover</u></p> <p><u>Landscaping Plan - Key Plan, Doc Ref 2.6</u> SUPERSEDED (see National Grid's Final Schedule of Plans submitted 3 July 2013) Key Plan</p> <p><u>Landscaping Plan A1 SHEET 1 Doc Ref 2.6</u> Sheets 1 to 3</p> <p><u>Landscaping Plan-A1 SHEET 2 Doc Ref 2.6</u> Sheets 1 to 3</p> <p><u>Landscaping Plan-A1 SHEET 3 Doc Ref 2.6</u> Sheets 1 to 3</p>	
APP10	<p><u>Plans of Statutory and Non-Statutory Sites or Features - Habitats and Nature Conservation (Doc Ref 2.7)</u> Link to the Planning Inspectorate website folder for 'application documents'</p> <p><u>Plans of Statutory and Non-Statutory Sites cover</u></p>	

DOC REF	TITLE	DATE
	<u>Breeding Bird Inset 1 Doc Ref 2.7</u> Breeding Birds Inserts 1 <u>Breeding Bird Inset 2 Doc Ref 2.7</u> Breeding Birds Inserts 2 <u>Environmental Constraints inset 1 Doc Ref 2.7</u> Environmental Constraints Inserts 1 to 3 <u>Environmental Constraints inset 2 Doc Ref 2.7</u> Environmental Constraints Inserts 1 to 3 <u>Environmental Constraints inset 3 Doc Ref 2.7</u> Environmental Constraints Inserts 1 to 3 <u>Phase1 Inset 1 Doc Ref 2.7</u> Phase 1 Inserts 1 <u>Phase1 Inset 3 Doc Ref 2.7</u> Phase 1 Inserts 3 <u>Phase1 Inset 5 Doc Ref 2.7</u> Phase 1 Inserts 5	
APP11	<u>Plans Showing Statutory Historic or Scheduled Monument Sites (Doc Ref 2.8)</u> Link to the Planning Inspectorate website folder for 'application documents' <u>Plans Showing Statutory Historic cover</u> <u>G1907.152d Heritage Assets Inset 1</u> Heritage Assets Inserts 1 to 6 <u>G1907.153d Heritage Assets Inset 2</u> Heritage Assets Inserts 1 to 6 <u>G1907.154e Heritage Assets Inset 3</u> Heritage Assets Inserts 1 to 6 <u>G1907.155e Heritage Assets Inset 4</u> Heritage Assets Inserts 1 to 6 <u>G1907.156e Heritage Assets Inset 5</u> Heritage Assets Inserts 1 to 6 <u>G1907.157e Heritage Assets Inset 6</u> Heritage Assets Inserts 1 to 6	
	Drawings	Submitted 27 July 2012
APP12	<u>Sections (Doc Ref 3.1)</u> Link to the Planning Inspectorate website folder for 'application documents' <u>Sections cover</u> <u>Sections 1 Doc Ref 3.1</u> Sections 1 <u>Sections 2 Doc Ref 3.1</u> Sections 2	
	Draft Development Consent Order	Submitted 27 July 2012

DOC REF	TITLE	DATE
APP13	Draft Development Consent Order (Doc 4.1)	
APP14	Explanatory Memorandum (Doc Ref 4.2)	
	Compulsory Acquisition Information	Submitted 27 July 2012
APP15	Statement of Reasons (Doc Ref 5.1)	
APP16	Funding Statement (Doc Ref 5.2)	
APP17	Book of Reference (Doc Ref 5.3)	
	Reports	Submitted 27 July 2012
APP18	Consultation Report (Doc Ref 6.1) Link to the Planning Inspectorate website folder for 'application documents' Consultation Report Doc Ref 6.1 Main Report Chapter Appendices cover Chapter Figures cover APPENDIX 1 - Stage One Feedback Report - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 2 - Stage Two Feedback Report - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 3 - Stage One SoCC - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 4 - Stage Two SoCC - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 5 - Example route alignment 1 - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 6 - Example route alignment 2 - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 7 - Interim route alignment - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 8 - Application route alignment - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 9 - Stage Three SoCC - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 10 - Stage Three SoCC advertisement - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 11 - Notification email and letter to IPC - Doc Ref 6.1 Appendices 1 to 36 APPENDIX 12 - Response from NID to notification correspondence - Doc Ref 6.1 Appendices 1 to 36	

DOC REF	TITLE	DATE
	APPENDIX 13 - <u>List of prescribed consultees - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 14 - <u>Notification letter to prescribed consultees - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 15 - <u>Local authorities boundaries map - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 16 - <u>Notification letter to PILs - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 17 - <u>Hard-copy feedback form - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 18 - <u>Online feedback form - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 19 - <u>Notification letter to local community - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 20 - <u>Project leaflet - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 21 - <u>Close of consultation reminder letter - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 22 - <u>Advertisements for public exhibition - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 23 - <u>Project poster - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 24 - <u>Display boards available at public exhibition - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 25 - <u>List of materials available at public exhibition - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 26 - <u>Screenshot of National Grid website homepage - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 27 - <u>Screenshot of consultation website homepage - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 28 - <u>Documents available at inspection locations - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 29 - <u>Copies of press releases - Doc Ref 6.1 Appendices 1 to 36</u>	
	APPENDIX 30 - <u>List of press coverage generated - Doc Ref 6.1 Appendices 1 to 36</u>	

DOC REF	TITLE	DATE
	<u>APPENDIX 31 - Media coverage generated - Doc Ref 6.1 Appendices 1 to 36</u> <u>APPENDIX 32 - Section 48 press notices - Doc Ref 6.1 Appendices 1 to 36</u> <u>APPENDIX 33 - List of other consultees - Doc Ref 6.1 Appendices 1 to 36</u> <u>APPENDIX 34 - Notification letter to non-prescribed consultees - Doc Ref 6.1 Appendices 1 to 36</u> <u>APPENDIX 35 - Book of Reference Amendment consultation letter and enclosures - Doc Ref 6.1 Appendices 1 to 36</u> <u>APPENDIX 36 - Schedule of changes to the consultation draft DCO - Doc Ref 6.1 Appendices 1 to 36</u>	
APP19	<u>Flood Risk Assessment (Doc Ref 6.2)</u>	
APP20	<u>Statement of Statutory Nuisance (Doc Ref 6.3)</u>	
APP21	<u>Habitats Regulations Assessment - No Significant Effects Report (Doc Ref 6.4)</u>	
	Environmental Statement	Submitted 27 July 2012
APP22	<u>Environmental Statement (Doc Ref 7.1)</u> Link to the Planning Inspectorate website folder for 'application documents' <u>Environmental Statement Doc Ref 7.1</u> Main Report <u>Figures cover</u> <u>Figure 1.1 Location Plan - Doc Ref 7.1</u> Figures 1.1 <u>Figure 2.1 Environmental Constraints - Doc Ref 7.1</u> Figures 2.1 <u>Figure 3.1 the project - Doc Ref 7.1</u> Figures 3.1 <u>Figure 3.2 The project and other works - Doc Ref 7.1</u> Figures 3.2 <u>Figure 3.3 Pontoon Design - Doc Ref 7.1</u> Figures 3.3 <u>Figure 4.1 The Site and Other Developments - Doc Ref 7.1</u> Figures 4.1 <u>Figure 6.1 Landscape Character Areas - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19 <u>Figure 6.2 Landscape Appraisal Key Plan - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19 <u>Figure 6.3 Landscape Appraisal Inset1 - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	

DOC REF	TITLE	DATE
	<u>Figure 6.4 Landscape Appraisal Inset2 - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.5 Landscape Appraisal Inset3 - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.6 Landscape Appraisal Inset4 - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.7 Receptor Locations - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.8 Photographic Views - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.9 Photograph Locations - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.10 3D Visualisations - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.11 3d Visualisations - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.12 Photomontage Viewpoint Locations - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.13 6.15 6.16 6.17 6.19 Photomontages (A2) - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 6.14 6.18 Photomontage (A1) - Doc Ref 7.1</u> Chapter 6 Figures 6.1 to 6.19	
	<u>Figure 7.1 ZTV Designated Assets - Doc Ref 7.1</u> Chapter 7 Figures 7.1	
	<u>Figure 7.2 Kings Lynn 1km heritage Gaz - Doc Ref 7.1</u> Chapter 7 Figures 7.2	
	<u>Figure 13.1 Air Quality Receptor Locations - Doc Ref 7.1</u> Chapter 13 Figure 13.1	
	<u>Appendices cover</u>	
	<u>Appendix A Letter to IPC 09.02.2010 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix B Scoping Report Plan - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix C Construction Layout Plan Key A0 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix C Construction Layout Plan-Stone road-sheet 8 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix C Construction Layout Plan-Tower 1-2 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix C Construction Layout Plan-Tower 2-3 - Doc Ref 7.1</u> Appendices A to F	

DOC REF	TITLE	DATE
	<u>Appendix C Construction Layout Plan-Tower 3-4 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix C Construction Layout Plan-Tower 5-6 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix C Construction Layout Plan-Tower 7-8 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix C Construction Layout Plan-Tower 8.9 TEMP TOWER - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix C Construction Layout Plan-Tower 8 Scaffold - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L13 D outline - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L13 D30 outline - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L13 D60 outline - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L13 D90 outline - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L13 DJT outline - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L13 DT outline - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D Profiles 1 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D Profiles 2 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L12 Pylon Type - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L8 Pylon Type D - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L8 Pylon Type D (2) - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L8 Pylon Type D10 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L8 Pylon Type D30 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L8 Pylon Type D60 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L8 Pylon Type D90 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L8 Pylon Type DJT - Doc Ref 7.1</u> Appendices A to F	

DOC REF	TITLE	DATE
	<u>Appendix D L8 Pylon Type DT - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L8 Pylon Type SF60 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix D L8 Pylon Type ST - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix E Summary of IPC Scoping Opinion - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix F EA Consent 01 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix F EA Consent 02 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix F EA Consent 03 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix F EA Consent 04 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix F IDB Consent 01 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix F IDB Consent 02 - Doc Ref 7.1</u> Appendices A to F	
	<u>Appendix 6A Baseline Landscape Character - Doc Ref 7.1</u> Appendix 6A	
	<u>Appendix 6B Production of Photomontages March 2011 - Doc Ref 7.1</u> Appendix 6B	
	<u>Appendix 8A to 8G complete - Doc Ref 7.1</u> Appendices 8A to 8G	
	<u>Appendix 12A. Legistation and Guidance - Doc Ref 7.1</u> Appendices 12A to 12D	
	<u>Appendix 12B Noise Sensitive Receptor Locations - Doc Ref 7.1</u> Appendices 12A to 12D	
	<u>Appendix 12C Construction Plant Selection - Doc Ref 7.1</u> Appendices 12A to 12D	
	<u>Appendix 12D Construction Plant Data - Doc Ref 7.1</u> Appendices 12A to 12D	
	<u>Appendix 13A. Air Quality Datapdf - Doc Ref 7.1</u> Appendix 13A	
	<u>Appendix 13B Dust Emmissions Table - Doc Ref 7.1</u> Appendix 13B	
	<u>Appendix 16A Regional Baseline - Doc Ref 7.1</u> Appendix 16A	
	<u>Appendix 16B Attractions Facilities Audit - Doc Ref 7.1</u> Appendix 16B	

DOC REF	TITLE	DATE
APP23	Environmental Statement Technical Appendices (Doc Ref 7.2)	
	Link to the Planning Inspectorate website folder for 'application documents'	
	ES Technical Appendices cover	
	TA-A National Grid Scoping Report Rev A Nov 2011 - Doc Ref 7.2	
	Technical Appendices TA-A to TA-L	
	TA-B National Grid Commitments when undertaking works - Doc Ref 7.2	
	Technical Appendices TA-A to TA-L	
	TA-C Figure 1 Study Area A Heritage Assets	
	Technical Appendices TA-A to TA-L	
	TA-C Figure 2 Historic Aerial Photo Transcripts and FRS Plots - Doc Ref 7.2	
	Technical Appendices TA-A to TA-L	
	TA-C Figure 3 Study Area B Zone Of Theoretical Visibility and Designated Assets - Doc Ref 7.2	
	Technical Appendices TA-A to TA-L	
	TA-C Cultural Heritage DBA Jan 2012 - Doc Ref 7.2	
	Technical Appendices TA-A to TA-L	
	TA-D Field Evaluation Report - Doc Ref 7.2	
	Technical Appendices TA-A to TA-L	
TA-E Figure 1 Ornithological Assessment July 2011 - Doc Ref 7.2		
Technical Appendices TA-A to TA-L		
TA-E Figure 2 Ornithological Assessment July 2011 - Doc Ref 7.2		
Technical Appendices TA-A to TA-L		
TA-E Figure 3 Ornithological Assessment July 2011 - Doc Ref 7.2		
Technical Appendices TA-A to TA-L		
TA-E Figure 4 Ornithological Assessment July 2011 - Doc Ref 7.2		
Technical Appendices TA-A to TA-L		
TA-E Figure 5 Ornithological Assessment July 2011 - Doc Ref 7.2		
Technical Appendices TA-A to TA-L		
TA-E Figure 6 Ornithological Assessment July 2011 - Doc Ref 7.2		
Technical Appendices TA-A to TA-L		
TA-E Figure 7 Ornithological Assessment July 2011 - Doc Ref 7.2		
Technical Appendices TA-A to TA-L		

DOC REF	TITLE	DATE
	TA-E <u>Figure 8 Ornithological Assessment July 2011 - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-E <u>Figure 9 Ornithological Assessment July 2011 - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-E <u>Figure 10 Ornithological Assessment July 2011 - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-E <u>Figure 11 Ornithological Assessment July 2011 - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-E <u>Figure 12 Ornithological Assessment July 2011 - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-E <u>Ornithological Assessment July 2011 - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-F <u>HRA No Significant Effects - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-G <u>Flood Risk Assessment - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-H <u>Phase 1 Env Study - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-I <u>Arboricultural Assessment - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	CTA and MR - <u>Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-K <u>RCS Appendix 1 NG Undergrounding Policy - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-K <u>RCS Appendix 2 Schedule 9 - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-K <u>RCS Appendix 3 The Holford Rules - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-K <u>Route Corridor Study - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-K <u>Route Corridor Study Figure 1 Study Area - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-K <u>Route Corridor Study Figure 2 Environmental Constraints - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-K <u>Route Corridor Study Figure 3 LCA - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	
	TA-K <u>Route Corridor Study Figure 4 Local Plan Designations - Doc Ref 7.2</u> Technical Appendices TA-A to TA-L	

DOC REF	TITLE	DATE
	TA-K Route Corridor Study Figure 5 corridors with Constraints - Doc Ref 7.2 Technical Appendices TA-A to TA-L	
	TA-K Route Corridor Study Figure 6 Environmental Constraints - Doc Ref 7.2 Technical Appendices TA-A to TA-L	
	TA-K Route Corridor Study Figure 7 Photosheets - Doc Ref 7.2 Technical Appendices TA-A to TA-L	
	TA-L Report of Route Corridor Preference - Doc Ref 7.2 Technical Appendices TA-A to TA-L	
	Appendix 1.1 - Northern Access Route - Doc Ref 7.2	
	Appendix 1.2 - Southern Access Route - Doc Ref 7.2	
	Appendix 1.3 - Road Closures and Diversions Routes - Doc Ref 7.2	
	Appendix 1.4 - Existing Public Rights of Way - Doc Ref 7.2	
	Appendix 2 - Existing Traffic Flows - Doc Ref 7.2	
	Appendix 3 - Indicative Cumulative Traffic - Doc Ref 7.2	
APP24	Environmental Statement Non- Technical Summary (Doc Ref 7.3)	
APP25	Scoping Opinion (Doc Ref 7.4) Scoping Opinion cover	
APP26	Publicity Requirements (Doc Ref 7.5) Link to the Planning Inspectorate website folder for 'application documents'	
	Publicity Requirements Doc Ref 7.5 Main Document	
	Publicity Requirements Appendix 1 Doc Ref 7.5 Appendix 1	
	Publicity Requirements Appendix 2 COVER ONLY Doc Ref 7.5 Appendix 2	
	Publicity Requirements Appendix 2 Doc Ref 7.5 Appendix 2	
	Mixed Media	Submitted 27 July 2012
APP27	3D Visualisation Document (Doc Ref 8.1)	
APP28	Drive through along Low Road (3D Visualisation Video)	
	Other Documents	Submitted 27 July 2012
APP29	Planning Statement (Doc Ref 9.1)	
APP30	Code of Construction Practice (Doc Ref 9.2)	
APP31	Construction Traffic Management Plan (Doc Ref 9.3) Link to the Planning Inspectorate website folder for 'application documents'	

DOC REF	TITLE	DATE
	<p>Construction Traffic Management Plan Doc Ref 9.3 Main Report</p> <p>Appendix Figure 1 - Northern Access Route Doc Ref 9.3 Appendix Figures 1 to 4</p> <p>Appendix Figure 2 - Southern Access Route Doc Ref 9.3 Appendix Figures 1 to 4</p> <p>Appendix Figure 3 - Road Closures and Diversionsn Routes Doc Ref 9.3 Appendix Figures 1 to 4</p> <p>Appendix Figure 4 - Existing Public Rights of Way Doc Ref 9.3 Appendix Figures 1 to 4</p>	
APP32	<p>Sustainability Appraisal Report (Doc Ref 9.4) Link to the Planning Inspectorate website folder for 'application documents'</p> <p>Sustainability Appraisal Report Doc Ref 9.4 Main Report</p> <p>Appendix 1 Doc Ref 9.4 Appendix 1</p> <p>Appendix 2 Doc Ref 9.4 Appendix 2</p>	
APP33	<p>Summary of Need Case and Review of Strategic Options (Doc Ref 9.5) Link to the Planning Inspectorate website folder for 'application documents'</p> <p>Summary of Need Case and Review of Strategic Options Doc Ref 9.5 Main Document</p> <p>Appendix 1 Strategic Optioneering Report April 2010 - Doc Ref 9.5 Appendices 1 to 6</p> <p>Appendix 2 Review of Connection Options 11 February 2011 - Doc Ref 9.5 Appendices 1 to 6</p> <p>Appendix 3 Project Need Case Issue 1 - 2 March 2011 - Doc Ref 9.5 Appendices 1 to 6</p> <p>Appendix 4 Back-Check 10 February 2012 - Doc Ref 9.5 Appendices 1 to 6</p> <p>Appendix 5 Centrica Section 36 Consent - Doc Ref 9.5 Appendices 1 to 6</p> <p>Appendix 5 Project Need Case Issue 2 - 2 May 2012 - Doc Ref 9.5 Appendices 1 to 6</p> <p>Appendix 5 Section 36 Substation Details - Doc Ref 9.5 Appendices 1 to 6</p>	

DOC REF	TITLE	DATE
	<u>Appendix 5 Section 36 Substation Details Letter - Doc Ref 9.5</u> Appendices 1 to 6	
	<u>Appendix 6 Back-Check 19 July 2012 - Doc Ref 9.5</u> Appendices 1 to 6	
APP34	<u>Application Cover Letter</u>	
PROJECT DOCUMENTS		
	EIA Scoping	
PD1	<u>EIA Scoping Report - King's Lynn 400 kV Connection</u> (Scoping Report submitted to the IPC by National Grid)	Nov 2011
PD2	<u>EIA Scoping Opinion - Proposed King's Lynn 400 kV Connection</u> (Scoping Opinion issued by the IPC)	Dec 2011
PD3	<u>EIA Scoping Consultation - Late Response from North Runcton Parish Council</u> (EIA scoping consultation response received after the consultation deadline)	17 Dec 2011
	Acceptance of Application	
PD4	<u>Section 55 Acceptance of Application - Acceptance Decision Letter</u>	21 Aug 2012
PD5	<u>Section 55 Acceptance of Application - Application Checklist</u>	21 Aug 2012
PD6	<u>Certificates of Compliance</u> (Certificates of compliance with s56 and s59 of the Planning Act 2008, and Reg 13 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009)	24 Oct 2012
	Pre - Examination	
PD7	<u>EN020003 Transboundary Screening Matrix</u>	13 Nov 2012
PD8	<u>Rule 6 Letter Final including Rule 4 Notice</u>	3 Dec 2012
PD9	<u>121213 Kings Lynn BoR letter from W Bridges (National Grid)</u>	13 Dec 2012
PD10	<u>121217 EN020003 Letter from the Examining Authority to Mr Kew</u>	17 Dec 2012
EXAMINATION		
	Procedural Decisions and other correspondence	
PD11	<u>Rule 8 Letter</u>	18 Jan 2013

DOC REF	TITLE	DATE
PD12	<u>Rule 16 Notification of the Accompanied Site Visit</u>	25 Jan 2013
PD13	<u>KL Site Visit letter redacted</u> (Letter from National Grid with regard to the Site Visit suggesting route and locations to view site)	8 Feb 2013
PD14	<u>Kings Lynn Viewing Access</u> (Plan from National Grid with regard to the Site Visit suggesting suitable routes)	4 Feb 2013
PD15	<u>Letter with Agenda for the Attendees of the Accompanied Site Visit</u>	18 Feb 2013
PD16	<u>Response to Applicant's Letter dated 18 February 2013</u> (Letter in Response to Applicant's query in relation to the Supplementary Report to the Environmental Statement)	25 Feb 2013
PD17	<u>Accompanied Site Visit Note</u> ASV 27 February 2013	27 Feb 2013
PD18	<u>Rule 13 Letter</u> Contains second round of the ExA's questions	8 Mar 2013
PD19	<u>Letter including agendas for Hearings to be held on 10,12 and 23 April 2013</u>	4 Apr 2013
PD20	<u>Rule 8(3); Rule 13 & Rule 17 Letters</u> Letter includes ExA's Third Written Questions	3 May 2013
PD21	<u>Rule 8(3); Rule 17 Letters</u> Letter includes ExA's Fourth Written Questions	13 Jun 2013
PD22	<u>Rule 8(3); Rule 17 Letters</u> Minor variation to the examination timetable	
PD23	<u>Notification of Completion of ExA Examination.pdf</u> Rule 99 Letter	11 July 2013
REPRESENTATIONS		
	Adequacy of Consultation Responses	
REP1-22	These references have not been allocated	
REP23	<u>Suffolk County Council - Adequacy of Consultation Representation</u>	10 Aug 2012
REP24	<u>Norfolk County Council - Adequacy of Consultation Representation</u>	6 Aug 2012
REP25	<u>Fenland District Council - Adequacy of Consultation Representation</u>	3 Aug 2012
REP26	<u>Broads Authority - Adequacy of Consultation Representation</u>	8 Aug 2012
REP27	<u>Breckland Council - Adequacy of Consultation Representation</u>	10 Aug 2012
REP28	<u>Borough Council of King's Lynn and West Norfolk - Adequacy of Consultation Representation</u>	6 Aug 2012
REP29	<u>North Norfolk District Council - Adequacy of Consultation Representation</u>	10 Aug 2012

DOC REF	TITLE	DATE
REP30	<u>Mid Suffolk District Council - Adequacy of Consultation Representation</u>	6 Aug 2012
REP31	<u>South Holland District Council - Adequacy of Consultation Representation</u>	2 Aug 2012
REP32	<u>St Edmundsbury Borough Council - Adequacy of Consultation Representation</u>	7 Aug 2012
	Relevant Representations	Deadline 12 Oct 2012
REP33	<u>Norfolk County Council - Relevant Representation</u>	3 Oct 2012
REP34	<u>Environment Agency - Relevant Representation</u>	10 Oct 2012
REP35	<u>Network Rail Infrastructure Ltd - Relevant Representation (see also Network Rail's proposed Schedule 7 Protective Provisions (DCO Version))</u>	10 Oct 2012
REP36	<u>Health Protection Agency - Relevant Representation</u>	12 Oct 2012
REP37	<u>Natural England - Relevant Representation</u>	12 Oct 2012
	Statements of Common Ground	Deadline 31 Jan 2013
REP38	<u>Covering Letter from Dundas & Wilson on behalf of National Grid (Cover letter for Statements of Common Ground and Construction Phasing Information Document from the Applicant)</u>	31 Jan 2013
REP39	<u>Statement of Common Ground between the Applicant and Norfolk County Council</u>	31 Jan 2013
REP40	<u>Statement of Common Ground between the Applicant and Network Rail Infrastructure Ltd</u>	31 Jan 2013
REP41	<u>Statement of Common Ground between the Applicant and Natural England</u>	31 Jan 2013
REP42	<u>Email from the applicant stating that there will not be a SoCG between the National Grid and Environment Agency (late submission received on 15 March 2013 and accepted by ExA)</u>	15 Mar 2013
	Other Documents Submitted by the Applicant	Deadline 31 Jan 2013
REP43	<u>Construction Phases Information Document and Plans received from the Applicant (Document and Plans submitted by the Applicant in response to a request by the ExA in Annex F of the Rule 6 letter)</u>	31 Jan 2013
	Written Representations	Deadline 18 Feb 2013

DOC REF	TITLE	DATE
REP44	<u>Norfolk County Council</u>	18 Feb 2013
REP45	<u>Cambridgeshire County Council</u>	18 Feb 2013
REP46	<u>Health & Safety Executive</u>	18 Feb 2013
REP47	<u>Anglian Water</u>	18 Feb 2013
REP48	<u>Natural England</u> Written Representation and Responses to First Round of ExA's Questions	18 Feb 2013
REP49	<u>Environment Agency</u> (Late submission for deadline 18 February 2013. The Examining Authority has exercised its discretion and has agreed to accept (contains Written Representation, Summary of Written Representations and email to EA)	18 Feb 2013
REP50	<u>Watlington Parish Council</u>	18 Feb 2013
	Local Impact Reports	Deadline 18 Feb 2013
REP51	<u>Norfolk County Council</u>	18 Feb 2013
REP52	<u>Borough Council of King's Lynn and West Norfolk</u>	18 Feb 2013
	Comments on Relevant Representations	Deadline 18 Feb 2013
REP53	<u>National Grid</u>	18 Feb 2013
	Statements of Common Ground	Deadline 18 Feb 2013
REP54	<u>Statement of Common Ground on Historic Environment</u>	18 Feb 2013
REP55	<u>Statement of Common Ground with Centrica</u>	18 Feb 2013
REP56	<u>Statement of Common Ground with Borough of Kings Lynn & West Norfolk</u>	
REP57	<u>Email from Norfolk County Council (highways) regarding SOCG</u> (Correspondence stating that there will not be a SoCG between National Grid and Cambridgeshire County Council and Norfolk County Council)	
	Other Documents submitted by the Applicant	Deadline 18 Feb 2013
REP58	<u>Covering Letter</u> (Contains Appendix A – Index for submission 18 Feb 2013)	18 Feb 2013
REP59	<u>Letter to Planning Inspectorate</u> Letter refers to Annex C, paragraph 7 of the Rule 8 letter	18 Feb 2013
REP60	<u>Environmental Statement - Supplementary Report contains Executive Summary</u>	18 Feb 2013

DOC REF	TITLE	DATE
REP61	Supplementary Construction Traffic and Mitigation Report	18 Feb 2013
REP62	Supplementary Construction Traffic and Mitigation Report – Executive Summary	18 Feb 2013
REP63	Supplementary Construction Traffic and Mitigation Report – Appendices 1-5&7	18 Feb 2013
REP64	Supplementary Construction Traffic and Mitigation Report – Appendix 6	18 Feb 2013
REP65	Habitats Regulations Matrices to inform the Report on the Implications for European Sites	18 Feb 2013
REP66	Position Statement on other Consents	18 Feb 2013
REP67	Plans showing Habitats and Nature Conservation Sites Application Documents Ref 2.7	18 Feb 2013
REP68	Statement of Highways Traffic Evidence by Michael Carter This file contains main Report, Executive Summary and Appendix A	18 Feb 2013
REP69	Statement of Highways Traffic Evidence by Michael Carter (Appendices B to E)	18 Feb 2013
REP70	Statement of Highways Traffic Evidence by Michael Carter (Appendices F to H)	18 Feb 2013
	Responses to the Examining Authority's First Written Questions	Deadline 18 Feb 2013
REP71	National Grid (Dundas and Wilson LLP)	18 Feb 2013
REP72	Norfolk County Council	18 Feb 2013
REP73	Norfolk County Council (Highways)	18 Feb 2013
REP74	Borough Council of Kings Lynn and West Norfolk	18 Feb 2013
REP75	Borough Council of Kings Lynn and West Norfolk (Late representation)	25 Feb 2013
REP76	English Heritage	18 Feb 2013
REP77	Anglian Water	18 Feb 2013
REP78	Environment Agency	18 Feb 2013
REP79	Network Rail	18 Feb 2013
REP80	Environment Agency (Late representation)	22 Feb 2013
	Comments on Written Representations and Responses to Comments on Local Impact Reports/ Comments on Responses to the Examining Authority's First Written Questions	Deadline 25 Mar 2013
REP81	National Grid Comments on Local Impact Reports, Comments on Written Representations and Responses to First Round of ExA's Questions	25 Mar 2013
REP82	Letter to the Planning Inspectorate	25 Mar 2013

DOC REF	TITLE	DATE
	Revised Draft Development Consent Order/ Update to the Book of Reference (and Statement of Reasons and Land Plans)	Deadline 25 Mar 2013
REP83	<u>Clean version of Revised DCO</u>	25 Mar 2013
REP84	<u>Revised Draft DCO (Comparison with Application Draft DCO)</u>	25 Mar 2013
REP85	<u>Summary Statement - Protective Provisions</u>	25 Mar 2013
REP86	<u>Supplementary Explanatory Memorandum</u>	25 Mar 2013
REP87	<u>DCO – Drawings Referred to in Requirement 3(1) of the revised draft DCO</u>	25 Mar 2013
REP88	<u>Amended Book of Reference (Clean)</u>	25 Mar 2013
REP89	<u>Amended Book of Reference (Tracked)</u>	25 Mar 2013
REP90	<u>Amended Land Plans Sheet 2 Rev B</u>	25 Mar 2013
REP91	<u>Amended Land Plans Sheet 3 Rev B</u>	25 Mar 2013
REP92	<u>Amended Statement of Reasons (Clean)</u>	25 Mar 2013
REP93	<u>Amended Statement of Reasons (Tracked)</u>	
REP94	<u>Schedule of Post-Application Changes to the Book of Reference</u>	25 Mar 2013
	Responses to the Examining Authority's Second Written Questions	Deadline 5 April 2013
REP95	<u>Anglian Water</u>	5 April 2013
REP96	<u>Future Utility Solutions</u>	5 April 2013
REP97	<u>Norfolk County Council (Highways)</u>	5 April 2013
REP98	<u>Environment Agency</u>	5 April 2013
REP99	<u>Natural England</u>	5 April 2013
REP100	<u>National Grid</u> File contains revised land and work plans, cover sheets, rights of way plans with corrected sheet references, and works key plan and landscaping key plans with correct sheet reference	5 April 2013
	Applicant's Report on Implications for European Sites Incorporating Habitats Regulation Matrices	Deadline 5 April 2013
REP101	<u>National Grid</u> Report on Implications for European Sites Incorporating Habitats Regulations Matrices	5 April 2013
	Comments on Responses to the Examining Authority's Second Written Questions	Deadline 10 May 2013
REP102	<u>National Grid</u> Comments on NCC's responses, Anglian Water, Future Utility Solution, EA's and Natural England	10 May 2013

DOC REF	TITLE	DATE
	Applicant's Further Revised Draft DCO	Deadline 22 May 2013
REP103	<u>Revised DCO (Clean)</u>	22 May 2013
REP104	<u>Revised DCO (Comparison with Application and DCO Version submitted 25 March 2013)</u>	22 May 2013
	Responses to the Examining Authority's Third Written Questions	Deadline 22 May 2013
REP105	<u>English Heritage</u> Responses to the Examining Authority's Third Written Questions, submitted after the deadline. The ExA has exercised its discretion and has agreed to accept this submission received 17 June 2013	22 May 2013
REP106	<u>Future Utilities Solutions</u>	22 May 2013
REP107	<u>Environment Agency</u>	22 May 2013
REP108	<u>Royal Mail</u>	22 May 2013
REP109	<u>Anglian Water</u>	22 May 2013
REP110	<u>Norfolk County Council (Highways)</u> Includes responses to Annex A; Table 1; Q8 (for deadline 28 May 2013)	22 May 2013
REP111	<u>Cambridgeshire County Council</u> Joint position statement of three authorities, Norfolk County Council, Cambridgeshire County Council and the Borough Council of King's Lynn & West Norfolk	22 May 2013
REP112	<u>Natural England</u>	22 May 2013
REP113	<u>Borough of Kings Lynn and West Norfolk</u>	22 May 2013
	Applicant's Responses to the Examining Authority's Third Written Questions	Deadline 22 May 2013
REP114	<u>Letter to the Planning Inspectorate</u>	22 May 2013
REP115	<u>Table 1</u>	22 May 2013
REP116	<u>Table 1; Q14; Appendix C – Waterbird Review Series, Whooper Swan</u>	22 May 2013
REP117	<u>Table 1; Q14; Appendix C – European Commission Draft Guidelines</u>	22 May 2013
REP118	<u>Table 2</u>	22 May 2013
REP119	<u>Table 2; Q4; Pylon Comparison – standard Suspension Towers</u>	22 May 2013
REP120	<u>Table 3</u>	22 May 2013
REP121	<u>Table 4</u>	22 May 2013
REP122	<u>Table 4; Q3; Appendix 1; Class 1 - Rights Coloured Plan</u>	22 May 2013
REP123	<u>Table 4; Q3; Appendix 1; Class 2 - Rights Coloured Plan</u>	22 May 2013
REP124	<u>Table 4; Q3; Appendix 1; Class 3 - Rights Coloured Plan</u>	22 May 2013

DOC REF	TITLE	DATE
REP125	<u>Table 4; Q3; Appendix 1; Class 4 - Rights Coloured Plan</u>	22 May 2013
REP126	<u>Table 4; Q3; Appendix 1; Class 5 - Rights Coloured Plan</u>	22 May 2013
REP127	<u>Table 4; Q3; Appendix 1; Class 6 - Rights Coloured Plan</u>	22 May 2013
REP128	<u>Table 4; Q3; Appendix 1; Class 7 - Rights Coloured Plan</u>	22 May 2013
REP129	<u>Table 5</u>	22 May 2013
	Other documents submitted by the Applicant	22 May 2013
REP130	<u>Land Plan App Doc. Ref 2.2, Key Plan, Rev B</u>	22 May 2013
REP131	<u>Applicant's Land Plan App Doc. Ref. 2.2, Sheet 1, Rev B</u>	22 May 2013
REP132	<u>Applicant's Land Plan App Doc. Ref. 2.2, Sheet 1A, Rev B</u>	22 May 2013
REP133	<u>Applicant's Land Plan App Doc. Ref. 2.2, Sheet 1B, Rev B</u>	22 May 2013
REP134	<u>Land Plan App Doc. Ref. 2.2, Sheet 2, Rev B</u>	22 May 2013
REP135	<u>Land Plan App Doc. Ref. 2.2, Sheet 3, Rev B</u>	22 May 2013
REP136	<u>Works Plan, App Doc. Ref. 2.3; Sheet 1; Rev B</u>	22 May 2013
REP137	<u>Schedule of Amendments to Plot Measurements</u>	22 May 2013
REP138	<u>Schedule of Amendments to Book of Reference</u>	22 May 2013
REP139	<u>Revised Book of Reference (Clean); App Doc Ref. 5.3</u>	22 May 2013
REP140	<u>Revised Book of Reference (Comparison with Version dated 25 March 13)</u>	22 May 2013
REP141	<u>Revised Funding Statement (Clean), App Doc. Ref.5.2</u>	22 May 2013
REP142	<u>Revised Funding Statement (Comparison with Application Version)</u>	22 May 2013
REP143	<u>Schedule of Revisions to Plans</u>	22 May 2013
REP144	<u>Public Rights of Way Plans, App Doc. Ref. 2.5 KEY- A1; Rev B</u>	22 May 2013
REP145	<u>Public Rights of Way Plans, App Doc. Ref. 2.5 - Sheet 1; Rev B</u>	22 May 2013
REP146	<u>Public Rights of Way Plans, App Doc. Ref. 2.5 - Sheet 2; Rev B</u>	22 May 2013
REP147	<u>Public Rights of Way Plans, App Doc. Ref. 2.5 - Sheet 6; Rev B</u>	22 May 2013
REP148	<u>Revised Code of Construction Practice (Clean), App Doc. Ref. 9.2</u>	22 May 2013
REP149	<u>Revised Code of Construction (Comparison with Application Version)</u>	22 May 2013
REP150	<u>Revised Statement of Reasons (Clean), App Doc. Ref. 5.1</u>	22 May 2013
REP151	<u>Revised Statement of Reasons (Comparison with 25 March 2013 Version)</u>	22 May 2013
REP152	<u>Construction Layout Plan, App Doc. Ref. 2.4; Sheet 1; Rev B</u>	22 May 2013
REP153	<u>Construction Layout Plan, App Doc. Ref. 2.4; Sheet 3; Rev B</u>	22 May 2013
REP154	<u>Construction Layout Plan, App Doc. Ref. 2.4; Sheet 8; Rev B</u>	22 May 2013
REP155	<u>Revised Construction Traffic Management Plan, App Doc. Ref. 9.3</u>	22 May 2013
REP156	<u>Revised Construction Traffic Management Plan (Comparison with Application Version)</u>	22 May 2013

DOC REF	TITLE	DATE
REP157	<u>Applicant's Funding Letter from Chief Financial Officer (15 May 2013)</u>	22 May 2013
	Comments on the RIES	Deadline 28 May 2013
REP158	<u>Natural England</u>	28 May 2013
REP159	<u>National Grid</u>	28 May 2013
	Comments on the Further Revised Draft DCO	Deadline 14 June 2013
REP160	<u>Norfolk County Council</u>	14 Jun 2013
	Comments on responses to the ExA's Third Written Questions (including any further general comments from Watlington Parish Council on the Applicant's responses to the ExA's Third Written Questions)	Deadline 14 June 2013
REP161	<u>Watlington Parish Council</u> Comments on the Applicant's responses to the ExA's Third Written Questions	14 Jun 2013
REP162	<u>National Grid</u> Applicant's Comments on Responses to Third Round of Questions	14 Jun 2013
REP163	<u>National Grid</u> Attachment to Appendix B of Applicant's Comments	14 Jun 2013
REP164	<u>National Grid</u> Letter to the Planning Inspectorate	14 Jun 2013
	Responses to Fourth Round of the Examining Authority's Questions	Deadline 21 June 2013
REP165	<u>Norfolk County Council</u>	21 Jun 2013
REP166	<u>Borough of King's Lynn & West Norfolk</u>	21 Jun 2013
REP167	<u>Cambridgeshire County Council</u>	21 Jun 2013
REP168	<u>Environment Agency</u>	21 Jun 2013
	Applicant's Response to Fourth Round of the Examining Authority's Questions	Deadline 21 June 2013
REP169	<u>Letter to the Planning Inspectorate</u>	21 Jun 2013
REP170	<u>Responses to Fourth Round Questions</u>	21 Jun 2013
REP171	<u>Appendix B Responses to ExA's Fourth Round of Written Questions</u>	21 Jun 2013
REP172	<u>Appendix C Responses to ExA's Fourth Round of Written Questions - Comments on USV Notes</u>	21 Jun 2013

DOC REF	TITLE	DATE
REP173	<u>Land Plan, Key Plan</u>	21 Jun 2013
REP174	<u>Consents Plan (Sheets 1 of 3) Rev B</u>	21 Jun 2013
REP175	<u>Land Plan Sheet 2</u>	21 Jun 2013
REP176	<u>Land Plan Sheet 3</u>	21 Jun 2013
REP177	<u>Public Rights of Way KEY-A1 Rev C</u>	21 Jun 2013
REP178	<u>Public Rights of Way-SHEET1 Rev C</u>	21 Jun 2013
REP179	<u>Class 4 Rights Plan</u>	
REP180	<u>Synopsis of Highway & Traffic Evidence</u>	21 Jun 2013
REP181	<u>Synopsis of Highway and Traffic Assessments - Appendices</u>	21 Jun 2013
REP182	<u>Schedule of Post Application Changes to Book of Reference</u>	21 Jun 2013
REP183	<u>Book of Reference (Clean Version)</u>	21 Jun 2013
REP184	<u>Book of Reference (Comparison versus 22 May 2013)</u>	21 Jun 2013
REP185	<u>IDB Consent 29 May 2013</u>	21 Jun 2013
	Other documents submitted by the Applicant	Deadline 25 June 2013
REP186	<u>Code of Construction Practice – Final Form</u>	25 Jun 2013
REP187	<u>Revised Key Plan – Land Plan</u>	25 Jun 2013
REP188	<u>Construction Traffic Management Plan (CTMP)</u>	25 Jun 2013
REP189	<u>Construction Traffic Management Plan, Appendix Figure 1</u>	25 Jun 2013
REP190	<u>Construction Traffic Management Plan, Appendix Figure 2</u>	25 Jun 2013
REP191	<u>Construction Traffic Management Plan, Appendix Figure 3</u>	25 Jun 2013
REP192	<u>Construction Traffic Management Plan, Appendix Figure 4</u>	25 Jun 2013
REP193	<u>Code of Construction Practice - Comparison between the final form COCP and the original submitted in July 2012</u>	25 Jun 2013
REP194	<u>Construction Traffic Management Plan - Comparison between final draft CTMP and the original CTMP</u>	25 Jun 2013
REP195	<u>Without Prejudice - Additional Requirement for Logos and Signs</u>	25 Jun 2013
	The Applicant's final preferred draft DCO (following the 2nd Draft DCO ISH)	Deadline 25 June 2013
REP196	<u>Email from the Applicant explaining colouring comparison documents</u>	25 Jun 2013
REP197	<u>Letter to the Planning Inspectorate</u>	25 Jun 2013
REP198	<u>Preferred DCO</u>	25 Jun 2013
REP199	<u>DCO Comparison, Preferred DCO compared with Original DCO</u>	25 Jun 2013
REP200	<u>DCO Comparison, Preferred DCO compared with DCO 22 May 2013</u>	25 Jun 2013
REP201	<u>Explanatory Memorandum</u>	25 Jun 2013
REP202	<u>Explanatory Memorandum Comparison 25 June 2013 compared with original version</u>	25 Jun 2013

DOC REF	TITLE	DATE
	Final comments from other IPs on the Applicant's preferred Draft DCO	Deadline 3 July 2013
REP203	<u>Borough of Kings Lynn & West Norfolk</u>	14 Jun 2013
REP204	<u>Norfolk County Council</u>	14 Jun 2013
REP205	<u>Homes and Communities Agency</u>	14 Jun 2013
	Comments on responses to the ExA's Fourth Written Questions	Deadline 3 July 2013
REP206	<u>Letter to the Planning Inspectorate</u>	3 Jul 2013
REP207	<u>National Grid</u>	3 Jul 2013
	Other documents submitted by the Applicant	Deadline 3 July 2013
REP208	<u>Summary of Landowner Agreements</u>	3 Jul 2013
REP209	<u>Summary of Post – Application Changes to DCO</u>	3 Jul 2013
REP210	<u>Summary of Protective Provisions at 3 July 2013</u>	3 Jul 2013
	Submission by the Applicant of the Final schedule plans	Deadline 3 July 2013
REP211	<u>Final Schedule of Plans</u>	3 Jul 2013
	The Applicant's response to any comments on the preferred draft DCO	Deadline 8 July 2013
REP212	<u>Applicant's final response</u>	8 Jul 2013
ADDITIONAL SUBMISSIONS		
	Submissions received by the Planning Inspectorate between the acceptance of the application and the start of the examination but which were not able to be treated as relevant representations	
AS1	<u>English Heritage - letter received on 9 October 2012</u> (Letter received on 9 October 2012 not on the Relevant Representation Form, subsequently accepted by the Examining Authority under The Infrastructure Planning (Examination Procedure) Rules 2012)	9 Oct 2012

DOC REF	TITLE	DATE
	Additional evidence or documents received outside the deadlines specified in the Rule 8 examination timetable	
AS2	<u>Letter from the Applicant with regard to the Preliminary Meeting</u>	21 Dec 2012
AS3	<u>Cambridgeshire County Council email includes council's reply to NG regarding SoCG between NCC, CCC and NG</u>	14 Feb 2013
AS4	<u>Watlington Parish Council</u>	28 Feb 2013
AS5	<u>Watlington Parish Council</u> Submission regarding freedom of information request to Norfolk Constabulary	23 Apr 2013
HEARINGS		
	Audio Recordings	
HR1	<u>Preliminary Meeting</u>	11 Jan 2013
HR2	<u>Issue Specific Hearing on Construction Phase Impacts (PART 1)</u>	10 Apr 2013
HR3	<u>Issue Specific Hearing on Construction Phase Impacts (PART 2)</u>	10 Apr 2013
HR4	<u>Issue Specific Hearing on Construction Phase Impacts (PART 3)</u>	10 Apr 2013
HR5	<u>Issue Specific Hearing on Construction Phase Impacts (PART 4)</u>	10 Apr 2013
HR6	<u>Issue Specific hearing on Draft Development Consent Order (PART 1)</u>	12 Apr 2013
HR7	<u>Issue Specific Hearing on Draft Development Consent Order (PART 2)</u>	12 Apr 2013
HR8	<u>Issue Specific Hearing on Draft Development Consent Order (PART 3)</u>	12 Apr 2013
HR9	<u>Compulsory Acquisition Hearing (PART 1)</u>	23 Apr 2013
HR10	<u>Compulsory Acquisition Hearing (PART 2)</u>	23 Apr 2013
HR11	<u>Second DCO Issue Specific Hearing Part 1</u>	4 June 2013
HR12	<u>Second DCO Issue Specific Hearing Part 2</u>	4 June 2013
HR13	<u>Second DCO Issue Specific Hearing Part 3</u>	4 June 2013
	Documents displayed/submitted to the ExA during hearings	
HR14	<u>Norfolk County Council (Highways)</u> Structural damage photos submitted at the ISH on 10 April 2013	10 April 2013

DOC REF	TITLE	DATE
HR15	<u>Borough of Kings Lynn and West Norfolk</u> Additional information requested by the ExA at the ISH on 10 April 2013	10 Apr 2013
HR16	<u>National Grid</u> Documents requested by the ExA during the CPI ISH on 10 April 2013 and draft DCO ISH on 12 April 2013	12 Apr 2013
HR17	<u>Norfolk County Council (Highways)</u> Map displayed at the CPI ISH, 10 April 2013	10 Apr 2013
HR18	<u>Watlington Parish Council</u> Map and photos displayed on boards during CPI ISH, 10 April 2013	10 Apr 2013
HR19	<u>National Grid, Plans (PART 1)</u> Materials displayed at CPI ISH 10 April 2013	10 Apr 2013
HR20	<u>National Grid, Plans (PART 2)</u> Materials displayed at CPI ISH 10 April 2013	10 Apr 2013
HR21	<u>National Grid, Plans (PART 3)</u> Materials displayed at CPI ISH 10 April 2013	10 Apr 2013
HR22	<u>Norfolk County Council (Highways)</u> Points raised at draft DCO Hearing 12 Apr 2013	12 Apr 2013
HR23	<u>Borough Council of Kings Lynn and West Norfolk</u> Document presented to the ExA at the draft DCO Hearing 12 April 2013; file contains suggested contaminated land requirements	12 Apr 2013
HR24	<u>National Grid</u> Document submitted at the draft DCO Hearing on 12 April 2013	12 Apr 2013
HR25	<u>Watlington Parish Council</u> Points they wish to raise at the 2nd DCO Hearing	23 May 2013
HR26	<u>National Grid</u> Response to Watlington Parish Council's Questions	4 Jun 2013
HR27	<u>National Grid</u> Definitions from the DCO	6 June 2013
HR28	<u>National Grid</u> Applicant's Notification of Hearings (10, 12 and 23 April 2013)	12 Mar 2013
HR29	<u>National Grid</u> Applicant's Notification of Second Draft DCO Hearing	8 May 2013
HR30	<u>National Grid</u> Further documents requested by the ExA at the Hearings on 10 & 12 April 2013. File contains Environment Policy April 2009 and Well-Being Policy June 2009 (Appendix A) and Further information on National Grid's connection obligations	10 May 2013
HR31	<u>Network Rail</u> Request to attend draft DCO Hearing and CA Hearing	15 Feb 2013
HR32	<u>130423 EN020003 Copy of submission handed by National Grid to the ExA during the CA Hearing 23 April 2013</u>	23 Apr 2013

DOC REF	TITLE	DATE
SECTION 127 DOCUMENTS		
SEC1	<u>Applicant's Section 127 application</u> Dundas & Wilson LLP's (on behalf of National Grid) Section 127 application to the Department for Transport	31 January 2013
SEC2	<u>Letter to the Planning Inspectorate from the applicant (section 127 application)</u> Dundas & Wilson LLP's (National Grid) Section 127 application (copied to the Planning Inspectorate)	31 January 2013
SEC3	<u>Applicant's Section 127 application Appendix A</u> National Grid's Section 127 Application documents - Book of Reference (Appendix A)	31 January 2013
SEC4	<u>Applicant's Section 127 application Appendix B</u> National Grid's Section 127 Application documents - Plans and Drawings (Appendix B)	31 January 2013
SEC5	<u>Applicant's Section 127 application Appendix C</u> National Grid's Section 127 Application documents - Statement of Reasons (Appendix C)	31 January 2013
SEC6	<u>Applicant's Section 127 application Appendix D</u> National Grid's Section 127 Application documents - Draft Development Consent Order (Appendix D)	31 January 2013
SEC7	<u>Applicant's Section 127 application Appendix E</u> National Grid's Section 127 Application documents - Network Rail Storyboard (Appendix E)	31 January 2013
SEC8	<u>Applicant's Section 127 application updated Appendix E(2)</u> National Grid's Section 127 Application documents – Protective Provisions (Appendix E2)	31 January 2013
SEC9	<u>Applicant's Section 127 application Appendix F</u> National Grid's Section 127 Application documents – Planning Inspectorate's Notice of Procedural Decisions (Appendix F)	31 January 2013
SEC10	<u>Applicant's Section 127 application Appendix F(2)</u> National Grid's Section 127 Application documents - Planning Inspectorate's Rule 6 Letter (Appendix F2)	31 January 2013

DOC REF	TITLE	DATE
SEC11	<u>Applicant's Section 127 application Appendix G</u> National Grid's Section 127 Application documents - Statement of Common Ground (Appendix G)	31 January 2013
SEC12	<u>Kings Lynn B Connection Section 127 Appointment</u> Notification of the appointment of the Section 127 Examiner	7 March 2013
SEC13	<u>Section 127 Letter to National Grid</u> Section 127 Letter to Dundas & Wilson LLP (National Grid)	4 April 2013
SEC14	<u>Section 127 Letter to Network Rail</u> Section 127 Letter to Addleshaw Goddard LLP (Network Rail)	4 April 2013
SEC15	<u>Letter from Dundas & Wilson LLP acknowledging letter from ExA sent 4 April 2013</u> Response to the ExA's letter from Dundas & Wilson LLP (National Grid) dated 9 April 2013	9 April 2013
SEC16	<u>Section 127 Procedure Letter to National Grid</u> Section 127 Procedure Letter sent to Dundas & Wilson LLP (National Grid)	22 April 2013
SEC17	<u>Section 127 Procedure Letter to Network Rail</u> Section 127 Procedure Letter sent to Addleshaw Goddard LLP (Network Rail)	22 April 2013
SEC18	<u>Section 127 Revised Timetable Letter to National Grid</u> Section 127 Revised Timetable Letter to Dundas & Wilson LLP (National Grid)	29 April 2013
SEC19	<u>Section 127 Revised Timetable Letter to Network Rail</u> Section 127 Revised Timetable Letter to Addleshaw Goddard LLP (Network Rail)	29 April 2013
SEC20	<u>National Grid's request to extend deadline regarding submission s127 Certificate</u> Section 127 Request from Dundas & Wilson LLP (National Grid) to extend the submission deadline	13 May 2013
SEC21	<u>The Planning Inspectorate's response regarding s127 Certificate</u> The Planning Inspectorate's response to Dundas & Wilson LLP's request to extend the submission deadline	14 May 2013

DOC REF	TITLE	DATE
SEC22	<p><u>Letter from Dundas & Wilson LLP (on behalf of the applicant National Grid) withdrawing the Section 127 application</u></p> <p>Correspondence from Dundas & Wilson LLP (National Grid) withdrawing the Section 127 application</p>	20 May 2013
SEC23	<p><u>Letter from Addleshaw Goddard LLP (on behalf of the statutory undertaker Network Rail) withdrawing objection to the draft DCO</u></p> <p>Correspondence from Addleshaw Goddard LLP (Network Rail) withdrawing Network Rail's objection to the draft DCO</p>	20 May 2013
SEC24	<p><u>Section 127 letter to Network Rail</u></p> <p>Section 127 Letter to Addleshaw Goddard LLP (Network Rail)</p>	<p>23 May 2013</p> <p>(incorrectly dated 23 April 2013 on the letter)</p>
SEC25	<p><u>Letter to National Grid from the Examining Authority closing the Section 127 application</u></p> <p>Section 127 Letter to Dundas & Wilson LLP (National Grid) closing the Section 127 examination</p>	24 May 2013
SEC26	<p><u>Letter to Network Rail from the Examining Authority closing the Section 127 application</u></p> <p>Section 127 Letter to Addleshaw Goddard LLP (Network Rail) closing the Section 127 examination</p>	24 May 2013

**APPENDIX E – REPORT ON THE IMPLICATIONS FOR
EUROPEAN SITES (RIES)**

**REPORT on the IMPLICATIONS
for EUROPEAN SITES
King's Lynn B Connection
Project**

An Examining Authority report prepared with the
support of the Planning Inspectorate Secretariat

April 2013

CONTENTS

INTRODUCTION	1
1.0 SCREENING FOR LIKELY SIGNIFICANT EFFECTS.....	2
2.0 SCREENING MATRICES	6
Matrix A: Ouse Washes SPA (site code: UK9008041) and Ramsar Site 11051	7
Matrix B: The Wash SPA (site code: UK9008021) and Ramsar Site 11072	27
3.0 IMPLICATIONS FOR EUROPEAN SITES.....	48
REFERENCES	1

INTRODUCTION

The Secretary of State is a competent authority (CA) for the purposes of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive) and The Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) for applications submitted under the Planning Act regime (as amended).

This report compiles, documents, and signposts information received during the examination of the DCO application by National Grid for the King's Lynn B Connection Project and will be issued for consultation, including consultation with Natural England for the purposes of Regulation 61(3) of the Habitats Regulations.

This report is an Examining Authority report which has been prepared with the support of the Planning Inspectorate Secretariat.

The report presents a series of screening matrices for the European (Natura 2000) sites that might potentially be affected by the King's Lynn B Connection Project. These matrices collate evidence on whether the project is likely to have significant effects on the key features of each European site. It acknowledges that the Applicant and Natural England have agreed that the only European sites that should be taken into account to consider likely significant effects are: the **Ouse Washes SPA** and **The Wash SPA**.

1.0 SCREENING FOR LIKELY SIGNIFICANT EFFECTS

The project is not connected with or necessary to the management for nature conservation of any of the European sites considered within the assessment. The project has been subject to a screening exercise by the Applicant for likely significant effects, either alone or in combination with other projects, in relation to the European sites within its vicinity.

The list of sites for inclusion within the assessment was presented within the Applicant's No Significant Effects Report (hereafter referred to as the NSER) (TEP July 2012, application document reference 6.4). These sites are:

The Ouse Washes SPA

The Wash SPA

No other Natura 2000 sites have been included in the screening exercise. A detailed description of each of these sites and their qualifying features is provided within the screening assessment within the Applicant's No Significant Effects Report.

As a result of the screening assessment reported in the NSER, the Applicant concluded that the project is not likely to give rise to significant effects on the Ouse Washes SPA or The Wash SPA

This report has been produced using the information provided within the NSER and within the Habitats Regulations Matrices provided by the Applicant in the following document:

King's Lynn B Power Station Connection Project. Applicant's Report On Implications For European Sites incorporating Habitats Regulations Matrices (report ref: 1907.104 – version 1.0). TEP for National Grid Electricity Transmission plc. April 2013

In addition to these, this report has also drawn upon information and evidence provided within:

King's Lynn B Connection Project Environmental Statement, TEP July 2012. Application document reference 7.1.

Ornithological Assessment (presented as Technical Appendix TA-E of the Environmental Statement, document reference 7.1). (Hereafter referred to as the OA)

Statement of Common Ground between National Grid Electricity Transmission Plc and Natural England, Dundas & Wilson LLP (National Grid) 29th January 2013

King's Lynn B Power Station Connect Project Application, Written Representations of Natural England Dated 18 February 2013, containing responses to ExA questions in Annex A.

Responses to questions issued by the Examining Authority during the examination from the Applicant and Natural England and written representations (received to date) have also been incorporated into this report as appropriate.

The Applicant's NSER (application document reference 6.4) has been subject to consultation with Natural England (NE) who on 5 July 2012 confirmed their opinion that the project is not likely to give rise to significant effects on the Ouse Washes SPA or The Wash SPA (Appendix 6, application document reference 6.4). The two SPAs are underpinned by SSSIs and are also designated as Ramsar sites. The boundaries for the SPAs are the same as the relevant Ramsar site, and the conservation objectives for the SSSIs relate to the designation features under the SPA and Ramsar designation. In light of this the Applicant's NSER has applied the SSSI conservation objectives to the assessment and considered the potential impact of the project on both SPA and Ramsar designations together. No concerns have been expressed by NE regarding this approach, and NE have confirmed that the criteria for the Ramsar designations are similar to those for the SPA designations (Written Representations of Natural England, 18 February 2013).

Potential Impacts

Potential impacts upon the Natura 2000 sites identified above which were considered within the Applicant's screening assessment are provided in the table below.

(a) *Impacts considered within the screening and effects on integrity matrices*

Designated site(s)	Impacts in submission information	Presented in screening Matrices as
Ouse Washes SPA AND The Wash SPA	Collision affecting birds during daily feeding flights	Effect 1
	Collision mortality affecting birds during migratory flights	Effect 2
	Displacement of birds from feeding grounds during both the construction and operational phases	Effect 3

In-combination impacts have also been included within the screening matrices, as far as this information has been provided by the Applicant. The following projects have been included in the in-combination assessment carried out by the Applicant:

Offshore wind farms in or within 25km of The Wash

East Anglia Offshore Windfarm (proposed)

Doggerbank Offshore Windfarm (proposed)

Docking Shoal Offshore Wind Farm (submitted and refused, subject to period for judicial review at the time of writing of the Applicant's NSER)

Race Bank Offshore Wind Farm (consented)

Dudgeon Offshore Wind Farm (consented)

Onshore wind farms within 25km of the Ouse Washes SPA and The Wash SPA

Ongar Hill Wind Farm (proposed)

Holbeach Marsh Wind Farm (proposed)

Jack's Lane Wind Farm (proposed)

Ramsey Extension Wind Farm (proposed)

Buckden Landfill Wind Farm (proposed)

Heckington Fen Wind Farm (proposed)

Treading Wind Farm (proposed)

Wainfleet Wind Farm (proposed)

Greenvale Wind Farm (consented)

Queen Elizabeth Hospital Wind Farm (consented)

Wryde Croft Wind Farm (consented)

Boardinghouse Wind Farm (proposed)

Nutsgrove Farm Wind Farm (consented)

Burnthouse Wind Farm (consented)

Coldham Extension Wind Farm (consented)

Glass Moor Extension Wind Farm (consented)

March Sewage treatment Works single turbine (consented)

Stags Holt Extension (consented)

The Applicant has reviewed the ornithological surveys and EIA's associated with these projects in order to identify if any of these projects have predicted significant impacts on SPA bird species, in particular whooper swans (see justifications accompanying the matrices, below). It should be noted that while the assessment did consider other bird species associated with the SPAs that were identified by these other projects as being potential receptors, this information was not reflected in the matrices submitted by the Applicant and as a consequence this information is not included in the matrices presented in this report.

The in-combination effects assessment is reported within the NSER in Chapter 5.0, and focused on project types which could potentially have collision mortality impacts on birds. No Nationally Significant Infrastructure Projects (NSIPs), including

other overhead lines, were found within the search area applied. The search area applied is not clear from the NSER, it is described in Paragraph 5.4 as 25km from the study area (this is not defined) and from both the Ouse Washes SPA and The Wash SPA (see Matrix B below). Offshore and Onshore wind farm projects with a capacity which exceeded EIA thresholds were included. The onshore wind farm search is mapped at Figure 4 of the NSER.

A significant effect has been stated within the Applicant's NSER to be any effect likely to undermine a site's conservation objectives, in line with determinations of the European Courts (Paragraph 2.7 application document reference 6.4).

2.0 SCREENING MATRICES

The European Sites included within the Applicant's assessment and the likely significant effects on their qualifying features are detailed within the screening matrices below.

Under each table a set of evidence footnotes is provided which outlines the evidence on which the decision of likely significant effect has been based. This evidence has come from the information submitted by the Applicant, the Statement of Common Ground between the Applicant and NE, and from the outcomes of the examination process.

Matrix Key:

- ✓ = Likely significant effect
- ✗ = No likely significant effect

- C = construction
- O = operation
- D = decommissioning

Notations are used within the matrices which correspond to the justifications provided below them for the conclusions presented. These notations take the form of lower-case letters numbered in superscript for likely significant effects of the project alone; and capital letters for likely significant effects of the project in-combination. For example: **a¹, a², a³** and **A**.

Matrix A: Ouse Washes SPA (site code: UK9008041) and Ramsar Site 11051

Name of European site: Ouse Washes SPA/Ramsar Site												
Distance to NSIP 17km												
European site features	Likely Effects of NSIP											
	<i>Effect 1 (collision during feeding flights)</i>			<i>Effect 2 (collision during migratory flights)</i>			<i>Effect 3 (displacement from feeding grounds)</i>			<i>In-combination effects</i>		
	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>
<i>A037 Cygnus columbianus bewickii</i> ; Bewicks Swan (non-breeding)	X n/a	X a ¹	X n/a	X n/a	X a ²	X n/a	X a ³	X a ³	X n/a	X	X	X
<i>A038 Cygnus Cygnus</i> ; Whooper swan (Non-breeding)	X n/a	X b ¹	X n/a	X n/a	X b ²	X n/a	X b ³	X b ³	X n/a	X B	X B	X B
<i>A036 Cygnus olor</i> : Mute swan (non-breeding)	X n/a	X s ¹	X n/a	X n/a	X s ²	X n/a	X s ³	X s ³	X n/a	X	X	X
<i>A050 Anas Penelope</i> ; Eurasian wigeon (Non-breeding)	X n/a	X c ¹	X n/a	X n/a	X c ²	X n/a	X c ³	X c ³	X n/a	X	X	X

Name of European site: Ouse Washes SPA/Ramsar Site												
Distance to NSIP 17km												
European site features	Likely Effects of NSIP											
	<i>Effect 1 (collision during feeding flights)</i>			<i>Effect 2 (collision during migratory flights)</i>			<i>Effect 3 (displacement from feeding grounds)</i>			<i>In-combination effects</i>		
	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>
A051 <i>Anas strepera</i>; Gadwall (Breeding)	X n/a	X d ¹	X n/a	X n/a	X d ²	X n/a	X d ³	X d ³	X n/a	X	X	X
A052 <i>Anas crecca</i>; Eurasian teal (Non-breeding)	X n/a	X e ¹	X n/a	X n/a	X e ²	X n/a	X e ³	X e ³	X n/a	X	X	X
A053 <i>Anas platyrhynchos</i>; Mallard (Breeding)	X n/a	X f ¹	X n/a	X n/a	X f ²	X n/a	X f ³	X f ³	X n/a	X	X	X
A054 <i>Anas acuta</i>; Northern pintail (Non-breeding)	X n/a	X g ¹	X n/a	X n/a	X g ²	X n/a	X g ³	X g ³	X n/a	X	X	X
A055 <i>Anas querquedula</i>; Garganey (Breeding)	X n/a	X h ¹	X n/a	X n/a	X h ²	X n/a	X h ³	X h ³	X n/a	X	X	X
A056 <i>Anas clypeata</i>; Northern shoveler (Non-breeding)	X n/a	X i ¹	X n/a	X n/a	X i ²	X n/a	X i ³	X i ³	X n/a	X	X	X

Name of European site: Ouse Washes SPA/Ramsar Site												
Distance to NSIP 17km												
European site features	Likely Effects of NSIP											
	Effect 1 (collision during feeding flights)			Effect 2 (collision during migratory flights)			Effect 3 (displacement from feeding grounds)			In-combination effects		
	C	O	D	C	O	D	C	O	D	C	O	D
<i>A056 Anas clypeata</i> ; Northern shoveler (Breeding)	X n/a	X j ¹	X n/a	X n/a	X j ²	X n/a	X j ³	X j ³	X n/a	X	X	X
<i>A082 Circus cyaneus</i> ; Hen harrier (Non-breeding)	X n/a	X k ¹	X n/a	X n/a	X k ²	X n/a	X k ³	X k ³	X n/a	X	X	X
<i>A151 Philomachus pugnax</i> ; Ruff (Breeding)	X n/a	X l ¹	X n/a	X n/a	X l ²	X n/a	X l ³	X l ³	X n/a	X	X	X
<i>A156a Limosa limosa</i> ; Black-tailed godwit (Breeding)	X n/a	X m ¹	X n/a	X n/a	X m ²	X n/a	X m ³	X m ³	X n/a	X	X	X
<i>A059 Aythya farina</i> ; Common pochard (Non-breeding)	X n/a	X n ¹	X n/a	X n/a	X n ²	X n/a	X n ³	X n ³	X n/a	X	X	X
<i>A119 Porzana porzana</i> ; Spotted crane (Breeding)	X n/a	X o ¹	X n/a	X n/a	X o ²	X n/a	X o ³	X o ³	X n/a	X	X	X

Name of European site: Ouse Washes SPA/Ramsar Site												
Distance to NSIP 17km												
European site features	Likely Effects of NSIP											
	Effect 1 (collision during feeding flights)			Effect 2 (collision during migratory flights)			Effect 3 (displacement from feeding grounds)			In-combination effects		
	C	O	D	C	O	D	C	O	D	C	O	D
A156a <i>Limosa limosa</i> ; Black-tailed godwit (Non-breeding)	X n/a	X p ¹	X n/a	X n/a	X p ²	X n/a	X p ³	X p ³	X n/a	X	X	X
A051 <i>Anas strepera</i> ; Gadwall (Non-breeding)	X n/a	X q ¹	X n/a	X n/a	X q ²	X n/a	X q ³	X q ³	X n/a	X	X	X
A151 <i>Philomachus pugnax</i> ; Ruff (Non-breeding)	X n/a	X r ¹	X n/a	X n/a	X r ²	X n/a	X r ³	X r ³	X n/a	X	X	X
A125: <i>Fulica atra</i> : Coot (Non-breeding)	X n/a	X t ¹	X n/a	X n/a	X t ²	X n/a	X t ³	X t ³	X n/a	X	X	X
A061: (<i>Aythya fuligula</i>): Tufted duck (Non-breeding)	X n/a	X u ¹	X n/a	X n/a	X u ²	X n/a	X u ³	X u ³	X n/a	X	X	X
A017: <i>Phalacrocorax carbo</i> : Cormorant (Non-breeding)	X n/a	X v ¹	X n/a	X n/a	X v ²	X n/a	X v ³	X v ³	X n/a	X	X	X

Name of European site: Ouse Washes SPA/Ramsar Site												
Distance to NSIP 17km												
European site features	Likely Effects of NSIP											
	<i>Effect 1 (collision during feeding flights)</i>			<i>Effect 2 (collision during migratory flights)</i>			<i>Effect 3 (displacement from feeding grounds)</i>			<i>In-combination effects</i>		
	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>	<i>C</i>	<i>O</i>	<i>D</i>
Assemblage of Breeding Birds inc. <i>Vanellus vanellus</i>: Lapwing and <i>Haematopus ostralegus</i> Eurasian Oystercatcher	X n/a	X w ¹	X n/a	X n/a	X w ²	X n/a	X w ³	X w ³	X n/a	X	X	X

Justifications

Bewick's swan (non-breeding) – paragraphs 4.29 to 4.46 of the NSER summarise the assessment, which is detailed in the OA on pages 36-39. The NSER also has Chapter 5 which describes the in-combination assessment. Natural England's written representation of 18 February 2013 also discusses swans (including Bewick's swans) at paragraphs 6.2.3 to 6.2.9 (pages 27-29). The Statement of Common Ground (SoCG) between National Grid Electricity Transmission Plc and Natural England dated 31 January 2013 deals with specific matters raised by the Examining Authority, and discusses swans (including Bewick's swans) at Section 2 and 3.

- a¹ The Applicant's desktop and field survey findings indicate that Bewick's swans do not undertake local flights between feeding sites within the study area whilst they are present in the region. In light of this, the Applicant has considered that Bewick's swans are not at risk of overhead line collision when undertaking flights between their roosting sites and various feeding sites. Paragraphs 6.2.7 and 6.2.8 of Natural England's written representation (18 February 2013) support this conclusion. Paragraph 2.12 of the SoCG between National Grid and Natural England confirms that the

parties agree that the proposed alignment does not conflict with known local feeding flight paths, and that collision risk mitigation has been fully considered (in the selection of the proposed route).

- a² The Applicant's desktop survey findings indicated that small numbers of Bewick's swans do occasionally fly through the study area during their autumn migration with fewer records for the spring migration period. No migrating Bewick's swans were detected during vantage point surveys during autumn 2009 or spring 2010 swan migration periods or during the autumn 2010 and spring 2011 swan migration study (86 hours of survey effect during migration periods).

The Applicant's consultations with Welney WWT Reserve (part of the Ouse Washes) and literature review indicated that although Bewick's swans are vulnerable to collisions with overhead lines, they generally manoeuvre better than whooper swans and are therefore more able to avoid aerial hazards such as overhead lines. The literature review did not reveal any information on the flight height of migrating Bewick's swans; the Applicant has considered it likely that this will be comparable with whooper swan migration flights suggesting a proportion of migrating Bewick's swans fly above existing overhead lines.

The Applicant has considered it likely that Bewick's swans will follow similar flight patterns to the whooper swans across the study area. Within their assessment, they consider that the north to south alignment of the proposed overhead line will minimise collision risk to Bewick's swan. It is considered in the NSER that collision mortality on migrating Bewick's swan will be an insignificant impact since no Bewick's swans have been recorded within the study area at any time since autumn 2009. The collision risk is considered by the Applicant to be further reduced when swan collision avoidance rates are taken into account. The conclusion that the project alone will not significantly affect the Bewick's swan population associated with the SPA is supported by the written representation of Natural England.

Paragraph 2.12 of the SoCG between National Grid and Natural England confirms that the parties agree that the proposed alignment does not conflict with known migratory flight paths, and that collision risk mitigation has been fully considered (in the selection of the proposed route).

- a³ According the Applicant's NSER, desktop survey and field survey results (November 2009 – March 2011 – two winter periods) confirm that Bewick's swans do not use fields within the study area for feeding or resting. Evidence gathered by the Applicant's desktop study provided by the RSPB indicated that the swans only tend to feed within 10km of the Ouse Washes SPA (Paragraph 4.6 of the NSER). Therefore it has been concluded in the NSER that Bewick's swans will not experience any displacement effects as a result of the proposed overhead line development. The written

representation (18 February 2013) from Natural England in Paragraph 7.1.3 surmises that Natural England agree that none of the SPA qualifying features are likely to be affected as a result of displacement from feeding areas.

Whooper swan (non-breeding) – paragraphs 4.3 to 4.28 of the NSER summarise the assessment, which is detailed in the OA on pages 26-36. The NSER also has Chapter 5 which describes the in-combination assessment. Natural England's written representation of 18 February 2013 also discusses swans at paragraphs 6.2.3 to 6.2.9 (pages 27-29). The SoCG between National Grid Electricity Transmission Plc and Natural England dated 31 January 2013 deals with specific matters raised by the Examining Authority, and discusses swans at Sections 2 and 3.

- b¹ The desktop and field survey findings reported in the Applicant's NSER and OA indicate that whooper swans do not undertake local flights between feeding sites within the study area. Therefore, according to the Applicant there are no predicted collision mortality effects on whooper swan undertaking flights between their roosting sites and feeding sites. Paragraph 2.12 of the SoCG between National Grid and Natural England confirms that the parties agree that the proposed alignment does not conflict with known local feeding flight paths.
- b² The Applicant's desktop survey findings indicate that some whooper swans fly through the study area during their autumn and spring migration periods. However the proportion of the whooper swan SPA population flying within the East Corridor near the proposed alignment is considered negligible. The OA gives an estimate of the proportion of the population migrating across the study area (NB the study area included all route corridors, a 7km wide area as opposed to the selected East Corridor which is 1km wide) as 3.5% during the Autumn period and 1.7% during the latter half of the Spring period (Paragraph 4.44 of the OA).

Therefore, the Applicant has estimated that 5.2% of 4,873 whooper swan individuals flew across the study area in winter 2010-2011 which equals 253 whooper swan flights across the study area. The OA reports (Paragraph 4.48) that swans were predominantly recorded flying in a north-south alignment during autumn 2010 and spring 2011. The Applicant considers in Paragraph 4.57 of the OA and 4.24 of the NSER that the alignment of the proposed overhead line may be an important factor influencing collision risk, and that the north to south alignment of the proposed alignment will minimise collision risk to whooper swan.

The literature review summarised in the Applicant's NSER confirms that whooper swans are vulnerable to aerial collision. It is noted in Paragraph 4.53 of the OA that the "Welney WWT Reserve Manager has reported that a

considerable number of whooper swans die as a result of overhead line collision risk each winter *within* the Ouse Washes and its locality". In this paragraph the OA reports research indicating that that "wooden pole 132kV trident lines cause more deaths than the larger 400kV overhead lines" within the Ouse Washes. The OA has interpreted the findings of the literature review to indicate that the Ouse Marches SPA population is already affected by overhead line deaths and has been since at least the 1970s (Paragraph 4.53 of the OA). The vulnerability is greater during low-light conditions, but whooper swans tend to migrate in the daytime or at night when there is a full moon or cloud-free nights. These findings were interpreted to mean that migrating whooper swans tend to fly in conditions which do not hinder good visibility.

Taking into account the findings reported within the OA with respect to collision risk and associated mortality, the OA goes on to report that the literature review indicates that it is likely that wildfowl have an avoidance rate of at least 99% when approaching overhead lines at a height which requires evasive manoeuvres to avoid the overhead line.

It is concluded with a high degree of certainty by the Applicant that there will be no likely significant effect on the whooper swan populations of the Ouse Washes SPA or The Wash SPA as a result of collision mortality in respect of this NSIP application, if permitted. In Paragraph 6.2.8 of their written representation of the 18 February 2013 from Natural England agrees that the project alone will have no likely significant effect on the whooper swan population of the Ouse Washes SPA, and highlight the need to consider effects in-combination with other plans and projects (see 'B' below).

- b³ The Applicant's desktop survey and field survey findings show that whooper swans do not use fields within the study area for feeding or resting. Therefore the Applicant concludes that there will not be any displacement effects on whooper swan as a result of the proposed overhead line development. The written representation (18 February 2013) from Natural England in Paragraph 7.1.3 surmises that Natural England agree that none of the SPA qualifying features are likely to be affected as a result of displacement from feeding areas.
- B The in-combination effects assessment has considered a number of projects in the area around the Ouse Washes SPA, these projects are listed in Section 1.0 of this Report along with a description of the in-combination assessment.

None of the projects reviewed had any predicted impacts on whooper swans with the exception of the onshore wind farm at Boardinghouse Farm, some 20km south-west of the King's Lynn B Connection Project. However the predicted impacts associated with the Boardinghouse Farm project are very low and survey results suggest that whooper swans associated with the Nene Washes (rather than the Ouse Washes) would be affected.

Mute Swan (non-breeding) – paragraphs 4.47 to 4.55 of the NSER summarise the assessment, which is detailed in the OA on pages 39-40. Natural England's written representation of 18 February 2013 also discusses mute swans at paragraph 6.2.15 (page 31).

- s¹ The vantage point surveys reported by the Applicant in the NSER and OA indicated that small flocks of mute swan (maximum flock of 70 individuals) are present in the general area, associated with the main river corridors. These were considered sedentary and probably not associated with the Ouse Washes SPA. The watches indicated that some flights do occur within the risk zone, so a risk of collision was considered present. However, the Applicant has concluded that as the flock sizes are small, collision numbers will be low and there would be no effect on the Ouse Washes SPA population. In their written representation of 18 February 2013 Natural England agree with this assessment.
- s² The Applicant has found no evidence of mute swan migration in this area. Natural England has confirmed (18 February 2013) that the mute swans recorded were unlikely to be on migration.
- s³ The mute swan use of the study area has been assessed by the Applicant as relatively low, and the small sedentary flocks are not considered to be associated with the Ouse Washes SPA. There may be local displacement but given the species' reasonable tolerance of visual disturbance the Applicant has concluded that there will be no effect on the SPA. Natural England agree with this overall assessment within their written representation (18 February 2013) and earlier correspondence as provided within the NSER (5 July 2012).

European wigeon (non-breeding) - paragraphs 4.74, 4.77, 4.82, 4.88 and 4.93 of the NSER summarise the assessment for wigeon, which is detailed in the OA on pages 43-44.

- c¹ The majority of wigeon flights, as reported in the NSER, involved birds flying very close to the waterline, below the minimum overhead line sag height of ca. 10 metres. The Applicant has considered that it is possible that some regional migration takes places between overwintering wigeon associated with The Wash SPA and the Ouse Washes SPA, but that it is very unlikely that regular collision with the overhead lines would occur as a result of these possible movements.
- c² See c¹ above.

c³ According to the Applicant's NSER wigeon have been recorded within the study area, mostly associated with sections of the River Great Ouse and/or the Ouse Relief Channel. The records for this species are considered by the Applicant to be located a sufficient distance from the proposed alignment for displacement effects to be avoided.

Gadwall (breeding) - paragraphs 4.70, 4.76, 4.81, 4.87 and 4.90 of the NSER summarise the assessment for gadwall, which is detailed in the OA on page 48. Natural England's written representation of 18 February 2013 discusses gadwall at paragraph 6.2.11 (page 30).

d¹ Desktop survey and field survey findings reported in the NSER indicate that gadwall do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. Therefore the Applicant's predicted collision risk for gadwall is insignificant.

d² See d¹ above.

d³ the Applicant's desktop survey and field survey findings indicate that gadwall do not tend to use the study area for feeding or nesting, leading them to conclude that this species will not be affected by displacement effects.

Teal (non-breeding) - paragraphs 4.70, 4.79, 4.84, 4.88 and 4.91 of the NSER summarise the assessment for teal, which is detailed in the OA on pages 49-50. Natural England's written representation of 18 February 2013 discusses teal at paragraph 6.2.12 (page 31).

e¹ Desktop survey and field survey findings as reported in the Applicant's NSER indicate that teal do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment, leading to the prediction that collision risk to teal is insignificant.

e² See e¹ above.

e³ The Applicant's desktop survey and field survey findings indicate that teal do not tend to use the study area for feeding or roosting and they have therefore concluded that this species will not be affected by displacement effects.

Mallard (breeding) - paragraphs 4.70, 4.78, 4.83, 4.89 and 4.94 of the NSER summarise the assessment for mallard, which is detailed in the OA on pages 45-47. Natural England's written representation of 18 February 2013 discusses mallard at paragraph 6.2.14 (page 31).

f¹ According to the Applicant's NSER, the majority of mallard flight lines recorded within the study area were short flights involving small groups of birds flying very close to the waterline, below the lowest height that overhead line lines will sag (10 metres). It has therefore been considered that mallard mortality associated with daily feeding flights would be very low. The only large flocks of flying mallard reported in the OA and NSER, which may have been migrants, also flew less than 10m above ground/water level. The OA and NSER report the majority of mallard were associated with the Ouse Relief Channel and not the proposed route corridor.

f² See f¹ above.

f³ According to the Applicant's OA and NSER, mallard were recorded using some of the larger drains and ponds within the east corridor often very close to existing overhead lines. This has been considered by the Applicant to indicate that mallard do not experience displacement effects to overhead lines.

Northern pintail (non-breeding) - paragraphs 4.74, 4.76, 4.81, 4.87 and 4.90 of the NSER summarise the assessment for pintail, which is covered in the OA on pages 48-49. Natural England's written representation of 18 February 2013 discusses pintail at paragraph 6.2.11 (page 30).

g¹ The Applicant's desktop survey and field survey findings indicate that northern pintail do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. Therefore the predicted collision risk for northern pintail has been assessed as insignificant.

g² See g¹ above.

g³ The Applicant's desktop survey and field survey findings indicate that northern pintail do not tend to use the study area for feeding or roosting and therefore it has been concluded that this species will not be affected by displacement effects.

Garganey (breeding) - paragraphs 4.73, 4.76, 4.81, 4.87 and 4.90 of the NSER summarise the assessment for garganey, which is covered in the OA on page 47. Natural England's written representation of 18 February 2013 discusses garganey at paragraph 6.2.11 (page 30).

h¹ The Applicant's desktop survey and field survey findings indicate that garganey do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. Therefore the predicted collision risk for common scoter has been assessed as insignificant.

h² See h¹ above.

h³ The Applicant's desktop survey and field survey findings indicate that garganey do not use the study area for feeding or roosting. In light of this, this species is not considered by the Applicant to be affected by displacement effects.

Northern shoveler (non-breeding) - paragraphs 4.70, 4.76, 4.81, 4.87 and 4.90 of the NSER summarise the assessment for shoveler, which is detailed in the OA on pages 44-45. Natural England's written representation of 18 February 2013 discusses shoveler at paragraph 6.2.11 (page 30).

i¹ The Applicant's desktop survey and field survey findings indicate that northern shoveler do not make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. Therefore the predicted collision risk northern shoveler has been assessed by the Applicant to be insignificant.

i² See i¹ above.

i³ The Applicant's desktop survey and field survey findings indicate that northern shoveler do not tend to use the study area for feeding or roosting, and therefore it has been concluded in the Applicant's NSER that this species will not be affected by displacement effects.

Northern shoveler (breeding) - as identified above, paragraphs 4.70, 4.76, 4.81, 4.87 and 4.90 of the NSER summarise the assessment for shoveler, which is detailed in the OA on pages 44-45. Natural England's written representation of 18 February 2013 discusses shoveler at paragraph 6.2.11 (page 30).

j¹ The Applicant's desktop survey and field survey findings indicate that breeding-phase northern shoveler do not make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. Therefore the predicted collision risk to northern shoveler provided in the Applicant's NSER is insignificant.

j² See j¹ above.

j³ The Applicant's desktop survey and field survey findings indicate that northern shoveler do not tend to use the study area for feeding or nesting, and in light of this it has been concluded in the NSER that this species will not be affected by displacement effects.

Hen harrier (non-breeding) - paragraphs 4.213 to 4.218 of the NSER summarise the assessment for hen harrier, which is detailed in the OA on pages 79-80, in the section on Other Raptors. Natural England's written representation of 18 February 2013 discusses hen harrier at paragraph 6.2.11 (page 30).

k¹ No hen harrier have been recorded during winter surveys undertaken in 2009-2010 or 2010-2011. Hen harrier will not experience collision effects as a result of the proposed alignment since this species does not use the study area.

k² See k¹ above.

k³ The Applicant has concluded that hen harrier will not experience displacement effects as a result of the proposed alignment, on the basis that this species was not recorded using the study area for feeding or roosting.

Ruff (breeding) - paragraphs 4.165 and 4.168 to 4.170 of the NSER summarises the assessment for ruff, which is detailed in the OA on pages 67-68, in the section on Other Wader Species. Natural England's written representation of 18 February 2013 discusses ruff at paragraph 6.2.11 (page 30).

l¹ The Applicant's desktop survey revealed that ruff has been recorded on one occasion near Saddlebow in January 2002. However, the Applicant's NSER states that ruff has become extinct as a local breeding species at the Ouse Washes SPA

(from information provided by Natural England, 2010). The Applicant's field survey findings also indicate that this wader species does not tend to fly within the study area.

l² See l¹ above.

l³ The Applicant's desktop survey and field survey findings indicate that ruff do not tend to use the study area for feeding or nesting. Therefore this species is not considered to be affected by displacement effects by the Applicant.

Black-tailed godwit (non-breeding) - paragraphs 4.141 to 4.143, 4.149, 4.151, 4.156, 4.158, 4.159 and 4.161 of the NSER summarises the assessment for black-tailed godwit, which is detailed in the OA on pages 58-59. Natural England's written representation of 18 February 2013 discusses black-tailed godwit at paragraph 6.2.11 (page 30).

m¹ The Applicant's desktop and field survey findings also confirm that black-tailed godwit do not undertake regular local flights between feeding sites within the study area. The findings reported in the OA and NSER have led the Applicant to infer that some of the breeding black-tailed godwit associated with the Ouse Washes may be moving to The Wash prior to moving to their wintering sites, and that some of these are likely to use the River Great Ouse and the Ouse Relief Channel to navigate to The Wash in July each year. The Applicant's OA and NSER report a flock of six black-tailed godwit recorded flying above the collision risk zone in July 2010, north along the River Great Ouse. In light of this, the collision mortality on migrating black-tailed godwit has been assessed by the Applicant as being an insignificant impact.

m² See m¹ above.

m³ It is considered by the Applicant to be very unlikely that the presence of the proposed overhead line would result in displacement of black-tailed godwit using the study area, since these species do not regularly use fields within the study area for feeding or roosting.

Common pochard (non-breeding) - paragraphs 4.70, 4.76, 4.81, 4.87, 4.90 and 4.91 of the NSER summarise the assessment for pochard, which is detailed in the OA on page 51. Natural England's written representation of 18 February 2013 discusses pochard at paragraph 6.2.11 (page 30).

n¹ The Applicant's desktop survey and field survey findings indicate that pochard do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. The Applicant has stated within

the NSER that it is possible that some pochard do migrate across the study area (although they were not recorded by the surveys), but the associated collision risk for these migrating wildfowl is considered to be low.

n² See n¹ above.

n³ The Applicant's desktop survey and field survey findings indicate that pochard do not tend to use the study area. Therefore it has been concluded by the Applicant that this species will not be affected by displacement effects.

Spotted crane (breeding) – paragraphs 4.192, 4.194 to 4.195, 4.197 to 4.198, and 4.200 of the NSER summarise the assessment for spotted crane. This species is not specifically discussed in the OA. Natural England's written representation of 18 February 2013 discusses spotted crane at paragraph 6.2.11 (page 30).

o¹ The Applicant's NSER reports that no desktop records for spotted crane were obtained for the study area and no spotted crane flightlines were recorded during the field surveys.

o² See o¹ above.

o³ The Applicant has assessed that spotted crane do not use the fields within the study area for feeding or nesting during the breeding period and therefore this species will not be affected by displacement effects.

Black-tailed godwit (breeding) - as previously identified, paragraphs 4.141 to 4.143, 4.149, 4.151, 4.156, 4.158, 4.159 and 4.161 of the NSER summarises the assessment for black-tailed godwit, which is detailed in the OA on pages 58-59. Natural England's written representation of 18 February 2013 discusses black-tailed godwit at paragraph 6.2.11 (page 30).

p¹ Similar to m¹ above. The Applicant's desktop survey and field survey findings suggest that some of the breeding black-tailed godwit associated with the Ouse Washes may be moving to The Wash prior to moving to their wintering sites. It has been assessed by the Applicant as likely that some black-tailed godwits will use the River Great Ouse and the Ouse Relief Channel to navigate to The Wash in July each year. A single flock of six black-tailed godwit were recorded flying north along the River Great Ouse in late spring 2010, and collision mortality on migrating black-tailed godwit has been assessed by the Applicant as being an insignificant impact.

p² See p¹ above.

p³ It is considered by the Applicant very unlikely that the presence of the proposed overhead line would result in displacement of black-tailed godwit using the study area, on the basis that these species do not regularly use fields within the study area for feeding. Habitats within the study area were assessed as unsuitable for black-tailed godwit nesting.

Gadwall (non-breeding) – as identified above, paragraphs 4.70, 4.76, 4.81, 4.87 and 4.90 of the NSER summarise the assessment for gadwall, which is detailed in the OA on pages 44-45. Natural England's written representation of 18 February 2013 discusses gadwall at paragraph 6.2.11 (page 30).

q¹ As for d¹ above. The Applicant's desktop survey and field survey findings indicate that gadwall do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. Therefore the Applicant has predicted that the collision risk for gadwall is insignificant.

q² See q¹ above.

q³ the Applicant's desktop survey and field survey findings indicate that gadwall do not tend to use the study area for feeding or nesting, and on this basis they have assessed that this species will not be affected by displacement effects.

Ruff (non-breeding) – as identified above, paragraphs 4.165 and 4.168 to 4.170 of the NSER summarise the assessment for ruff, which is detailed in the OA on pages 67-68, in the section on Other Wader Species. Natural England's written representation of 18 February 2013 discusses ruff at paragraph 6.2.11 (page 30).

r¹ As for l¹ above. The Applicant's desktop and field survey findings indicate that this wader species do not tend to fly within the study area.

r² See r¹ above.

r³ As for l³ above. The Applicant's desktop survey and field survey findings indicate that ruff do not tend to use the study area for feeding or roosting, and on this basis this species has not been considered by the Applicant to be affected by displacement effects.

Coot (non-breeding) - paragraphs 4.192 to 4.200 of the NSER summarise the assessment for coot, amongst other SPA waterbirds, which is detailed in the OA on pages 72 and 73. Natural England's written representation of 18 February 2013 discusses coot at paragraph 6.2.12 (page 30).

- t¹ The Applicant's field survey findings confirm that coots tend to fly at low levels along the Ouse and Relief Channel. Given the distances involved, the Applicant has considered it unlikely that the coots recorded in the survey area are associated with the Ouse Washes.
- t² See t¹ above.
- t³ The Applicant states that coot are not vulnerable to displacement in their submitted Habitats Regulations Matrices (April 2013). In paragraph 4.196 of the NSER this species is considered by the Applicant to be likely to have habituated to existing overhead lines located near to the study area.

Tufted duck (non-breeding) - paragraphs 4.70, 4.80, 4.85, 4.88 and 4.92 of the NSER summarise the assessment for tufted duck, which is detailed in the OA on page 52-3. Natural England's written representation of 18 February 2013 discusses tufted duck at paragraph 6.2.16 (page 32).

u¹ The Applicant's field survey indicates this duck species is found along the Ouse Relief Channel, but not in the East Corridor. The Applicant considers that this species is likely to be resident in the survey area, and not an outlier of the SPA.

u² See u¹ above.

u³ See u¹ above.

Cormorant (non-breeding) - paragraphs 4.176 to 4.182 of the NSER summarise the assessment for cormorant, which is detailed in the OA on pages 69 to 71. Natural England's written representation of 18 February 2013 discusses cormorant at paragraph 6.2.16 (page 32).

v¹ The Applicant's field survey indicates this species is generally found along the River Great Ouse and the Ouse Relief Channel. The Applicant's interpretation of the survey results are that when this species flies, it tends to not usually be in the collision risk zone. The numbers of birds, and the distances involved had led the Applicant to conclude that these birds are unlikely to be residents of the Ouse Washes and are more likely to be local residents, and hence no impact on the SPA is predicted.

v² See v¹ above.

v³ See v³ above.

Lapwing and Oystercatcher (as part of a breeding assemblage)

– for lapwing, paragraphs 4.116 to 4.140 of the NSER summarise the assessment, which is detailed in the OA on pages 61 to 64. Natural England's written representation of 18 February 2013 discusses lapwing at paragraph 6.2.17 (page 32).

– for oystercatcher, paragraphs 4.147, 4.148, 4.153, 4.157, 4.160 and 4.163 of the NSER summarise the assessment, which is detailed in the OA on pages 64 to 65. Natural England's written representation of 18 February 2013 discusses oystercatcher at paragraph 6.2.18 (page 33).

w¹ In the information provided by the Applicant, they identify that lapwing does not qualify as an individual feature, but is part of the assemblage of breeding birds associated with the Ouse Washes SPA. High numbers (100s occasionally 1000s of lapwing have been recorded feeding in the survey area, particularly in the early winter. The Applicant has assessed that these birds are more likely to be associated with The Wash's wintering population, rather than the Ouse Washes' spring breeding population. The NSER considers that there is likely to be some collision mortality for birds moving between feeding sites and roost sites during the early winter period, but due to the distances involved, this is very unlikely to have an effect on the breeding assemblage at the Ouse Washes SPA.

The Applicant's information suggests that there are low numbers of oystercatcher breeding near the River Great Ouse. The evidence indicates that the species does not winter in the study area, but there is evidence of migratory flights, including some in the risk zone in the East Corridor. However, given the low numbers of birds involved, it is unlikely that the extent of collision mortality would have any impact on the breeding assemblage of the Ouse Washes SPA.

w² See w¹ above.

w³ See w¹ above.

With respect to the justifications relating to bird species other than swans – justifications c to w (with the exclusion of s) above:

Reference is made to the discussion within the written representation of 18 February 2013 from Natural England, and the discussion within regarding these species. In this written representation, Natural England draws upon the results of the Applicant's assessment and presents their agreement with the interpretation of the survey results and conclusions of the assessment as detailed above for each species.

In-combination assessment:

An in-combination assessment is presented by the Applicant in Chapter 5 of the NSER, and focuses on whooper swan, apparently on advice provided to the Applicant by Natural England and reported in the NSER (see 'B', above).

The Applicant concludes that as the King's Lynn Connection project alone has no direct effect on the SPAs and has no significant indirect effect, few other projects in the area can be envisaged that might cause a cumulative or in-combination effect. The Applicant considers that the only scenario where cumulative effects may occur would be if other developments

caused SPA birds to be displaced from their normal feeding grounds or migratory corridors into the King's Lynn Connection overhead line corridor leading to an in-combination effect. On the basis that no such projects are known, it is concluded by the Applicant that no significant in-combination effect will be observed for any of the SPA species assessed above. Natural England has confirmed that they agree with this conclusion within their written representation, in particular Paragraph 6.2.9, and the responses to Examining Authority questions included with this representation.

This conclusion is not represented in the Applicant's submitted matrices (report ref: 1907.104 – version 1.0 TEP April 2013), which suggest that an in-combination assessment has *only* been applied to whooper swan.

Overall, within their written representation, and SoCG Natural England express the opinion that the proposal (if carried out exactly as detailed within the Applicant's assessment undertaken) is unlikely to result in a significant effect on the Ouse Washes SPA.

Matrix B: The Wash SPA (site code: UK9008021) and Ramsar Site 11072

Name of European site: The Wash SPA/Ramsar Site												
Distance to NSIP 6.5km												
European site features	Likely Effects of NSIP											
	Effect 1 (collision during feeding flights)			Effect 2 (collision during migratory flights)			Effect 3 (displacement from feeding grounds)			In-combination effects		
	C	O	D	C	O	D	C	O	D	C	O	D
A037 <i>Cygnus columbianus bewickii</i> ; Bewick's Swan (non-breeding)	X n/a	X a ¹	X n/a	X n/a	X a ²	X n/a	X a ³	X a ³	X n/a	X	X	X
A040 <i>Anser brachrhynchus</i> ; Pink-footed goose (non-breeding)	X n/a	X b ¹	X n/a	X n/a	X b ²	X n/a	X b ³	X b ³	X n/a	X	X	X
A046a <i>Branta bernicla bernicla</i> ; Dark belied Brent goose (Non-breeding)	X n/a	X c ¹	X n/a	X n/a	X c ²	X n/a	X c ³	X c ³	X n/a	X	X	X
A048 <i>Tadorna tadorna</i> ; Common shelduck (Non-breeding)	X n/a	X d ¹	X n/a	X n/a	X d ²	X n/a	X d ³	X d ³	X n/a	X	X	X
A050 <i>Anas Penelope</i> ; Eurasian wigeon (Non-	X n/a	X e ¹	X n/a	X n/a	X e ²	X n/a	X e ³	X e ³	X n/a	X	X	X

Name of European site: The Wash SPA/Ramsar Site												
Distance to NSIP 6.5km												
European site features	Likely Effects of NSIP											
	Effect 1 (collision during feeding flights)			Effect 2 (collision during migratory flights)			Effect 3 (displacement from feeding grounds)			In-combination effects		
	C	O	D	C	O	D	C	O	D	C	O	D
breeding)												
<i>A051 Anas strepera</i> ; Gadwall (Non-breeding)	X n/a	X f ¹	X n/a	X n/a	X f ²	X n/a	X f ³	X f ³	X n/a	X	X	X
<i>A054 Anas acuta</i> ; Northern pintail (Non-breeding)	X n/a	X g ¹	X n/a	X n/a	X g ²	X n/a	X g ³	X g ³	X n/a	X	X	X
<i>A065 Melanitta nigra</i> ; Black (Common) scoter (Non-breeding)	X n/a	X h ¹	X n/a	X n/a	X h ²	X n/a	X h ³	X h ³	X n/a	X	X	X
<i>A067 Bucephala clangula</i> ; Common goldeneye (Non-breeding)	X n/a	X i ¹	X n/a	X n/a	X i ²	X n/a	X i ³	X i ³	X n/a	X	X	X
<i>A130 Haematopus ostralegus</i> ; Eurasian Oystercatcher (Non-breeding)	X n/a	X j ¹	X n/a	X n/a	X j ²	X n/a	X j ³	X j ³	X n/a	X	X	X
<i>A141 Pluvialis squatarola</i> ; Grey plover (Non-breeding)	X n/a	X k ¹	X n/a	X n/a	X k ²	X n/a	X k ³	X k ³	X n/a	X	X	X

Name of European site: The Wash SPA/Ramsar Site												
Distance to NSIP 6.5km												
European site features	Likely Effects of NSIP											
	Effect 1 (collision during feeding flights)			Effect 2 (collision during migratory flights)			Effect 3 (displacement from feeding grounds)			In-combination effects		
	C	O	D	C	O	D	C	O	D	C	O	D
A143 <i>Calidris canutus</i> ; Red knot (Non-breeding)	X n/a	X l ¹	X n/a	X n/a	X l ²	X n/a	X l ³	X l ³	X n/a	X	X	X
A149 <i>Calidris alba</i> ; Sanderling (Non-breeding)	X n/a	X m ¹	X n/a	X n/a	X m ²	X n/a	X m ³	X m ³	X n/a	X	X	X
A149 <i>Calidris alpina alpina</i> ; Dunlin (Non-breeding)	X n/a	X n ¹	X n/a	X n/a	X n ²	X n/a	X n ³	X n ³	X n/a	X	X	X
A156 <i>Limosa limosa islandica</i> ; Black-tailed godwit (Non-breeding)	X n/a	X o ¹	X n/a	X n/a	X o ²	X n/a	X o ³	X o ³	X n/a	X	X	X
A157 <i>Limosa lapponica</i> ; Bar-tailed godwit (Non-breeding)	X n/a	X p ¹	X n/a	X n/a	X p ²	X n/a	X p ³	X p ³	X n/a	X	X	X
A160 <i>Numenius arquata</i> ; Eurasian curlew (Non-breeding)	X n/a	X q ¹	X n/a	X n/a	X q ²	X n/a	X q ³	X q ³	X n/a	X	X	X
A162 <i>Tringa tetanus</i> ;										X	X	X

Name of European site: The Wash SPA/Ramsar Site												
Distance to NSIP 6.5km												
European site features	Likely Effects of NSIP											
	Effect 1 (collision during feeding flights)			Effect 2 (collision during migratory flights)			Effect 3 (displacement from feeding grounds)			In-combination effects		
	C	O	D	C	O	D	C	O	D	C	O	D
Common redshank (Non-breeding)	X n/a	X r ¹	X n/a	X n/a	X r ²	X n/a	X r ³	X r ³	X n/a			
<i>A169 Arenaria interpres</i> ; Ruddy turnstone (Non-breeding)	X n/a	X s ¹	X n/a	X n/a	X s ²	X n/a	X s ³	X s ³	X n/a	X	X	X
<i>AA193 Sterna hirundo</i> ; Common tern (breeding)	X n/a	X t ¹	X n/a	X n/a	X t ²	X n/a	X t ³	X t ³	X n/a	X	X	X
<i>A195 Sterna albifrons</i> ; Little tern (Breeding)	X n/a	X u ¹	X n/a	X n/a	X u ²	X n/a	X u ³	X u ³	X n/a	X	X	X
<i>A038 Cygnus Cygnus</i> ; Whooper swan (Non-breeding)	X n/a	X v ¹	X n/a	X n/a	X v ²	X n/a	X v ³	X v ³	X n/a	X V	X V	X V
<i>A081 Circus aeruginosus</i> ; Eurasian marsh harrier (Breeding)	X n/a	X w ¹	X n/a	X n/a	X w ²	X n/a	X w ³	X w ³	X n/a	X	X	X
<i>A132 Recurvirostra avosetta</i> ; Pied	X n/a		X n/a	X n/a	X x ²	X n/a	X x ³	X x ³	X n/a	X	X	X

Name of European site: The Wash SPA/Ramsar Site												
Distance to NSIP 6.5km												
European site features	Likely Effects of NSIP											
	Effect 1 (collision during feeding flights)			Effect 2 (collision during migratory flights)			Effect 3 (displacement from feeding grounds)			In-combination effects		
	C	O	D	C	O	D	C	O	D	C	O	D
avocet (Non-breeding)		X x ¹										
<i>A137 Charadrius hiaticula</i> ; Ringed plover (Non-breeding)	X n/a	X y ¹	X n/a	X n/a	X y ²	X n/a	X y ³	X y ³	X n/a	X	X	X
<i>A140 Pluvialis apricaria</i> ; European golden plover (Non-breeding)	X n/a	X z ¹	X n/a	X n/a	X z ²	X n/a	X z ³	X z ³	X n/a	X	X	X
<i>Assemblage of wintering Birds inc. Vanellus vanellus: Lapwing and Haematopus ostralegus Eurasian Oystercatcher</i>	X n/a	X aa ¹	X n/a	X n/a	X aa ²	X n/a	X aa ³	X aa ³	X n/a	X	X	X

Justifications

Bewick's swan (non-breeding) – paragraphs 4.29 to 4.46 of the NSER summarise the assessment, which is detailed in the OA on pages 36-39. Natural England's written representation of 18 February 2013 also discusses swans at paragraphs 6.2.3 to 6.2.9 (pages 27-29). The SoCG between National Grid Electricity Transmission Plc

and Natural England dated 31 January 2013 deals with specific matters raised by the Examining Authority, and discusses swans at Section 2 and 3.

- a¹ The Applicant's desktop and field survey findings indicate that Bewick's swans do not undertake local flights between feeding sites within the study area whilst they are present in the region. In light of this, the Applicant has considered that Bewick's swans are not at risk of overhead line collision when undertaking flights between their roosting sites and various feeding sites. Paragraphs 6.2.7 and 6.2.8 of Natural England's written representation (18 February 2013) support this conclusion. Paragraph 2.12 of the SoCG between National Grid and Natural England confirms that the parties agree that the proposed alignment does not conflict with known local feeding flight paths, and that collision risk mitigation has been fully considered (in the selection of the proposed route).
- a² The Applicant's desktop survey findings indicated that small numbers of Bewick's swans do occasionally fly through the study area during their autumn migration with fewer records for the spring migration period. No migrating Bewick's swans were detected during vantage point surveys during autumn 2009 or spring 2010 swan migration periods or during the autumn 2010 and spring 2011 swan migration study (86 hours of survey effort during migration periods).

The Applicant's consultations with Welney WWT Reserve (part of the Ouse Washes) and literature review indicated that although Bewick's swans are vulnerable to collisions with overhead lines, they generally manoeuvre better than whooper swans and are therefore more able to avoid aerial hazards such as overhead lines. The literature review did not reveal any information on the flight height of migrating Bewick's swans; the Applicant has considered it likely that this will be comparable with whooper swan migration flights suggesting a proportion of migrating Bewick's swans fly above existing overhead lines.

The Applicant has considered it likely that Bewick's swans will follow similar flight patterns to the whooper swans across the study area. Within their assessment, they consider that the north to south alignment of the proposed overhead line will minimise collision risk to Bewick's swan. It is considered within the NSER that collision mortality on migrating Bewick's swan will be an insignificant impact since no Bewick's swans have been recorded within the study area at any time since autumn 2009. The collision risk is assessed by the Applicant as being further reduced when swan collision avoidance rates are taken into account. The conclusion that the project alone will not significantly affect the Bewick's swan population associated with the SPA is supported by the written representation of Natural England.

Paragraph 2.12 of the SoCG between National Grid and Natural England confirms that the parties agree that the proposed alignment does not conflict with known migratory flight paths, and that collision risk mitigation has been fully considered (in the selection of the proposed route).

- a³ According to the Applicant's NSER, desktop survey and field survey results (November 2009 – March 2011 – two winter periods) confirm that Bewick's swans do not use fields within the study area for feeding or resting. Therefore it has been concluded by the Applicant that Bewick's swans will not experience any displacement effects as a result of the proposed overhead line development. The written representation (18 February 2013) from Natural England in Paragraph 7.1.3 states Natural England's opinion that none of the SPA qualifying features are likely to be affected as a result of displacement from feeding areas.

Pink-footed goose (non-breeding) – paragraphs 4.56 to 4.69 of the NSER summarise the assessment, which is detailed in the OA on pages 40 to 42. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

- b¹ The Applicant's OA and NSER report autumn 2010 survey data indicating that pink-footed geese do fly within the study area during autumn migration flights, with a total of 1,526 flightlines recorded within the survey area (all route corridors). The surveys indicated that the great majority of flight time within the study area is spent high up, over 150 metres above ground level and this is considered by the Applicant to be well above any aerial obstacle associated with the proposed overhead line. No pink-footed geese were recorded within the collision risk zone within the East Corridor. The spring 2011 survey data provided by the Applicant also indicates that the study area is not regularly over flown during spring migration flights, and those birds that do fly within this area fly over 150 metres. The Applicant has therefore considered that pink-footed goose collision mortality as a result of the proposed overhead line to be unlikely.
- b² See b¹ above.
- b³ Both the OA and NSER report that at no time during any of the surveys were pink footed geese observed to land or show any indication of landing within or near to the study area. Paragraph 4.64 of the NSER states that land in the study area is managed very differently than fields of sugar beet north of King's Lynn where geese are prevalent, and the study area has little foraging value for pink-footed geese. On this basis it has been assessed by the Applicant that there will not be any displacement effects on pink-footed geese.

Dark-bellied Brent goose (non-breeding) – paragraphs 4.70, 4.71, 4.76, 4.81, 4.87, 4.90, 4.96 of the NSER summarise the assessment, which is detailed in the OA on pages 42 and 43. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

- c¹ The Applicant's desktop survey and field survey findings indicate that dark-bellied Brent geese do not make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. This species was not recorded at any stage during the field surveys. The dark-bellied Brent goose is known to feed and roost principally on estuarine habitats, such as those that can be found on The Wash to the north of the study area, but rarely feeds in agricultural fields. On this basis, the Applicant has predicted the collision risk to dark-bellied Brent geese as being insignificant.
- c² See c¹ above.
- c³ The Applicant's desktop survey and field survey findings indicate that dark-bellied Brent geese do not tend to use the study area for feeding or roosting, and as a result the Applicant has concluded that this species will not be displaced as a result of the proposal.

Common shelduck (non-breeding) – paragraphs 4.70, 4.75, 4.76, 4.86, 4.87, 4.90, 4.96 of the NSER summarise the assessment, which is detailed in the OA on pages 53 to 54.

- d¹ The Applicant's desktop survey and field survey findings indicate that shelduck do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. It has been considered in the OA and NSER likely that the majority of shelduck flights observed on the River Great Ouse between March and June 2010 were local feeding flights. Shelduck were only recorded for four months of the year and relatively few flights were recorded in these months. As a result of these findings the Applicant has assessed shelduck collision mortality as being an insignificant impact.
- d² See d¹ above.
- d³ The Applicant's desktop survey and field survey findings indicate that shelduck do not tend to use the study area for feeding or roosting, leading to the conclusion within the NSER that shelduck will not be displaced as a result of the proposals.

European wigeon (non-breeding) - paragraphs 4.74, 4.77, 4.82, 4.88 and 4.93 of the NSER summarise the assessment for wigeon, which is detailed in the OA on pages 43-44.

- e¹ The majority of wigeon flights as reported in the NSER involved birds flying very close to the waterline, below the minimum overhead line sag height of ca. 10 metres. The Applicant has considered that it is possible that some regional migration takes places between overwintering wigeon associated with The Wash SPA and the Ouse Washes SPA, but that it is very unlikely that regular collision with the overhead lines would occur as a result of these possible movements.
- e² See e¹ above.
- e³ According to the Applicant's NSER wigeon have been recorded within the study area, mostly associated with sections of the River Great Ouse and/or the Ouse Relief Channel. The records for this species are considered by the Applicant to be located a sufficient distance from the proposed alignment for displacement effects to be avoided.

Gadwall (non-breeding) - paragraphs 4.70, 4.76, 4.81, 4.87 and 4.90 of the NSER summarise the assessment for gadwall, which is detailed in the OA on pages 44-45. Natural England's written representation of 18 February 2013 discusses gadwall at paragraph 6.2.11 (page 30).

- f¹ The Applicant's desktop survey and field survey findings indicate that gadwall do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. Therefore the Applicant has predicted that the collision risk for gadwall is insignificant.
- f² See f¹ above.
- f³ The Applicant's desktop survey and field survey findings indicate that gadwall do not tend to use the study area for feeding or nesting, and on this basis they have assessed that this species will not be affected by displacement effects.

Northern pintail (non-breeding) - paragraphs 4.74, 4.76, 4.81, 4.87 and 4.90 of the NSER summarise the assessment for pintail, which is detailed in the OA on pages 48-49. Natural England's written representation of 18 February 2013 discusses pintail at paragraph 6.2.11 (page 30).

- g¹ The Applicant's desktop survey and field survey findings indicate that northern pintail do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. No pintail flight lines were recorded during vantage point surveys in winter 2009-2010 and 2010-2011. Therefore the predicted collision risk for northern pintail has been assessed as insignificant.
- g² See g¹ above.
- g³ The Applicant's desktop survey and field survey findings indicate that northern pintail do not tend to use the study area for feeding or roosting and therefore it has been concluded that this species will not be affected by displacement effects.

Common scoter (non-breeding) – paragraphs 4.70, 4.76, 4.81, 4.87, 4.90, 4.96 of the NSER summarise the assessment. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30). This species is not specifically discussed in the assessment within the OA.

- h¹ The Applicant's desktop survey and field survey findings indicate that common scoter do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. No common scoter flight lines were recorded during vantage point surveys in winter 2009-2010 and 2010-2011. As a result of these findings the Applicant has assessed the collision risk for common scoter to be insignificant.
- h² See h¹ above.
- h³ The Applicant's desktop survey and field survey findings indicate that common scoter do not tend to use the study area for feeding or roosting. Common scoter is identified by the Applicant as a coastal species which feeds principally on shellfish. The Applicant has concluded on this basis that common scoter will not be affected by displacement effects.

Common goldeneye (non-breeding) – paragraphs 4.74, 4.76, 4.81, 4.87, 4.90, 4.96 of the NSER summarise the assessment, which is detailed in the OA on pages 54 and 55. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

- i¹ The Applicant's desktop survey and field survey findings indicate that goldeneye do not tend to make regular feeding flights or migration flights within the East Corridor close to the proposed alignment. No goldeneye flight lines were

recorded during vantage point surveys in winter 2009-2010 and 2010-2011. On this basis the Applicant has predicted the collision risk for goldeneye to be insignificant.

i² See i¹ above.

i³ The Applicant's desktop survey and field survey findings indicate that goldeneye do not tend to use the study area for feeding or roosting, and as a result common goldeneye is not considered likely to be affected by displacement effects.

Eurasian oystercatcher (non-breeding) - paragraphs 4.147, 4.148, 4.153, 4.157, 4.160 and 4.163 of the NSER summarise the assessment, which is detailed in the OA on pages 64 to 65. Natural England's written representation of 18 February 2013 discusses oystercatcher at paragraph 6.2.18 (page 33).

j¹ The rate of oystercatcher flights recorded by the Applicant during the vantage point surveys was considered to be very low. The majority of flight lines were associated with the river Great Ouse, outside of the east corridor, although the majority of flights were recorded flying at a height where an overhead line collision could occur. However, given the low numbers of birds recorded, oystercatcher collision mortality has been assessed by the Applicant as being an insignificant impact.

j² See j¹ above.

j³ The Applicant considers that there is a very small chance that oystercatcher could be displaced through the construction of the overhead line, and states that any effects would be temporary. No feeding or roosting oystercatcher were recorded in the East Corridor close to the proposed alignment and on this basis this species is considered unlikely to be affected by displacement effects.

Grey plover (non-breeding) – paragraphs 4.164, 4.170 and 4.175 of the NSER summarise the assessment, which is detailed in the OA on pages 67 to 68. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

k¹ The Applicant's desktop and field survey findings indicate that grey plover do not tend to fly within the study area. No grey plover were recorded during vantage point surveys in winter 2009-2010 or 2010-2011. On this basis the Applicant has assessed grey plover collision mortality as being an insignificant impact.

k² See k¹ above.

k³ The Applicant identify that grey plover do not tend to occur inland; that much of their movements are restricted to coastal sites. As a result the Applicant have assessed that there will be no displacement effects as a result of the proposals.

Red knot (non-breeding) – paragraphs 4.164, 4.170 and 4.175 of the NSER summarise the assessment, which is detailed in the OA on pages 67 to 68. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

l¹ The Applicant's desktop and field survey findings indicate that knot do not tend to fly within the study area. No knot were recorded during vantage point surveys in winter 2009-2010 or 2010-2011. Knot collision mortality has been assessed by the Applicant as being an insignificant impact.

l² See l¹ above.

l³ The Applicant identifies that knot do not tend to occur inland; much of their movements are restricted to coastal sites. As a result the Applicant has assessed that there will be no displacement effects as a result of the proposals.

Sanderling (non-breeding) – paragraphs 4.164, 4.170 and 4.175 of the NSER summarise the assessment, which is detailed in the OA on pages 67 to 68. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

m¹ The Applicant's desktop and field survey findings indicate that sanderling do not tend to fly within the study area. No sanderling were recorded during vantage point surveys in winter 2009-2010 or 2010-2011. On this basis the Applicant has assessed sanderling collision mortality as being an insignificant impact.

m² See m¹ above.

m³ The Applicant identify that sanderling do not tend to occur inland; much of their movements are restricted to coastal sites. As a result, the Applicant have assessed that there will be no displacement effects as a result of the proposals.

Dunlin (non-breeding) – paragraphs 4.164, 4.170 and 4.175 of the NSER summarise the assessment, which is detailed in the OA on pages 67 to 68. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

n¹ The Applicant's desktop and field survey findings indicate that dunlin do not tend to fly within the study area. No dunlin were recorded during vantage point surveys in winter 2009-2010 or 2010-2011. On this basis dunlin collision mortality has been assessed by the Applicant as being an insignificant impact.

n² See n¹ above.

n³ The Applicant identify that dunlin do not tend to occur inland; much of their movements are restricted to coastal sites. As a result the Applicant has assessed that there will be no displacement effects as a result of the proposals.

Black-tailed godwit (non-breeding) - paragraphs 4.141 to 4.143, 4.149, 4.151, 4.156, 4.158, 4.159 and 4.161 of the NSER summarises the assessment for black-tailed godwit, which is detailed in the OA on pages 58-59. Natural England's written representation of 18 February 2013 discusses black-tailed godwit at paragraph 6.2.11 (page 30).

o¹ The Applicant's desktop and field survey findings also confirm that black-tailed godwit do not undertake regular local flights between feeding sites within the study area. The findings reported in the OA and NSER have led the Applicant to infer that some of the breeding black-tailed godwit associated with the Ouse Washes may be moving to The Wash prior to moving to their wintering sites, and that some of these are likely to use the River Great Ouse and the Ouse Relief Channel to navigate to The Wash in July each year. The Applicant's OA and NSER report a flock of six black-tailed godwit recorded flying above the collision risk zone in July 2010, north along the River Great Ouse. In light of this, the collision mortality on migrating black-tailed godwit has been assessed by the Applicant as being an insignificant impact.

o² See o¹ above.

o³ It is considered by the Applicant to be very unlikely that the presence of the proposed overhead line would result in displacement of black-tailed godwit using the study area, since these species do not regularly use fields within the study area for feeding or roosting.

Bar-tailed godwit (non-breeding) – 4.164, 4.170 and 4.175 of the NSER summarise the assessment, which is detailed in the OA on pages 67 to 68. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

p¹ The Applicant's desktop and field survey findings indicate that bar-tailed godwit do not tend to fly within the study area. No bar-tailed godwit were recorded during vantage point surveys in winter 2009-2010 or 2010-2011. On this basis, the Applicant has assessed bar-tailed godwit collision mortality as being an insignificant impact.

p² See p¹ above.

p³ The Applicant has identified that bar-tailed godwit do not tend to occur inland; much of their movements are restricted to coastal sites. As a result the Applicant has assessed that there will be no displacement effects as a result of the proposals.

Curlew (non-breeding) – paragraphs 4.144, 4.149, 4.152, 4.156, 4.158, 4.163 of the NSER summarise the assessment, which is detailed in the OA on pages 59 to 60. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

q¹ The Applicant's desktop and field survey findings indicate that curlew do not undertake regular local flights between feeding sites within the study area. A flock of 9 curlew followed by a single curlew were recorded on one date in mid-April near the River Great Ouse approximately 2km west of the proposed alignment. Given the survey results, curlew collision mortality has been assessed by the Applicant as being an insignificant impact.

q² See q¹ above.

q³ The Applicant has considered it unlikely that the presence of the proposed overhead line would result in displacement of curlew using the study area on the basis that this species does not regularly use fields within the study area for feeding or roosting. The Applicant has concluded that there will be no displacement effects on curlew.

Redshank (non-breeding) – paragraphs 4.146, 4.148, 4.150, 4.154, 4.156, 4.160 and 4.163 of the NSER summarise the assessment, which is detailed in the OA on pages 66 to 67. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.12 (page 30).

r¹ According to the OA and NSER the rate of redshank flights recorded during the vantage point survey was low, with three flights recorded in total. Redshank flight lines were only observed on the river Great Ouse, outside the east corridor, although all flights were recorded flying at a height where an overhead line collision could occur. On the basis that very low numbers were recorded, the Applicant has assessed redshank collision mortality as being an insignificant impact.

r² See r¹ above.

r³ The Applicant has considered it unlikely that the presence of the proposed overhead line would result in displacement of redshank since this species does not regularly use fields within the study area. The Applicant has concluded that there will be no displacement effects on redshank as a result of the proposals.

Ruddy turnstone (non-breeding) – paragraphs 4.145, 4.149, 4.155, 4.156, 4.158, 4.163 of the NSER summarise the assessment, which is detailed in the OA on pages 60 to 61. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

s¹ The Applicant's desktop and field survey findings indicate that turnstone do not tend to fly within the study area. No turnstone were recorded during vantage point surveys in winter 2009-2010 or 2010-2011. Turnstone collision mortality is assessed by the Applicant as being an insignificant impact.

s² See s¹ above.

s³ The Applicant identifies that turnstone do not tend to occur inland; much of their movements are restricted to coastal sites. On this basis therefore, they have concluded that there will be no displacement effects on turnstone as a result of the proposals.

Common tern (breeding) – paragraphs 4.183 to 4.191 of the NSER summarise the assessment, which is detailed in the OA on pages 71 to 72. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.20 (page 33).

t¹ The Applicant's field survey findings indicate that foraging common terns tend to fly along the River Great Ouse and Ouse Relief Channel west of the proposed alignment. Terns are identified by the Applicant as being highly manoeuvrable birds and are therefore very unlikely to collide with power lines. Common tern were only recorded within the survey area between the months of May and July 2010, with a total of 134 tern flights recorded in the study area

although the vast majority of these birds were recorded over 1km to the west of the proposed alignment. On the basis of the findings the Applicant has assessed common tern collision mortality as being an insignificant impact.

t² See t¹ above.

t³ The Applicant identifies that common terns tend to forage exclusively on the river Great Ouse and Ouse Relief Channel, which are considered to be unaffected by the proposed alignment. As a result, no significant displacement effects on common tern have been identified by the Applicant.

Little tern (breeding) – paragraphs 4.183 to 4.191 of the NSER summarise the assessment, which is detailed in the OA on pages 71 to 72. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

u¹ According to the NSER no little tern flight lines were recorded within the study area at any stage during field surveys. As a result the Applicant considers that there will not be any significant collision mortality effects on foraging or migrating little terns.

u² See u¹ above.

u³ As identified above, no little tern were recorded at any stage during the 2009-2010 vantage point survey. Little terns are identified by the Applicant as primarily a coastal species which are not recorded inland. The Applicant has concluded that there will be no significant displacement effects on little tern.

Whooper swan (non-breeding) – paragraphs 4.3 to 4.28 of the NSER summarise the assessment, which is detailed in the OA on pages 26-36. The NSER also has Chapter 5 which describes the in-combination assessment. Natural England's written representation of 18 February 2013 also discusses swans at paragraphs 6.2.3 to 6.2.9 (pages 27-29). The SoCG between National Grid Electricity Transmission Plc and Natural England dated 31 January 2013 deals with specific matters raised by the Examining Authority, and discusses swans at Section 2 and 3.

v¹ The desktop and field survey findings reported in the Applicant's NSER and OA indicate that whooper swans do not undertake local flights between feeding sites within the study area. Therefore, according to the Applicant there are no predicted collision mortality effects on whooper swan undertaking flights between their roosting sites and feeding sites.

Paragraph 2.12 of the SoCG between National Grid and Natural England confirms that the parties agree that the proposed alignment does not conflict with known local feeding flight paths.

v² The Applicant's desktop survey findings indicate that some whooper swans fly through the study area during their autumn and spring migration periods. The whooper swan is not an individually qualifying feature for The Wash, as overwinter numbers are low (typically less than 100), whereas the Ouse Washes is the dominant area, with numbers typically over 5,000. The OA reports (Paragraph 4.48) that swans were predominantly recorded flying in a north-south alignment during autumn 2010 and spring 2011. The Applicant considers in Paragraph 4.57 of the OA and 4.24 of the NSER that the alignment of the proposed overhead line may be an important factor influencing collision risk, and that the north to south alignment of the proposed alignment will minimise collision risk to whooper swan.

The literature review summarised in the Applicant's NSER confirms that whooper swans are vulnerable to aerial collision during low-light conditions, but only tend to migrate in the daytime or at night when there is a full moon or cloud-free nights. These findings were interpreted to mean that migrating whooper swans tend to fly in conditions which do not hinder good visibility. The literature review is reported as indicating that it is likely that wildfowl have an avoidance rate of at least 99% when approaching overhead lines at a height which requires evasive manoeuvres to avoid the overhead line. The assessment of collision mortality, reported in Matrix A in relation to whooper swans at Ouse Washes, notes that an average migration-phase mortality rate of less than one whooper swan per year is predicted.

v³ The Applicant's desktop survey and field survey findings show that whooper swans do not use fields within the study area for feeding or resting. Therefore it has been concluded that there will not be any displacement effects on whooper swan as a result of the proposed overhead line development. The written representation (18 February 2013) from Natural England in Paragraph 7.1.3 surmises that Natural England agree that none of the SPA qualifying features are likely to be affected as a result of displacement from feeding areas.

V The in-combination effects assessment has considered a number of projects in the area around the Ouse Washes SPA, these projects are listed in Section 1.0 of this Report along with a description of the in-combination assessment.

None of the projects reviewed had any predicted impacts on whooper swans with the exception of the onshore wind farm at Boardinghouse Farm, some 20km south-west of the King's Lynn B Connection Project. However the predicted impacts associated with the Boardinghouse Farm project are very low and survey results suggest that whooper swans associated with the Nene Washes (rather than the Ouse Washes) would be affected.

Eurasian marsh harrier (breeding) – paragraphs 4.202 to 4.212 of the NSER summarise the assessment, which is detailed in the OA on pages 76 to 77. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.19 (page 33).

w¹ & w²

According to the OA and NSER several records of a single marsh harrier were recorded in the study area in early November 2010. These records have been considered within the Applicant's reports as likely to concern late dispersing juvenile birds, passing through the area and there is no evidence that marsh harrier frequently use the study area for foraging.

Paragraph 4.353 of the OA and 4.211 of the NSER state that the low numbers of flights recorded should be set in context that the species is rare and the population of marsh harriers in the wider area is very low. It is considered within these reports to be unlikely that the proposed overhead line would result in a detrimental effect on the marsh harrier population associated with Terrington Marsh and the wider area. The conclusion is reached by the Applicant that the potential for a marsh harrier overhead line collision to occur is an insignificant effect.

w³ According to the Applicant, marsh harriers are not considered likely to experience any displacement effects as a result of the proposed overhead line on the basis that they do not breed within the study area or the immediate locality.

Pied avocet (non-breeding) – paragraphs 4.166, 4.168, 4.169, 4.170, 4.175 of the NSER summarise the assessment, which is detailed in the OA on pages 67 to 68. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

x¹ The Applicant's desktop and field survey findings indicate that avocet do not tend to fly within the study area. No avocet were recorded during vantage point surveys in winter 2009-2010 or 2010-2011. As a result, the Applicant has assessed avocet collision mortality as being an insignificant impact.

x² See x¹ above.

x³ According to the OA and NSER no avocet were recorded during any field surveys using the study area for feeding or roosting. Avocets are identified by the Applicant to be associated with sandy beaches and coastal marshes rather than agricultural land. On this basis, the Applicant considers that there will be no displacement effects on avocet.

Ringed plover (non-breeding) – paragraphs 4.166, 4.168, 4.169, 4.170, 4.175 of the NSER summarise the assessment, which is detailed in the OA on pages 67 to 68. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

y¹ The Applicant's desktop and field survey findings indicate that ringed plover do not tend to fly within the study area. No ringed plover were recorded during vantage point surveys in winter 2009-2010 or 2010-2011. On this basis, the Applicant has assessed avocet collision mortality as being an insignificant impact.

y² See y¹ above.

y³ According to the OA and NSER, no ringed plover were recorded during any field surveys using the study area for feeding or roosting. The Applicant identify that wintering ringed plover tend to be associated with sandy areas within estuarine habitats rather than agricultural land. As a result the Applicant considers that there will be no displacement effects on ringed plover.

Golden plover (non-breeding) – paragraphs 4.99 to 4.115 of the NSER summarise the assessment, which is detailed in the OA on pages 55 to 57. Natural England's written representation of 18 February 2013 also discusses the species at paragraph 6.2.11 (page 30).

z¹ The Applicant's desktop and field survey findings indicate that while a number of flights were recorded across the entire study area (all route corridors) golden plover only undertake occasional local flights between feeding sites within the study area at heights which would put the bird at risk of collision with overhead lines.

The literature review carried out by the Applicant has been reported in the NSER to indicate that golden plover demonstrate an avoidance rate of at least 99% for wind turbines, and this has been interpreted by the Applicant to indicate that this highly manoeuvrable species will have a similar avoidance rate for overhead lines.

The Applicant identifies that golden plover, like some other waders, are known to fly between feeding sites at night time however golden plover flight activity tends to be influenced by aerial obstacles resulting in golden plover flying around aerial obstacles. Therefore, the Applicant has considered it likely that golden plover mortality would occur very infrequently and that golden plover collision mortality would be an insignificant impact.

- z² See z¹ above. Golden plover were never recorded flying in the East Corridor during migration surveys according to the OA and NSER, and the Applicant has concluded that the collision risk is negligible for the proposed alignment.
- z³ It is considered unlikely by the Applicant that the presence of the proposed alignment would result in displacement of golden plover using the study area, on the basis that this species is not regularly recorded within the study area and was never recorded close to the proposed alignment. It has been concluded by the Applicant that this species will not be affected by displacement effects.

Lapwing (as part of a winter assemblage of SPA interest and possible value for future specific Ramsar designation) – for lapwing, paragraphs 4.116 to 4.140 of the NSER summarise the assessment, which is detailed in the OA on pages 61 to 64. Natural England's written representation of 18 February 2013 discusses lapwing at paragraph 6.2.17 (page 32).

- aa¹ According to the Applicant's NSER and OA, lapwing were observed making numerous flights within the survey area, including the East corridor and the proposed alignment during the early part of the winter (November). Numbers feeding and flying in the area were recorded as much lower in the rest of the winter. The Applicant has predicted that these birds were associated with the overwinter assemblage of lapwings making their way towards The Wash for winter. Flights were observed during feeding activity, and a high percentage of these were within the collision risk zone. The Applicant has predicted that there would be mortality of individual birds arising from collision in the early winter period. However, in the context of the overall numbers of wintering lapwing associated with The Wash (46,422 individuals reported on the Ramsar citation), the Applicant has considered that the predicted levels of mortality will be insignificant, and not perceptible in respect of the qualification of The Wash as a European site.
- aa² See aa¹ above.
- aa³ The Applicant predicts that there will be very little displacement effect on the basis that the species does not regularly feed in the corridor throughout the winter, the feeding associated with The Wash is due to the quantity and quality of coastal zone habitats, and the study area is not a regular feeding area for the species.

With respect to the justifications relating to bird species other than swan species (all above with the exclusion of a and v) above:

Reference is made to the discussion within the written representation of 18 February 2013 from Natural England, and the discussion within regarding these species. In this written representation, Natural England draws upon the results of the Applicant's assessment and presents their agreement with the interpretation of the survey results and conclusions of the assessment as detailed above for each species.

In-combination assessment:

Please refer to the paragraphs above, associated with Matrix A.

Overall, within their written representation, and SoCG Natural England express the opinion that the proposal (if carried out exactly as detailed within the Applicant's assessment undertaken) is unlikely to result in a significant effect on The Wash SPA.

3.0 IMPLICATIONS FOR EUROPEAN SITES

The NSER reports in Table 1 that Natural England have confirmed, in correspondence dated 27 March 2012, that a reasonable evidence base has been established to assess the impacts on bird populations, and that Natural England agrees that the project alone will have no likely significant effect on the Ouse Washes SPA or The Wash SPA. This correspondence highlights the need to consider effects in-combination with other plans and projects. The written representation from Natural England (18 February 2013) reiterates these points. Subsequently, the Applicant undertook an in-combination assessment which in particular focussed on whooper swan. This species was of particular concern to Natural England in terms of the need for in-combination assessment. The assessment concluded no likely significant effects in-combination with other plans or projects.

It should be noted that the Ramsar Convention obligations separately require Contracting Parties to "formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and, as far as possible, the wise use of wetlands in their territory" - Article 3(1), Ramsar Convention. And, Article 4 (3) requires Contracting Parties to "endeavour through management to increase waterfowl populations on appropriate wetlands".

In both their letter dated 5 July 2012, provided with the NSER, and their written representation dated 18 February 2013 (Para 6.2.22), Natural England, in respect of the current NSIP application, advised that the proposal "if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which the Ouse Washes SPA and Ramsar Site and The Wash SPA and Ramsar Site have been classified. These documents advise that Natural England do not consider that an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives will be required.

Neither of these documents identify other Natura 2000 sites, Ramsar sites or other sites to which the requirements of the Habitats Regulations (Conservation of Habitats and Species Regulations 2010, as amended) would apply that should have been included in the scope of the screening assessment described above.

On the basis of the evidence available, the Applicant's report considered that there will be no likely significant effects on either of the Natura 2000 sites included within the screening assessment or the corresponding Ramsar sites and therefore an Appropriate Assessment will not be required.

A NSER has been submitted (TEP July 2012, application document reference 6.4). The scope of the screening exercise and its conclusion has been agreed with NE (5 July 2012).

REFERENCES

TEP July 2012. King's Lynn B Power Station Connection Project. Habitats Regulations Assessment - No Significant Effects Report (Application document reference 6.4).

TEP July 2012. King's Lynn B Connection Project Environmental Statement. (Application document reference 7.1).

TEP July 2012. Ornithological Assessment (OA) (presented as Technical Appendix TA-E of the Environmental Statement. (Application document reference 7.1).

Statement of Common Ground between National Grid Electricity Transmission Plc and Natural England, Dundas & Wilson LLP (National Grid) 29 January 2013

King's Lynn B Power Station Connect Project Application, Written Representations of Natural England Dated 18 February 2013, containing responses to ExA questions in Annex A.

TEP April 2013. Applicant's Report On Implications For European Sites incorporating Habitats Regulations Matrices (Applicant's report ref: 1907.104 – version 1.0).

**APPENDIX F – THE EXAMINING AUTHORITY'S
RECOMMENDED DRAFT DCO**

20[] No. []

INFRASTRUCTURE PLANNING

**The National Grid (King's Lynn B Power Station Connection)
Development Consent Order 20[]**

Made - - - - [] 20[]

Coming into force - - [] 20[]

CONTENTS

PART 1

PRELIMINARY

1. Citation and Commencement
2. Interpretation
3. Application and modification of legislative provisions

PART 2

PRINCIPAL POWERS

4. Development consent etc. granted by the Order
5. Maintenance of authorised development
6. Limits Deviation
7. Benefit of Order
8. Consent to transfer benefit of Order

PART 3

STREETS

9. Application of the 1991 Act
10. Street works
11. Temporary closure of streets and public rights of way
12. Access to works
13. Agreements with street authorities

PART 4

SUPPLEMENTAL POWERS

14. Discharge of water
15. Defence to proceedings in respect of statutory nuisance
16. Protective work to buildings

17. Authority to survey and investigate the land

PART 5 POWERS OF ACQUISITION

18. Compulsory acquisition of rights
19. Power to override interests, rights and restrictions
20. Time limit for exercise of authority to acquire rights compulsorily
21. Application of the Compulsory Purchase (Vesting Declarations) Act 1981
22. Acquisition of part of certain properties
23. Acquisition of subsoil or airspace only
24. Rights under or over streets
25. Temporary use of land for carrying out the authorised development
26. Temporary use of land for maintaining authorised development
27. Statutory undertakers
28. Application of landlord and tenant law

PART 6 MISCELLANEOUS AND GENERAL

29. Operational land for purposes of the 1990 Act
30. Felling or lopping of trees
31. Protection of Interests
32. Certification of plans etc
33. Service of notices
34. Arbitration
35. Procedure regarding certain approvals

SCHEDULES

- SCHEDULE 1 — AUTHORISED DEVELOPMENT
- SCHEDULE 2 — STREETS SUBJECT TO STREET WORKS
- SCHEDULE 3 — STREETS/RIGHTS OF WAY TO BE TEMPORARILY CLOSED
- SCHEDULE 4 — ACCESS TO WORKS
- SCHEDULE 5 — LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN
- SCHEDULE 6 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS
- SCHEDULE 7 — PROTECTIVE PROVISIONS
 - PART 1 — FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS
 - PART 2 — FOR THE PROTECTION OF NATIONAL GRID GAS PLC
 - PART 3 — FOR THE PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED
 - PART 4 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

SCHEDULE 8 — REQUIREMENTS

SCHEDULE 9 — DISCHARGE OF REQUIREMENTS

An application has been made to the Secretary of State in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (a) for an Order granting development consent;

The application was examined by a single appointed person appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the Planning Act 2008 (b) (“the 2008 Act”);

The single appointed person, having considered the application with the documents that accompanied the application, and the representations made and not withdrawn, has made a report and recommendation to the Secretary of State;

The Secretary of State, having considered the report and recommendation of the single appointed person and decided the application, has determined to make an Order giving effect to the proposals comprised in the application with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals;

In exercise of the powers conferred by sections 114, 115 and 120 of the 2008 Act the Secretary of State makes the following Order:

PART 1

PRELIMINARY

Citation and Commencement

1. This Order may be cited as The National Grid (King's Lynn B Power Station Connection) Development Consent Order 20[] and shall come into force on [] 20[].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961 (c);

“the 1965 Act” means the Compulsory Purchase Act 1965 (d);

“the 1980 Act” means the Highways Act 1980 (a);

(a) S.I. 2009/2264, amended by S.I. 2010/602, 2012/635, 2012/2732, 2013/522.

(b) 2008 c. 29. The relevant provisions of the Planning Act 2008 are amended by Part 6 of Chapter 6 of, and Schedule 13 to, the Localism Act 2011 (c. 20).

(c) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c. 65). There are other amendments to the 1961 Act which are not relevant to this Order.

(d) 1965 c. 56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c. 34). Subsection (1) of section 11 and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c. 23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c. 15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c. 39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981 **(b)**;

“the 1990 Act” means the Town and Country Planning Act 1990 **(c)**;

“the 1991 Act” means the New Roads and Street Works Act 1991 **(d)**;

“the 2008 Act” means the Planning Act 2008;

“approved construction routes” means:

- (a) for all construction traffic serving towers KL01 to KL07 referred to in Work No.1, the Northern Construction Route (shown on plan reference MPP00006 - 2 Figure 1A); and
- (b) for the 200 tonne lifting capacity crane vehicles serving towers KL08 and 4VV039 referred to in Work No.1, the Southern Construction Route (shown on plan reference MPP00006 - 2 Figure 2A).’

“authorised development” means the development and associated development, including any necessary demolitions, described in Schedule 1 and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act within the Order limits;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“electronic transmission” means a communication transmitted—

- (a) By means of an electronic communications network; or
- (b) By other means but while in electronic form;

“environmental document” means the environmental statement certified as the environmental document by the Secretary of State for the purposes of this Order;

“highway” and “highway authority” have the same meaning as in the 1980 Act;

“the land plans” means the plans (reference: A1/PTD/6320/070/Rev C, A1/PTD/6320/071/Rev B, A1/PTD/6320/072/Rev C, A1/PTD/6320/073/Rev C,

-
- (a) 1980 c. 66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c. 22); sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c. 51); section 1(2A) was inserted, and section 1(3) was amended, by section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c. 29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), by section 64(1), (2) and (3) of the Transport and Works Act (c. 42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c. 51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15). There are other amendments to the 1980 Act which are not relevant to this Order.
 - (b) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are other amendments to the 1981 Act which are not relevant to this Order.
 - (c) 1990 c. 8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the 2008 Act. There are other amendments to the 1990 Act not relevant to this Order.
 - (d) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Part 3 of the 1991 Act was amended by Part 4 of the Traffic Management Act 2004 (c. 18). Section 74 was amended, and sections 74A and 74B inserted, by sections 255 and 256 of the Transport Act 2000 (c. 38). There are other amendments to the 1991 Act but they are not relevant to this Order.

A1/PTD/6320/074/Rev B and A1/PTD/6320/075/Rev B) certified as the land plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 6 shown on the work plans;

“maintain” means to maintain and any of its derivatives including to inspect, repair, adjust, alter, remove, reconstruct, replace, or relay the authorised development, but not so as to vary from the description of the authorised development in Schedule 1 nor the overall shape, size and lattice form of the towers, and any derivative of “maintain” is to be construed accordingly;

“National Grid” means National Grid Electricity Transmission plc company number 2366977 whose registered office is at 1-3 the Strand, London WC2N 5EH;

“operational use” occurs when Work No1 of the authorised development first transmits electricity at 400 kV;

“Order land” means the land shown on the land plans which is within the Order limits and described in the book of reference;

“the Order limits” means the limits of deviation of land to be acquired or used and the limits of additional land to be acquired or used as shown on the works and land plans;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981;

“permitted substation” means the substation to be constructed pursuant to deemed planning permission for King's Lynn B Power Station dated 5 February 2009 ref:01.08.10.04/124C;

“relevant planning authority” means King's Lynn and West Norfolk Borough Council;

“the requirements” means the requirements in Schedule 8 of this Order;

“rights of way plans” means the plans reference: A0/PTD/6320/059/Rev C, A0/PTD/6320/060/Rev C, A0/PTD/6320/061/Rev B, A0/PTD/6320/062/Rev A, A0/PTD/6320/063/Rev A, A0/PTD/6320/064/Rev A and A0/PTD/6320/065/Rev B) certified as the rights of way plans by the Secretary of State for the purposes of this Order;

“the sections” means the sections shown on the plans (reference: A0/PTD/6320/046/Rev C and A0/PTD/6320/047/Rev C) certified as the sections by the Secretary of State for the purposes of this Order;

“statutory undertaker” means any person falling within section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“undertaker” means in relation to any provision of this Order National Grid or any other person who has the benefit of this Order in accordance with article 8;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans (reference: A0/PTD/6320/076/Rev A, A1/PTD/6320/077/Rev B, A1/PTD/6320/078/Rev A and A1/PTD/6320/079/Rev A) certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development is to be taken to be measured along that work.

(4) All areas described in the Book of Reference are approximate.

Application and modification of legislative provisions

3. Subject to the modifications set out in Schedule 6 the enactments for the time being in force with respect to compensation for the compulsory purchase of land is to apply in the case of a compulsory acquisition under this Order in respect of a right by the creation of a new right as they apply to the compulsory purchase of land and interests in land.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

4.—(1) Subject to the provisions of this Order and to the requirements the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

(2) The undertaker may install, and keep installed, above ground the electric lines included in the authorised development.

(3) The undertaker may operate and use the electric line and any other elements of the authorised development as part of the high-voltage electricity transmission system in England and Wales.

(4) Subject to article 6 (limits of deviation) the authorised development comprised in Work No 1 must be constructed and installed in the lines and situations shown on the works plans and in accordance with the levels shown on the sections.

Maintenance of authorised development

5. The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order, provides otherwise.

Limits Deviation

6. In carrying out the authorised development comprised in Work No 1 the undertaker may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on that plan, save for tower KL01 which must not deviate more than 4m in a northerly direction from the position indicated on the works plans; and
- (b) deviate vertically from the levels of the authorised development shown on the sections—
 - (i) to any extent not exceeding 3 metres upwards; or
 - (ii) to any extent downwards as may be necessary, convenient or expedient.

Benefit of Order

7. Subject to article 8 of this Order the provisions of this Order are to have effect solely for the benefit of the undertaker.

Consent to transfer benefit of Order

8.—(1) The undertaker may, with the consent of the Secretary of State:

- (a) transfer to another person (the "transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), is to include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is to be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

PART 3

STREETS

Application of the 1991 Act

9.—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway is to be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if they are of a description mentioned in paragraph (f) of section 86(3) of that Act (which defines what highway authority works are major highway works)

(2) The provisions of the 1991 Act mentioned in paragraph (3) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved, under those provisions are to apply (with the necessary modifications) in relation to any closure, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 11 (temporary closure etc., of streets) and the carrying out of street works under article 10 (street works) whether or not the works, closure, alteration or diversion constitutes street works within the meaning of that Act.

(3) The provisions of the 1991 Act referred to in paragraph (2) are—

- section 54 (advance notice of certain works), subject to paragraph (4);
 - section 55 (notice of starting date of works), subject to paragraph (4);
 - section 56 (directions as to timing of street works);
 - section 57 (notice of emergency works);
 - section 59 (general duty of street authority to co-ordinate works);
 - section 60 (general duty of undertakers to co-operate);
 - section 65 (safety measures);
 - section 67 (qualifications of supervisors and operatives);
 - section 68 (facilities to be afforded to street authority);
 - section 69 (works likely to affect other apparatus in the street);
 - section 70 (duty of undertaking to reinstate);
 - section 71 (materials, workmanship and standard of reinstatement);
 - section 72 (powers of street authority in relation to reinstatement);
 - section 73 (reinstatement affected by subsequent works);
 - section 75 (inspection fees);
 - section 76 (liability for cost of temporary traffic regulation);
 - section 77 (liability for cost of use of alternative route); and
- all such other provisions as apply for the purposes of the provisions mentioned above.

(4) Sections 54 and 55 of the 1991 Act as applied by paragraph (3) are to have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Street works

10.—(1) The undertaker may, for the purposes of the authorised development, enter upon so much of any of the streets specified in Schedule 2 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position;
- (d) strengthen, improve, repair or reconstruct any street; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Temporary closure of streets and public rights of way

11.—(1) The undertaker, during and for the purposes of the authorised development, may temporarily close, alter or divert any street or public right of way and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or public right of way.

(2) Without prejudice to paragraph (1), the undertaker may use any street or public right of way closed under the powers conferred by this article within the Order limits as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary closure, alteration or diversion of a street or public right of way under this article if there would otherwise be no such access.

(4) Without prejudice to the generality of paragraph (1), the undertaker may temporarily close, alter or divert the streets and public rights of way specified in columns (1) and (2) of Schedule 3 (streets or public rights of way to be temporarily closed) to the extent specified, by reference to the letters and numbers shown on the rights of way plans, in column (3) of that Schedule.

(5) The undertaker must not temporarily close, alter or divert—

- (a) any street or public right of way specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) any other street or public right of way without the consent of the street authority which may attach reasonable conditions to any consent, but such consent is not to be unreasonably withheld.

(6) If a street authority fails to notify the undertaker of its decision within 42 days of receiving an application for consent under paragraph (5)(b) that street authority is to be deemed to have granted consent.

Access to works

12.—(1) The undertaker may, for the purposes of construction or maintenance of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 4 (access to works); and
- (b) with the approval of the relevant planning authority after consultation with the highway authority, form and lay out such other means of access or improve existing means of

access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) If the relevant planning authority fails to notify the undertaker of its decision within 42 days of receiving an application for approval under paragraph (1)(b) that planning authority is to be deemed to have granted approval.

Agreements with street authorities

13.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (b) any temporary closure, alteration or diversion of a street authorised by this Order; or
- (c) the carrying out in the street of any of the works referred to in article 10 (street works) or article 12 (access to works).

(2) Such an agreement may, without prejudice to the generality of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and otherwise as the parties consider appropriate.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

14.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain provided that consent has been obtained from the relevant person pursuant to paragraph (3).

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991 (a) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but is not to be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval is not to be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(a) 1991 c. 56. Section 106(1) amended by Competition and Service (Utilities) Act 1992 c. 43 Pt II s.43(2); section 106(1A) added by Water Act 2003 c. 37 Pt 3 s.99(2); sections 106(4)(a)-(b) amended by Water Act 2003 c. 37 Pt 3 s.99(3); section 106(5A) added by Water Act 2003 c. 37 Pt 3 s.99(4); section 106(6) amended by Water Act 2003 c. 37 Pt 3 s.36(2) and 99(5); section 106(7) repealed by Competition and Service (Utilities) Act 1992 c. 43 Schedule 2, paragraph 1. There are other amendments to this Act that are not relevant to this Order.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010 (a).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, an internal drainage board, a local authority, a sewerage undertaker or an urban development corporation; and
- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2010 have the same meaning as in those Regulations.

Defence to proceedings in respect of statutory nuisance

15.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990 (b) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974 (c) or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Protective work to buildings

16.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building lying within the Order limits as it considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or

(a) S.I. 2010/675. There are amendments to the Regulations that are not relevant to this Order.

(b) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(c) 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c.25). There are other amendments to this Act which are not relevant to this Order.

- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 34 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article is to relieve the undertaker from any liability to pay compensation under section 10(2) of the 1965 Act (compensation for injurious affection).

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) In this article "protective works" in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

17.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land;
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) on land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority, but such consent is not to be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, Part 1 of the 1961 Act (determination of questions of disputed compensation).

(6) If either a highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) Under paragraph (4)(a) in the case of a highway authority; or
- (b) Under paragraph (4)(b) in the case of a street authority,

that authority is to be deemed to have granted consent.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of rights

18.—(1) The undertaker may create and acquire compulsorily new rights affecting the Order land described in the book of reference and shown on the land plans.

(2) As from the date on which a compulsory acquisition notice is served or the date on which any new right is vested in the undertaker, whichever is the later, the land or any part of it over which any new right is acquired shall be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of that new right.

(3) Subject to section 8 of the 1965 Act, as substituted by article 22 (acquisition of part of certain properties), where the undertaker acquires an existing right over land under paragraph (1), the undertaker shall not be required to acquire a greater interest in that land.

(4) Any person who suffers loss as a result of the extinguishment or suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Power to override interests, rights and restrictions

19.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker, by its statutory successor, by any person deriving title under them or by any of their servants or agents) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or carrying out, or maintenance of any building or work on land;
- (b) the erection, construction, or maintenance or anything in, on, over or under land; or
- (c) the use of any land.

(3) The interests and rights to which this article applies are any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support.

(4) In respect of any interference or breach in pursuance of this article, compensation—

- (a) is to be payable under section 63 or 68 of the Lands Clauses Consolidation Act 1845 (a) or under section 7 or 10 of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under those acts; or
 - (ii) the injury arises from the execution of works on or use of land acquired under those acts.

(5) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in articles 19(1) and 19(2).

Time limit for exercise of authority to acquire rights compulsorily

20.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 of the 1981 Act as applied by article 21 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 25 (temporary use of land for carrying out the authorised development) is to cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph is to prevent the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

(a) 1845 c. 20.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

21.—(1) The 1981 Act is to apply as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, is to have effect with the following modifications.

(3) In section 3 (preliminary notices), for subsection (1) there is to be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order, the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

- (a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and
- (b) published in a local newspaper circulating in the area in which the land is situated.”.

(4) In that section, in subsection (2), for “(1)(b)” there is to be substituted “(1)” and after “given” there is to be inserted “and published”.

(5) In that section, for subsections (5) and (6) there is to be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(6) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there is to be inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) is to be omitted.

(7) In section 7 (constructive notice to treat), in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” are to be omitted.

(8) References to the 1965 Act in the 1981 Act are to be construed as references to that Act as applied by section 125 of the 2008 Act to the compulsory acquisition of rights under this Order.

Acquisition of part of certain properties

22. Paragraph 5 of Schedule 6 is to apply instead of section 8(1) of the 1965 Act (other provisions as to divided land).

Acquisition of subsoil or airspace only

23.—(1) The undertaker may acquire compulsorily such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 18 (compulsory acquisition of rights) as may be required for any purpose for which rights over that land may be acquired under that provision.

(2) Where the undertaker acquires any rights in the subsoil of or the airspace over land under paragraph (1), the undertaker is to not be required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 22 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house or building.

Rights under or over streets

24.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or air-space over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) is not to apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is to be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not to be payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

25.—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 5 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule; and
 - (ii) any of the Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act or no declaration has been made under section 4 of the 1981 Act;
- (b) remove any buildings and vegetation from that land; and
- (c) construct temporary works (including the provision of means of access) and buildings on that land.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry and its purpose on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land of which temporary possession may be taken under paragraph (1)(a)(i) above, after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 5;
- (b) in the case of any Order land, of which temporary possession may be taken under paragraph (1)(a)(ii) above after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) The undertaker must provide the owner of any land over which temporary possession has been taken pursuant to paragraph (3)(a) or (b) with written notice of the date of completion of the work for which that temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not to be required to replace a building removed under this article.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Nothing in this article is to affect any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) or (ii) except that the undertaker is not to be precluded from—

- (a) acquiring new rights over any part of that land under article 18 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil or of airspace over (or rights in the subsoil or of airspace over) of that land under article 23 (acquisition of subsoil or airspace only).

(10) Where the undertaker takes possession of land under this article, the undertaker is not to be required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) is to apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

Temporary use of land for maintaining authorised development

26.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(8) Nothing in this article is to affect any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment

in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not to be required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) must apply to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) In this article “the maintenance period”, in relation to the authorised development, means the period of 5 years beginning with the date on which the authorised development is brought into operational use.

Statutory undertakers

27. Subject to article 31 and Schedule 7, the undertaker may acquire compulsorily the new rights over land belonging to statutory undertakers shown on the land plans and described in the book of reference.

Application of landlord and tenant law

28.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law is to apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

PART 6

MISCELLANEOUS AND GENERAL

Operational land for purposes of the 1990 Act

29. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Felling or lopping of trees

30.—(1) The undertaker may fell or lop any tree or shrub near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub from:

- (a) obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

Protection of Interests

31. Schedule 7 (Protective Provisions) to this Order has effect.

Certification of plans etc

32.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the book of reference;
- (b) the land plans;
- (c) the rights of way plans;
- (d) the works plans;
- (e) the sections; and
- (f) any other plans or documents referred to in this Order,

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is to be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

33.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978 (a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) 1978 c. 30.

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
 - (b) in any other case, the last known address of that person at the time of service.
- (4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—
- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
 - (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.
- (5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—
- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
 - (b) the notice or document is capable of being accessed by the recipient;
 - (c) the notice or document is legible in all material respects; and
 - (d) in a form sufficiently permanent to be used for subsequent reference.
- (6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.
- (7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).
- (8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—
- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
 - (b) such revocation is to be final and is to take effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.
- (9) This article is not to be taken to exclude the employment of any method of service not expressly provided for by it.

Arbitration

34. Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Procedure regarding certain approvals

35.—(1) Where an application is made to or request is made of the relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of the Order such consent, agreement or approval must, if given, be given in writing and is not to be unreasonably withheld or delayed.

(2) Schedule 9 is to have effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements unless otherwise agreed between the undertaker and the relevant planning authority.

Signed by authority of the Secretary of State for

Date

Name
Head of
Department for

SCHEDULES

SCHEDULE 1

Article 4

AUTHORISED DEVELOPMENT

A nationally significant infrastructure project as defined in sections 14 and 16 of the 2008 Act comprising—

Work No.1 — The installation of a 400 kV electric line above ground, approximately 2.8km in length, comprising 9 steel lattice towers, commencing at gantries within the substation to be constructed as part of the approved King's Lynn B Power Station development at Willows Business Park, King's Lynn, from which it will rise to a terminal tower KL01 in the field north of New House Farm. The line would then cross High Road to a second tower KL02 approximately 370 metres due east. From this point, the line changes direction and travels approximately 694 metres south easterly crossing Low Road and the River Nar, incorporating tower KL03 and KL04. At tower KL04 the line again changes direction and travels due south through towers KL05, KL06 and KL07 for a length of approximately 1155 metres. At tower KL07 the line changes direction to the south west crossing the River Nar to connect to tower KL08, and then onto a new junction tower, a length of approximately 614 metres, to connect to the northern circuit of the existing National Grid Norwich – Walpole overhead electricity transmission line and replacing the existing National Grid tower reference 4VV039, in the Borough of King's Lynn and West Norfolk.

Associated Development comprising—

- (a) Works for the creation, alteration or widening of points of access to highways;
- (b) Means of access and footpaths;
- (c) Retaining structures, and culverts;
- (d) Works for the benefit or protection of land affected by the authorised development;
- (e) Construction and maintenance compounds, working areas, laydown and parking areas in connection with the construction of the authorised development;
- (f) Welfare units;
- (g) Underground ducting; and
- (h) Such other works as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development which are within the scope of the environmental impact assessment recorded in the environmental document such as landscaping and ecological mitigation measures.

SCHEDULE 2

Article 10

STREETS SUBJECT TO STREET WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Subject to street works within the Order limits</i>
Borough of King's Lynn and West Norfolk	Cycleway/Footpath No.8; and North Sea Bank

SCHEDULE 3

Article 11

STREETS/RIGHTS OF WAY TO BE TEMPORARILY CLOSED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street or public right of way to be temporarily closed, altered or diverted</i>	<i>(3)</i> <i>Extent of temporary closure, alteration or diversion</i> <i>As shown on the rights of way plans</i>
Borough of King's Lynn and West Norfolk	Cycleway / Public Footpath No. 8 and the North Sea Bank	Between Points A and B
Borough of King's Lynn and West Norfolk	High Road	Between Points C and D
Borough of King's Lynn and West Norfolk	Public Footpath No. 26	Between Points E and F
Borough of King's Lynn and West Norfolk	Bridleway/Public Footpath No.28	Between Points G and H
Borough of King's Lynn and West Norfolk	Public footpath No. 27	Between Points J and K

SCHEDULE 4

Article 12

ACCESS TO WORKS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Access to works</i>
Borough of King's Lynn and West Norfolk	<p>New permanent access</p> <p>Create new permanent access from North Sea Bank and Cycleway/Public Footpath No.8 into the substation to be constructed as part of the approved King's Lynn B Power Station as shown on drawing A1/PTD/6320/008/Rev B</p>
Borough of King's Lynn and West Norfolk	<p>New temporary access</p> <p>Create new temporary access to the east of Willows Roundabout at the junction of Willows Road, Saddlebow Road (also known as High Road), Low Road and High Road as shown on drawing A1/PTD/6320/009/Rev A</p>
Borough of King's Lynn and West Norfolk	<p>Improve existing accesses</p> <p>Improve the access onto Saddlebow Road (also known as High Road) to the north of Willows Roundabout as shown on drawing A1/PTD/6320/015/Rev B</p> <p>Improve the three accesses onto High Road as shown on drawing A1/PTD/6320/008/Rev B</p> <p>Improve two accesses onto Thiefgate Lane as shown on drawing A1/PTD/6320/013/Rev B</p>

SCHEDULE 5

Article 25

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
Borough of King's Lynn & West Norfolk	Plots 1, 4, 6, 8, 18, 20, 24, 33, 36, 42, 53, 53a, 53b, 55, 55a, 57, 66 and 66a	Installation of the authorised development (comprised within Class 1 new rights specified in the book of reference)
	Plots 65a, 65b, 65c, 67, 67a, 67b, 68, 68a, 68b, 69, 69a, 69b, 70, 71a, 72, 72a	Installation incidental to and to facilitate the authorised development (comprised within Class 5 new rights specified in the book of reference)
	Plots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 15a, 16, 17, 18, 19, 20, 23, 24, 26, 30, 31, 32, 33, 34, 35, 36, 41, 42, 48, 49, 49a, 51, 51a, 51b, 52, 52a, 52b, 53, 53a, 53b, 54, 54a, 55, 55a, 56, 57, 65, 65c, 65d, 66, 66a, 67, 68, 69, 70 and 72	Construction associated with the installation of the authorised development (comprised within Class 2 new rights specified in the book of reference)
	Plots 14, 21, 22, 25, 27, 28, 29, 37, 38, 39, 40, 43, 43a, 44, 45, 46, 46a, 47, 50, 58, 58a, 58b, 59, 60, 61, 62, 63, 64, 65b, 71, 71a, 73, 74, 75, 76, 77 and 78	Access associated with the installation and construction of the authorised development (comprised within Class 3 and Class 7 new rights specified in the book of reference)
	Plots 67a, 67b, 68a, 68b, 69a and 72a	Access incidental to and to facilitate the installation of the authorised development (comprised within Class 7 new rights specified in the book of reference)
	Plots 1, 2, 3, 4, 6, 7, 8, 49, 51, 51b, 52, 52b, 53, 53b, 54, 55, 65, 65d and 66	Landscaping associated with the installation and construction of the authorised development (comprised within Class 4 new rights specified in the book of reference)
	Plots 73, 74, 75 and 76	Scaffolding and temporary structures associated with the installation and construction of the authorised development

(comprised within Class 6 new rights specified in the book of reference)

Plots 67a, 67b, 68a, 68b, 69a and 72a

Scaffolding and temporary structures incidental to and to facilitate the installation of the authorised development (comprised within Class 6 new rights specified in the book of reference)

SCHEDULE 6

Article 3

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land are to apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

Modification of the Land Compensation Act 1973

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973 (a) is to have effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken from” there are to be substituted the words “a right over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there are to be substituted the words “over which the right is exercisable”.

Application of the 1965 Act

3.—(1) The 1965 Act is to have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act is to apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

-
- (a) 1973 c. 26. Section 20 was amended by subsection (6) and (12) of section 146 of, and Schedule 13 to, the Road Traffic Regulation Act 1984 (c.27). Subsection (10) of section 20 was repealed by section 343(3) of, and Schedule 25 to, the Highways Act 1980 (c.66) and subsection (11) was repealed by section 155 of, and Schedule 25 to, the Rent Act 1977 (c.42). Section 44 was amended by Schedule 24 of the Highways Act 1980 (c.66), by section 67(1) and Schedule 7 of the Gas Act 1986 (c.44), and Schedule 1 of the Water Consolidation (Consequential Provisions) Act 1991 (c.60). There are other amendments to the 1973 Act which are not relevant to this Order.

4. For section 7 of the 1965 Act (measure of compensation in case of severance) there is to be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (other provisions as to divided land) there is substituted the following section:-

“8.

(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house or building or of a park or garden belonging to a house (“the relevant land”)

(a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”);

and

(b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that interest, and

(i) where that land consists of a house or building, that the right cannot be purchased without material detriment to that land; or

(ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the National Grid (King's Lynn B Power Station Connection) Development Consent Order 20[] (“the Order”), in relation to that person, ceases to authorise the purchase of the right and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section is to be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are to be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is to be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right (which is to be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act is to be modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) is to apply with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

9. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) is to be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 7

Article 31

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1.—(1) For the protection of the statutory undertakers referred to in this Part of this Schedule the following provisions are to, unless otherwise agreed in writing at any time between the statutory undertaker and the undertaker concerned, have effect.

(2) In this part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the statutory undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in section 64 of the Electricity Act 1989 (a), belonging to or maintained by that electricity undertaker for the purposes of electricity supply;
- (b) in the case of a gas undertaker, any gas mains, pipes or other apparatus belonging to or maintained by that gas undertaker for the purposes of gas supply;
- (c) in the case of a water undertaker, water mains, pipes or other water apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991; and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

(a) 1989 c. 29.

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“statutory undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986 (a);
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

2. This Part of this Schedule does not apply to apparatus in respect of which the relations between the statutory undertaker and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

3. Regardless of any provision in this Order or anything shown on the land plans, the undertaker is not to acquire any apparatus otherwise than by agreement.

4.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus is not to be removed under this part of this Schedule and any right of a statutory undertaker to maintain that apparatus in that land is not to be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the statutory undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker in question written notice of that requirement, together with a plan and section of the work proposed.

(3) If alternative apparatus or any part of such apparatus is to be constructed as a consequence of the removal of apparatus placed on the land referred to in sub-paragraph 4(2), the statutory undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in other land in which the alternative apparatus is to be constructed.

(4) The statutory undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 34, and after the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(5) Regardless of anything in sub-paragraph 4(4), if the undertaker gives notice in writing to the statutory undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus, that work, instead of being executed by the statutory undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the statutory undertaker.

(6) Nothing in sub-paragraph 4(5) is to authorise the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute

(a) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

5.—(1) Not less than 28 days before starting the execution of any works of the type referred to in sub-paragraph 4(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 4(2), the statutory undertaker must submit to the undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph 5(1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph 5(3) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker shall be entitled to watch and inspect the execution of those works.

(3) Any requirements made by a statutory undertaker under sub-paragraph 5(2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph 5(1) are submitted to it.

(4) If a statutory undertaker in accordance with sub-paragraph 5(3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 4 are to apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 4(2).

(5) Nothing in this paragraph is to preclude the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not to be required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the statutory undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

6.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a statutory undertaker the proper and reasonable expenses reasonably incurred by that statutory undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus.

(2) There is to be deducted from any sum payable under sub-paragraph 6(1) the value of any apparatus removed under the provisions of this part of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 34 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph 6(3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph 6(1) is to, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

PART 2

FOR THE PROTECTION OF NATIONAL GRID GAS PLC

For the protection of National Grid Gas Plc (Company Number 2006000) ("NG Gas") the undertaker and NG Gas have entered into an agreement dated 24 June 2013 containing provisions for the protection and benefit of NG Gas in relation to the exercise operation and use of new rights over the Order Land in which NG Gas has rights. These provisions are to have effect unless otherwise varied or amended in writing between the undertaker and NG Gas.

PART 3

FOR THE PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED

For the protection of Network Rail Infrastructure Limited and any associated Undertaker of Network Rail Infrastructure Limited which holds property for railway purposes (and for the purpose of this definition "associated Undertaker" means any undertaker which is (within the meaning of sections 1161 and 1162 of the Companies Act 2006 (a)) the parent undertaking of Network Rail Infrastructure Limited, the subsidiary undertaking of Network Rail Infrastructure Limited or another subsidiary undertaking of the holding undertaking of Network Rail Infrastructure Limited) the undertaker and Network Rail Infrastructure Limited have entered into an agreement dated 20 May 2013 containing provisions for the protection and benefit of Network Rail Infrastructure Limited and any such associated Undertaker in relation to the exercise operation and use of new rights over the Order Land owned, operated and managed by Network Rail Infrastructure Limited and any such associated Undertaker. These provisions are to have effect unless otherwise varied or amended in writing between the undertaker and Network Rail Infrastructure Limited.

PART 4

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1. For the protection of any operator, the following provisions are to have effect, unless otherwise agreed in writing between the undertaker and the operator.

2. In this part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

(a) 2006 c. 46.

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act;

“the 2003 Act” means the Communications Act 2003 (a);

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 or paragraph 17 of Schedule 18 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

3. The exercise of the powers of article 27 (statutory undertakers) are subject to paragraph 23 of Schedule 2 to the Telecommunications Act 1984 (b).

4.—(1) Subject to sub-paragraphs 4(2) and 4(3), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator) the undertaker must bear and pay the cost reasonably and properly incurred by the operator in making good such damage.

(2) Nothing in sub-paragraph (1) is to impose any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) Any difference arising between the undertaker and the operator under this paragraph is to be referred to and settled by arbitration under article 34 (arbitration).

5. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage caused by electro-magnetic interference arising from the construction or use of the authorised development.

6. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

SCHEDULE 8 REQUIREMENTS

Article 4

CONTENTS

1. Interpretation

-
- (a) 2003 c. 21.
 - (b) 1984 c. 12.

2. Time limits
3. Compliance with approved details
4. Provision of landscaping
5. Implementation and maintenance of landscaping
6. Highway accesses
7. Fencing and other means of enclosure
8. Contaminated land and groundwater
9. Controlled Water Protection Scheme
10. Archaeology
11. Landscape and ecological management plan
12. Code of construction practice
13. External lighting
14. Construction traffic
15. Control of noise during construction and maintenance
16. Construction hours
17. Control of dust emissions
18. Accumulation and Deposits
19. Restoration of land used temporarily for construction
20. Logos and signs
21. Prohibition of storage of fuels and chemicals
22. Requirement for written approval
23. Amendments to approved details

Interpretation

1. In this Schedule and in Schedule 9—

“commencement” means the carrying out of a material operation, as defined in section 155 of the Planning Act 2008 (which explains when development begins), comprised in or carried out for the purposes of the authorised project and the words “commence” and “commenced” and cognate expressions are to be construed accordingly;

“the environmental document” means the environmental statement certified as the environmental document by the Secretary of State for the purposes of this Order;

“the relevant planning authority” means the authority that is responsible for the discharge of any requirement under this Schedule;

“stage” refers to (1) the stage of the authorised development comprising works in the vicinity of the permitted substation (including underground ducting and highway access) and (2) the stage comprising the remainder of the authorised development in Schedule 1 unless otherwise approved by the relevant planning authority

Where any requirement specifies: "unless otherwise approved in writing" by the relevant planning authority; or "unless otherwise agreed in writing" with the relevant planning authority; such approval or agreement must not be given except in relation to minor or immaterial changes where it has been demonstrated to the satisfaction of the relevant planning authority that the subject-matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental document.

Time limits

2. The authorised development must be begun within 5 years of the date of this Order.

Compliance with approved details

3.—(1) The construction of the lattice towers forming part of the authorised development comprised in Work No 1 must take place in general accordance with the approved drawings listed below unless otherwise approved in writing by the relevant planning authority.

A3/MIS/21847/071 A

BNT167/7050 D

BNT167/7053/B

BNT167/7056 C

BNT167/7055 B

For the purposes of this requirement 3(1) in determining general accordance the towers must be constructed within the vertical limits of deviation and must be substantially the same as those shown on the drawings (including the plan views shown on those drawings) for the respective towers as follows:

<i>Pylon ID</i>	<i>Drawing No</i>	<i>Tower Type (Height mtrs)</i>	<i>Tower Type including LOD (mtrs)</i>
KL001	BNT167/7055/B	L13 DT STD (48.071)	L13 DT E3 (51.071)
KL002	BNT167/7053/B	L13 D60 E3 (53.952)	L13 D60 E6 (56.952)
KL003	BNT167/7050/D	L13 D E3 (52.950)	L13 D E6 (55.950)
KL004	BNT167/7053/B	L13 D60 E6 (56.952)	L13 D60 E9 (59.952)
KL005	BNT167/7050/D	L13 D E6 (55.950)	L13 D E9 (58.950)
KL006	BNT167/7050/D	L13 D E6 (55.950)	L13 D E9 (58.950)
KL007	BNT167/7053/B	L13 D60 STD (50.952)	L13 D60 E3 (53.952)
KL008	BNT167/7050/D	L13 D E3 (52.950)	L13 D E6 (55.950)
New 4VV39	BNT167/7056/C	L13 DJT STD (53.460)	L13 DJT E3 (56.460)

(2) The remainder of the authorised development referred to in Schedule 1 must be carried out in general accordance with the approved drawings listed below unless otherwise agreed in writing with the relevant planning authority and must be within the Order limits:

A1/PTD/6320/080/Rev A

A1/PTD/6320/008/Rev B

A1/PTD/6320/009/Rev A

A1/PTD/6320/010/Rev A

A1/PTD/6320/011/Rev A

A1/PTD/6320/012/Rev A

A1/PTD/6320/013/Rev B

A1/PTD/6320/014/Rev A

A1/PTD/6320/015/Rev B

A1/PTD/6320/066/Rev A

A1/PTD/6320/067/Rev A

A1/PTD/6320/068/Rev A

A1/PTD/6320/069/Rev A

For the purpose of this requirement 3(2) development must be substantially the same as shown on the approved drawings listed above subject always to account being taken of any variation of the alignment of Work No 1 within the lateral limits of deviation in article 6 from that indicated on the works plans.

Provision of landscaping

4. A written landscaping scheme must be submitted to the relevant planning authority for its written approval prior to the authorised development being brought into operational use. The landscaping scheme must include details of all proposed landscaping works, including--

- (a) location, number, species, size of trees, tree whips and shrubs;
- (b) measures for the protection of trees, tree whips and shrubs;
- (c) planting density and proposed planting times of any proposed planting;
- (d) cultivation, importing of materials and other operations to ensure plant establishment;
- (e) proposed finished ground levels;
- (f) implementation timetables; and
- (g) details of maintenance regimes and management responsibilities.

Implementation and maintenance of landscaping

5.—(1) All landscaping works must be carried out in accordance with the landscaping schemes approved under requirement 4 and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice unless otherwise approved in writing by the relevant planning authority;

(2) The landscaping works must be carried out in accordance with implementation timetables approved under requirement 4 unless otherwise approved in writing by the relevant planning authority;

(3) If within a period of five years beginning with the date of the planting of any tree, tree whip or shrub that tree, tree whip or shrub, or any tree, tree whip or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the relevant planning authority seriously damaged or defective, another tree, tree whip or shrub of the same species and size as that originally planted must be planted at the same place, unless otherwise approved in writing with the relevant planning authority.

Highway accesses

6.—(1) No stage of the authorised development is to commence until written details of the design, layout and subsequent removal (to include the restoration of land) of any new temporary means of access to a highway to be used by vehicular traffic, or any alteration to an existing means of access to a highway used by vehicular traffic, has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority in relation to that stage;

(2) The access to the permitted substation is not to commence until written details of the design and layout of the permanent means of access to a highway to be used by vehicular traffic has, after consultation with the highway authority, been submitted to and approved by the relevant planning authority in relation to that stage;

(3) The highway accesses must be constructed in accordance with the approved details unless otherwise approved in writing by the relevant planning authority in relation to that stage.

Fencing and other means of enclosure

7.—(1) No stage of the authorised development must commence until written details of all proposed permanent and temporary fences, walls or other means of enclosure within the order limits have, after consultation with the relevant planning authority, been submitted to and approved by the relevant planning authority in relation to that stage;

(2) Any fences, walls or other means of enclosure approved under requirement 7 (1) must remain secure during construction of the authorised development, in accordance with the approved details, unless otherwise approved in writing by the relevant planning authority;

(3) Any temporary fencing must be removed on completion of the authorised development.

Contaminated land and groundwater

8.—(1) Where remediation is required a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared, and submitted for the written approval of the relevant planning authority.

(2) The approved remediation scheme must be carried out in accordance with its terms unless otherwise approved in writing by the relevant planning authority.

(3) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and approved in writing by the relevant planning authority.

Controlled Water Protection Scheme

9.—(1) No stage of the authorised development must commence until a controlled water protection scheme has after consultation with the Environment Agency, been submitted to and approved by the relevant planning authority in relation to that stage. The scheme must include:

- (a) measures necessary taking account of the proposed pylon foundations;
- (b) any necessary de-watering;
- (c) measures to protect water sources; and
- (d) measures to protect groundwater dependent terrestrial ecosystems (including the River Nar).

(2) The authorised development must be carried out in accordance with the approved controlled water protection scheme, unless otherwise approved in writing by the relevant planning authority.

Archaeology

10.—(1) No stage of the authorised development is to commence until a written scheme for the investigation of any areas of archaeological interest discovered during the course of carrying out of that stage of the authorised development and as identified in the environmental document] has, after consultation with Norfolk County Council, been submitted to and approved by the relevant planning authority.

(2) Any archaeological works or watching brief carried out under the scheme must be by a suitably qualified person or body approved by the relevant planning authority.

(3) Any archaeological works or watching brief must be carried out in accordance with the approved scheme, unless otherwise agreed in writing by the relevant planning authority.

Landscape and ecological management plan

11.—(1) No stage of the authorised development shall commence until a written landscape and ecological management plan reflecting the survey results and ecological mitigation and enhancement measures included in the environmental document, shall after consultation with the Environment Agency, be submitted to and approved by the relevant planning authority in relation to that stage.

(2) The landscape and ecological management plan must include a riparian ecology method statement in respect of all watercourses that would be affected by the project. The landscape and ecological management plan must include an implementation timetable and must be carried out as approved, unless otherwise approved in writing by the relevant planning authority.

(3) The riparian ecology method statement must include:

- (a) proposed pre-construction water vole surveys undertaken in an appropriate season and sufficiently in advance of any physical works to enable detailed management measures to be implemented;

- (b) measures to manage vegetation at the location of the works to encourage voles to naturally displace;
 - (c) a programme for inspections by an ecologist of the riparian work areas;
 - (d) proposed fencing of the work areas to prevent water vole entry during the works;
 - (e) measures to control emissions and discharges from the works to minimise the risk of any entry of deleterious materials to watercourses;
 - (f) proposed reinstatement of watercourses and riparian vegetation;
 - (g) arrangements for reporting the results of surveys, mitigation measures and reinstatement works to Natural England and Environment Agency;
 - (h) details of any habitat improvement/creation;
 - (i) details of the treatment of site boundaries and/or buffers around water bodies; and
 - (j) details of maintenance and monitoring regimes and management responsibilities
- (4) The landscape and ecological management plan must include a statement on 'large birds', which must include:
- (a) a map showing the locations of the nearby Islington SSSI, the Wash SPA and the Ouse Washes SPA, and the River Great Ouse and Ouse Relief Channel in relation to the overhead line route;
 - (b) a summary of and/or cross-reference to the information on 'large birds' set out in the Environmental Document;
 - (c) a statement that "...in its periodic inspections of the overhead line and in response to any notification of bird collisions, the undertaker shall proceed in a manner in accordance with 'National Grid Protocol on Bird Deflectors' (dated 22 May 2013) or its successor document or guidance";
 - (d) a copy of the 'National Grid Protocol on Bird Deflectors' (dated 22 May 2013);
 - (e) details on how the undertaker is to be contacted and notified of bird collisions, involving swans, geese, large raptors and herons, by individuals or organisation external to the undertaker.

Code of construction practice

12. Construction works must be carried out in accordance with the code of construction practice (dated June 2013) submitted with the application, unless otherwise approved in writing by the relevant planning authority.

External lighting

13. No stage of the authorised development, is to commence until written details of any external lighting to be installed and intended duration at any of the construction sites including measures to prevent light spillage, have been submitted to and approved by the relevant planning authority in relation to that stage; and any approved means of lighting must subsequently be installed and retained for the approved duration unless otherwise approved in writing by the relevant planning authority.

Construction traffic

14.—(1) No stage of the authorised development is to commence until a construction traffic management plan, including the following:

- (a) the steps to be taken to advise all drivers of vehicles visiting the authorised development of the approved construction routes and of the measures to monitor compliance;
- (b) provision for on-site parking for construction workers;
- (c) on site wheel cleaning facilities for construction vehicles;

- (d) condition survey in relation to the bridge over the River Nar within plot 37 in the Book of Reference;
- (e) “before” and “after” joint road condition surveys in relation to each phase of construction;
- (f) strategic route signing;
- (g) signing at access points;
- (h) access points constructed to allow safe traffic movements;
- (i) liaison with the highway authority in respect of its programme of repair and maintenance of the public highway;
- (j) road sweeping facilities;
- (k) on site dust suppression;
- (l) how the local residents and stakeholders are to be kept informed of the construction traffic management plan;
- (m) how the construction traffic management plan will be updated as other project programmes are confirmed; and
- (n) school hour restrictions in relation to school picking up and dropping off times

has been, after consultation with the highway authority and the Highways Agency submitted to and approved by the relevant planning authority in relation to that stage.

(2) The authorised development must be carried out in accordance with the approved construction traffic management plan, unless otherwise approved in writing by the relevant planning authority.

Control of noise during construction and maintenance

15.—(1) No stage of the authorised development is to commence until, a written scheme for noise management during construction and maintenance has been submitted to and approved by the relevant planning authority in relation to that stage.

(2) The scheme must set out the particulars of:

- (a) the works, and the method by which they are to be carried out;
- (b) the noise attenuation measures to be taken to minimise noise resulting from the works, including any noise limits; and
- (c) a scheme for monitoring the noise during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.

(3) The approved noise management scheme must be implemented before and maintained during construction and maintenance of the authorised development.

(4) The construction and maintenance works must be undertaken in accordance with the approved noise management scheme.

Construction hours

16.—(1) Subject to paragraphs (2) and (3) construction work must not take place other than between 0700 and 1900 hours, on any day, unless otherwise agreed by the relevant planning authority.

(2) Piling operations must not take place other than between 0800 and 1700 hours on Mondays to Fridays unless otherwise agreed by the relevant planning authority.

(3) Protective netting of scaffolding and its subsequent removal across highways and the King’s Lynn to London railway line, must occur outside of the construction working hours.

Control of dust emissions

17.—(1) No stage of the authorised development is to commence until a written scheme for the management and mitigation of dust emissions has been submitted to and approved by the relevant planning authority in relation to that stage.

(2) The approved scheme for the management and mitigation of dust emissions must be implemented before and maintained during the construction, operation and decommissioning of the authorised development

Accumulation and Deposits

18.—(1) No stage of the authorised development is to commence until a written scheme for the management of any accumulations and deposits whose effects may be harmful or visible or otherwise noticeable from outside the Order limits has been submitted to and approved by the relevant planning authority in relation to that stage.

(2) The approved scheme for the management of accumulations and deposits must be implemented before and maintained during the construction, operation and decommissioning of the authorised development.

Restoration of land used temporarily for construction

19. Any land within the Order limits which is used temporarily for construction is to be reinstated to its former condition, or such condition as the relevant planning authority may approve, within six months of completion of authorised development or such further time as may be approved in writing by the relevant planning authority..

Logos and signs

20.—(1) No part of Work No1 shall display any name, sign, symbol or logo on any permanent external surface unless such name, sign, symbol or logo has been previously approved in writing by the relevant planning authority.

(2) Requirement 20 (1) shall not apply to any name, sign, symbol or logo required by law or for health and safety reasons.

Prohibition of storage of fuels and chemicals

21. No fuels or chemicals are to be stored within the Order limits during the construction, operational, maintenance or decommissioning phases.

Requirement for written approval

22. Where under any of the above requirements the approval or agreement of the relevant planning authority or another person is required, that approval or agreement is to be given in writing.

Amendments to approved details

23. With respect to any requirement which requires the authorised development to be carried out in accordance or general accordance with the details approved by the relevant planning authority , the details as so approved are to be taken to include any amendments that may subsequently be lawfully approved in writing by the relevant planning authority.

DISCHARGE OF REQUIREMENTS**Applications made under requirement**

1. Where an application has been made to the relevant planning authority pursuant to the requirements, the relevant planning authority must give notice to the undertaker of their decision including the reasons on the application within a period of 8 weeks beginning with:

- (a) the day immediately following that on which the application is received by the authority;
- (b) such longer period as may be agreed by the undertaker and the discharging authority.

Further Information

2.—(1) Where an application has been made under paragraph 1 the relevant planning authority must have the right to request such reasonable further information from the undertaker as is necessary to enable it to consider the application.

(2) If the relevant planning authority considers further information is needed and the requirement does not specify that consultation with a requirement consultee is required, it must, within 14 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement indicates that consultation must take place with a requirement consultee the relevant planning authority must issue the consultation to the requirement consultee within 5 business day of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 3 business day of receipt of such a request and in any event within 21 business days of receipt of the application.

(4) In the event that the relevant planning authority does not give such notification as specified in sub-paragraph (2) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

Appeals

3. The undertaker may appeal in the event that:

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required by a requirement included in this Order or grants it subject to conditions; or
- (b) the relevant planning authority does not give notice of its decision to the undertaker within the time period specified in paragraph 1;

and any appeal must be made within 42 business days following the occurrence of any of the events in sub-paragraphs (a) to (b).

Appeal Process

4.—(1) Any appeal under Schedule 9 of this Order shall take place by written representations only. The appeal process shall be as follows:

- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant planning authority and any supporting documents which the undertaker may wish to provide (“the appeal documentation”) and must on the same day provide copies of the appeal documentation to the relevant planning authority and any requirement consultee;
- (b) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and shall notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person's attention should be sent;

- (c) the relevant planning authority and the requirement consultee (if any) must submit written representations to the appointed person in respect of the appeal within 10 business days of the date on which the appeal parties are notified of the appointed person under sub-paragraph (b) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (d) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations pursuant to sub-paragraph (c) above; and
- (e) the appointed person shall make a decision and notify it to the appeal parties, with reasons, as soon as practicable.

(2) The appointment of the person pursuant to sub-paragraph 4 (1) (b) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(3) In the event that the appointed person considers that further information is necessary to enable him to consider the appeal he shall, as soon as practicable, notify the appeal parties in writing specifying the further information required, the party from whom the information is sought and the date by which the information is to be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided to the appointed person and the other appeal parties on or before the date specified by the appointed person. Any written representations concerning matters contained in the further information must be provided to the appointed person and the other appeal parties within 10 business days of that date.

(5) On an appeal under this paragraph, the appointed person may:

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not)

and may deal with the application as if it had been made to him in the first instance and must state in writing the reasons for any decision.

(6) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits set by the appointed person under this paragraph.

(7) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to him that there is sufficient material to enable a decision to be made on the merits of the case.

(8) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(9) If an approval is given by the appointed person pursuant to this Schedule 9, it is deemed to be an approval for the purpose of Schedule 8 of this Order as if it had been given by the relevant planning authority.

(10) Save where a direction is given pursuant to sub-paragraph (11) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person must be met by the undertaker.

(11) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person is to have regard to Communities and Local Government Circular 03/2009 or any circular or guidance which may from time to time replace it.

Fees

5.—(1) Where an application is made to the relevant planning authority for consent, agreement or approval in respect of a requirement a fee of £97.00 is to be paid to it.

(2) Any fee paid under this Schedule must be refunded to the undertaker within 4 weeks of:

- (a) the application being rejected as invalidly made; or
- (b) the relevant planning authority failing to determine the application within the period determined under sub-paragraph (1);

unless within that period the undertaker agrees in writing that the fee is to be retained by the relevant planning authority and credited in respect of a future application.

Interpretation of Schedule 9

6. In this paragraph:

“the appeal parties” means the relevant planning authority, the requirement consultee and the undertaker;

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971 (**a**);

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the relevant planning authority in discharging that requirement.

EXPLANATORY NOTE

(This note is not part of the Order)

The undertaker has a statutory obligation to connect new generators of electricity to the national transmission network. The new generator to be connected to the national transmission network is the King's Lynn B 981 MW Combined Cycle Gas Turbine power station.

The purpose of this order is to grant consent for the construction of a 400kV overhead line connection from the new substation serving the power station to the existing Norwich-Walpole 400kV overhead line.

(a) 1971 c. 80. There are amendments to this Act which are not relevant to this Order.