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Your ref: EN020009  
Our ref: 12.04.09.04/1001C

16 April 2014

Dear Mr Smethurst

**PLANNING ACT 2008  
APPLICATION FOR THE PROPOSED NORTH LONDON REINFORCEMENT  
PROJECT**

**I Introduction**

1.1 I am directed by the Secretary of State for Energy and Climate Change (the "Secretary of State") to advise you that consideration has been given to the report of the Single Examining Inspector forming the Examining Authority ("the ExA"), Mr Rynd Smith, who conducted an examination ("Examination") into the application (the "Application") dated 30 August 2012 by National Grid Electricity Transmission plc ("NGET") for a Development Consent Order ("the Order") under section 37 of the Planning Act 2008 ("the 2008 Act").

1.2 The Examination of the Application began on 24 April 2013 and was completed on 23 October 2013. The Examination was conducted on the basis of written evidence submitted to the ExA and discussed at compulsory acquisition and issue-specific hearings held in Tottenham, London on 8, 9 and 10 July 2013.

1.3 The Order, if made, would grant development consent for the uprating of an existing 275kV transmission line of approximately 14km in length from Waltham Cross substation to Tottenham substation to enable it to run at a voltage of 400kV, together with associated development, in summary:

- An extension to and minor route re-alignments at Waltham Cross substation to incorporate new 400kV gas insulated switchgear (GIS);
- New transformers and new sealing end compounds at Brimsdown substation;
- A 400kV 'bypass' to Tottenham substation, connecting the application proposal to the existing VC alignment to the south, which is the subject of a separate uprating proposal and will operate at 400kV in due course.

1.4 Enclosed at **Annex A** to this letter is a copy of the ExA's Report and annexed Errata Sheet (Ref EN020009) of corrections produced by the Planning Inspectorate ("the Report"), the Order at **Annex B** and a note on the circumstances in which the Secretary of State's decision may be challenged in Annex C. The ExA's findings and conclusions are set out in section 4 of the Report, and the ExA's recommendation is at section 8.

## **II Summary of the EA's Recommendations**

2. The ExA recommended that the Order be made, subject to minor modifications and additional requirements being made to NGET's Preferred Draft Order. Those recommended additions have been incorporated into the Recommended Draft Order set out in Appendix F to the Report.

## **III Summary of the Secretary of State's Decision**

3.1 The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the Application. This letter with enclosed Annexes A and B constitutes both the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulation 23(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("2009 Regulations").

3.2 In reaching his decision, the Secretary of State has had regard to the local impact reports submitted by: Epping Forest District Council, the London Borough of Enfield (Enfield Council) and the Greater London Authority; the environmental information as defined in regulation 2(1) of the 2009 Regulations; and all other matters which he considers important and relevant to his decision as required by section 104 of the 2008 Act. In making his decision under the 2008 Act the Secretary of State has complied with all applicable legal duties on him and has not taken account of any matters which are not relevant to his decision.



#### **IV Secretary of State's consideration**

4.1 The Secretary of State has carefully considered the Report and all other material considerations. The Secretary of State's consideration of the Report is set out in the following paragraphs. All paragraph references, unless otherwise stated, are to the Report and references to Requirements are to those in the draft Order in Appendix F in the Report.

4.2 Except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the Report, and the reasons for the Secretary of State's decision are those given by the ExA in support of his conclusions and recommendations. This letter should therefore be read with the ExA's Report and Errata Sheet contained in Annex A, and the Order at Annex B.

#### **Need and Relevant Policy for the Proposed Development**

4.3. In deciding the application, the Secretary of State has had regard to energy National Policy Statements EN-1 (Overarching NPS for Energy) and EN-5 (NPS Electricity Networks Infrastructure). After having regard to the comments of the ExA set out in Section 5 of the Report, including the conclusion in paragraphs 5.17 - 5.19, the Secretary of State is satisfied that a decision to make the Order would be in accordance with EN-1 and EN-5, given in particular the need for the reinforcement of the existing overhead transmission line into Central London to meet the growing demand for electricity, and to maintain an appropriate security of electricity supply to London. The Secretary of State notes in particular the conclusion of the ExA that the benefits of the proposed development outweigh its adverse impacts.

#### **Ecology and Biodiversity**

4.5 The Secretary of State notes that the ExA considered a number of issues under the above heading:

##### **(a) Effects on European Sites and their features**

4.6 The Conservation of Habitats and Species Regulations 2010 (as amended) ("the Habitats Regulations") require the Secretary of State to consider whether the project would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site, as defined in the Habitats Regulations. If likely significant effects cannot be ruled out, then an Appropriate Assessment must be undertaken by the Secretary of State pursuant to regulation 61(1) of the Habitats Regulations to address potential adverse effects on site integrity. The Secretary of State may only agree to the project if he has ascertained that it will not adversely affect the integrity of a European site.



4.7 A Habitats Regulations Assessment Report was submitted with the Application, which assessed the potential impacts of the project on the Lee Valley Special Protection Area (SPA), Lee Valley Ramsar site, the Epping Forest Special Area of Conservation (SAC), and the Wormley - Hoddesdonpark Woods SAC (“the European sites”).

4.8 In the Secretary of State’s view, this Report and the Report on the Implications for European Sites (RIES) contains sufficient information to inform his consideration under regulation 61(1) of the Habitats Regulations. This is also the conclusion of the ExA [ER 4.137].

4.9 As to the likely impact on the European sites, the Secretary of State accepts the advice of the ExA as set out in the RIES (Appendix E) that the application proposal does not give rise to any relevant likely significant effects, subject to the management of seasonal effects on wintering birds and degradation of water quality and of nutrient sensitive habitats through appropriate Order provisions. The Secretary of State has confidence that these mitigation measures will effectively ensure that no likely significant effect will occur as a result of the project alone and in combination with other plans and projects on the basis of the conclusions of the RIES and written representations from Natural England, and agrees with the ExA that the application may proceed without an Appropriate Assessment [ER 4.139].

4.10 The Secretary of State notes Natural England’s suggestion that the RIES should have also presented a summary of the potential for effects on the following additional features of the Epping Forest SAC: Northern Atlantic wet heaths with *Erica tetralix*; and European dry heaths. The Secretary of State accepts Natural England’s conclusion that the omission of these two features does not affect the validity of the RIES conclusion that there is no credible mechanism for impacts on the Epping Forest SAC [ER4.134].

(b) Effects on other protected sites and species

4.11 As to the likely impact on other protected sites and features, the Secretary of State agrees with the ExA’s conclusion that although the proposal has the potential to affect a number of nationally and locally designated sites and European and Nationally Protected Species, mainly during the construction period, mitigation in the Order such as appropriate pre-works surveys and timings of works, can appropriately mitigate any adverse effects on these receptors.

(c) Mitigation of Impacts

4.12 The Secretary of State notes that while the Local Impact Reports from the Greater London Authority, Enfield Council and Epping Forest District Council were supportive of the principle of the proposal as a whole, they and other representations made to the ExA during the examination raised concerns that



there was no clear mechanism to ensure that the mitigation approaches identified in the Environmental Statement (ES) would be implemented when requirements were discharged. The Secretary of State also notes that NGET prepared the Environmental Measures Documents to specifically address these concerns and that NGET's intention for the Environmental Measures Document is for it to be a reference document for the Order and for relevant requirements that require the approval of plans to the satisfaction of an authority are expressed as being subject to it, to allow an authority discharging a requirement to assess whether a submitted proposal or scheme is adequate.

4.13 The Secretary of State notes that there were no objections to the principle of using the Environmental Measures Document for this purpose, and accepts the ExA's conclusion [ER 6.194] that in order to have the effect sought by NGET, the document should be considered, approved, endorsed and certified by the Secretary of State. The Secretary of State accepts the ExA conclusions and agrees that the Environmental Measures Document identifies appropriate measures and ensures that these must be taken into account [ER 4.121].

4.14 In order for the Secretary of State to certify the Environmental Measures document two amendments must be made to the version submitted by the Applicant on 26 July 2013, and the amended Environmental Measures Document must be resubmitted to the Secretary of State for approval and certification:

- Firstly, the ExA suggested an amendment to the Environmental Measures Document in the form of the addition of a new natural environment provision to address issues raised during examination related to water pollution: *"A water pollution risk-management system will be developed and deployed prior to the works to identify and control water pollution risks and maintain the quality of rivers, streams and waterbodies in the Lee catchment"* [ER 4.125]. The Secretary of State agrees that this amendment should be made; and
- Secondly, the Secretary of State recommends that the text on page 8 under the heading 'Enhancement Measures' should be removed from the document by the Applicant as these are not relevant to the planning merits of the proposed development.

## The Aquatic and Land Environment

### (d) Flooding

4.15 The Secretary of State notes that the Environment Agency raised concerns in relation to flooding on the Brimsdown Substation, the cable bridge and the new sealing end compounds adjacent to pylon ZBC19, and that NGET proposed a new requirement (Requirement 17: Flood Storage) to address these concerns. The ExA recommended the inclusion of this new requirement, and



that approval of a scheme for compensatory flood storage should be the responsibility of the Environment Agency, given their particular interest and expertise. The Secretary of State agrees with the inclusion of the flood storage requirement, but does not agree with the ExA's recommendation that the approval of the scheme for compensatory flood storage should be by the Environment Agency. This is because it is established practice for such requirements to be approved by the Local Authority(s) with jurisdiction of the land that is affected by an application for development consent, in consultation with expert bodies such as the Environment Agency.

#### Article 31: Temporary use of land for carrying out the authorised development

##### (e) Notice period for entering on and taking temporary possession of land

4.16 The Secretary of State notes the ExA's view [ER 6.137] that a notice period of 14 days for entering on and taking possession of land was unreasonably short. However, taking into account the strong need for the timely delivery of the project to avoid works in the winter months to mitigate harm to European Sites and species, and the need to avoid any delays in the planned outage timetables which have been calculated to be carried out when forecast network demand can accommodate them, the Secretary of State does not agree that the period is unreasonable. A 14 day notice period is consistent with precedents, including the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (now repealed), and section 11 of the Compulsory Purchase Act 1965. The Secretary of State also considers that any unnecessary delays in the ability for NGET to enter on and take temporary possession of land could constrain the delivery of the Project. The Secretary of State considers that a notice period of 14 days is sufficient.

#### **V Secretary of State's conclusions and decision**

5.1 For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the Application, given in particular the reinforcement of the transmission system connection into central London to maintain an appropriate security of supply and meet anticipated rise in demand and that the benefits of the proposed development outweigh its adverse impacts.

5.2 The Secretary of State has therefore decided to accept the ExA's recommendation in Section 8.10 of the Report to make the Order granting development consent and imposing the requirements as proposed by the ExA, but subject to the modifications described in section 6 below. He confirms that, in reaching this decision, he has had regard to the ExA Report, the local impact reports submitted by the relevant authorities and to all other matters which he considers important and relevant to his decision as required by section 105 of the 2008 Act. The Secretary of State confirms also for the purposes of regulation 3(2) of the Infrastructure Planning (Environmental Impact



Assessment) Regulations 2009 that he has taken into consideration the environmental information as defined in regulation 2(1) of those Regulations.

## **VI Modifications to the Order**

6.1 The Secretary of State has decided to make various changes to the form of the draft Order as set out in Appendix F of the Report which, while altering the way in which specific issues are dealt with, do not materially alter its effect, including changes to conform with the current practice for Statutory Instruments (e.g. modernisation of language), changes in the interests of clarity and consistency, removal of definitions where terms are defined in the parent legislation, and changes to ensure that the Order has the intended effect.

6.2 For reasons set out in 4.12 – 4.14 above, in order for the Environmental Measures Document to have the effect sought by NGET, the Secretary of State has made an amendment to Article 43 of the Order to include a reference to the Environmental Measures Document, removed its definition from Schedule (2)(1) and added its definition to Article 1(2).

6.3 To provide certainty as to what has been authorised by the Order, the Secretary of State has amended Schedule 13 Part 2 to the Order to include a qualification that changes agreed by NGET and Transport for London have effect only if the obligations on NGET are not materially different in relation to protecting highways and traffic to those set out in that Part.

6.4 To provide certainty to the extent to which the authorised development will be carried out in accordance with the design drawings and sections prepared as part of the application and certified by the Secretary of State, the Secretary of State has removed the word “general” from Article 4(3).

6.5 To ensure compliance with the approved details, the Secretary of State has amended Requirement 4 in Schedule 2 to remove the word “general”.

6.6 In Part B of section 6 of the Report (from page 123) the ExA makes the following drafting suggestions to the Order which the Secretary of State accepts with modifications:

*i) Recommendation that the Environment Agency should approve a scheme for compensatory flood storage.*

6.7 For reasons set out in paragraph 4.15 above the Secretary of State does not agree with the recommendation made by the ExA [ER6.178] that the Environment Agency should be responsible for the approval of a scheme for compensatory flood storage under the Flood Storage requirement. The Secretary of State has therefore amended the requirement to require approval by the London Borough of Enfield, in consultation with the Environment Agency.

*iii) Recommendation for the amendment of Article 31 to allow a 28 day notice period for entering on and taking temporary possession of land specified in Schedule 11 of the Order.*

6.8 For reasons set out in paragraph 4.16 above the Secretary of State does not agree with the recommendation of a 28 day notice period [ER6.137], and has amended Article 31 to allow a 14 day notice period as originally drafted by NGET.

6.9 Following the closure of the Examination on 23 October 2013, no representations were submitted. The Secretary of State does not consider that he requires further information on which to take his decision.

## **VII Challenge to decision**

7.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at Annex C to this letter.

## **VIII Publicity for decision**

8.1. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Giles Scott', with a stylized flourish at the end.

Giles Scott  
Head of National Infrastructure Consents



**ANNEX A:** ExA's Report and Errata Sheet

**ANNEX B:** The Development Consent Order

## ANNEX C

### LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the former Infrastructure Planning Commission or the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks from the date when the Order is published. The National Grid North London Reinforcement Project as made is being published on the date of this letter on the Planning Inspectorate website at the following address:  
<http://infrastructure.planningportal.gov.uk/projects/> (to be changed)

**These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655)**