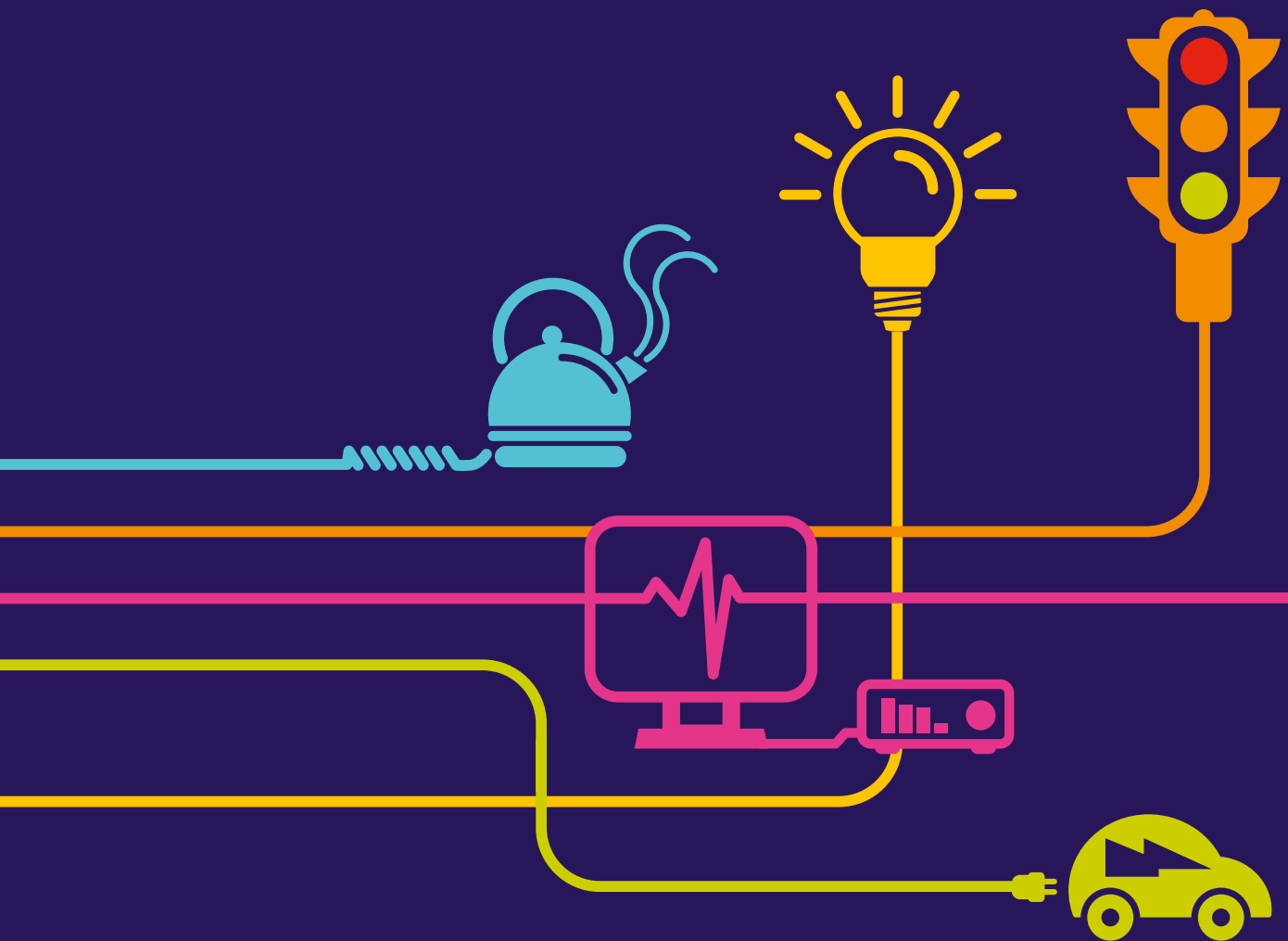


Application under section 138 of the Planning Act British Telecommunications

National Grid (Richborough Connection Project) Order



The Planning Act 2008

The proposed National Grid (Richborough Connection Project) Order

Application under section 138 Planning Act 2008 – Extinguishment of rights, and removal of apparatus, of statutory undertakers etc.

British Telecommunications plc

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Application under section 138 Planning Act 2008 – Extinguishment of rights, and removal of apparatus, of statutory undertakers etc.

1 Introduction

- 1.1 National Grid Electricity Transmission plc (“National Grid”) submitted in January 2016 an application for a Development Consent Order (“DCO”) to the Secretary of State for the Richborough Connection Project (application reference EN020017). The application was accepted by the Planning Inspectorate on 11 February 2016.
- 1.2 The DCO includes the power for National Grid and, in respect of the UK Power Networks works, UK Power Networks to extinguish rights conferred on, or remove or reposition apparatus kept installed on, under or over land by, the operator of an electronic communications network for the purpose of the carrying on of their undertaking, and as such National Grid believes that section 138 of the Planning Act 2008 (“the Act”) is engaged by the DCO.
- 1.3 The relevant operator for the purposes of this application is British Telecommunications plc (“British Telecom”).
- 1.4 Section 138 applies to land if:
 - (a) there subsists over the land a relevant right; or
 - (b) there is on, under or over the land relevant apparatus.
- 1.5 National Grid understand that relevant rights and/or relevant apparatus subsist, or are located on, under or over land within the DCO and are conferred on or kept installed by British Telecom for the purpose of carrying on its undertaking.
- 1.6 Section 138 provides that a DCO may include provision for the extinguishment of the relevant right or the removal of the relevant apparatus only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the DCO relates.
- 1.7 National Grid is, therefore, making this application to the Secretary of State pursuant to section 138 of the Act.
- 1.8 The following documents were submitted as part of the DCO application in January 2016 and are relied upon to support this application under sections 127 and 138:
 - Statement of Reasons (**Document 3.1**);
 - Draft Development Consent Order (**Document 2.1**);
 - Land Plans (**Document 4.3**);
 - Works Plans (**Document 4.6**); and
 - Book of Reference (**Document 3.3**).

- 1.9 The Statement of Reasons sets out the justification for seeking compulsory purchase powers within the DCO.

2 Background

2.1 National Grid operates the high voltage electricity transmission network in Great Britain and owns the network in England and Wales. The network operates at 400,000 and 275,000 volts, connecting the electricity generators to substations where the high voltages are transformed to lower voltages, enabling the power to be distributed to homes and businesses.

2.2 One of National Grid's functions is to identify new sources of energy to join to the existing network. One of these new sources is the proposed high-voltage electricity link between Belgium and Richborough near Sandwich in Kent, known as the Nemo Link. In order to transport the energy from Nemo Link around the country, National Grid need to connect it to the high-voltage electricity network.

2.3 At present, there is no high-voltage National Grid electricity network in the Richborough area. The DCO, if made, would therefore grant powers to construct, operate and maintain a 20 kilometre 400kV overhead electricity transmission connection between Richborough 400kV Substation and Canterbury North 400kV/132kV Substation, to join the existing network. This project is known as the Richborough Connection Project ("Proposed Development").

2.4 The DCO, if made, would also grant powers to reconfigure and remove parts of the local 132 kV electricity network. The local distribution network operating at 132kV and below is owned and operated by UK Power Networks. The works to reconfigure the local 132 kV electricity network ("UK Power Networks works") are in most cases to be undertaken by UK Power Networks. The provisions of the DCO therefore have effect for the benefit of both National Grid and UK Power Networks (in respect of the UK Power Networks works) as set out in Articles 6 and 7 of the DCO.

2.5 The DCO will also include powers for:

- the permanent diversion of an existing 132 kV overhead line to enable the new 400kV overhead line to be constructed;
- the construction of three temporary diversions of another existing 132kV overhead line in order to maintain local supplies whilst the new 400kV overhead line is being constructed;
- the removal of 20.6 km of existing 132kV overhead line between Richborough 132kV Substation and Canterbury South 132kV Substation; and
- ancillary works including, but not restricted to, temporary access routes to access pylon construction areas, bridge structures, highway works,

construction compounds, protective scaffold structures and pylon work sites.

3 Proposed Works

The works which are proposed in respect of the plots of land identified in Table 1 below (over or under which relevant rights and/or relevant apparatus are understood to be vested in British Gas) include, in particular, the following:

- works to construct a 400kV overhead electric line comprised in Work No. 1 in the draft DCO and as shown on the Works Plans, consisting of the installation of pylons and associated conductors, insulators and fittings; and
- such associated development as may be necessary or expedient for the purposes of, or in connection with, the construction and maintenance of the works comprised in Work No. 1 including, without limitation, works to provide access to pylons and associated conductors, insulators and fittings.

4 Interests subject to this submission

4.1 National Grid understand that a relevant right and/or relevant apparatus for the purposes of section 138 of the Act is conferred on or kept installed by British Telecom, on under or over the plots of land listed in Table 1 below. In all cases, any right or interest to be acquired by National Grid over those plots listed in Table 1 is a superior right to that (if any) being sought by UK Power Networks. As such, this application (see Paragraph 1.7) is made by National Grid alone.

TABLE 1

Book of Reference plot number	Interest or right to be acquired
165, 166, 167, 171, 193, 202, 204, 329, 330, 331, 342, 344, 359, 411, 576, 768, 776, 777, 954, 1149, 1158, 1594, 1617, 1620, 1621, 1624, 1627	Class 1 (Compulsory Acquisition of Rights for the Authorised Development)
155, 183, 209, 211, 232, 293, 297, 313, 316, 376, 410, 564, 674, 677, 678, 682, 685, 687, 691, 697, 700, 705, 774, 790, 860, 874, 1014, 1016, 1290, 1381, 1386, 1397, 1603A, 1603B, 1610, 1612, 1628, 1632, 1638, 1641, 1644,	Class 2 (Compulsory Acquisition of Rights of Access)

5 Applicant's case under Section 138 of the Act

- 5.1 The DCO gives National Grid the power to extinguish rights conferred on, or remove or reposition apparatus kept installed on, under or over land by, the operator of an electronic communications code network, including (but not limited to) British Telecom, over or within the order land. However, this is only permitted where the Secretary of State concludes that it is necessary to do so.
- 5.2 For the purpose of this application, it is National Grid's case that:
- 5.2.1 works associated with the Proposed Development are necessary over the plots listed in Table 1 and are described in Schedule 1 to the DCO (**Document 2.1(A)**) and shown on the Works Plans (**Document 4.6**) to carry out the Proposed Development;
 - 5.2.2 the Proposed Development could affect relevant rights and/or relevant apparatus vested in or belonging to British Telecom which may be affected by the Proposed Development;
 - 5.2.3 in the absence of powers for National Grid to extinguish such rights and/or remove or reposition such apparatus, the works associated with the Proposed Development (and summarised at Paragraph 3 above) could not be completed;
 - 5.2.4 standard protective provisions for the protection of operators of electronic communications code networks are included at Schedule 14, Part 2 of the DCO; and
 - 5.2.5 the nature of the proposed works and inclusion of appropriate protective provisions in the DCO means that the Secretary of State can be satisfied that British Telecom's rights, whilst potentially subject to interference, will not be affected to the detriment of its ability to carry out its undertaking.
- 5.3 National Grid is seeking to liaise with British Telecom in order to identify what, if any, impact the Proposed Development may have on relevant rights and/or apparatus vested in or belonging to British Telecom. It has not been possible to identify this information in advance of Deadline 2. National Grid is therefore making this application pursuant to section 138 of the Act, both to protect its position pending further discussion with British Telecom and to ensure that, so far as possible, the Examining Authority's examination timetable is met.
- 5.4 National Grid will provide an update to the Examining Authority in due course as to the progress of its discussions with British Telecom.

6 Conclusion

- 6.1 For the reasons set out in this application, it is National Grid's position that, pursuant to section 138 of the Act, the Secretary of State can be satisfied that the power for National Grid to extinguish the rights of, remove or reposition the apparatus belonging to British Telecom is necessary for the purpose of carrying out the Proposed Development, and that the test of section 138 has therefore been met.