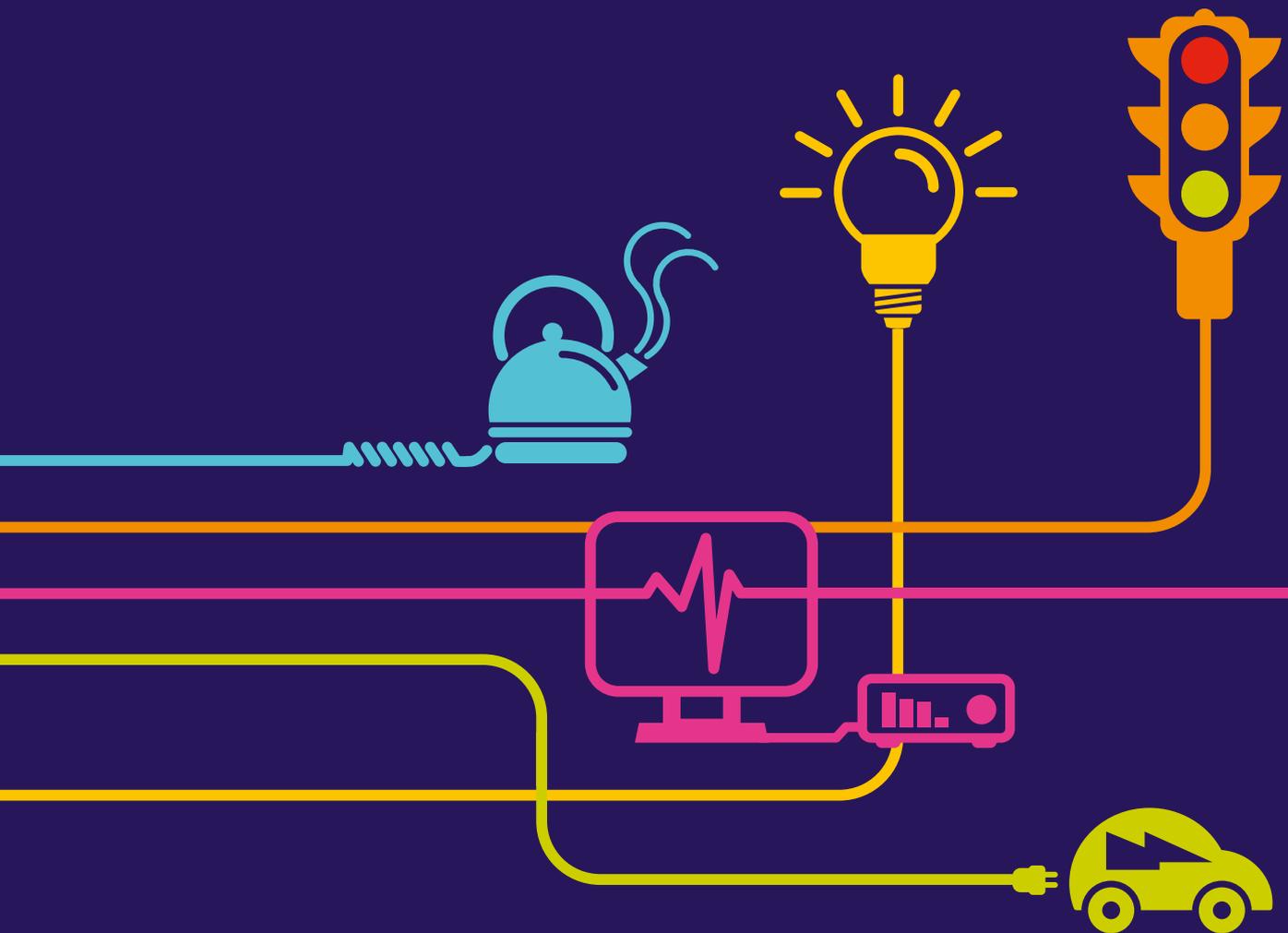


Application under section 132 of the Planning Act 2008 in respect of Special Category Land

National Grid (Richborough Connection Project) Order



The Planning Act 2008

The proposed National Grid (Richborough Connection Project) Development Consent Order

Application under section 132 Planning Act 2008 – Special Category Land

Reference	Volume 8.7.1
Author	Bircham Dyson Bell LLP
Date	14 July 2016
Version	1
Planning Inspectorate reference number	EN020017

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Application under section 132 Planning Act 2008 – Special Category Land

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 provision for the compulsory acquisition of rights in land including the acquisition of rights in land which are, or may form part of, an open space. No land is identified in the DCO that is, or may be, a common space or a fuel or field garden allotment.
- 1.3 As the DCO will authorise the compulsory acquisition of rights over land forming part of open space land as referred to in section 132 of the Planning Act 2008 (as amended) (“the Act”) and falling within the definition of ‘special category’ land in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, National Grid considers that section 132 of the Act is engaged by the DCO.
- 1.4 National Grid is, therefore, making this application to the Secretary of State for confirmation that special parliamentary procedure is not required in relation to the rights that will be acquired over the special category land.
- 1.5 National Grid is not acquiring land forming part of an open space and so does not consider that section 131 of the Act is engaged by the DCO. National Grid has not, therefore, made an application under section 131.
- 1.6 The following documents were submitted as part of the DCO application in January 2016 and are relied upon to support this application under section 132:
 - Statement of Reasons (**Document 3.1**);
 - Draft Development Consent Order (**Document 2.1**);
 - Land Plans (**Document 4.3**);
 - Special Category Land Plans (**Document 4.5**); and
 - Book of Reference (**Document 3.3**).
- 1.7 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 power 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 Section 132 application

Open Space

- 3.1 Section 132 provides that a DCO is subject to special parliamentary procedure to the extent that it authorises the compulsory acquisition of a right over land by the creation of a new right, forming part of a common, open space or fuel or field allotment, unless the Secretary of State is satisfied that one of sub-sections (3) to (5) of section 132 applies and that fact and the sub-section concerned are recorded in the DCO.
- 3.2 Section 132(3) of the Act (as amended) applies if the order land, when burdened with the order right, will be no less advantageous than it was before to the persons in whom the land was vested, other persons, if any, entitled to rights of common or other rights over that land and the general public.
- 3.3 The Proposed Development will seek to acquire rights over land that is, or may be, open space land as referred to in section 132 of the Act.
- 3.4 For the purpose of section 132, the plots of land subject to the powers of compulsory acquisition of rights over land that are, or may be, open space land, are set out in the table below.

Permanent acquisition of a right in open space land

Plot	Description	Right to be acquired	Basis on which certificate applied for
180	6147sqm of agricultural land on the east and west bank of River Great Stour, south of Broad Oak Road, Canterbury, west of Vauxhall Road, Canterbury	Construction operation and maintenance of the authorised development including, without limitation, rights to install pylon PC1 and associated	No less advantageous. The exercise of the right will not prevent people using the open space land

		conductors, insulators and fittings comprised in Work No. 1 in the draft DCO	
181	777sqm of agricultural land lying to the north east of River Great Stour, west of Vauxhall Road, Canterbury	Construction and maintenance access in connection with the works comprised in Work No. 1 in the draft DCO	No less advantageous. The exercise of the right will not prevent people using the open space land
186	77sqm of industrial land on the west side of Vauxhall Road, Canterbury	Construction and maintenance access in connection with the works comprised in Work No. 1 in the draft DCO	No less advantageous. The exercise of the right will not prevent people using the open space land
209	6sqm of agricultural land on west side of Vauxhall Road, Canterbury	Construction and maintenance access in connection with the works comprised in Work No. 1 in the draft DCO	No less advantageous. The exercise of the right will not prevent people using the open space land
210	5sqm of verge land on the west side of Vauxhall Road, Canterbury, south west of Greensbridge Park, Vauxhall Road, Canterbury	Construction and maintenance access in connection with the works comprised in Work No. 1 in the draft DCO	No less advantageous. The exercise of the right will not prevent people using the open space land

- 3.5 No land forming part of open space land is to be acquired compulsorily. Rights to be acquired compulsorily are for the construction, operation and maintenance of the Proposed Development.
- 3.6 Once the works to construct the new overhead line are completed, the land will be returned to the owner (subject to the rights to be acquired to operate and maintain the Proposed Development).
- 3.7 Although there will be temporary interference to the use of the open space land whilst the works to construct the new overhead line take place, in the longer term, the recreational use of the land will be able to carry on and public access to the land will not be permanently affected and none will cease to be open space land.
- 3.8 Based on the information stated above, it is submitted that the open space land, when burdened with the rights sought under the DCO, will be no less advantageous to those persons in whom it is vested and to any persons entitled to rights over the land or the public's enjoyment of that land. Accordingly, the test in section 132(3) is satisfied and the DCO is not, therefore, subject to special parliamentary procedure.

4 Conclusion

- 4.1 It is National Grid's position that the compulsory acquisition of rights over open space land to allow for the construction, operation and maintenance of the Proposed Development will leave the open space land no less advantageous to the affected persons such that the test in section 132(3) is met.
- 4.2 National Grid is in discussion with, and will continue to try and reach an agreement with, the affected owners. However, compulsory acquisition powers are still sought within the DCO over these plots for the following reasons:
- 4.2.1 Notwithstanding that due and diligent enquiry to establish all persons with an interest in land has been undertaken by National Grid, and agreements concluded, if any person with an interest in land is identified or comes forward subsequent to the DCO having been made, National Grid must be able to rely upon compulsory powers under the DCO in respect of such interest if no voluntary agreement with that person can be obtained. This enables National Grid to proceed with the Proposed Development;
- 4.2.2 The voluntary agreement may later prove to have granted insufficient rights and the land owner may be unwilling to extend the rights as may be required; and

- 4.2.3 Compulsory powers are more readily enforceable so reducing additional risk, cost and delay. National Grid may consistently and uniformly enforce compulsory powers to deliver the Proposed Development in a comprehensive manner in relation to all persons with an interest in land.
- 4.3 Given the need for the Proposed Development (see in particular the need case (**Document 7.3**) and the Statement of Reasons (**Document 3.1**)) National Grid considers there is a compelling case in the public interest for the inclusion of the compulsory purchase powers within the DCO.
- 4.4 Further for the reasons set out in this application it is National Grid's position that pursuant to section 132(2) of the Act (as amended) the Secretary of State can be satisfied that subsection (3) applies and that the DCO is not subject to special parliamentary procedure.
- 4.5 National Grid has, accordingly, included in the draft DCO the necessary preamble to include reference to section 132 of the Act and an acknowledgement that the Secretary of State is satisfied that the requirements of this section have been met. Should the Secretary of State agree with this position then there will be no need for special parliamentary procedure before the DCO can be made (if that is the decision).