

Giles Scott  
Head of Energy Infrastructure Planning and Coal Liabilities  
Department for Business, Energy & Industrial Strategy

Your Ref  
EN020017  
Our Ref  
EMM/ENB/005694.0341  
Date  
10 April 2017

**By Email** richborough@pins.gsi.gov.uk

Dear Mr Scott

**Planning Act 2008 (as amended) and the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)**

**Application by National Grid Electricity Transmission plc for an Order Granting Development Consent for the Richborough Connection Project**

Further to your letter of 31 March 2017 please find National Grid's response to the request for comments detailed below.

**Farming and Agricultural Practices**

As requested National Grid has updated the Construction Environmental Management Plan (**CEMP**) (**Document 5.4.3C(D)**) to include reference to the Land Drainage Consultant. The updates have occurred to Table 3C.2.4 at paragraph 2.11.3 (see page 18) and in the diagram 'Inset 3C.2.1 Likely Roles of Project Construction Team' (see page 15).

An updated copy of the CEMP is included alongside this response as requested. This document retains the original document number as per the final version submitted during the examination, as this document number is referenced in the Development Consent Order (**DCO**) and other project documents, but the issue date has been updated to refer to April 2017.

**Southern Water Services Limited**

National Grid and Southern Water Services Limited (**SWSL**) have continued to discuss appropriate protection for SWSL's apparatus.

Since the close of the examination period, National Grid and SWSL have agreed that it will not be necessary to amend the Protective Provisions in the draft DCO and are instead negotiating a separate agreement to provide SWSL with the additional assurances it requires.

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50 Broadway London T +44 (0)20 7227 7000  
SW1H 0BL United Kingdom F +44 (0)20 7222 3480  
DX 2317 Victoria W www.bdb-law.co.uk

There are only two outstanding issues between the parties relating to the payment of expenses and compensation and National Grid remains confident that agreement can be reached shortly.

### **Crown Land**

Since the close of the examination period, National Grid and the Crown have been agreeing a position to provide the Crown with the additional assurances it requires to enable them to issue the s.135 consents.

National Grid remains confident that agreement can be reached shortly.

### **Possible Relocation of Pylon PC10**

In Appendix A to National Grid's hearing note on actions following the hearing on 19 and 20 October (**REP6-009 Appendix A**) National Grid set out a table and plans showing options that moved pylon PC10 outside of the footprint of South East Water's possible future stream diversion. Option 7 of this table is analogous to option 7B as set out in drawing 4L (**REP8-21**).

Option 7B, as with the other options in the table referred to above, is within the proposed development's limits of deviation. At Deadline 7 National Grid provided an ES Addendum (**REP7-027**) confirming that these various options do not result in any materially different or new environmental effects. As noted in the table the option does result in reduced clearances, albeit National Grid has presented evidence throughout the examination to explain how South East Water can construct a reservoir and maintain any proposed planting under the overhead line (for a summary of National Grid's position see its Position Statement – South East Water **REP8-018**).

It is National Grid's view that option 7B would allow for the progression of both the proposed development and the Broad Oak reservoir. For the avoidance of doubt, it is also National Grid's view that the proposed development as applied for would allow for the progression of a future reservoir at the Broad Oak site as per National Grid's representations made throughout the examination.

### **Indemnity within agreements between National Grid Electricity Transmission plc and UK Power Networks**

Since the close of the examination, National Grid has been discussing with UK Power Networks the detailed scope of works required along the route of the proposed new 400kV overhead line and at Richborough.

The outcome of these discussions requires revisions to be made to both the overarching agreement and the Richborough commercial agreement (documents as previously identified in **REP6-010**). These two documents have not therefore been completed.

Discussions to finalise both agreements continue, and National Grid considers that agreement will be reached with UK Power Networks shortly.

National Grid also confirms that the overarching agreement provides the mechanism to ensure that the seeking, obtaining and implementing of land rights in respect of compulsory acquisition for UK Power



Networks is provided for, and that the compulsory acquisition and other costs lie with National Grid and do not constitute betterment of the UK Power Networks Distribution System.

### **Housing and Planning Act 2016**

In relation to the Housing and Planning Act 2016 (the **2016 Act**), National Grid submits that it is necessary to amend the draft DCO submitted at Deadline 7 (**REP7-003**). Before moving on to particular changes that National Grid would suggest, it is worth emphasising that the general approach taken in the High Speed Rail (London – West Midlands) Act 2017 (the **HS2 Act**) and the current draft DCO for the Silvertown Tunnel should be adopted.

The approach, primarily, is based on ensuring (i) any repeals of compulsory purchase legislation by the 2016 Act are reflected in the DCO; (ii) references to time limits in the said legislation (usually three years) are amended to be consistent with the DCO (which has a 5 year time limit); and (iii) any new provisions are amended to ensure consistency as regards the acquisition of rights in land, rather than purchases of land.

In particular, and in relation to the two articles and one schedule that National Grid is requested to submit views on, National Grid would state the following:

#### **1) Article 21**

The reference in subsection (3) to paragraph 5 should be removed and be replaced with “as modified by Schedule 10” as Schedule 10 will be significantly amended (see below).

#### **2) Article 25**

This article will require a few amendments and insertions, namely:

- (i) Subsections (3) to (5) will need to be removed as section 3 of the Compulsory Purchase (Vesting Declarations) Act 1981 (the **1981 Act**) has been repealed. Accordingly, there is no need to amend this provision.
- (ii) Section 5A of the 1981 Act should be omitted. Accordingly, a new paragraph will need to be added to this article.
- (iii) Section 5B of the 1981 Act should be amended so that reference to section 23 of the Acquisition of Land Act 1981 is substituted with an appropriate reference to section 118 of the Planning Act 2008. In addition, the “three year period” in the same section should be amended to reflect the 5 year period as per the draft DCO. Accordingly, a new paragraph will need to be added to this article.
- (iv) Section 6 of the 1981 Act needs to be amended to include the appropriate reference to section 134 of the Planning Act 2008. Accordingly, a new paragraph will need to be added to this article.



**3) Schedule 10**

As a result of the 2016 Act, section 58 of the Land Compensation Act 1973 (the **1973 Act**) (which deals with the determination of material detriment) no longer references section 8 of the Compulsory Purchase Act 1965 (the **1965 Act**). Paragraph 2(3) of Schedule 10 is currently predicated on section 8 of the 1965 Act coming within section 58 of the 1973 Act. Accordingly, paragraph 2(3) in the DCO can be removed because the 1973 Act has had the reference to section 8 of the 1965 Act removed by the 2016 Act.

In relation to paragraph 5, section 8 of the 1965 Act has been amended and incorporates a new Schedule 2A. Paragraph 5, therefore, should be removed and the appropriate amendments to the Schedule 2A should be drafted and inserted. This schedule should be amended to reflect the acquisition of rights, rather than land. It is noted that both the current draft of the Silvertown Tunnel DCO and the HS2 Act amend Schedule 2A in this manner.

There are further changes that National Grid would suggest as a result of the 2016 Act including that references to entering onto land for the purposes of the 1965 Act do not include protective works (article 17) and temporary use of land (articles 27 to 29) under the DCO. In addition, new clauses added into the 1965 Act by the 2016 Act (in particular clause 4A(1)) will need to be amended as necessary.

National Grid hopes that you will be satisfied that this response addresses the issues raised in your letter of 31 March 2017 and looks forward to hearing from you on the progress of the application.

Yours sincerely

**Nicholas Brown**  
**Partner and Parliamentary Agent**  
**For and on behalf of Bircham Dyson Bell LLP**  
T +44 (0)20 7783 3410  
M +44 (0)7973 316253  
F +44 (0)20 7233 1351  
E nicholasbrown@bdb-law.co.uk