

APPENDIX 3

NATIONAL GRID - RICHBOROUGH CONNECTION PROJECT

RESPONSES TO ISSUES RAISED BY THE NFU IN ITS LETTER DATED 2 JUNE 2017

Note: Most of the points raised are issues National Grid believes it has already answered during the examination whether at hearings, in post-hearing notes and responses to the examining authority’s written questions. Save where a brief update or cross reference to the cover letter is provided (highlighted in yellow) the text in the response is taken from the document identified in column 4 and submitted during the examination.

Issue No.	Issue	Reference	Response	Source of response
1	National Grid has not fully explored reasonable alternatives to the locations of pylons that would mitigate the effects on affected landowners and their farm businesses.	Letter, Para 4, bullet 1	<p><i>“During the non-statutory and statutory stages of consultation, National Grid discussed with PILs where pylons could be located, the nature of the land use and the types of machinery and operations. Feedback about a pylon’s position and any request to make changes was used in the change control process, which is discussed further in the Environmental Statement (ES) Doc. 5.2 paragraph 2.4.101 to 2.4.107. The change control process considered requests raised in relation to farming practices and irrigation from all PILs, some of which conflicted. These requests were considered along with environmental and technical constraints and the most appropriate solution adopted.</i></p> <p><i>Environmental constraints included matters such as: locating away from field boundaries, avoiding specific sensitive sites and balancing the height of pylons against the number of pylons, as any increase in the span length between pylons, if technically possible, may result in the need to increase the height of pylons.</i></p> <p><i>Technical constraints included limits on the maximum distance between pylons and the safety clearance of conductors over ground or obstacles. The change control process also had to consider requests to vary other pylon locations</i></p>	<p>Document 8.26 - National Grid’s Responses to the Examining Authority’s 2nd Round of Written Questions (Deadline 4)</p> <p>Q2.9.4</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>which, if they then moved out of line in a section, could introduce a new angle pylon, which would not have been in accordance with Rule 2 and 3 of the Holford Rules.</i></p> <p><i>Paragraph 2.4.151 of the ES explains that, where possible, change requests from PILs were actioned. The changes that could be made and those which had to be rejected are further discussed in paragraphs 2.4.108 to 2.4.130 and 2.4.149 to 2.4.162 of the ES for the relevant stages of the project. “</i></p>	
			<p><i>“2.3.56 The final location and design details for the lattice pylons will only become known once the main contractor has undertaken the remaining investigation works including intrusive surveys. National Grid has provided landowners and their agents with indicative plans showing the general location of the towers’ placement, based on the information obtained to date.</i></p> <p><i>2.3.57 The Limits of Deviation (LoD) referred to in Appendix G of Doc 8.2.1, will be used where localised constraints or previously unknown or unforeseeable issues arise during construction, which would require a minor adjustment to the overhead line alignment and the pylon positions. Where National Grid identifies at the construction phase that there is a requirement to utilise the LoD, then the National Grid will make arrangements to discuss these with the Landowner/Agent. Where concerns are raised to National Grid, consideration will be given to the impact those changes might have on arable practices. Following consultation on the potential impact to farming operations with the relevant Landowner/Agent, consideration will be given as to whether it would be appropriate to further utilise the LoD in order to overcome the concerns raised. The outcome and reasons for the decision will then be reported back to the Landowner/Agent.</i></p>	<p>Document 8.13 – Applicants Comments on the Written Representations Submitted for Deadline 2</p> <p>Paragraphs 2.3.56 – 2.3.58</p>

Issue No.	Issue	Reference	Response	Source of response
			<p>2.3.58 With regards to the ability of National Grid to action every request for the move of a pylon, this is not always possible. As explained in their letter dated 9 June 2016 National Grid has considered all requests by affected parties for the movement of pylons to alternative locations. Many changes have been made throughout the course of the consultation process but it has not been possible to accommodate all requests. There are a number of reasons for this including the movement of a pylon would affect span length with the need for a further pylon or moving adjacent pylons into less favourable positions and may also require taller pylons that would be more visible. There are also other constraints including construction, drainage and environmental that are factored in when looking at pylon moves. Affected parties were referred to the Consultation Report (Volume 6, Document 6.1) for further detail of responses to consultation feedback, including on the location of pylons.”</p>	
			<p>“6.4 Counsel emphasised that there are steps listed in National Grid’s responses to Q2.5.1 (Doc 8.26/REP4-014) for consultation for moving pylon locations and National Grid oppose the idea of an arbitration process to decide where pylons go as National Grid should decide this as the statutory undertaker.</p> <p>6.5 Counsel explained that the four steps listed in response to Q2.5.1 are: initial consideration; preliminary impact assessment; engineering study; and final decision. Initial contact with landowners would be made as part of the preliminary impact assessment and the final decision would take landowner concerns into account. Counsel confirmed that National Grid will consider whether this should be included in the CEMP as discussed at the recent second DCO hearing on 27 September 2016.</p> <p>6.7 Peter Bullen, for National Grid, explained that National Grid is used to dealing with landowners and land agents for this type of project. He explained that National Grid liaises routinely with PILs throughout the country and a National</p>	<p>Document 8.40 - Applicants Written Summary of Case put forward orally at the Issue Specific Hearing on the Construction effects including effects on agricultural practices held on 29th September 2016</p> <p>Paragraphs 6.4, 6.5 and 6.7</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>Grid Land Officer will negotiate and coordinate with the PILs and Richborough land agents when making and deciding on the site specific assessments at each pylon location.”</i></p>	
			<p><i>“2.7 Location of Pylons</i></p> <p><i>National Grid has amended the CEMP to include a PIL liaison procedure for micrositing of pylons within the LoD due to an unforeseen or unknown constraint. This four stage process is set out in CEMP, Doc. 5.4.3 C(C) para 2.15).</i></p> <p><i>National Grid believes that it has provided sufficient opportunity for PILs to comment on proposals at each relevant stage of the project development process. National Grid has held face-to-face meetings with all PILs and/or their agents to discuss any concerns relating to the project. During these meetings requests for changes to the location of pylons were discussed and the reasons as to why changes have or have not been possible have subsequently been explained as detailed in Chapter 2 of the Environmental Statement. National Grid will be pleased to meet to discuss these issues further if required.</i></p> <p><i>It is acknowledged that the presence of transmission pylons, whether they are situated at field boundaries or in the middle of fields, will have some impact on agricultural operations. It is likely that there will be instances where small areas of land will no longer be economically viable, and that there will be some ongoing inconvenience even where land can continue to be farmed economically.</i></p> <p><i>National Grid believes that any residual economic impacts can be managed through compensation and that there will not be the ‘very severe and damaging effects on local farm businesses’ that is being asserted by the NFU. Part of the extract that the NFU has taken from the Route Corridor Study makes the point that ‘the residual economic impact after careful routeing, oversailing and</i></p>	<p><u>Document 8.50 – Applicants Response to points raised in 3rd Party Submissions at Deadline 5</u></p> <p>Paragraphs 2.7</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>compensation is expected to be very small or zero.' National Grid still believes this to be true.</i></p> <p><i>National Grid has reviewed the location of each pylon listed in the NFU submission and identified as having the potential to cause post-construction farm operation constraints and cause ongoing severance issues and makes the following response:-</i></p> <ul style="list-style-type: none"> <i>• Several pylons are located on permanent grassland (e.g. PC24, 25) or non-agricultural land (PC2) and their presence will not effect farming operations.</i> <i>• Pylons PC58, PC59 and PC60 are also on grassland and are positioned to reduce their impact on land with planning permission for a solar farm.</i> <i>• Others are subject to environmental constraints (e.g. PC4), technical constraints (e.g. PC41), or are such that even small movements will have impacts on the location and/or height of other pylons ('angle' pylons and e.g. PC30, PC31).</i> <i>• Though not necessarily located optimally from the point of view of farming, National Grid believes that the proposed location of several other pylons are such that it will be practical, with reasonable changes to existing farming operations, to farm around the pylons, as it has proved possible to farm around the existing 132kV pylons.</i> <i>• National Grid does not believe that, in these cases, the benefit to farming operations would outweigh other impacts by changing the proposed pylon locations.</i> <i>• This review has identified that there may be scope to make a very minor change to the location of 2 pylons (PC46 and PC49) to benefit ongoing farming operations. National Grid will be pleased to consider this further with the relevant PILs.</i> <p><i>National Grid believes that it does understand the preference of PILs with regard to pylon positioning, and while appreciating that a distance of 35m from a field</i></p>	

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			<p><i>boundary might be desirable for modern farming techniques, it is not considered 'needed' as is stated. It is difficult to meet this requirement at all points along an overhead line route without coming into conflict with other constraints such as environmental, technical and the physical layouts of field boundaries."</i></p> <p>Appendix A of the 'Applicant's Response to points raised in 3rd Party Submissions at Deadline 6' sets out a timeline for engagement with clients of Finn's and details pylon change requests and National Grid's response.</p> <p>Referred to in National Grid's letter dated 16 June 2017 confirming extent of negotiations with parties.</p>	<p>Document 8.55 - Applicants Response to points raised in 3rd Party Submissions at Deadline 6</p> <p>Appendix A</p>
2	<p>National Grid has not taken into account the economic impact on the farm businesses.</p>	<p>Letter, Para 4, bullet 2</p>	<p><i>"National Grid can confirm that it has consulted with PILs at each relevant stage of the project development process and continues to be in discussions with them to minimise where possible any adverse impacts on their agricultural practices.</i></p> <p><i>These discussions have included topics such as:</i></p> <ol style="list-style-type: none"> <i>1. Use of and type of access route, their length and the length of time they will be in place for.</i> <i>2. Soil management and potential increased flooding issues.</i> <i>3. Impacts on field drainage, a lack of detail and design, and ongoing liability for the integrity of any new drainage.</i> <i>4. The availability of access to land severed by the construction corridor.</i> 	<p>Document 8.2 - Responses to the Examining Authority's first written questions</p> <p>Q1.7.52</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>5. The effects of the project and apparatus on specialist cropping and associated irrigation, and measures to be able to continue growing such crops.</i></p> <p><i>6. Height of overhead lines and clearance for farm machinery and the impact on general farming operations and precision farming.</i></p> <p><i>7. Specific concern has been expressed about restrictions on the use of drones around apparatus.</i></p> <p><i>8. Security risks to land during construction.</i></p> <p><i>9. Future effects on farming operations from the pylons.</i></p> <p><i>Point 1 is secured by the draft Development Consent Order (Doc. 2.1(A)), as submitted at Deadline 2, however in all cases National Grid will seek to reach voluntary agreement with PILs.</i></p> <p><i>Points 2, 3, 8 is covered by the Construction Environmental Management Plan (Doc 5.4.3C(A)), as submitted at deadline 2.</i></p> <p><i>Point 4 will be discussed and agreed with the PIL as required, as will any other specific issues.</i></p> <p><i>Point 5, 6 and 9 are covered in the response to written question 1.9.7.</i></p> <p><i>Point 7 there are no specific restrictions on the use of drones around apparatus.</i></p> <p><i>National Grid continue to offer affected parties and their agents the opportunity to discuss their concerns around these issues and look at ways of minimising the impact of the proposed development to farming operations.”</i></p>	

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			<p><i>“The assessments reported in Chapters 14 and 15 of the ES (Doc 5.2) consider loss of production from direct land take associated with pylon infrastructure. Paragraph 15.13.17 of Chapter 15 concludes that “the construction of pylons on the land holdings is not expected to materially affect economic activity and thus is not considered to be significant. The removal of the PX route pylons as part of the proposed development would also bring some permanent positive effects to agricultural land with the land returned to agriculture where the surrounding land uses allows”. Chapter 14 considers the potential loss of production area in relation to Agricultural Land Classification (ALC) grades and the potential effect on Best Most Versatile (BMV) land.</i></p> <p><i>In relation to potential loss of area due to landowners or tenants not being able to operate agricultural machinery and irrigation equipment, National Grid has requested further clarity from the National Farmers Union (NFU) and Richborough Agents on the exact locations where this may be the case. Once responses have been received and reviewed, this will allow National Grid to fully understand the concerns and respond as appropriate. However, it is important to note that National Grid considers that the location of pylons as shown by the proposed development is the most optimal solution taking into account technical, environmental and socio-economic factors.</i></p> <p><i>Further to National Grid’s response to Question 1.9.7 in Doc 8.2 submitted at Deadline 2, the socio-economic assessment at Chapter 15 of the ES assumed that the majority of activities would be able to continue in the vicinity of the overhead line and therefore overall effects are not considered to be significant. The assessment also reflected the current baseline where agricultural activities continue up to and around the existing 132kV PX route along many parts of the proposed development”</i></p>	<p>Document 8.26 - National Grid’s Responses to the Examining Authority’s 2nd Round of Written Questions (Deadline 4)</p> <p>Q2.9.4</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>“Progress in resolving the issues identified in Written Representations and elsewhere with regard to the impacts of the proposed development on farming operations</i></p> <p><i>5.1 James Ingram, for National Grid, explained that there were meetings on 8 and 22 September 2016 with the NFU and land agents representing PILs and as a result of discussions at these meetings it is hoped that there will be agreed changes to the CEMP submitted at Deadline 6. He explained there will be a meeting with Mr Chandler on 7 October 2016 to move discussions forward on a site by site basis.</i></p> <p><i>5.2 Peter Bullen, for National Grid, explained there have been various discussions on the role of the Agricultural Liaison Officer and Land Officer and new wording on this for the CEMP has been agreed with the NFU and land agents. He explained that the CEMP includes some of the NFU’s wording on field drainage and discussions are continuing.</i></p> <p><i>5.3 The NFU acknowledged that the two meetings have been helpful although they required more written material. They explained that they consider that there still are gaps in the CEMP, for example for field drainage where they want it to be at least as effective after construction but this wording has not been included in the updated CEMP. Counsel for National Grid explained that it may be possible to provide further draft wording either in the CEMP or the DCO although there are internal procedures which need to be gone through as including these items in the DCO has wider implications for National Grid on other Nationally Significant Infrastructure Projects (NSIP).</i></p> <p><i>5.4 The Examining Authority requested that National Grid, the NFU and PILs take this forwards and provide appropriate wording to be contained in either an updated CEMP or DCO with a summary at Deadline 5 and agreement at</i></p>	<p><u>Document 8.40 - Applicants Written Summary of Case put forward orally at the Issue Specific Hearing on the Construction effects including effects on agricultural practices held on 29th September 2016</u></p> <p>Paragraph 5.1 to 5.4</p>

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			<p><i>Deadline 6. Counsel for National Grid again emphasised that National Grid are a large infrastructure provider who have a number of different NSIP projects and internal procedures to follow before terms can be agreed for those issue which have wider implications for their business.”</i></p>	
			<p><i>“2.5 Farming Operations</i></p> <p><i>As described above the CEMP has been amended to take account of requests from the NFU, individual PILs and their agents. In particular, several of the amendments are as a result of discussions with the NFU and relate to topics raised in the NFU submission.</i></p> <p><i>Revised wording has been included to further explain the role of the Agricultural Liaison Officer (ALO) (Table 3C 2.4 of the CEMP), field drainage (paras 4.4.26 – 4.4.36 of the CEMP), soil aftercare (para 4.4.14 of the CEMP) and dewatering of excavations (para 4.5.23 of the CEMP).</i></p> <p><i>A role outline for the ALO was sent to the NFU and the Richborough agents. Following suggestions received at a subsequent meeting the role outline was amended and recirculated with no comments received. The NFU and land agents were asked if further amendments were required and the one response received indicated that they were satisfied. No further amendments have therefore been made.</i></p> <p><i>It has been agreed that the results of soil fertility tests will be provided to establish a baseline position before work commences. Discussions with land agents are in progress to develop the most effective method of obtaining and establishing baseline conditions. It is acknowledged that landowners will routinely take action to restore /improve the soil fertility of their land and it would be logical and practical to include strips of land, where haul roads and topsoil</i></p>	<p><u>Document 8.50 – Applicants Response to points raised in 3rd Party Submissions at Deadline 5</u></p> <p>Paragraph 2.5</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>bunds will be created during the construction/dismantling phase of the project in the soil fertility testing process.</i></p> <p><i>Compensation for crop loss will be agreed between parties where it can be demonstrated that a loss has arisen as a direct result of the work undertaken by National Grid and/or its contractors during the construction and dismantling phase of the project. National Grid will also consider a reasonable claim for crop loss received from a PIL following reinstatement of the land, where it can be demonstrated that the loss is as a direct result of the work undertaken by National Grid and/or its contractors. In addition compensation will be made towards improving the soil fertility where it can be demonstrated that the fertility has been negatively impacted as a result of the works undertaken by National Grid.</i></p> <p><i>National Grid does not agree that a dispute resolution process is necessary or an appropriate means for the implementation of drainage remediation design. National Grid believes that the appointment by the main works contractor (at the request of PILs) of a local specialist drainage consultant (John Vince) to design a drainage remediation scheme and engage the views of PILs, is sufficient to ensure that field drainage will be properly protected during the works and appropriately repaired where any damage is caused.”</i></p>	
3	<p>National Grid has not entered into genuine negotiation with affected landowners and their agents and instead is seeking to rely entirely on the acquisition of rights by compulsory purchase powers.</p>	<p>Letter, Para 4, bullet 3</p>	<p>National Grid has continued to negotiate with landowners and their agents. Set out below are various responses provided by National Grid during the examination on this issue.</p> <p>The latest position regarding negotiations is set out in the covering letter dated 16 June 2017 and at appendices 1 and 2.</p> <p>“2.3.23 There have been and continue to be ongoing attempts to reach voluntary agreement with parties and compulsory acquisition rights are being sought as a</p>	<p>Document 8.13 – Applicants Comments on the Written Representations Submitted for Deadline 2</p> <p>Paragraph 2.3.23</p>

Issue No.	Issue	Reference	Response	Source of response
			<i>fall back should this fail. This is standard practice and a necessary and proportionate action. The process has been run transparently and in line with other National Grid schemes.”</i>	
			“2.3.32 [...] National Grid has made strong efforts to negotiate voluntary terms with all affected landowners and on terms that they believe should be acceptable to landowners. There have been ongoing negotiations with the NFU and Richborough Agents by National Grid and Fisher German, who have maintained ongoing engagement and discussions in attempting to reach voluntary agreement. National Grid has made concessions and this is clearly demonstrated in the letter of 25 April 2016, a copy of which is enclosed at Appendix 2B, demonstrating that they have listened and responded to representations made. The responses provided above give details of some of the engagement that National Grid has had with the NFU and the Richborough Agents. National Grid wishes to underline that they remain committed to seeking voluntary agreement and are willing to meet to discuss issues of concern”	Document 8.13 – Applicants Comments on the Written Representations Submitted for Deadline 2 Paragraph 2.3.32
			Document 8.48 includes a detailed Post Hearing Note Update on progress signing voluntary agreements.	Document 8.48 - Applicants Hearing Note on Actions requested at the Compulsory Acquisition Hearing for Deadline 6 held on the 19th and 20th October Appendix J

Issue No.	Issue	Reference	Response	Source of response
			<p>Document 8.51 includes a Post Hearing Note on landowner and agent engagement which sets out all the engagement with landowners including meetings not held.</p>	<p>Document 8.51 - Applicants Hearing Note on Actions requested for Deadline 7 at the Compulsory Acquisition Hearing held on the 19th and 20th October 2016</p> <p>Appendix B</p>
			<p>Appendix A of the 'Applicant's Response to points raised in 3rd Party Submissions at Deadline 6' sets out a timeline for engagement with clients of Finn's and details pylon change requests and National Grid's response</p>	<p>Document 8.55 - Applicants Response to points raised in 3rd Party Submissions at Deadline 6</p> <p>Appendix A</p>
4	<p>National Grid has not given due regard to ensuring the proposed interference is necessary and proportionate, because the rights sought are in perpetuity, and because the covenants that National Grid is seeking to impose would prevent normal agricultural cropping.</p>	<p>Letter, Para 4, bullet 4</p>	<p>Please see response to this point in National Grid letter dated 16 June 2017.</p> <p>If reliance on compulsory powers is required, the rights and restrictions, specific to individual circumstances will be sought to ensure minimum disruption to landowners.</p> <p><i>"In terms of the NFU's submission that the restrictions sought under the DCO should be amended, so there is flexibility as to structures and planting, it would not be appropriate to allow a wholesale exception. The restrictions being sought are necessary and proportionate to protect the infrastructure and apparatus to be constructed as part of the authorised development.. The purpose behind</i></p>	<p>N/A</p> <p>Document 8.60 - Applicants Response to points raised in 3rd Party Submissions at Deadline 7</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>National Grids Lands Right Strategy, and why it has actively encouraged parties to discuss and enter into voluntary agreements, is to accommodate specific site requests on a case by case basis. The restrictions, as currently, drafted in the voluntary agreements being offered to the Richborough Agents and the NFU, already permit the carrying out of normal agricultural operations to deal with their specific concern around structures and planting.”</i></p>	Appendix B, Paragraph 5.0
5	<p>The wording of the restrictive covenants in the book of reference should be amended to allow for normal agricultural cropping to take place.</p>	Letter, Para 5	<p>Please see responses to this issue in National Grid letter dated 16 June 2017</p>	N/A
7	<p>Alternative dispute resolution mechanisms should be offered by National Grid to all affected landowners before compulsory acquisition is available.</p>	Letter, Para 5	<p><i>“Dispute resolution process requested by the NFU</i></p> <p><i>3.8 Counsel for National Grid confirmed National Grid asked for more details from the NFU after Deadline 4. Counsel outlined the steps that could be followed when looking at micro-siting within the LoDs (as referenced in National Grid’s response to Q2.5.1 (REP4-014)). The NFU explained that they would like a third party mediator or arbitrator who could decide on a pylon’s location in the event of a dispute.</i></p> <p><i>3.9 Counsel confirmed that National Grid, as statutory undertaker, ultimately has to make the final decision as to the location of the pylon which has undergone a detailed consideration of siting. Counsel confirmed that final movement (micro-siting) normally only occurs where necessary, for example due to ground conditions. Where it may be necessary to move a pylon, National Grid considers a range of factors and does discuss matters with landowners.</i></p>	<p>Document 8.49 - Applicant’s Written Summary of Case put forward orally at the Compulsory Acquisition Hearing held on the 19th and 20th October</p> <p>Paragraphs 3.8 – 3.14</p>

Issue No.	Issue	Reference	Response	Source of response
			<p>3.10 Counsel made clear, however, that one needs to be careful that the DCO does not contain an overly prescriptive process. Counsel confirmed that National Grid did not consider a more prescriptive mechanism or need for an arbitrator to be appropriate or necessary.</p> <p>3.11 Counsel for National Grid explained that National Grid has applied for the scheme within LoDs which have been assessed within the ES. Counsel confirmed that National Grid have reduced the LoDs where there is a particular constraint which requires this and it is for National Grid as the statutory undertaker to decide final pylon positions within the LoD should an unforeseen circumstance arise that requires the movement of the line within the LoD.</p> <p>3.12 Further detail was requested about moving pylon positions. Counsel for National Grid explained that it is important that National Grid can do this, for example if an unforeseen reason from ground investigations arose. Emer McDonnell of National Grid explained that the steps to be taken when considering moving pylon positions within the LoD, as outlined in Q2.5.1, reflect the process taken for consideration of design change requests as detailed in the ES and these are: initial consideration, preliminary impact assessment, engineering study and then the final decision. She confirmed that it is not appropriate for a third party to decide this on National Grid's behalf as a range of factors need to be considered.</p> <p>3.13 Emer McDonnell of National Grid explained that the steps outlined in Q2.5.1 involve the consideration of factors which need to be taken into account in arriving at a final decision. These factors include environmental, technical and lands considerations. She explained that whilst National Grid does not consider that a detailed mechanism needs to be prescribed, National Grid will consider whether the steps outlined can be reflected in the CEMP.</p>	

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			<p>3.14 <i>The NFU confirmed that they would want this outlined in the CEMP as their landowners are concerned on the effects of the LoDs on how their fields are farmed. Counsel for National Grid explained that if a location of a pylon created a greater effect and loss for farmland, then there would be compensation to pay so there is an incentive for National Grid to avoid this. Counsel also stated that the CEMP may be the appropriate document to secure this detail as more discursive detail can be added to the CEMP rather than the DCO.</i></p> <p>The CEMP (Document 5.4.3D(C) was subsequently updated to include a PIL liaison procedure for micro-siting at Section 2.15 of the CEMP</p>	
			<p><i>“Negotiations: Use of Alternative Dispute Resolution (ADR)</i></p> <p>3.32 <i>Mr Chandler considered that National Grid should have considered the use of ADR at this stage in the DCO process. Counsel for National Grid agreed with Mr Chandler that the DCLG guidance does ask applicants to consider the use of ADR techniques and agreed that they can prove helpful in certain situations, particularly when considering amount of compensation.</i></p> <p><i>However, Counsel explained that the process currently under discussion was the process of getting the DCO and that National Grid had considered that ADR was not appropriate at this stage. Counsel emphasised that this need not preclude the use of ADR in the future once the order was made but National Grid would prefer to negotiate in the first instance and ADR would be used as an alternative to making a reference to the Upper Tribunal Lands Chamber if the parties were unable to agree compensation.”</i></p>	<p>Document 8.49 - Applicant’s Written Summary of Case put forward orally at the Compulsory Acquisition Hearing held on the 19th and 20th October</p> <p>Paragraph 3.32</p>

Issue No.	Issue	Reference	Response	Source of response
8	<p>The NFU believes strongly that NG has not entered into meaningful negotiations with landowners, as clearly required by both the 2013 and 2015 Guidance.</p>	<p>NFU Briefing, Para 7</p>	<p>The latest position regarding negotiations is set out in the covering letter dated 16 June 2017 and at appendices 1 and 2.</p> <p>“3.2 Ms Staples considered that DCLG guidance made it clear National Grid should endeavour to acquire land through voluntary agreement, not compulsory acquisition.</p> <p>3.3 Counsel for National Grid explained that although the DCLG guidance does make it clear that applicants should seek to acquire rights over land by negotiation wherever practicable, it also makes it clear that this may not be straightforward for long, linear projects. For example, Counsel explained that a voluntarily agreed easement would normally identify the pylon location, meaning that the landowner then has an expectation that the pylon will be in that location. However, the pylon location may change within the LoD. For example, for the Hinkley Point C Connection Project, the ExA requested that some of the pylons be moved and in this instance the landowner was disappointed that the pylon would no longer be where had been agreed with National Grid. Therefore, although there is considerable merit in trying to negotiate pylon positions with landowners, National Grid is reluctant to enter into easements or options which would constrain pylon locations.”</p>	<p>Document 8.49 - Applicant’s Written Summary of Case put forward orally at the Compulsory Acquisition Hearing held on the 19th and 20th October</p> <p>Written Summary of Case put forward orally at the Compulsory Acquisition Hearing held on the 20th October 2016</p> <p>Paragraphs 3.2 – 3.3</p>
9	<p>NG has, in our view, been unwilling to take in to account the impact the location of some of the pylons will have on agricultural operations and the economic impact of the pylons and overhead cables on the farm businesses.</p>	<p>NFU Briefing, Para 8</p>	<p>See responses to issue number 1 and 2 above.</p>	<p>N/A</p>

Issue No.	Issue	Reference	Response	Source of response
10	The NFU believes that there is a difference between consulting and negotiation. NG has been consulting with landowners - it has held public events and meetings - but it is the genuine negotiation which in our view has not been taking place.	NFU Briefing, Para 9	See response to issue number 3 above.	N/A
11	National Grid standard heads of terms unsatisfactory	NFU Briefing, Para 10	<p>Set out below are various responses provided by National Grid during the examination on this issue.</p> <p><i>“2.3.11 As previously indicated, National Grid do not propose amending the basic format of the heads of terms for this Project.</i></p> <p><i>2.3.12 The heads of terms are an overview of the main terms to be documented within legal agreements and serve as an invitation to parties to proceed to negotiations on those legal agreements. The heads of terms are not contractually or legally binding. The format of those heads of terms is something that National Grid has carefully considered and it is difficult to strike the correct balance in ensuring that the heads of terms are understood by landowners and having sufficient detail for them to represent an accurate record of the initial agreement. There have been criticisms in the past, that heads of terms were either too complex or alternatively too simple. With this scheme, National Grid believe heads of terms are pitched at the appropriate level, with detail provided in overview, so that it can easily be understood by affected parties some of whom may not be represented by agents.</i></p>	<p>Document 8.13 – Applicants Comments on the Written Representations Submitted for Deadline 2</p> <p>Paragraphs 2.3.11 – 2.3.16</p>

Issue No.	Issue	Reference	Response	Source of response
			<p>2.3.13 <i>There is no prejudice to parties if they sign heads of terms – they can continue to make representations in relation to the Project.</i></p> <p>2.3.14 <i>Significant amendments to the format of the heads of terms would also have resulted in delays in moving forward negotiations that could otherwise have progressed.</i></p> <p>2.3.15 <i>Copies of the agreements associated with voluntary easements were supplied on 4 March 2016 to the NFU and comments invited on those. Some of the discussions with the NFU since then have reflected comments on those documents.</i></p> <p>2.3.16 <i>National Grid therefore believe that adequate visibility has been provided to the NFU to enable them to understand fully the nature of the legal documents and the full terms that should allow landowners to sign the heads of terms subject to the resolution of any outstanding issues with individual landowners.”</i></p>	
			<p><i>“The NFU have raised concerns as regards the HOTs offered to PILS and have requested that these are re-drafted. At the meeting held on 22nd September, a paper copy of their proposals was presented and these are being considered. National Grid has confirmed that they have no objection to making changes to the format and presentation of the HOTs and a full analysis of the requested changes is currently underway and a further update will be provided by Deadline 6. The current HOTs reflect the legal templates utilised for the Richborough Project and National Grid have confirmed numerous times that signing heads of terms is not contractually binding.”</i></p>	<p>Document 8.36 – Applicants Hearing Note on Actions requested at the Issue Specific Hearing on the Construction effects including effects on agricultural practices held on 29th September 2016</p> <p>Appendix A, Paragraph 5</p>
			<p><i>“3.29 Mr Chandler considered that the HoT were too complex. Counsel for National Grid explained that when drafting the HoT, National Grid had tried to</i></p>	<p>Document 8.49 - Applicant’s Written</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>balance the need to provide sufficient detail with the need for them to be readable. However Mr Harper noted that National Grid had taken the comments from the NFU and agents into account and these were issued to the NFU on 19 October.”</i></p>	<p>Summary of Case put forward orally at the Compulsory Acquisition Hearing held on the 19th and 20th October</p> <p>Paragraph 3.29</p>
12	<p>National Grid unwilling to make amendments to the standard option and deed</p>	<p>NFU Briefing, Para 11</p>	<p><i>“Following discussions with the NFU and agents, it was identified that there was resistance to the terms of the legal templates, primarily due to concerns relating to the restrictive covenants contained in the voluntary agreements, which the NFU and agents argue are unduly restrictive. There is a balance to be struck and National Grid need to ensure that the safety and operations of the equipment and rights being sought are not compromised. All requests have been considered and the Richborough Project team has agreed to some changes, with some further changes under consideration. The amended templates will be shared with the NFU and agents and consider that these changes, alongside earlier changes agreed back in April 2016, demonstrate that National Grid have listened and are responding in a positive fashion. The changes made apply specifically to the Richborough project, reflecting the advanced stage this project has reached and the desire to reach voluntary agreement, in a timely fashion.”</i></p>	<p>Document 8.36 – Applicants Hearing Note on Actions requested at the Issue Specific Hearing on the Construction effects including effects on agricultural practices held on 29th September 2016</p> <p>Appendix A, Paragraph 4</p>
			<p><i>“Further to National Grid’s update at Deadline 5 regarding the request made by the NFU/Richborough Agents for the Heads of Terms (HoTs) to be redrafted. National Grid have considered the proposed amendments to the template documentation suggested by the NFU and Richborough Agent’s in their Written Representations and in the meetings that took place on 8th and 22nd September, and issued revised template HoTs and Option Agreement to the NFU/Agents on 19th October 2016.</i></p>	<p>Document 8.45 - Applicants Hearing Note on Actions requested for Deadline 6 at the Issue Specific Hearing on the Construction effects including effects on</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>It is important to emphasise that the amendments made to the templates are specific to the Richborough Connection Project and reflect the individual requirements of this project”.</i></p>	<p>agricultural practices held on 29th September 2016</p> <p>Action 11</p>
13	<p>NG has not been prepared to provide evidence as to how it has calculated the standard payments offered in its Land Rights Strategy.</p>	<p>NFU Briefing, Para 12</p>	<p><i>“The typical heads of claim for compensation that will be considered by National Grid as part of the Richborough Connection Project (RCP) can be divided into four separate elements:-</i></p> <ul style="list-style-type: none"> <i>a) Easement Payment to Landowner</i> <i>b) Injurious Affection</i> <i>c) Crop loss, damage and disturbance</i> <i>d) Agent’s fees (paid via landowner/occupier)</i> <p><i>National Grid have produced a factsheet ‘Payments schedule for new electricity transmission assets’ a copy of which was included in National Grid’s Persons with an Interest in Land (PIL) Information Packs which have been circulated to Category 1 PILs and agents concerned with this project. This document provides further information on the payments that National Grid are offering to landowners and the other heads of claim that will be considered.</i></p> <p><u><i>A) Easement Consideration</i></u></p> <p><i>This refers to compensation for the value of the rights being acquired. In the case of the RCP this will be a consideration payment made to the landowner for the rights to erect a pylon and/or oversail land with electricity wires and/or a right of access for construction and ongoing maintenance.</i></p>	<p>Document 8.48 - Applicants Hearing Note on Actions requested at the Compulsory Acquisition Hearing for Deadline 6 held on the 19th and 20th October</p> <p>Action 22</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>The National Grid Land Rights Strategy (LRS) was developed in light of the Planning Act 2008 and the subsequent DCLG guidance relating to the Planning Act 2008 which reinforces the need for National Grid to obtain rights voluntarily. The approach taken by National Grid in developing the strategy for acquiring rights for new electricity transmission assets is to strike a balance between legislative powers, and reputational considerations as well as landowner considerations, whilst delivering projects on time and to a budget within a regulatory framework.</i></p> <p><i>In striking this balance the strategy has a strong focus on obtaining rights by voluntary agreement. To obtain voluntary agreement, National Grid offers payments in exchange for the rights. The payments are considered by National Grid to be greater than a landowner would obtain should the payments be assessed under compulsory purchase powers. The LRS has been successfully used on all recent National Grid Development Consent Order schemes, and there are ongoing discussions taking place between National Grid, the NFU and the Richborough Land Agents around the subject of the easement consideration being offered under the LRS.</i></p> <p><u><i>B) Injurious Affection</i></u></p> <p><i>Injurious Affection refers to the compensation paid where a landowner can demonstrate a diminution in the value of their land or property due to the direct presence of the overhead line/pylon located on their land, an example of this might include where an area of land is not able to be farmed due to the presence of apparatus. Compensation under this item would be paid in addition to item A) above.</i></p> <p><u><i>C) Crop loss, damage or disturbance</i></u></p>	

Issue No.	Issue	Reference	Response	Source of response
			<p><i>National Grid will consider any reasonable claim for crop loss, damage or disturbance arising from the construction and/or dismantling works and ongoing maintenance undertaken by National Grid and/or its contractors. Compensation under this item would be paid in addition to A) and B) above.</i></p> <p><i><u>D) Agent's Fees (paid via the landowner/occupier)"</u></i></p> <p><i>National Grid agree to meet reasonable agent fees incurred by the landowner/occupiers to ensure parties are professionally advised.</i></p>	
			<p><i>"3.14 Mr Dan Harper, on behalf of National Grid, explained that the National Grid Land Rights Strategy had been developed in light of the Planning Act 2008 and the subsequent DCLG guidance relating to the Planning Act 2008 which reinforces the need for National Grid to obtain rights voluntarily. Mr Harper stated the strategy strives to strike a balance between legislative powers, landowners considerations including reputation whilst delivering projects on time and to a budget within a regulatory framework. Mr Harper explained that the main aim of the strategy was to ensure landowners who enter in voluntary agreements are in a much more favourable position than they would be if compulsory purchase powers were used.</i></p> <p><i>3.15 Counsel for National Grid explained that there are three elements to compensation:</i></p> <p><i>1) compensation for the value of the right itself;</i></p> <p><i>2) compensation for severance and injurious affection; and</i></p> <p><i>3) compensation for disturbance (e.g. to compensate for loss caused by construction works).</i></p>	<p>Document 8.49 - Applicant's Written Summary of Case put forward orally at the Compulsory Acquisition Hearing held on the 19th and 20th October</p> <p>Paragraphs 3.14 and 3.15</p>

Issue No.	Issue	Reference	Response	Source of response
			<p><i>Counsel explained that the latter two elements are 'bespoke' elements, i.e. they would depend on actual circumstances whereas payments for a right would be on a 'template' basis. The HoT include compensation for the easement itself, whilst compensation for severance, injurious affection and disturbance were potentially claimable items."</i></p>	
14	<p>The restrictive covenants being sought by National Grid are unreasonable, not appropriate and are not necessary for this scheme to be developed:</p> <p>the landowner would not be able to erect any building or structure on the easement land</p> <p>NG has not been prepared to negotiate the wording and so the NFU believes strongly that this is unreasonable and disproportionate for this scheme</p>	<p>NFU Briefing, Paras 14 - 17</p>	<p>National Grid's response to this point is set out in its letter dated 16 June 2017</p>	<p>N/A</p>