

YG-DCO-118

# Yorkshire Green Energy Enablement (GREEN) Project

**Volume 8**

**Document 8.23.2 Applicant's Written Summary of Oral  
Representations made at Compulsory Acquisition Hearing 1**

**Final Issue A  
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## Version History

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Document	Version	Status	Description / Changes
06/06/2023	A	Final	First Issue

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# 1. About this document

## 1.1 Introduction

- 1.1.1 This document summarises the case put by the Applicant, National Grid Electricity Transmission plc (National Grid), at the Compulsory Acquisition Hearing 1 (CAH1) on Compulsory Acquisition and Temporary Possession Matters for the Yorkshire Green Energy Enablement (GREEN) Project (referred to as the Project or Yorkshire GREEN throughout).
- 1.1.2 The hearing opened at 2:00pm on Thursday 25 May 2023 at Delta Hotels by Marriott York, Tadcaster Road, York, YO24 1QQ and closed at 5:08pm on 25 May 2023. The agenda for the hearing [EV-007] was set out in the Examining Authority's letter published on the Planning Inspectorate's website on 15 May 2023.
- 1.1.3 In what follows, National Grid's submissions on the points raised broadly follow the items set out in the Examining Authority's agenda.

## 1.2 Attendees on behalf of the Applicant

- 1.2.1 Richard Turney and Charles Bishop, Counsel instructed by Womble Bond Dickinson (UK) LLP appeared on behalf of National Grid Electricity Transmission plc, the Applicant.
- 1.2.2 The following expert witnesses also made submissions throughout the hearing:
- Steve Fowler, National Grid Electricity Transmission plc (Engineering);
  - Thomas Aylott, National Grid Electricity Transmission plc (Lands);
  - Iain Long, Fisher German LLP (Lands Negotiations);
  - Jonathan Bower, Womble Bond Dickinson (UK) LLP (Legal); and
  - Elizabeth Tones, Womble Bond Dickinson (UK) LLP (Legal).

## 2. The Applicant's Summary of Case

### 2.1 Item 3: The Applicant's case for Compulsory Acquisition (CA) and Temporary Possession (TP)

Table 2.1 – Item 3: The Applicant's case for Compulsory Acquisition (CA) and Temporary Possession (TP)

Agenda sub-item	Summary of oral case
<p>a. Whether the purpose for which CA powers are sought would comply with s122(2) of PA2008. (An overview is required. The ExA acknowledges the submission of the standalone 'Details of Purpose for Which Compulsory Acquisition and Temporary Possession Powers are Sought' [REP2-012])</p>	<p>The ExA clarified that they were satisfied with the response already provided by the Applicant in respect of this Agenda item and queried whether other parties present at the hearing had any points to make on the submissions already made by the Applicant setting out the purpose for which CA and TP powers are sought; to which no submissions were provided by other parties.</p>
<p>b. Whether all reasonable alternatives to CA and TP have been explored. (The ExA requires a strategic overview here and will explore site-specific matters under Agenda items 4 and/ or 5 below).</p> <p>Whether and how haul roads were considered generally as</p>	<p>The ExA queried whether and how haul roads were considered generally or in any specific locations as part of the construction access strategy during the exploration of alternatives.</p> <p>National Grid submitted in response that the alternatives sequence commences with project level alternatives, drilling down once they have established a broad location of the development and how haul roads are then taken into account considering the limits set for the powers.</p> <p>The ExA confirmed it wanted to understand the strategic approach of whether there would be haul roads or not and if not are there some specific areas where they need to be, and how the assessment process was undertaken.</p>

Agenda sub-item	Summary of oral case
part of construction access strategy.	<p>National Grid confirmed consideration was given to haul roads. The first design principle was to utilise existing access tracks and bell-mouths where feasible where good access off the strategic and local road networks was available. In some instances there are no alternative and no option to use local highway and in those circumstances haul roads within the order land are considered. The design principles look to utilise existing points where feasible and minimise new infrastructure and new access points being created.</p> <p>National Grid also confirmed that because of the existing overhead lines there are already existing maintenance accesses and new accesses being sought in the DCO are primarily around the new build infrastructure. National Grid submitted that they would look to utilise existing accesses in the first instance.</p>
c. Summary of reasons why the CA and TP rights to be acquired, are necessary and proportionate, including the Applicant's strategy and criteria for determining whether to seek powers for CA of land, CA of rights or TP of land.	<p>The ExA asked the Applicant to outline the criteria the Applicant used in determining different powers and rights it seeks and to follow up the response to written question 4.4.1c of the Applicants Response to Examining Authorities First Written Questions (<b>Document 8.9.1</b>) [REP2-038] which sought confirmation about how it would be ensured powers of CA would not be exercised in respect of land not ultimately required.</p> <p>The ExA raised that following the ASI they noted that Squires café has three proposed access routes and queried what would be the position if two were not needed where scaffolding is not required; including what would be the process for excluding or not taking powers for these two access routes if not required.</p> <p>National Grid responded that a CSS (catenary support system) is not available to all contractors hence they have provided the option for scaffolding to protect that in every instance.</p> <p>In respect of the criteria for allocating into different plots what powers National Grid are taking; the Applicant stated it seeks to always minimise interference with land and minimise land take.</p> <p>This was reflected by only taking permanent freehold acquisition in areas where they are siting new permanent infrastructure with some areas around that identified for mitigation immediately within the vicinity of new substations and Cable Sealing End Compounds (CSECs). That is the focus of permanent freehold acquisition.</p> <p>There are then permanent acquisition of rights when an overhead line is crossing over land and that land can continue to be used for some other purposes subject to restrictions. For example this can be</p>

Agenda sub-item	Summary of oral case
	<p>where farmland can still be farmed despite the fact it is crossed by an overhead line. In those situations, National Grid stated that they don't need to acquire the freehold of this land and that they are looking to seek permanent rights by way of easements across land with an overhead line. The same principles apply where access is needed to the overhead line route for example to undertake maintenance.</p> <p>The final area is where the land is required only in relation to the construction of the project. National Grid explained that they are focused on the areas they are using for CSEC and accesses where permanent access is not required.</p> <p>National Grid explained that whichever interest is required permanent land, permanent rights or temporary possession the overall approach is to minimise permanent land take and where possible do things temporarily.</p> <p>National Grid explained that there is a hierarchy of rights starting at with freehold working way down to temporary rights and that they undertook assessments on the full route of the project looking at every parcel, assessing the maximum right via a combination of engineering, legal consenting and lands teams for every parcel in order to produce the land plans for the project.</p> <p>The ExA asked the Applicant what sort of mitigation is to be implemented on the purple land.</p> <p>National Grid explained that the purple land are areas where landscape mitigation dealing with the replacement of what has been lost to construction and is the second category under Article 8 of the draft Development Consent Order (<b>Document 3.1(C)</b>) [REP3-004]. National Grid added that it is not the permanent land acquisition delivering mitigation at the substation but more removal of hedgerows to construct the project and they will be exercising rights to plant replacement.</p> <p>In response to the ExA asking whether all hedgerows to be removed should be shown as purple land, National Grid explained that the difficulty is that there will be an interaction with a different category of rights and that therefore the highest level of right is shown as there may be activities undertaken which could if taken in isolation be undertaken pursuant to "lesser" powers.</p> <p>National Grid explained that in terms of accesses, in various ways the powers extend beyond that which may ultimately or may be needed because the project has to have a degree of flexibility depending on detailed design and the example of multiple access rights when only one may be needed is one such example.</p>



Agenda sub-item	Summary of oral case
	<p>National Grid explained that the limits of deviation may be capable of being reduced the effect of which will be to also reduce the amount of land that is going to be permanently acquired. The Order doesn't seek to restrict the use in that way in terms of exercising rights and it is considered a consistent general approach within draft DCOs.</p> <p>National Grid added that in practice there may be flexibility provided for by the Order but that is justified appropriate as the Order itself doesn't restrict the exercise of powers.</p> <p>National Grid explained that it is not in the interests of a promoter of a scheme to take more land than it requires because it will assume the liability for compensation increases and so in practical terms they seek to reduce the need to do so.</p> <p>A further point National Grid added is that in the process of negotiating with landowners they have emphasised that this doesn't end at the end of the examination or on the date of the granting of the DCO. As explained in the Statement of Reasons <b>(Document 4.1) [APP-069]</b> it is not desirable to vest the land in National Grid under compulsory powers and normally easier to do so through agreements. Those agreements can facilitate a reduction of land take as part of the design and construction process.</p> <p>National Grid explained that there is also a need to look at the future maintenance of the scheme as well as construction and construction methodology (may be different for different contractors and in future maintenance different again).</p> <p>National Grid added that in some orders there is an express provision for an alternative route where only one area of land take can be acquired not both, (or either a right or another right can be exercised but not both) but that is not the case in this Order because it is simply identifying that in practice they may not need to exercise all those powers but still make the request to be given these powers by the Secretary of State.</p>
<p>Travellers Agent for Travellers site – is it possible to have residential caravans under lines or is it intention to acquire land.</p>	<p>National Grid responded to a point raised by their Agent that there isn't an impediment to stationing caravan under overhead lines. In response to the submission that the travellers site is not affected by CA, National Grid clarified that there are CA rights over the travellers' site but these rights won't prevent the locating of caravans under the overhead line post the construction stage of the project.</p>

Agenda sub-item	Summary of oral case
<p>d. Having regard to section 122(3) of the PA 2008, whether there is a compelling case in the public interest for the land to be acquired compulsorily and that the public benefit would outweigh the private loss. (The ExA acknowledges, and finds helpful, the detail provided in response to ExQ1 4.4.2 by the Applicant [REP2-039], Appendix H. it is not necessary to repeat this detail, just to provide an overview and whether there are any updates.)</p>	<p>The ExA confirmed there was no need to respond to this agenda item in detail but wondered if there were any updates and whether the figures in the summary table in the Statement of Reasons Appendix B (<b>Document 4.1-B</b>) [REP2-014] have changed.</p> <p>National Grid confirmed in terms of negotiations, they currently have 28 Heads of Terms signed and agreed, one agreement completed and 83 outstanding negotiations with parties</p>

## 2.2 Item 4: Site-specific representations from persons who may be affected by the compulsory acquisition provisions in the draft Development Consent Order (Affected Persons)

Table 2.2 – Item 4. Site-specific representations from persons who may be affected by the compulsory acquisition provisions in the draft Development Consent Order (Affected Persons)

Agenda sub-item	Summary of oral case
<p>The ExA would hear oral representations from:</p> <p>a. APs who have notified a wish to make oral representations at this CAH1 and any section 102 or Category 3 persons wishing to make oral representations.</p>	<p>The travellers agent in respect of the travellers site confirmed they are representing a family group who owned the site and stated that they have reached agreement with National Grid.</p> <p>National Grid confirmed that no formal agreement is in place with the travellers or their agent but that they would be happy to formally reach agreement with the travellers via their agent.</p> <p>National Grid explained that they are happy to discuss and meet with the travellers agent who has been a helpful point of contact and will continue to engage with the agent throughout the examination process.</p> <p>A query was raised by Mr Stephenson on behalf of Mr Rab as to the permanent and temporary rights to be sought over their land. National Grid stated that the key point in terms of the agreement they are seeking to reach with landowners is that these distinctions (the hierarchy of rights) are to some extent lost because when negotiating for those rights by agreement they are not making sharp distinctions between the various different colours.</p> <p>National Grid added that distinguishing between rights and permanent land acquisition is the main distinction in terms of colourings on the land plans submitted.</p> <p>National Grid explained that in respect of the colours shown on the land plans;</p> <ul style="list-style-type: none"> <li>• brown is compulsory acquisition of land,</li> <li>• green is compulsory acquisition of rights in order to construct operate and maintain the line,</li> <li>• purple is temporary construction, and</li> <li>• blue areas permanent access for rights needed in order to maintain line in the future.</li> </ul> <p>National Grid also confirmed that in respect of the purple areas shown on the land plans, once the need for the temporary use of the land falls away, the land will be reinstated (in accordance with</p>

Agenda sub-item	Summary of oral case
	<p>Article 36 of the Draft Development Consent Order (<b>Document 3.1(c)</b>) [REP3-004]. ) and possession returned.</p> <p>In response to a question raised as to where biodiversity net gain (BNG) for the project will be situated and whether landowners could have their land acquired for this purpose, National Grid explained that all BNG is to be delivered off site and that they are not compulsorily acquiring land for BNG – the powers do not currently extend for this purpose. National Grid added that when they calculate BNG they will include any land within the order limits which is used for purposes such as areas for mitigation planting which may count towards BNG but they will be acquiring this land for landscape mitigation not for BNG.</p> <p>In response to a query as to what an anchor block solution is, National Grid explained that an anchor block is a solution where they conform overhead line to a cable solution which is a block in the ground typically brought closer to a pylon. These connect directly into a concrete block in the ground rather than a gantry solution which is on Shipton South (so can be a smaller land take).</p> <p>A landowner's agent raised an alternative site that was not being progressed due to costs and that part of National Grid's reasoning for not agreeing one alternative site is that a significant diversion to make Y038 an angle pylon would be needed. The ExA queried why one angle pylon would make a difference.</p> <p>National Grid confirmed as a matter of principle delivering an economic project is a legitimate consideration and that they are entitled to take account of cost. National Grid added that ultimately this is a cost to the consumer as the project will be paid for by the consumer, and they are allowed to take into account economics as well as environmental factors and other matters.</p> <p>In response to the angle pylon query, National Grid referenced Holford rule 3 which states 'other things being equal, choose the most direct line, with no sharp changes of direction and thus fewer angle towers' and that in this instance if they were to go with alternative option 2 YR38 as an angle pylon, they would end up with 4 or 5 angles in a very short section of overhead line. National Grid therefore submitted that this alternative proposed by the agent's landowner would be less compliant with the Holford rules than the proposed location submitted by National Grid.</p> <p>National Grid further explained in respect of the alternatives suggested by the landowner's agent that to construct YR38 as stands is a line suspension pylon and in order to accommodate the proposal they would have to change it to a tension pylon, like the YR40 temporary diversion in order to construct YR40 in line with the existing overhead line. National Grid added that they would need</p>

Agenda sub-item	Summary of oral case
	<p>to do the same for YR38 and create the same alignment. In order to do that, another temporary diversion would be needed which could happen to the north and go back to YR37 or YR36 or have to come south which would go over an area of woodland. National Grid added that their design principle (in applying the Holford Rules) is to use existing infrastructure where possible rather than build new infrastructure.</p> <p>In respect of the suggestion of an alternative access route suggested by the landowner's agent, National Grid submitted that they would need to take this suggestion away to clarify the visibility splay and consider this further.</p> <p>The ExA raised that in the answer to question 4.9.1 of Applicant's Response to Examining Authorities First Written Question (<b>Document 8.9.1</b>) [REP2-038] the Applicant stated in response to their justification of interfering with human rights that the land acquisition in the vicinity of Shipton Tee would have minimal effect on affected parties before submission and queried whether National Grid would consider a different response now following the landowner's agents submission. National Grid confirmed they would respond in writing to this question.</p> <p>The ExA further queried if the access option raised by the landowner's agent is the one that is progressed and whether any small moves could be made in terms of reducing the limits of deviation on the northern side of the northern CSEC. National Grid responded that they would consider this when considering the access alternative suggested by the landowner's agent and would look to agree this with the landowner.</p> <p>In response to points raised by a landowner's agent in respect of the access to pylon SP005, National Grid stated they are considering providing an alternative access route which involves bridging over Hurns gutter and are looking at this in more detail and will be providing a fuller response whether this is something they can pursue at the next deadline. National Grid added that in terms of the permanent rights required, the consideration of this alternative would not affect whether they require permanent rights over this road as they would wish to use this road in any event for maintenance. National Grid added that the assessment of the alternative access will include the option which would negate the need for undergrounding. National Grid further explained that if they were not to use this route for construction access it avoid the need for undergrounding because the permanent access requirement would be less onerous and so avoids the need to remove a pole and thus an underground connection.</p>

Agenda sub-item	Summary of oral case
	<p>National Grid added that they seek to underground what is required and deemed necessary for the Project but that Northern Power Grid (NPG) may have a different view on what is to be undergrounded and what is efficient for them and discussions are ongoing with NPG in respect of this.</p> <p>National Grid further explained that the powers in the order allow them to underground other apparatus but if National Grid asks NPG to underground a section, in doing so this will reflect their general approach and they will deal with this in the most prudent way. In these instances, National Grid explained that they would be asking NPG to deal with undergrounding under their statutory powers. National Grid also explained that they would hope to undertake some undergrounding prior to the construction of the project and that the reason why they include the powers is because they cannot proceed with a scheme that has a potential impediment of them not being able to remove equipment if still remaining when they start constructing the scheme – equally there is the (remote) potential that the undergrounding could be reversed so the powers do need to be retained.</p> <p>In response to a query raised by a landowner's agent in respect of the west side of the A19 and why permanent rights are required on the other side of the road, National Grid confirmed that is to be able to leave the undergrounding in place for NPG.</p> <p>A query was raised by a landowner's agent in respect of the annual maintenance required and the track along SP7, SP6 and SP4. National Grid confirmed that they are acquiring permanent access in this location as they need to get directly to this pylon and are not proposing this changes that the interference is of the most minimal type but ensures National Grid through routine maintenance can access their infrastructure. National Grid stated that they would set out what this minimal interference consists of at the next deadline. In respect of an alternative access route proposed by the landowner's agent in this location, National Grid stated that they have put a response back to written questions on this and were not proposing to move forward with this on the basis it would create another access point off the A19 and would have a longer access track than the access track proposed.</p>
b. The ExA will invite the Applicant to respond to each representation individually under this agenda item, in addition to	As above.

<b>Agenda sub-item</b>	<b>Summary of oral case</b>
the general and specific updates in Agenda item 5.	

## 2.3 Item 5: Site Specific matters for the Applicant

Table 2.3 – Item 5. Site Specific matters for the Applicant

Agenda sub-item	Summary of oral case
<p>The ExA will ask questions of the Applicant and seek updates about negotiations and matters arising from written and oral submissions including, but not limited to the locations listed below, unless they have been raised by APs and heard under Agenda item 4, or objections have been withdrawn:</p> <p>a. Location of Shipton North and Shipton South cable sealing end compounds (CSC).</p>	<p>The ExA confirmed that they were not going to pick up any further points in respect of Shipton North as this was covered in sufficient detail at agenda item 4.</p>
<p>b. Access Point AP92 off the A19, whether it is to provide vehicular access or not; to resolve conflicting information in Applicant’s response to RR-023 [REP1-015] response 23.2, and the CDM drawing [APP-099] Overton Substation High Level CDM Plan.</p>	<p>National Grid stated that in respect of the access point for maintenance of the outfall pipe that will be going to Hurns gutter, they are not proposing to construct a track but have allowed provision for vehicular access if needed. National Grid added that there is an existing bell-mouth off the A19 that is a suitable access point and that the maintenance in this location will be very infrequent.</p> <p>The ExA asked the Applicant to check this position as previous responses have said access will only be via pedestrian on foot only. National Grid stated that they will take this away to clarify and stated that this access would not be for construction and is for maintenance.</p> <p>National Grid stated that in respect of the landowner in this location and their access arrangements, they are in dialogue with this landowner and close to agreement over all of the land requirements to include the access. National Grid added that in respect of this landowner they are in detailed conversations with the agent and the commercial terms are nearly agreed and require legal input and so the legal team are reviewing the documents.</p>
<p>c. Access Point AP93 at New Farm Cottages and New Farm, Work No. U4</p>	<p>The ExA raised that one landowner requires further explanation of National Grid's proposals in this location. National Grid confirmed this landowner had instructed an agent and that they</p>



<b>Agenda sub-item</b>	<b>Summary of oral case</b>
<p>and two alternative accesses, one from a point further north up the A19 and one from Stripe Lane.</p>	<p>are in dialogue with them and would expect the agent to raise if their client required further information. National Grid stated they would go back to the agent and seek confirmation from then on any outstanding concerns or clarification required.</p> <p>In response to a point raised on tweaking the limits of deviation in respect of SP006, National Grid confirmed they would consider this further.</p>
<p>d. Location of Pylon SP006 (Plot B3-33).</p>	<p>In response to a point raised on tweaking the limits of deviation in respect of SP006, National Grid confirmed they would consider whether any minor adjustments to the location or limits of deviation (LoD) of SP006 could be made.</p>
<p>e. Tadcaster CSECs site and access arrangements.</p> <p>Update on discussions with landowners, in terms of location of western CSEC understand discussions re change of orientation and position.</p>	<p>National Grid explained that in respect of the landowner in this location, National Grid wrote on a without prejudice basis to this landowner as they understood their request was to remove the CSEC from their land or, if not, to place on the existing hedgerow. National Grid stated that they did not consider that either of those requests could or should be accommodated but they proposed that they could reorientate the CSEC so that it would lie immediately adjacent to the boundary hedge. National Grid consider that this might better accommodate what the landowner was seeking, but the landowner has not yet confirmed that is what they wish for them to do and that is the reason for National Grid not progressing this further. National Grid stated that they would provide the plan sent to the landowner for this proposal at the next deadline.</p> <p>The ExA raised the landowner's access track issue and whether a new route around XC481 could be made. National Grid explained that the alternative access route would be adjacent to the A64 and on steeply sloping land. There is very limited space available and in those circumstances, they do not propose to accommodate that. National Grid further added that this landowner does have an existing access to their land and that this access would be secondary or additional to the same parcel of land and they therefore do not consider this an appropriate change to make.</p> <p>The ExA queried the justification of landscape and visual effects and the use of the retaining wall and whether the access track could go around the north of the CSEC as an alternative route.</p>

Agenda sub-item	Summary of oral case
	<p>National Grid responded that the use of the retaining wall and the landscape and visual effects was one of many reasons they didn't think this was an appropriate solution. National Grid stated that the landscape and visual effects were not the most compelling out of all of the reasons and stated that this would be a highly engineered solution which would impose significant cost to deliver an access to a field which already has a means of access.</p> <p>In respect of whether an alternative route could be delivered entirely to the north, National Grid explained that there is third party land to the north. National Grid added that the access land could in principle go across third party land but they have to consider would it be appropriate to acquire this right on behalf of the landowner to secure continued use of an access to a field where an existing access is already in place. National Grid stated they do not consider that they can justify or consider this is proportionate in CA terms. National Grid explained that if the site was land locked it may be something they would consider but because it is not there is no justification for going onto another person's land.</p> <p>The ExA stated that there was a query from a landowner in this location on the accuracy of the land plans and asked whether this has been progressed. National Grid confirmed that they have been in detailed conversations with the landowner on this and clarified that it was more a query regarding an explanation of the plans which the landowner required. National Grid added that they have discussed the detail of the plans with the landowner and understand that this issue should now be resolved.</p>
<p>f. Clarification over undergrounding works, Work No. U7 and No. U8.</p> <p>Applicant going to check what undergrounding was going to be taken.</p>	<p>National Grid confirmed that the U8 cable undergrounding had taken place but that they would wish to retain the rights as shown in this area until they have authority to construct the scheme. National Grid added that they don't expect the need to exercise any of those powers.</p> <p>National Grid further explained that the U8 undergrounding by NPG had taken place as part of their normal works and that they had a meeting with the landowner about this area last week.</p> <p>National Grid added that they have had discussions in respect of U7 with the landowner in terms of what requirements they would like to see and had discussions with NPG and what they would also need to do and those points seem to align.</p>

Agenda sub-item	Summary of oral case
	National Grid explained that they have included the amount of undergrounding they need to deliver the scheme. National Grid added that they will be having discussions with NPG about undergrounding and what that will look like.
g. Alternative routing to second 'step' of access route off AP40 through High Moor Farm stead to access overhead line in vicinity of Pylon XC479.	National Grid explained that the tenant in this area wants them to take a specific route which they see as a sensible proposal but need a discussion on this with the landlord as well.  In respect of High Moor Farm, National Grid explained that they have had discussions with the landowner about their proposals. In principle the access looks suitable and there is an existing gate, but National Grid will need confirmation from the landowner they are happy with the change which would be done voluntarily if agreed.
h. Travellers' Site at the junction of the A1(M) with A63.	The ExA confirmed this had already been covered via the discussions with the agent at Agenda Item 4.
i. Progress on the voluntary agreement with Pelagic Energy Limited in connection with Plot F1-07 at Monk Fryston Substation [REP2-038], response to ExQ1 4.6.22.	National Grid confirmed they had reached agreement with Pelagic Energy earlier that day and so the areas of concern have been addressed and dealt with.  National Grid explained that this agreement provides that if Yorkshire Water undertake some pipe diversions prior to the close of the examination then an application will be made to amend the land plan and Book of Reference (BoR) to remove the area over which Pelagic holds an option from the land plan and BoR. National Grid said that until such time as those works are undertaken, it is necessary to retain the rights in there and that they are waiting to hear whether Pelagic are proceeding with the Yorkshire Water diversion works before National Grid would need to do so – this is very much down to Pelagic's own programme of works.
j. Negotiations with APs and a timetable for their conclusion.  Update on those where lack of progress or where concerned and update on any withdrawn objections.	National Grid explained that the majority of relevant representations from landowners were submitted via two agents which they have engaged with and the agents have not raised any further concerns. National Grid confirmed they are still continuing to engage with these agents and that the majority of landowners are existing grantors who have dealt with National Grid for many years. National Grid explained that these existing grantors haven't been as engaged as the new landowners and so National Grid are pressing with the agents to

<b>Agenda sub-item</b>	<b>Summary of oral case</b>
	<p>encourage that engagement. National Grid added that they don't have concerns overall about the landowners and the agreements they are seeking with them.</p> <p>National Grid identified at Monk Fryston that the landowner passed away last year and the ownership is now in the hands of the executors. There is reduced engagement because of the future ownership of the land has yet to be finalised. National Grid explained they are doing everything they can to engage and understand that agents may have been appointed.</p>
<p>k. Whether the Objectors' Schedule [REP2-044] is fully up to date, whether indication of likelihood of resolution can be given and to agree a Deadline for submission of an update if required.</p>	<p>As above.</p>

## 2.4 Item 6: Statutory Undertakers

Table 2.4 – Item 6. Statutory Undertakers

Agenda sub-item	Summary of oral case
a. Representations from Statutory Undertakers	<p>In response to a number of points raised by National Highways, National Grid confirmed there are areas of National Highways' land included in the order limits for road widening around Overton. National Grid explained that they have been in dialogue with National Highways about how best to structure the agreement in respect of this and understand National Highways have appointed an agent to discuss with this. National Grid added that it is not their intention to compulsorily acquire this land but it is within the order limits to enable them to do works and there is also the possibility of using the New Roads and Street Works Act 1991 (NRSWA) which they are seeking dialogue with National Highways over.</p> <p>National Grid further explained that the majority of the National Highway's interests listed are in the category of interests which are historic in the sense that this is on the A19 which was de-trunked; but as happens elsewhere National Highways has a residual property interest. The de-trunked road is now the responsibility of North Yorkshire Council. National Grid added that this is a highways matter rather than an attempt to extinguish residual rights National Highways have.</p> <p>National Grid confirmed they have received National Highways' Protective Provisions (PPs) and think it is appropriate to include bespoke PPs on the face of the DCO. The PPs provided by National Highways are concerned with the strategic road network and therefore in the case of this project, the scope of the standard PPs provided by National Highways goes too far. National Grid explained that they are looking to make sure appropriate PPs are in place which are proportionate as to the nature of the rights they are seeking.</p> <p>National Grid added that they are in dialogue with National Highways on a private agreement on a property point.</p> <p>National Grid added that the aim is to agree PPs by Deadline 5 should they not they will submit s127 and s138 applications.</p> <p>National Grid confirmed they are progressing PPs as far as they can and the PPs schedule submitted at Deadline 2, will be submitted again at Deadline 4.</p>
Sections 127 and 138 of PA2008 – the acquisition of statutory undertakers' land	As above.

<b>Agenda sub-item</b>	<b>Summary of oral case</b>
and the extinguishment of rights and removal of apparatus of statutory undertakers	

## 2.5 Item 7: Human Rights

Table 2.5 – Item 7. Human Rights

Agenda sub-item	Summary of oral case
<p>Whether the purposes of the proposed CA and TP are legitimate and would justify interfering with the human rights of those with an interest in land affected as follows:</p> <p>a. Regard given to Articles 8 and 6 of the European Convention on Human Rights (ECHR) and Article 1 of the First Protocol.</p>	<p>The ExA confirmed that they would find helpful as an action to this hearing, the submissions to this agenda item which have been previously submitted in writing were brought together in a single document which they can refer to.</p>
<p>b. The degree of importance attributed to the existing uses of the land proposed to be acquired.</p>	<p>The ExA confirmed they would discuss the roles of an agricultural liaison officer at ISH3 and National Grid confirmed they would take this away and discuss this prior to ISH3.</p>
<p>c. The weighing of any potential infringement of ECHR rights against the potential public benefits if the dDCO is made.</p>	<p>National Grid confirmed they would provide a written submission to clarify the difference between a wayleave and an easement. National Grid explained in short that the nature of a wayleave is a contractual arrangement with the current owner of the land and the undertaker and whilst there are statutory provisions in terms of electricity wayleaves which can lead to imposition in the face of resistance (but that is only under Schedule 4 of the Electricity Act 1989 and not under the Planning Act 2008), effectively in their nature they are still a contract and subject to contractual terms.</p> <p>National Grid added that what this project, consistent with other large scale National Grid projects of this nature, is seeking to do is have permanent easements which run with the land and are interests in land. National Grid explained that in practice interference is no different – with a wayleave they can oversail the land with overhead lines and have the right to come onto land and work on the lines if necessary and can prevent a landowner from doing something which interferes with those lines. National Grid added that with an easement they are doing the same thing as a wayleave but an easement secures this in a more permanent and in a more straightforward way, so there is a clear record what the rights are.</p>

Agenda sub-item	Summary of oral case
	<p>National Grid's view is that it is appropriate to pursue permanent rights for overhead lines for nationally significant grid reinforcement projects rather than wayleaves which have been the historic position in some places.</p> <p>In response to a query raised by a landowner's agent in respect of maintaining a permanent right of access, National Grid confirmed they rely on order powers to give them permanent rights by way of a right of access and that will remain in place and they will be entitled to defend that right of access, to prevent a landowner stopping it up. National Grid explained that if future proposals come forward and it is necessary to change the proposal, that is something National Grid can agree to and would be dealt with voluntarily to accommodate the landowner. National Grid explained that their interest in these locations would be limited to the residual right to maintain apparatus, so as long as they can continue to do so in a satisfactory way the sort of changes which are likely to be proposed are unlikely to cause impediments</p> <p>In response to a landowner's agent submission of an easement being more permanent than a wayleave, National Grid confirmed that this is a permanence point. National Grid added that there is a deliberate difference to prevent termination and unpredictability. National Grid explained that in promoting a scheme in the public interest they should be entitled to defend their rights to access equipment and permanent rights for doing so. National Grid added that Paragraph 4.8.4 of the Statement of Reasons (<b>Document 4.1</b>) [APP-069] refers to the longevity of projects such as this and the need to create permanent improvement of the power infrastructure in this country. National Grid further explained that under the Planning Act 2008, this is a nature of rights which they can create and that it is an interest in land that they need to create here. Easements are also preferred over wayleaves from a policy perspective as set out in draft NPS EN5.</p>



## 2.6 Item 8: Consideration of duties under the Equalities Act 2010

Table 2.6 – Item 8. Consideration of duties under the Equalities Act 2010

<b>Agenda sub-item</b>	<b>Summary of oral case</b>
The Applicant to provide a verbal update of any further inquiries and engagement with the Traveller Community following submission of its Summary of Actions and Engagement in Relation to the Traveller Community [REP2-043].	National Grid explained that they recognise that the ExA will want to report on this issue by the end of examination and at each deadline agreed to provide a comprehensive account of how they have sought to address and engage with the traveller community.

## 2.7 Item 9: Funding

Table 2.7 – Item 9. Funding

Agenda sub-item	Summary of oral case
<p>An update on whether there is a reasonable prospect of the requisite funds becoming available to enable the CA to proceed within the statutory time period following the Order being made. Whether the Applicant has a more definitive timing in terms of the pivot from Large Onshore Transmission Investment (LOTI) to Accelerated Strategic Transmission Investment (ASTI) [REP2-038], response to ExQ1 4.7.2?</p>	<p>The ExA noted that in responding to question 4.7.2 of the Applicant's Response to Examining Authorities First Written Question (<b>Document 8.9.1</b>) [REP2-038] National Grid said that Ofgem's position was due to be determined in late spring and asked for an update on the timings of this.</p> <p>National Grid confirmed that the 'minded to' decision has been received and that the next steps are the approval of the final needs case, then the final stage is the final project assessment which comes after consent is in place. National Grid added that there are a series of gateways which have all been passed so far.</p> <p>National Grid added that the pivot to Accelerated Strategic Transmission Investment is expected in summer 2023 but that this is for Ofgem and it outside of National Grid's control but could be received potentially during the remainder of the examination period.</p> <p>National Grid stated that the case on funding for the purposes of CA turns on the reasonable prospect of funds being available and that this is a scheme which at every stage to date has Ofgem support and which has been prioritised as part of the ASTI framework of particular strategic importance. National Grid added that all of that has been explained in the needs case and funding statement and that the additional acronyms (i.e. ASTI) are not new impediments to funding and are actually a consequence of this scheme being given national priority.</p>
<p>Any update on the Funding Statement in terms of resource implications of both acquiring the land and implementing the Proposed Development for which the land is required.</p>	<p>The ExA requested that National Grid provide a clean and track version of the funding statement by Deadline 7. If there any changes to the Funding Statement prior to this, National Grid are to include this within the covering letter which is submitted with the relevant deadline.</p>

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