

YG-DCO-119

Yorkshire Green Energy Enablement (GREEN) Project

Volume 8

**Document 8.23.3 Applicant's Written Summary of Oral
Representations made at Issue Specific Hearing 3**

**Final Version A
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Version History

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

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 Issue Specific Hearing 3 on the Draft Development Consent Order and Related 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 10:00am on 26 May 2023 at Delta Hotels by Marriott York and closed at 14:24pm on 26 May 2023. The agenda for the hearing [EV-006] was 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, 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);
 - Emer McDonnell, National Grid Electricity Transmission plc (Senior Project Manager); and
 - Victoria Redman, Womble Bond Dickinson (UK) LLP (DCO Drafting).

2. The Applicant's Summary of Case on Item 4: The Applicant's draft DCO

2.1 Item 4.a. Updates to the draft DCO

Table 2.1 – Item 4.a. Updates to the draft DCO

Agenda sub-item	Summary of oral case
i. Preliminary comments regarding points raised in previous hearings	
The ExA queried whether it is appropriate to secure a commitment to a site specific mitigation plan for the travellers' encampment.	<p>National Grid will propose a requirement for submission of a site specific mitigation scheme in respect of the travellers' encampment. It is not proposed that the scheme be drawn up now but the requirement will provide for future submission of a site specific mitigation scheme, which will be based on the measures identified in the Code of Construction Practice (CoCP) (Document 5.3.3B(B)) [REP2-020] or other management plans as appropriate, and further measures will be tailored for that site if required. The draft requirement will be included in the updated version of the draft DCO to be submitted at Deadline 5.</p> <p>National Grid will continue to work and engage with the agent representing the landowners and occupiers of the travellers' encampment.</p>
The ExA queried whether there are any other sites where the Applicant considers site specific mitigation may be appropriate.	National Grid do not consider any other sites require site specific mitigation plans. Whilst it is appreciated that there are areas where landowners have concerns, those generally relate to interactions between the Project and business operations on the affected land, and so would be more appropriately dealt with through the land negotiation process. This differs to the travellers' encampment because there is direct interaction with residential caravans which justifies a focused approach. Negotiations over property rights might not resolve those matters, so there is justification for a more objective assessment of how environmental effects will be managed. National Grid consider that this applies to only the travellers' encampment and a requirement will be included in the updated version draft DCO to be submitted at Deadline 5 accordingly.

Agenda sub-item	Summary of oral case
The ExA suggested that the proposed requirement should include provision for community liaison.	National Grid noted the ExA's request that the proposed requirement for the site specific mitigation plan reference proposals for community liaison. National Grid responded that community liaison proposals are contained in the general measures included within the CoCP (Document 5.3.3B(B)) [REP2-020] . National Grid anticipate that the site specific mitigation plan would include that information and any site specific liaison requirements.
The ExA queried whether there will need to be an enhanced level of liaison at 'access hotspots'.	National Grid do not consider it necessary to enhance the level of liaison it already intends to undertake but agreed to consider how the proposals for community liaison could be made clearer. National Grid propose to include more specific detail on what is proposed, either in the CoCP (Document 5.3.3B(B)) [REP2-020] or Construction Traffic Management Plan (CTMP) (Document 5.3.3F) [APP-099] , rather than deal with this on the face of the draft DCO.
North Yorkshire Council expressed a wish to undertake site visits for certain access points. The ExA requested early notice of the outcome of any discussions.	National Grid and North Yorkshire Council (NYC) will be attending a workshop on the week commencing 5 June 2023. If necessary, there is the potential to arrange for site visits following this. As to the principle of accesses and their location, National Grid considers that sufficient information and assessment has been provided to NYC and there should be no requirement for further site visits. If NYC's concern relates to understanding of the detailed design of each proposed access, National Grid agree that this would be provided in due course. Under Requirement 14, the relevant highway authority would approve any new existing means of access and so National Grid would expect a need for engagement in respect to the detailed design of each access, which may require on-site discussions. However, the location of those accesses, the principle of using them, and the method of assessment are matters National Grid considers it has already fully engaged on with NYC (see Table 12.5 – Summary of technical engagement for traffic and transport of ES Chapter 12 Traffic and Transport (Document 5.2.12) [APP-084]).
The ExA commented that this is about how worse case scenarios can be narrowed down and this could potentially involve	National Grid acknowledged that there are some locations where on site discussions may be held and this is not being ruled out. The discussion would be regarding the delivery of the Project within the parameters of the draft DCO rather than any changes to the parameters of the draft DCO.

Agenda sub-item	Summary of oral case
discussions with the relevant highways departments.	
<p>The ExA noted that the Land Officer and Agricultural Liaison Officer (ALO) roles are secured within the Outline Soil Management Plan but are potentially being relied upon for wider purposes.</p> <p>The ExA sought an explanation as to the definition of roles and whether the commitment to them is secured appropriately.</p> <p>The ExA noted that the current reference to the ALO is only specified as 'may' and this should be expressed with more certainty.</p>	<p>National Grid will make clear in the CoCP (Document 5.3.3B(B)) [REP2-020] the particular roles of Agricultural Liaison Officer (ALO) and Land Officer. The ALO would be employed by the principal contractor rather than National Grid, and would deal with day-to-day liaison between the contractor and landowners/occupiers in respect of the practical implications of the construction works. The Land Officer would be employed by National Grid and would liaise in respect of conditions for access, possession of land and dealing with matters relating to compensation or claims for losses.</p> <p>National Grid proposes to retain the current reference in the Outline Soil Management Plan (Document 5.3.3E(B)) [REP2-022] in respect of soils and, additionally, proposes to clearly describe the roles within the CoCP (Document 5.3.3B(B)) [REP2-020]. National Grid will ensure this is secured within the CoCP (Document 5.3.3B(B)) [REP2-020] expressly rather than by reference to a future management document.</p> <p>The ALO would be appointed in respect of the construction period only. However, the Land Officer role would provide ongoing liaison with landowners (as necessary) during operation.</p> <p>National Grid considers that the CoCP (Document 5.3.3B(B)) [REP2-020] would not deal with the Land Officer extending beyond the construction period because the CoCP relates to construction activities only. National Grid employ a number of Land Officers that manage ongoing relationships with landowners who host National Grid infrastructure. National Grid agreed to provide information to the ExA by way of a post hearing note in respect of how National Grid's Land Officers function in operational periods.</p>

Agenda sub-item	Summary of oral case
The ExA asked whether the CoCP (Document 5.3.3(B)) [REP2-020] explains that the land officer role would continue during operation.	

2.2 Item 4.b. Articles of the dDCO

Table 2.2 – Item 4.b. Articles of the dDCO

Agenda sub-item	Summary of oral case
i. Article 2 Interpretation	
The ExA requested an update to the definition of 'environmental statement' in line with the commitment made at ISH2 to submit one composite errata and one composite addendum.	National Grid will update the documents so that there is one composite Errata and one composite Addendum. National Grid will update the definition within the draft DCO at Deadline 5.
As the Applicant made no change to the definition of 'maintain', the ExA provided an opportunity for Councils to comment on this.	National Grid notes North Yorkshire Council's comment that they had no specific concerns to raise on the definition of 'maintain', save that noting the word 'improve' is particularly broad.
The ExA suggested the definition of 'Temporary Construction Works' could include more specific detail in the description of works in Schedule 1, particularly in light of landowner representations	Although listed under the heading of associated development, there is lengthy description at paragraph 'L' [REP3-004] for those works that could take place within temporary construction compounds. National Grid will consider whether further detail needs to be added in the description of works in Schedule 1.

Agenda sub-item	Summary of oral case
regarding construction compounds.	
ii. Article 3 Development consent etc. granted by the Order	
The ExA noted that Article 3 has been amended to add in paragraphs 8 and 9.	National Grid confirmed that this was to bring the wording in line with what is said in respect of limits of deviation in Article 5 and to make clear that the DCO would take effect over enactments applying within or adjacent to the Order limits.
ii. Article 5 Limits of deviation (to include submissions from NYC further to matters raised in [REP2-082])	
The ExA noted submissions made by National Grid at ISH2 that Article 5(1)(c) only applies to new pylons, not those being modified. The ExA sought an explanation as to why this approach is not consistent with the drafting of Article 5.	<p>National Grid confirmed that it is not proposed that there would be any vertical limit of deviation to existing pylons. However, National Grid do not consider that this needs to be reflected within Article 5. Reconductoring of a pylon does not involve works to raise a pylon's height, and the works authorised under the description in Schedule 1 specify which works amount to reconductoring. Whilst National Grid do not intend that vertical limits of deviation would apply to reconductoring, it is acknowledged that this is not made expressly clear in Article 5.</p> <p>National Grid acknowledged the ExA's suggestion that if it was not considered necessary to change the wording of the draft DCO, a change to the Explanatory Memorandum to acknowledge National Grid's position would be welcomed.</p>
North Yorkshire Council consider points in relation to Article 5 have been resolved through the written question responses.	National Grid notes North Yorkshire Council's confirmation.
iii. Article 12 Application of the 1991 Act (to include submissions from NYC further to matters raised in [REP2-082])	
North Yorkshire Council confirmed that they have been having discussions with the	National Grid have set out in Appendix A to the Explanatory Memorandum (Document 3.2(C)) [REP3-004] justifications for and explanation as to the effect of each provision being disapplied. It should be noted that the dis-application of the 1991 Act is not a complete dis-application, there are only a short list of provisions being disapplied and then another list of provisions which are confirmed to have effect. National Grid will continue to

Agenda sub-item	Summary of oral case
<p>Applicant but, at this point, would resist dis-application of the 1991 act.</p>	<p>engage with North Yorkshire Council on this matter. National Grid do consider it is appropriate to disapply some provisions given the national significance of the Project and the urgency for its delivery. National Grid can discuss with North Yorkshire Council how this disapplication would work in practice and the alternative controls they would have under other provisions of the DCO (such as the CTMP (Document 5.3.3F) [APP-099]).</p>
<p>National Highways raised concerns regarding Article 11. Whilst National Highways has no specific objection to the Project, the Article allows National Grid to enter the strategic road network. National Highways require protection through protective provisions and do not agree to deemed consent provisions.</p>	<p>National Grid confirmed in respect of Article 11(1), without further approval this only applies to streets listed in Schedule 6. Of this schedule only the A64 westbound slip existing access is on the strategic road network.</p> <p>It is noted that National Highways' more general point references the general provision which can apply to any other streets within Order limits.</p>
<p>iv. Article 13 Power to alter layout, etc. of streets (to include submissions from NYC further to matters raised in [REP2-082] and CYC further to [REP2-057])</p>	
<p>In respect of Articles 11, 13 and 14 the highways authorities made submissions regarding deemed consent provisions; raising concern with the 28 day timescale.</p>	<p>National Grid are discussing provisions in the draft Section 106 Agreement which would provide for a PPA to be put in place with respect to approvals processes with the Local Authorities. It is in National Grid's interest to obtain consent and so prior engagement, where possible, would be undertaken. It is important to note that there is a detailed scheme in respect of highways interventions forming part of the Project already. The relevant streets have been expressly set out in Schedules to the draft DCO (Document 3.1(C)) [REP3-004]. However, provisions are provided for generally in respect of those matters where a current need is not envisaged but there may be an addition or amendment required at detailed design stage, which is not currently expected.</p> <p>Deemed consent is appropriate due to the national importance of the Project. National Grid are seeking statutory authority to construct the Project and construction should not be delayed by an application not being</p>

Agenda sub-item	Summary of oral case
	<p>determined in a timely manner. There is a power to refuse if the Authority is not satisfied. The draft DCO (Document 3.1(C)) [REP3-004] at Article 13(6) makes clear that any application for consent will need to expressly state that deemed consent would apply if not determined within the requisite timescale. National Grid consider, in all circumstances, that it is appropriate to have a 28-day period. If National Grid need to obtain minor consents for works on roads, the Authorities should prioritise delivery of this nationally significant Project over schemes which do not have statutory authority. It is hoped that the PPA can ensure resources are in place and, where possible, these points can be raised in pre-application discussions. 28 days is precedent in other DCOs, National Highways DCOs included. Therefore, it is not just National Grid seeking these timescales. Whilst there may be instances where some DCOs have longer consent periods, to extend the timescales in this case would not be justified given the short timeframes by which this Project is required to be delivered in the national interest.</p> <p>The main interferences with streets have been identified. Should there be an additional street work required, although unexpected, this would likely not involve a substantial intervention in the highway. Therefore, these are matters which are likely to be capable of being dealt with in the 28-day period. If National Grid has not provided sufficient information or the issues raised are complex or give rise to concerns, the Authority could refuse the application.</p> <p>National Grid acknowledge the risk regarding refusals. However, this is a provision which is considered appropriate. It provides 4 weeks for consideration; there will be further comfort through the PPA process; as well as prior engagement. National Grid, therefore, maintain the 28 days position.</p>
<p>The highways authorities raised points of consistency regarding the inclusion of making deemed consent clear on the application notice as well as confirmation regarding the timing of when the 28 days runs from.</p>	<p>National Grid confirmed that the intention is that the statement regarding deemed consent will be put in bold font so it is clear and obvious in any application. Whilst this may not necessitate a change to the drafting of the respective article, it is the intention that the wording would be emboldened on the notice.</p> <p>National Grid will make amendments at Deadline 5 to the draft DCO to ensure that there is consistency regarding when the 28 days runs from. Additionally, updates will ensure that all instances of deemed consent contain wording which clarifies that the application must contain notice of this.</p>

Agenda sub-item	Summary of oral case
<p>North Yorkshire Council raised the wording 'within or adjacent to the Order limits' within Article 13(2) and queried why this was appropriate.</p>	<p>National Grid explained that this is a fairly standard DCO provision and would still be subject to consent of the street authority in any event. The wording ensures that, if street works go slightly beyond the Order limits, these will still be capable of delivery under the DCO, rather than requiring a separate consent to be obtained. This approach prevents the need to use separate processes outside of the controls of the DCO. It is appropriate to have the ability to seek consent for works beyond the Order limits and National Grid will engage further with North Yorkshire Council on this point.</p>
<p>In respect of Article 16, National Highways queried whether reference should be wider than planning authority to include 'relevant highway authority'.</p>	<p>National Grid confirmed they will consider this but do not anticipate new accesses being created onto the strategic road network which would require approval of National Highways.</p>
<p>vi. Article 19 Discharge of water (as raised by Ainsty IDB [REP2-050] and Foss IDB [REP2-074])</p>	
<p>The ExA sought an update on discussions with the drainage boards.</p>	<p>National Grid confirmed that a meeting has been arranged on 14 June 2023. Proposed without prejudice wording has been presented for Article 19 but this has not been included in the most recent draft DCO (Document 3.1(C)) [REP3-004]. Following discussions with the drainage boards, National Grid propose to update the draft DCO to be submitted at Deadline 5 if agreement can be reached, or can submit a position statement confirming National Grid's position if agreement cannot be reached.</p>
<p>National Highways considered that the power would permit discharge into the Strategic Road Network and this would be unacceptable to National Highways.</p>	<p>National Grid confirmed that, in respect of connecting into drains, this is a very standard and precedented provision. With regards draining into the strategic road network specifically, National Grid will seek to cover this point through discussions on the protective provisions.</p>
<p>vii. Article 20 Protective work of land, buildings, structures, apparatus or equipment</p>	

Agenda sub-item	Summary of oral case
<p>The ExA confirmed it was satisfied with the written response provided in respect of this Article and no concern was raised by other parties attending the hearing.</p>	<p>National Grid noted the ExA's comments.</p>
<p>viii. Article 21 Authority to survey and investigate the land (as raised by Ainsty IDB [REP2-050] and Foss IDB [REP2-074])</p>	
<p>The ExA noted the ongoing discussion with the internal drainage boards and questioned whether this Article should make reference to 'relevant drainage authorities' because they do not own watercourses</p>	<p>National Grid noted that the Applicant's Comments on Written Representations and other Interested Parties' Deadline 2 Submissions (Document 8.20) [REP3-032] sets out its response to the comments made by the Ainsty IDB and Foss IDB. Entry into the land concerned is not controlled under the IDBs bylaws therefore, National Grid should be entitled to have the power in question without any restriction. To include a further restriction would put National Grid in a worse position. In terms of whether there is any particular risk of damage to banks etc., National Grid consider that this is addressed in Article 19. National Grid confirmed that this is a matter to be discussed with the IDBs at a meeting scheduled for 14 June 2023.</p>
<p>ix. Article 36 Temporary use of land by National Grid</p>	
<p>The ExA sought an update for the addition of part 13 at the end of Article 36.</p>	<p>National Grid explained that there are provisions within the Neighbourhood Planning Act 2017 (which have not been commenced), which are concerned with temporary use of land and temporary possession matters. These provisions are unusual in some senses because they could provide for permanent acquisition of land for which only temporary possession is proposed. This legislation could be commenced at some point in the future and so it is prudent to disapply it to ensure that the position under the DCO is clear. The new wording added to Article 36 is included in a number of DCOs. Whilst the law may change on temporary possession, this allows the DCO principles to apply regardless so that decision makers can judge the acceptability of the powers on that basis.</p>
<p>National Highways raised that Article 39 potentially allows the</p>	<p>National Grid consider this article is concerned with property interests rather than highway interests. There is a slightly unusual position where National Highways have some interests which are away from the strategic</p>

Agenda sub-item	Summary of oral case
<p>Applicant to come onto the SRN within the Order limits. Whilst there was no 'in principle' objection to this, there would be concern if this power would allow temporary suspension of National Highways' interests.</p>	<p>road network, where National Grid are going to be carrying out works. National Grid will continue to engage with National Highways on the protective provisions with a view to reaching agreement on this point.</p>
<p>xi. Article 45 Traffic regulation (to include submissions from NYC further to matters raised in [REP2-082] and CYC further to [REP2-057])</p>	
<p>The ExA invited inputs from the local highway authorities who confirmed that they have no comments at this stage.</p>	<p>Conversations are continuing with the local highway authorities. In respect of traffic regulation generally, there is an in-built consultation provision within Article 45 because paragraph (6) provides that before serving the 28 days' notice, National Grid must consult the chief officer of police and the traffic authority and then, following this, give notice and advertise the proposal. Those are pre-conditions for exercise of this power which amounts to an in-built process for consultation.</p>
<p>xii. Article 46 Felling or lopping of trees and removal of hedgerows, and deleted Article 55 Trees subject to tree preservation orders</p>	
<p>The ExA noted that this Article has been revised and Article 55 deleted and requested that the Applicant talk through the changes.</p>	<p>National Grid summarised that, in respect of TPOs, the position is that within Order limits there are not any trees subject to TPOs and so the Article brings the approach in line with how the matter will be dealt with under the Town and Country Planning system.</p> <p>In terms of the hedgerow consent, this provision sets out which specific hedgerows are identified for potential removal and then lists those in Schedule 17.</p> <p>National Grid will engage with North Yorkshire Council to explain how this article sits with Requirement 10 (as currently drafted).</p>
<p>xiii. Article 47 Protection of interests (as raised by Ainsty IDB [REP2-050] and Foss IDB [REP2-074])</p>	

Agenda sub-item	Summary of oral case
The ExA raised that Ainsty and Foss internal drainage boards have raised these matters.	National Grid confirmed that this matter has been responded to in the Applicant's Comments on Written Representations and other Interested Parties' Deadline 2 Submissions (Document 8.20) [REP3 - 032] and that there will be ongoing discussions at the meeting with the IDBs on 14 June 2023.
xiv. Article 48 Certification of plans, etc (to include matters raised by the Environment Agency in REP2-073)	
The ExA pointed to the matter raised by the Environment Agency regarding certification of the flood risk assessment and ES chapter 9.	Subsequent discussions around the matter of certification of these documents have taken place with the Environment Agency and it has confirmed that it is satisfied that the necessary elements and measures are covered in the design drawings and CoCP (Document 5.3.3B(B)) [REP2-020] certified under the DCO. Therefore, National Grid has addressed this concern.
The ExA asked the Applicant to justify why the Environmental Statement is still not certified.	National Grid confirmed that they note the ExA's view on this point and will address this in the next iteration of the draft DCO by including it in the list of documents to be certified.
xv. Article 50 Procedure regarding certain approvals, etc (as raised by Ainsty IDB [REP2-050] and Foss IDB [REP2-074]) xvi. Article 52 Amendment of local legislation (as raised by Ainsty IDB [REP2-050] and Foss IDB [REP2-074])	
The ExA noted the same concern raised by the drainage boards in their representation. The same position is the case for Article 52.	National Grid confirmed that this matter has been responded to in the Applicant's Comments on Written Representations and other Interested Parties' Deadline 2 Submissions (Document 8.20) [REP3 - 032] and that there will be ongoing discussions with the IDBs on 14 June 2023.
xvii. Article 54 Temporary closure of, and works in, the river Ouse (to include any submissions from the Canal and River Trust)	
The Canal and River Trust made	National Grid confirmed that they understood Article 54 itself was agreed and satisfactory subject to the agreement of protective provisions which will address the broad concerns raised by the Canal and River Trust

Agenda sub-item	Summary of oral case
<p>submissions that they were only content with the wording of Article 54 subject to the agreement of adequate protective provisions.</p>	<p>in respect of notice periods for closures. National Grid is currently in the process of negotiating protective provisions with the Canal and River Trust, and recognise their points and hope to find way to resolve these issues. In summary, the parties have reached the position that the wording of Article 54 is acceptable to both parties.</p> <p>National Grid have had a number of discussions with the Canal and River Trust over recent weeks and have sought to accommodate their concerns. National Grid is of the view that only a small number of matters remain outstanding. National Grid is awaiting feedback from the Canal and River Trust in relation to updated Protective Provisions provided specifically in relation to matters on notice periods. National Grid have sought to accommodate concerns by setting out different notice periods for different types of closure. The parties now only have small number of matters left to be resolved.</p>
<p>The ExA noted the preference to undertake more work at night-time and asked the Applicant to explain whether potential environmental effects, such as effects on birds, had been assessed.</p>	<p>National Grid confirmed that it would provide a written response. This response can be found in National Grid's response to Action Point 22.</p>

2.3 Item 4.c. Schedule 1: Authorised Development

Table 2.3 – Item 4.c. Schedule 1: Authorised Development

Agenda sub-item	Summary of oral case
<p>The ExA noted that Work No. U8 has already been undertaken and asked the Applicant to confirm whether U8 will still be included within Schedule 1</p> <p>The ExA asked what would happen if the undergrounding was not satisfactory</p>	<p>National Grid consider it necessary to retain the powers in the draft DCO to ensure the undergrounding is effective as it is not possible to assess this at this stage. In theory, albeit unlikely, NPG could move the apparatus and National Grid would need the ability to undertake the works under the DCO in this event.</p> <p>Depending on the issue, National Grid confirmed this would need to be discussed with NPG in the first instance. Currently a discussion is needed between NPG and the landowner in relation to any additional works required. However, if works were undertaken which would cause detriment to the Project, National Grid would need the powers to undertake the diversion satisfactorily. The intention is that NPG would undertake the diversion but discussions are ongoing with NPG in this respect. National Grid need to maintain the power to undertake the diversion in the event that any unforeseen issues arise.</p> <p>Work U7 has not yet been completed and will therefore also remain in the works descriptions and in the land plans.</p>
<p>The ExA noted paragraph (c) in the list of associated development has been removed.</p>	<p>National Grid confirmed that this was to resolve a duplication.</p>

2.4 Item 4.d. Schedule 2: Plans and Drawings

Table 2.4 – Item 4.d. Schedule 2: Plans and Drawings

Agenda sub-item	Summary of oral case
The ExA noted the additional design drawings in part 2 and new part 5 but had nothing further to add.	National Grid had no comments.

2.5 Item 4.e. Schedule 3: Requirements

Table 2.5 – Item 4.e. Schedule 3: Requirements

Agenda sub-item	Summary of oral case
<p>The ExA noted that piling operations have been carved out in requirement 7(2) and queried if a definition was required for piling operations</p>	<p>National Grid confirmed it would respond to this point in writing. National Grid will respond to this matter through Action Point 24 at Deadline 5.</p>
<p>The ExA and North Yorkshire Council queried if the definition for 'start up and close down activities' adequately cover all disturbance effects.</p>	<p>The 'start up and close down activities' definition is not based on a particular assessment of those activities in terms of noise effects but is based on knowledge and assumptions that the activities described would not cause an audible disturbance.</p> <p>National Grid confirmed it would consider further whether the word 'audible' should be retained. National Grid will respond to this matter through Action Point 25 at Deadline 5.</p>
<p>i. Requirement 1 Interpretation (to include submissions from CYC further to [REP1-048], NYC further to matters raised in [REP2-082] and LCC further to [REP2-076])</p>	
<p>City of York Council confirmed that paragraph '(n)' in the 'pre-commencement works' definition has been omitted and they are comfortable with this.</p> <p>North Yorkshire Council queried what would form 'site clearance' under the</p>	<p>National Grid noted the City of York's comments on limb (n) of the 'pre-commencement works' definition.</p> <p>National Grid confirmed that site clearance would not include complete removal of trees and hedgerows so complete removal would not occur without approval of the relevant plans under Requirement 6.</p>

'pre-commencement works'.	
ii. Requirement 2 Time limits (to include matters raised by NYC in [REP3-018])	
North Yorkshire Council confirmed it did not have concerns with this requirement.	National Grid had no comments.
iii. Requirement 3 Design drawings (to include matters raised by NYC in [REP3-018])	
North Yorkshire Council had no comments or queries.	National Grid had no comments.
iv. Requirement 4 Stages of authorised development (to include submissions on practical implementation by CYC, NYC and LCC)	
The ExA invited the Applicant to reflect on amendments made and whether this covers everything required.	National Grid confirmed that it considers this requirement is an appropriate way of addressing the terminology of stages.
The ExA invited the local authorities to comment.	<p>NYC considered they would welcome an early understanding of what the stages might be. It confirmed that it is currently difficult to challenge the stages of construction, however, a requirement tied to any future changes in the stages to, for example, set specific time limits for confirming this to the Council, would be useful.</p> <p>LCC noted the written scheme of changes template had been provided by National Grid at Appendix E Document 8.4.2 [REP1-018]. LCC confirmed they were content with the justification provided on stages and raised no further issues.</p>
v. Requirement 5 Construction management plans (to include submissions from NYC and National Highways further to [REP2-079])	
The ExA invited the Applicant to explain how the outline soil	No comments were received from the councils on Requirement 5 and National Highways accepted this as agreed.

<p>management plan secures mitigation following the pre-commencement works.</p> <p>The ExA made reference to the Plan of Plans (Document 8.4.4) [REP1-020].</p>	<p>National Grid explained that the outline soil management plan has not been included in requirement 5(2) because it is not a full plan. The full version of the outline soil management plan is secured as the soil and aftercare management plan in Requirement 6(1). However, securing the outline through requirement 5(3) ensures that it needs to be complied with for pre-commencement works.</p>
<p>The ExA asked the Applicant to consider whether it would be clearer to ensure that the plan names match.</p>	<p>National Grid confirmed that the outline plan does not deal with aftercare to the level of detail that would be included in the soil and aftercare management plan and this is the justification for the differing title, but that the names of the plans/definition in the draft DCO will be considered further.</p>
<p>vi. Requirement 6 Construction management plans to be approved (to include matters raised by NYC in [REP3-018])</p>	
<p>The Local Authorities confirmed that they had no comments on this requirement.</p>	<p>National Grid had no comments.</p>
<p>vii. Requirement 7 Construction hours (to include submissions from NYC)</p>	
<p>The ExA Queried whether the carve out of core working hours should be agreed in advance with the relevant planning authorities.</p>	<p>National Grid confirmed that, in respect to the carve out in Requirement 7, the activities listed include those required to be undertaken outside the core working hours and will be programmed to be undertaken in that way. Therefore, it is not appropriate to seek their approval as it would be an approval of the Project programme; they have also been assessed on this basis. This approach is representative of the precedented position in other made DCOs including Hinkley and Richborough.</p>

<p>viii. Requirement 8 Landscape and mitigation planting ((to include submissions from NYC further to matters raised in [REP2-082] and LCC further to [REP2-076])</p> <p>ix. Requirement 9 Implementation of landscaping and mitigation planting (to include submissions from NYC further to matters raised in [REP2-082])</p> <p>x. Requirement 10 Retention and protection of existing trees (to include exploration of the question of an Outline Tree and Hedgerow Protection Strategy, as covered in submissions from CYC [REP2-057] and NYC [REP2-082], together with the Applicant’s comments on responses to ExQ1 5.4.10 in [REP3-031])</p>	
<p>The ExA invited the Applicant to explain its approach in respect of these Articles in light of discussion during ISH2.</p>	<p>National Grid will be proposing new drafting for these three requirements in the next version of the draft DCO.</p> <p>National Grid will make updates to identify the landscaping requirement in respect of permanent infrastructure at Overton, Tadcaster and Monk Fryston as a separate requirement.</p> <p>The second requirement will be the obligation in respect of the protection and retention of trees.</p> <p>The third requirement will deal with replacement planting.</p> <p>Most parties have understood what National Grid are trying to achieve but National Grid consider what will be proposed will provide a clearer structure.</p> <p>In respect of the landscaping at the substation and CSEC sites, National Grid has taken on board the point about management beyond the aftercare period, and will consider and identify an appropriate period to address the concerns raised. National Grid do accept that it would be appropriate to have a management regime of some sort in place in subsequent years given the concerns that have been raised.</p> <p>National Grid are also considering whether the landscaping requirement might be the appropriate place to deal with variation in the form of the landscape bunds. National Grid are unlikely to be changing heights of bunds proposed but will be providing some variety in landform. Amending this requirement would enable the provision of details for this to be secured.</p> <p>In relation to replacement planting, National Grid will propose a separate requirement confirming that replacement planting should be undertaken in accordance with the principles contained in the CoCP (Document 5.3.3B(B)) [REP2-020], to compensate for losses identified in the approved Tree and Hedgerow</p>

	Protection Strategy. That strategy and the principles in the CoCP would then set the appropriate measure by which the Authorities could judge whether the replacement planting proposed was satisfactory.
Leeds City Council maintained its position regarding the need for planting in perpetuity and highlighted their replacement planting policy to National Grid, which is 3 to every 1 lost. This requires provision for new planting, not just replacement planting.	National Grid are not proposing an in perpetuity obligation. It is accepted that the management regime for planting to mitigate the effects of the substation and CSEC sites should extend beyond 5 years. However, in respect of replacement planting National Grid would not acquire the freehold to that land and the requirement for ongoing maintenance has to be balanced with respecting landowners' rights to have their land returned. National Grid will replace what is lost appropriately and then, during the aftercare period, ensure that the replacement planting becomes established. However, after this, it is appropriate that any ongoing management is dealt with under a landowner's normal land management practices, rather than being dealt with in the draft DCO. This ensures the planting lost is effectively restored to the status quo.
The ExA confirm they are still not persuaded by an absence of an outline tree and hedgerow protection strategy and suggest something more detailed to be included, potentially in the CoCP [APP-095].	National Grid will consider these comments and reflect on what is in the CoCP (Document 5.3.3B(B)) [REP2-020] particularly, for example, whether it is appropriate to provide a separate plan or whether principles could be set out in a separate schedule in the CoCP (Document 5.3.3B(B)) [REP2-020] .
xi. Requirement 11 Reinstatement schemes (to include submissions from NYC further to matters raised in [REP2-082])	
xii. Requirement 12 Contamination of land or groundwater and controlled waters (to include submissions from NYC)	
North Yorkshire Council confirmed it	National Grid had no further comments.

had no concerns with these Requirements.	
xiii. Requirement 13 Removal of temporary bridges and culverts (to include submissions from NYC, Ainsty IDB and Foss IDB)	
North Yorkshire Council confirmed it had no concerns with this Requirement. A comment had been raised in writing by the internal drainage boards.	National Grid had no further comments.
xiv. Requirement 14 Highway works (to include submissions from NYC)	
xv. Requirement 15 Removal of existing overhead line (to include submissions from NYC)	
North Yorkshire Council confirmed it had no concerns with these Requirements.	National Grid had no further comments.
xvi. Requirement 16 Decommissioning (to include submissions from NYC and matters raised by National Highways in [REP2-079])	
National Highways confirmed this has been addressed and so it had no outstanding concerns.	National Grid had no further comments.
xvii. Requirement 17 Clearance over the river Ouse (to include submissions from NYC)	

<p>North Yorkshire Council confirmed it had no concerns with this Requirement.</p>	<p>National Grid had no further comments.</p>
<p>xviii. New Requirement 18 Approval of external colour and surface finish of permanent buildings having regard to the Design Approach to Site Specific Infrastructure</p>	
<p>The ExA noted this new requirement and asked the Applicant to explain whether further areas should be added for approval by the relevant planning authorities, such as acoustic screens.</p>	<p>National Grid explained that the requirement could provide for approval of external colour and finish of buildings at the substation site.</p> <p>The other area where National Grid consider there to be scope for approval is the acoustic screens to the Super Grid Transformers, albeit limited to a colour choice rather than specification. . The DASSI explains that effectively, there are two options so limited scope for creativity.</p> <p>In respect of other elements, National Grid do not see a case for any further approvals. In respect of fencing of the substation itself, this will be galvanised steel and, whilst there is the potential to use some paint options, these are not very effective and National Grid has a basic technical requirement to use galvanised steel fencing. National Grid’s view is that this is not something that should be subject to controls over colour or finish. There is scope for other fencing around landscaping areas, this would be simple post and rail fencing and so National Grid would not anticipate it being a matter that requires details to be approved.</p> <p>In terms of surfacing of permanent access roads, for main bellmouths onto the highway network that is captured under the highways requirement (Requirement 14) and would be tarmac. Whilst National Grid considered whether there was a case for approval of permanent vehicle access routes within the substation area in terms of surfacing, the conclusion is that it is simply not necessary to have this approval because the routes would be behind a palisade fence. There may be the occasional location where there is potential to view down onto them but, in reality, National Grid do not consider that this will give a useful control, which would apply only in respect of acoustic enclosures.</p>
<p>The ExA queried whether the DASSI says anything about avoiding reflective or shiny materials.</p>	<p>National Grid will review the DASSI and consider the point on avoiding reflectiveness and brightness of colour to ensure this is clear in the DASSI. For larger buildings, in respect of the amenity and control buildings, the design scope is very limited in terms of a choice between cladding and brick, for example. In respect of smaller modular buildings and screening, they are metallic and will not be clad. There is scope for colours to be identified in proposals to be in olive green or grey. That would address the ExA's concern that buildings could be white.</p>

	<p>Palisade fencing would be galvanised steel. Whilst it can be painted, this is often not an effective approach. The alternative is to have the fencing made in a painted finish, which imposes a greater cost and higher maintenance obligations as well as having longer lead-in times. National Grid's position is that the visual effects of the substation should be addressed through the mitigation planting that is proposed rather than the colour of the fencing.</p> <p>National Grid's standard technical specification specifies galvanised steel for palisade fencing and it is noted that this is in-keeping with the electrical equipment in the substation.</p>
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2.6 Item 4.f. Schedule 4: Discharge of Requirements

Table 2.6 – Item 4.f. Schedule 4: Discharge of Requirements

Agenda sub-item	Summary of oral case
<p>North Yorkshire Council raised concerns regarding the timescales set out in Schedule 4</p>	<p>National Grid confirm the timescales proposed are in line with other DCOs. National Grid has explained why these timescales should remain in the Applicant's Comments on Responses to Examining Authority's First Written Questions (Document 8.19) [REP3-031]. National Grid have discussed the scope for pre-application discussions which will reduce the time taken to deal with any application, and have proposed to enter into a PPA. National Grid considers that these are appropriate timescales and would be workable in practice.</p>
<p>The ExA asked the Applicant to confirm that there will be a PPA for all three authorities.</p>	<p>National Grid confirmed that is correct. A Section 106 Agreement is being negotiated to secure the PPA for each authority. The PPA would provide a process by which draft requirements are submitted to the relevant authority prior to formal application under Schedule 4 of the DCO, which would be a funded process.</p> <p>A new schedule has been added to the Section 106 Agreement and only recently shared with the councils in relation to the PPA. The PPA would also cover any general meetings and engagement to discuss any consultation matters. The aim is that, by the time the application is submitted, all matters have generally been resolved and, therefore, detail has been seen by and comments received from the councils, such that the application would be in final form. Therefore, 35 days is considered an appropriate timescale. National Grid understands that the councils need time to discharge applications, however the Section 106 Agreement is committing to a PPA and this can include matters such as external resourcing if required.</p>
<p>The local authorities consider that the section 106 agreement would not resolve their concerns with Schedule 4.</p>	<p>National Grid had no further comments.</p>

Agenda sub-item	Summary of oral case
<p>The ExA asked the local authorities to confirm whether they are able to discharge requirements under delegated authority.</p>	<p>The Councils agreed to respond on this issue.</p>
<p>The local authorities raised the issue that they will need to consult with others and this takes time.</p>	<p>There are limited consultation requirements expressly provided for within the Requirements and this should not require a different process given the approach proposed for early engagement. For example, where there is a requirement to consult with the Environment Agency, National Grid would generally be engaged with the Environment Agency throughout the delivery of the Project and would not expect a requirement to consult with the Environment Agency to delay any discharge of the requirements.</p> <p>National Grid would emphasise that, although this is a nationally significant project, one of its features which distinguishes it from other DCOs is that many of the key documents are submitted in final form and will not require a post consent approval process. For example, the CoCP (Document 5.3.3B(B)) [REP2-020] would not be submitted to the Authorities because, if the DCO is granted, it will be treated as a final document.</p> <p>Another example relates to design details. Often DCOs will have quite complex matters of design which require further approval. However, here approval of design is limited to surface materials. That is important context that supports National Grid’s position in respect of having a relatively constrained period within which to deliver the Project. National Grid should not be constrained in delivering the Project given the urgent need to do so, and consider the timescales proposed strike a reasonable and workable balance.</p>

2.7 Item 4.g. Schedule 15: Protective Provisions

Table 2.7 – Item 4.g. Schedule 15: Protective Provisions

Agenda sub-item	Summary of oral case
The Canal and River Trust made submissions regarding the drafting of the protective provisions.	<p>National Grid confirm that there is at least one more iteration of the draft protective provisions beyond the document last submitted to the Examination. A meeting has been held and multiple updated drafts provided with further clarifications by email. National Grid need the Canal and River Trust to mark up the proposed draft where they require changes to be made and communicate this to National Grid. National Grid confirmed it was not in a position to negotiate wording during this hearing and that it understood the protective provisions were close to being agreed. National Grid will respond on the mark up the Canal and River Trust provide.</p> <p>In line with Action Point 16 from CAH1, if the Protective Provisions are not agreed with CRT, National Grid will submit the distinct wording of each party and the reasons for National Grid’s preferred approach at Deadline 5.</p>

2.8 Item 4.h. Schedule 16: Amendment of Local Legislation

Table 2.8 – Item 4.h. Schedule 16: Amendment of Local Legislation

Agenda sub-item	Summary of oral case
<p>This matter was raised by the IDBs in writing and the ExA expects an update following the meeting on 14 June.</p> <p>The ExA also noted the addition of byelaw 3.</p>	<p>National Grid confirmed that it will provide an update on progress of discussions following the meeting to be held on 14 June 2023.</p>

Item 4.i. New Schedule 17: Hedgerows which may be removed

Table 2.9 – Item 4.i. New Schedule 17: Hedgerows which may be removed

Agenda sub-item	Summary of oral case
The ExA invited the Applicant to raise any matters regarding this Schedule it considered necessary.	National Grid confirmed the one hedgerow which had not been surveyed was Hedgerow 045.

3. The Applicant's Summary of Case on Item 5: Other consents and licences

3.1 Item 5. Other consents and licences

Table 3.1 – Item 5. Other consents and licences

Agenda sub-item	Summary of oral case
The ExA confirmed this matter could be dealt with in writing.	National Grid made no comments.

4. The Applicant's Summary of Case on Item 6: Planning obligations and side agreements

4.1 Item 6. Planning obligations and side agreements

Table 4.1 – Item 6. Planning obligations and side agreements

Agenda sub-item	Summary of oral case
a. To review the latest position on side agreements, further to the position at [REP1-045] and [REP2-038]	
The ExA invited the Applicant to provide an update regarding the side agreements.	National Grid confirmed that the only point of note is that Network Rail have requested a side agreement and progress is being made on that.
b. To review progress with planning obligations in respect of: i. Biodiversity Net Gain measures, further to discussion at ISH2; ii. any Planning Performance Agreements, as referenced in [REP3-020]; and iii. any other matters.	
North Yorkshire Council confirmed that the BNG measures were currently being considered by their ecologist.	National grid had no further comments.
The ExA requested confirmation that National Grid is satisfied all matters to be secured under the	National Grid is content that this is the appropriate mechanism and will submit a short note at Deadline 5 to confirm this.

Agenda sub-item	Summary of oral case
Section 106 Agreement could not be addressed by way of a DCO requirement.	

National Grid plc
National Grid House,
Warwick Technology Park,
Gallows Hill, Warwick.
CV34 6DA United Kingdom

Registered in England and Wales
No. 4031152