

Application by National Grid Electricity Transmission (NGET) for an Order Granting Development Consent for the Yorkshire GREEN Project

**Agenda for Compulsory Acquisition Hearing 2 (CAH2):
Compulsory Acquisition and Temporary Possession Matters**

Hearing	Date	Time	Location
Compulsory Acquisition Hearing 2 (CAH2) Compulsory Acquisition, Temporary Possession and Related Matters	Tuesday 18 July 2023	Virtual Room opens: 9.30am Virtual Arrangements Conference from: 9.45am Hearing starts: 10.00am	By virtual means using Microsoft Teams Full instructions on how to join online or by telephone will be provided in advance to those who have pre-registered.

Attendees

All Affected Persons (AP) are invited to attend CAH2. Each AP is entitled to make oral representations at the hearing, subject to the Examining Authority's (ExA) ability to control the hearing.

The ExA would be assisted by attendance of representatives of the following parties, where objections have not been withdrawn:

- The Applicant,
- City of York Council (CYC): input on Highways matters may be required,
- North Yorkshire Council (NYC): liaison officer for Traveller Community and input on Highways matters may be required,
- Canal and River Trust,
- National Gas Transmission plc,
- National Highways,
- Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited,
- Northern Gas Networks Limited,
- Northern Powergrid (Northeast) plc,
- Northern Powergrid (Yorkshire) plc,
- Individual APs (named APs and/ or their agents) as follows:
 - Stephenson Rural LLB on behalf of the Rab Family, and Mr P. Bulmer, Ms G. Eves and Ms P. Husband,
 - Lister Haigh on behalf of Mr J. Bell, Mr D. Blacker and Ms M. Blacker, C. Lister, Mr R. Elliot, Mr S. Mills,

- George F White on behalf of Mr M. Godliman and the Midgely Family,
- Carter Jonas LLP on behalf of Mr P. Watson,
- Charles Waite and Co on behalf of Mr R. Ingham,
- Mr P. Swales (and/ or agent),
- Mr Carruthers for those with an interest in plots E7-34 or E7-40 [REP2-016]: the Travellers' site at the junction of the A1(M) and A63

If you have not already confirmed your attendance, please do so as soon as possible by contacting the Case Team on 0303 444 5000 or YorkshireGreen@planninginspectorate.gov.uk.

Agenda

Please note: this Agenda was issued before Deadline 5 and may be subject to change.

- 1. Welcome, introductions, arrangements for the hearing, including order in which representations will be heard**
- 2. Purpose of Compulsory Acquisition Hearing 2, and preliminary matters**

To include the ExA's remarks in relation to any Change Application submitted at Deadline 5¹.

PART 1

- 3. The Applicant's case for Compulsory Acquisition (CA) and Temporary Possession (TP), including any changes**

- a. The ExA will ask the Applicant to present an update on any changes requested at Deadline 5, further to its Change Notification letter dated 19 June 2023 [[AS-020](#)], the ExA's response dated 22 June 2023 [[PD-012](#)], and the Applicant's letter of clarification dated 26 June 2023 [[AS-021](#)].

Any changes will be considered in turn. The ExA will ask questions and seek the views of Interested Parties (IP), including APs. The Applicant may wish to share relevant plans during these submissions, if this would aid clarity.

- b. Any other matters relating to the Applicant's case for CA and TP.

PART 2

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

¹ If a Change Application is submitted at Deadline 5, the ExA will make a Procedural Decision about whether or not to accept and examine the changed application as soon as practicable after receipt. Interested Parties will be notified in writing of any such Decision.

- a. The ExA will update the hearing on any withdrawals of objections received.
- b. The ExA will hear oral representations from APs who have notified a wish to make oral representations at this CAH2 and any section 102 or Category 3² persons wishing to make oral representations.
- c. The ExA will invite the Applicant to respond to each representation individually under this Agenda item, in addition to the general and specific updates in Agenda item 5.

The ExA requires updates on the following objections (unless withdrawal has been confirmed by the time of CAH2) and representations, whether by the named APs, s102 persons or Category 3 persons in attendance at the CAH2, or by their agents (here under Agenda item 4), or by the Applicant under Agenda item 5.

- Stephenson Rural LLB on behalf of the Rab Family ([REP4-020], objection 18);
- Lister Haigh on behalf of Mr J. Bell; ([REP4-020], objection 1);
- Stephenson Rural LLB for Mr P. Bulmer, Ms G. Eves and Ms P. Husband ([REP4-020], objection 19 and 20);
- Lister Haigh for Mr D. Blacker/ Ms M. Blacker ([REP4-020], objection 5);
- George F White on behalf of Mr M. Godliman ([REP4-020], objection 11);
- George F White on behalf of the Midgely Family ([REP4-020], objection 12);
- Lister Haigh on behalf of C. Lister ([REP4-020], objection 14);
- Lister Haigh on behalf of Mr R. Elliott ([REP4-020], objection 13);
- Carter Jonas LLP for Mr P. Watson ([REP4-020], objection 3);
- Charles Waite and Co for Mr R. Ingham ([REP4-020], objection 4);
- Lister Haigh on behalf of Mr S. Mills ([REP4-020], objection 8);
- Mr P. Swales ([REP4-020], objection 6).

5. Site-specific matters for the Applicant

- a. 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 objections listed above, which have not been raised by APs and heard under Agenda item 4.
- b. For the Applicant to give an update on probate and/ or negotiations with Executors for land at Monk Fryston Substation over which rights are sought.
- c. For further questioning, if necessary, on the justification for inclusion of land for Work No. U8.
- d. The ExA will ask for an update on negotiations with APs and a timetable for their conclusion.

² Those persons whose land is not proposed to be subject to compulsory acquisition but whose land or property may be affected by the construction or use of the proposed development such that they may be able to make claims for compensation (section 57(4) PA2008 (as amended)).

- e. The ExA will also ask for a general update from the Applicant on the Objections Schedule to be submitted at Deadline 5, whether indication of likelihood of resolution can be given.

6. Statutory Undertakers

a. **Applicant's case for PA2008 sections 127 and 138 – the acquisition of Statutory Undertakers' land and the extinguishment of rights and removal of apparatus of Statutory Undertakers**

For each Statutory Undertaker present, (where objections have not been withdrawn and/ or Protective Provisions are not agreed) the Applicant to summarise its Deadline 5 stated case whether it considers that the relevant tests for the exercise of powers pursuant to s127 and s138 PA2008 would be met in the event that agreement is not reached with each Statutory Undertaker, stating whether it is land or rights over land and creation of new rights which are being sought under s127 and whether extinguishment of rights or removal of apparatus are being sought under s138.

b. **Representations from Statutory Undertakers, including PA2008 sections 127 and 138 – the acquisition of Statutory Undertakers' land and the extinguishment of rights and removal of apparatus of Statutory Undertakers, and progress on Protective Provisions**

The ExA will invite oral representations from the Statutory Undertakers listed below (unless objections have been withdrawn and Protective Provisions agreed). The ExA will also ask the Applicant for response to points made by Statutory Undertakers. In the absence of any of the listed Statutory Undertakers, the ExA will ask for an update from the Applicant.

The ExA will be keen to understand the likelihood of parties reaching agreement by Deadline 6, noting that is the last deadline before the ExA sets out its commentary on the dDCO.

Statutory Undertakers will be expected to confirm in accordance with PA2008 section 127(1)(c) if and how:

- (i) the land is used for the purposes of carrying on the statutory undertakers' undertaking, or*
- (ii) an interest in the land is held for those purposes.*

And in accordance with s138 (4), the effects on the Statutory Undertaker's undertaking of extinguishment of rights and/ or removal of apparatus.

The ExA will wish to explore further any continued areas of disagreement in Protective Provisions.

Submissions will be taken from those present in the following order:

- Canal and River Trust;

- National Gas Transmission plc;
- National Highways;
- Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited;
- Northern Gas Networks Limited;
- Northern Powergrid (Northeast) plc; and
- Northern Powergrid (Yorkshire) plc.

PART 3

7. Human Rights

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:

- a. Regard given to Articles 8 and 6 of the European Convention on Human Rights (ECHR) and Article 1 of the First Protocol, including the degree of importance attributed to the existing uses of the land proposed to be acquired. The ExA may wish to question further the degree of importance that has been given to existing farming uses of the land and rights proposed to be compulsorily acquired in light of the weight given to, and the amended details of, the role of the Agricultural Liaison Officer (ALO).
- b. The weighing of any potential infringement of ECHR rights against the potential public benefits if the dDCO is made, which may include any further comments from APs on easements, following the submission with further explanation by the Applicant [REP4-027], Appendix C.

8. Consideration of duties under the Equalities Act 2010

- a. The Applicant to provide a verbal update of any further inquiries and engagement with the Travellers Community following submission of its Summary of Actions and Engagement in Relation to the Traveller Community, [REP4-018] and any Deadline 5 update, including any update on landownership as mentioned at CAH1.
- b. The Applicant to give any update on landowners at the Travellers' Site.
- c. To hear from Mr Carruthers as representative of the traveller community APs and/ or those APs.

9. Funding

Any further points that the ExA may wish to explore, and any points raised by attendees.

10. Review of issues and actions arising

11. Any other business

12. Close

Purpose of the CAH

The main purpose of CAH2 is:

- to enable the ExA to inquire further into the Applicant's case for CA of land or rights over land and / or to take TP of land;
- for the ExA to examine whether the relevant legal and policy tests applicable to CA and TP proposals have been met;
- for the ExA to explore the implications of any Change Application;
- to fulfil the ExA's duty to hear any APs who request to be heard; and
- to address any related matters.

Documents within the Examination Library up to and including Deadline 4 should be taken as read and need not be repeated in oral submissions, although signposting to key documents may assist. It may be that parties will not have considered all Deadline 5 submissions, so those speaking may be requested to set out key points from their written submissions. Points made at CAH1 do not need to be repeated. The ExA recognises that other hearings may contribute information and evidence which will be used in support of a recommendation in respect of Compulsory Acquisition.

Discussion at the hearing will be based on the following documents, an electronic or hard copy of which participants should have to hand:

- Book of Reference version E, to be submitted at Deadline 5;
- Schedule of Changes to Book of Reference (tracked), to be submitted at Deadline 5;
- Statement of Reasons [REP4-006];
- Land Plans [AS-005], [REP2-004 (Section B)], [AS-007], [AS-008], [AS-009], [AS-010] (or any Deadline 5 updates);
- Response to CAH1 actions [REP4-027];
- Draft Development Consent Order (Issue D), to be submitted at Deadline 5;
- Explanatory Memorandum (Issue D), to be submitted at Deadline 5;
- Applicant's response to ExA's first written questions (ExQ1) [REP2-038];
- Applicant's response to ExA's first written questions (ExQ1): Appendices [REP2-039], Appendix H;
- Applicant's response to ExA's further written questions (ExQ2), to be submitted at Deadline 5;
- Applicant's Summary of Actions and Engagement in Relation to the Traveller Community [REP4-018] and any Deadline 5 update; and
- Any Change Application submitted by the Applicant at Deadline 5.

Attendance

This hearing will be a fully virtual event, meaning there will be no in-person meeting and all participants should join the hearing via Microsoft Teams. The parties requested to attend are specified on pages 1 and 2 of this document. If you wish to participate in the hearing and have not already confirmed your attendance, please do

so as soon as possible by contacting the Case Team on 0303 444 5000 or YorkshireGreen@planninginspectorate.gov.uk.

The event will be livestreamed and a link for watching the livestream will be posted on the [project webpage](#) of the National Infrastructure Planning website closer to the hearing date. IPs and members of the public who wish to observe the hearing can therefore view and listen to it using the livestream, or view and listen to the recording, after it has concluded.

Please ensure that you read our [Privacy Notice](#) before attending the hearing.

Arrangements Conference

Parties who have registered to attend and invitees will receive an email shortly before the hearing containing a joining link and telephone number to enable participation virtually as necessary. Please join the Arrangements Conference promptly. The Case Team will admit you from the virtual Lobby and register your attendance. The Arrangements Conference allows procedures to be explained and will enable the hearing to start promptly.

Procedure at Compulsory Acquisition Hearings

Participants may be legally represented if they wish, but the hearing will be conducted to ensure that legal representation is not required. Guidance under the Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010 provides that it is for the ExA to probe, test and assess the evidence through direct questions of persons making oral representations at hearings. Questioning at the hearing will be led by the ExA.

The hearing will finish as soon as the ExA deems that all those present have had their say and that all matters have been covered. If there are additional matters to be dealt with, it may be necessary to defer some matters to written questions. The evidence presented orally at CAH2 should be included in post-hearing submissions and submitted by **Deadline 6 (Friday 28 July 2023)**.