

YG-DCO-124

# Yorkshire Green Energy Enablement (GREEN) Project

**Volume 8**

**Document 8.23.8 Applicant's Deadline 5 Response to CAH1 Hearing  
Action Points**

**Final Issue A  
July 2023**

**Planning Inspectorate Reference: EN020024**

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## Version History

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Document	Version	Status	Description / Changes
11/07/2023	A	Final	First Issue

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# 1. About this document

## 1.1. Introduction

- 1.1.1. This document provides National Grid Electricity Transmission Plc's (National Grid) (the Applicant) Deadline 5 response to Action Points addressed to the Applicant arising from Compulsory Acquisition Hearing (CAH) 1 held on Thursday 25 May 2023 in respect of the Yorkshire Green Energy Enablement Project (Yorkshire GREEN) (the Project). They are in addition to the Deadline 4 Submission **Applicant's Response to Compulsory Acquisition Hearing 1 (CAH1) Hearing Action Points (Document 8.23.5) [REP4-027]**.
- 1.1.2. Responses to actions addressed to the Applicant are provided in **Section 2** below.

## 2. The Applicant's Deadline 5 Response to CAH1 Action Points

Table 2.1 – Deadline 5 Response to CAH1 Action Points

Action No.	ExA description	Party	Deadline	Response
16	Submission of areas of disagreement over any Protective Provisions that are not fully agreed, to include the preferred specific wording of both parties, if that is not agreed.	Applicant, National Highways	D5	<p>An updated <b>Protective Provisions Progress Schedule (Document 8.12(C))</b> has been submitted at Deadline 5, which sets out the status of protective provision negotiations with statutory undertakers. Section 127 and Section 138 Statements have also been submitted at Deadline 5 for any protective provisions not yet agreed with relevant statutory undertakers as follows:</p> <ul style="list-style-type: none"> <li>• Network Rail Infrastructure Limited (<b>Document 8.27.1</b>);</li> <li>• National Highways (<b>Document 8.27.2</b>);</li> <li>• National Gas Transmission (<b>Document 8.27.3</b>); and</li> <li>• Northern Gas Networks (<b>Document 8.27.4</b>).</li> </ul> <p>Updated statements of common ground with statutory undertakers where agreement is outstanding have been submitted at Deadline 5. Notwithstanding the submissions made at this deadline, engagement is continuing with a view to reaching agreement with each statutory undertaker before the close of the examination.</p>
17	Submission which brings together the places where the Applicant's responses have been made to regard given to Articles 8 and 6 of the European Convention on Human Rights (ECHR) and Article 1 of the First Protocol.	Applicant	D5	<p>National Grid has set out at <b>Appendix A</b> of this document, as requested, the places where responses have been made to where regard has been given to Articles 8 and 6 of the European Convention on Human Rights (ECHR) and Article 1 of the First Protocol.</p>

# Appendix A CAH1 Action Point 17 - Applicant's Responses – Human Rights

Document	Examination Reference	Paragraph	Text
<p>Document 8.9.1 Applicant's Response to Examining Authority's First Written Questions (ExQ1)</p>	<p>REP2-038</p>	<p>Q4.9.1</p>	<p><b>Question:</b> Whether the purposes of the proposed Compulsory Acquisition justify interfering with the human rights of those with an interest in the land affected What degree of importance has been attributed to the existing uses of the land proposed to be acquired in assessing whether any interference would be justified, and why?</p> <p><b>Applicant's Response:</b> As detailed in response to Q4.9.3 the process to develop new network infrastructure has many stages where the impact of development is considered. The consideration of project impacts, the presence or absence of a compelling case in the public interest, and the consequences of the exercise of powers of compulsory acquisition are part of various processes throughout the Project development cycle.</p> <p>At the options identification and selection stage of the Project development process National Grid sets out clearly in the <b>Corridor and Preliminary Routeing and Siting Study (CPRSS) (Document 7.8) [APP-209]</b> how it has considered alternative route corridor and site options and the determination of preliminary route swathe and preferred corridor for the new overhead line works or non-linear substation and cable sealing end works. Within this document, Section 2 sets out the approach taken by National Grid when identifying potential routing and siting options and confirms that consideration was given, to the effects on the environment, socio-economic, technical and cost which includes land use. Please also see <b>Section 2.3 of the Environmental Statement Chapter 2 Project Need and Alternatives (Document 5.2.2) [APP-074]</b> which details the project development process.</p>

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			<p>Paragraph 10 of the CA Guidance sets out how the Applicant must take account of Human Rights;</p> <p><i>“The Secretary of State must ultimately be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of acquisition of a dwelling, Article 8 of the Convention”</i></p> <p><b>Section 5.3 of the Statement of Reasons (Document 4.1) [APP-069]</b> sets the existing land uses and Section 6 sets out National Grid’s justification for powers of compulsory acquisition in relation to the project. National Grid considers the impact on the existing uses to be very important in its assessment as to the public benefit and private loss so as to justify interference which is why it seeks to minimise the extent of land required either on a freehold basis or for the acquisition of rights.</p> <p>The predominant land use across the project route is agricultural. The existing infrastructure has been in situ for many years and the impacts upon the affected parties will be minimal, and generally temporary in nature (during construction phases). As with any project of this size and scale, unfortunately some disruption to normal agricultural activities will be inevitable. The appointment of a National Grid Lands Officer/Agricultural Liaison Officer will mitigate as far as possible any such disruption. Any disturbance that results in financial loss to the occupier or tenant, including additional time taken to liaise with the Applicant or its contractors as well as additional time taken to undertake normal agricultural activities on the land etc will be subject to compensation claims, made to National Grid.</p>



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			<p>Where it has been necessary to seek the permanent acquisition of land, such as to facilitate construction of the new substations and cable sealing end compounds, National Grid has ensured that they are only seeking to acquire the minimum land / rights required for the delivery of the project. There are four locations where National Grid is seeking permanent acquisition of land from landowners in order to facilitate the construction and operation of the project;</p> <ul style="list-style-type: none"> <li>• Overton;</li> <li>• <i>Shipton ‘Tee’</i>;</li> <li>• <i>Tadcaster ‘Tee’</i>; and</li> <li>• <i>Monk Fryston</i></li> </ul> <p><u>Overton</u>  Negotiations with the Affected Party and their appointed land agent are at an advanced stage in respect of the land acquisition at Overton. All of the land required is in a single ownership, which forms part of a larger field (the remainder of which will still be utilised for agricultural purposes by the Affected Party) and this in turn forms part of a larger holding. As such the overall impact of the land acquisition is likely to be minimal to the Affected Party’s business.</p> <p><u>Shipton ‘Tee’</u>  All of the land which is required on a permanent basis is in single ownership and National Grid has engaged with the Affected Parties (both landlord and Tenant) in relation to the design and siting of the new infrastructure. The Affected Party submitted feedback during consultation and that has been acted upon as far as possible in the final design, which allows the Affected Party to further develop the existing farmstead and increase building their existing farm stead and erect new buildings and silage clamps. As such, National Grid considers that the acquisition of land in this location will have a minimal impact upon the Affected Party.</p>

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			<p><u>Tadcaster ‘Tee’</u>  At Tadcaster there are three affected parties where National Grid will be seeking to acquire freehold land. National Grid is aware of one particular instance where the permanent acquisition of land is being sought from a primarily residential affected party. The affected party made a submission at Relevant Representation stage. National Grid has provided a detailed response to this Relevant Representation RR-013 in <b>Table 2.13 of the Applicant’s Response to Relevant Representations (Document 8.3) [REP1-015]</b>. Extensive negotiations have taken place, and indeed continue to take place with the Affected Party’s land agent. The remaining land acquisitions both affect arable farmland. In one instance National Grid has had a number of discussions with both the landowner and the occupier (tenant) and those negotiations are continuing. The affect is thought to be minimal on the wider holding due to the size of the farming practices.</p> <p>The other Affected Party has continued to engage with National Grid and submitted a Relevant Representation. National Grid has provided a detailed response to this Relevant Representation RR-006 in <b>Table 2.6 of the Applicant’s Response to Relevant Representations (Document 8.3) [REP1-015]</b>. The affect is thought to be minimal on the wider holding due to the size of the farming practices.</p> <p><u>Monk Fryston</u>  National Grid owns the majority of the land which they require for the new substation at Monk Fryston and have negotiated a surrender of the former agricultural tenancy and as such now have vacant possession of the land. The additional areas of land are currently being managed by the executors of the owner following his death. Given this situation National Grid is unable to assess the effect on wider holdings until probate is granted. Negotiations are ongoing with the Executors in</p>

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			<p>respect of the additional areas of land over which compulsory acquisition rights are being sought.</p> <p>Any person affected by the exercise of compulsory purchase powers, or indeed the exercise of temporary possession powers, may be entitled to claim compensation. This entitlement is provided for by the existing compensation code. To ensure that compensation is paid fairly, in the event of any dispute it may be referred to the Upper Tribunal (Lands Chamber) for independent determination.</p>
<p>Document 8.9.1 Applicant's Response to Examining Authority's First Written Questions (ExQ1)</p>	<p>REP2-038</p>	<p>Q4.9.2</p>	<p><b>Question:</b> Whether the purposes of the proposed Compulsory Acquisition justify interfering with the human rights of those with an interest in the land affected. In relation to the Applicant's duties under section 149 of the Equalities Act 2010:</p> <p>a) explain how you have had regard to your public sector equality duty in relation to the powers of CA sought and where this can be identified in the application; and</p> <p>b) have any Affected Persons been identified as having protected characteristics?</p> <p><b>Applicant's Response:</b></p> <p>a) In relation to the submission of the Yorkshire GREEN Development Consent Order application, National Grid is not subject to duties under Section 149 of the Equalities Act 2010, and we consider that this duty sits with the decision maker. The Act requires those who are subject to the duty to have regard to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, and advance equality of opportunity between people who share a protected characteristic and those who do not.</p> <p>Nevertheless, National Grid has had regard to Section 149 of the Equalities Act 2010 in order to assist the decision maker, and this is summarised below:</p>

Document	Examination Reference	Paragraph	Text
			<ul style="list-style-type: none"> <li>As detailed within the <b>Consultation Report (Document 6.1) [APP-195]</b> a Statement of Community Consultation (SoCC) was produced in consultation with the relevant Local Planning Authorities (LPAs). The final SoCC can be found in <b>Appendix B4 of the Consultation Report Appendices (Document 6.2) [APP-196]</b>. As detailed within this document, the approach to consultation sought to be inclusive, fair and responsible. This included a mix of information available online, webinars, in-person consultation events (held at accessible venues close to affected communities), hard copies of materials, and a dedicated phone line. As detailed in Section 6.9 of the Consultation Report, National Grid made information available on the Project website, depositing key consultation material at easily accessible public information points and provision of hard copies of materials on request. Enquiry channels through a dedicated email address, phone line and freepost address were available to the public. Where requested, the Project team also attended face-to-face meetings, particularly with affected landowners and Parish Councils. National Grid was willing to accommodate specific requests to accommodate stakeholders during consultation, for example scribing responses if necessary, or providing information in alternative formats. One request for material to be in a larger font size was made to the Project team (see consultee LO21, <b>Table 7.3 of the Consultation Report (Document 6.1) [APP-195]</b>), and this was accommodated. However this request related to a sole individual, rather than a group with protected characteristics. The consultation approach sought to ensure groups were not inadvertently excluded from consultation, and as such it would also enable National Grid to become aware of any groups with protected characteristics. The consultation approach aligns with National Grid's stakeholder, community and amenity policy, as detailed in <b>Section 3.1.4 of the Consultation Report (Document 6.1) [APP-195]</b>.</li> </ul>

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			<ul style="list-style-type: none"> <li>Section 6.10 of the <b>Consultation Report (Document 6.1) [APP-195]</b> sets out how National Grid engaged with hard-to-reach groups and stakeholders. A list of the hard-to-reach groups identified is detailed in Appendix J of the <b>Consultation Report Appendices (Document 6.2) [APP-196]</b>, and as detailed within Section 6.10 of the Consultation Report, these groups were written to and telephoned prior to consultation commencing, to ensure any specific requirements to enable them to engage could be made from the outset. As part of this process, none of the groups contacted highlighted that specific measures or adaptations would be required to enable them to engage with the Project.</li> <li>Section 6.3 of the <b>Consultation Report (Document 6.1) [APP-195]</b> sets out how Persons with an Interest in Land (PILS) were engaged with consulted under Section 42(1)(d) and Section 44. This includes details of the diligent enquiries undertaken, and the period updates undertaken. The detailed approach to engaging with PILs has sought to ensure PILS were not excluded from being made aware of the Project, or engaging with the Project.</li> <li>Chapter 16 of the <b>Environmental Statement (ES) – Socio economics (Document 5.2.15) [APP-088]</b> provides an overview of the socio-economic ‘Baseline’ (Section 16.4). This does not identify any specific groups with protected characteristics within the study area. This is in part as a result of National Grid’s approach to consenting (detailed in chapter 5 of the <b>Planning Statement (Document 7.1) [APP-202]</b> which seeks to avoid routing close to residential areas. By taking the approach of avoiding residential areas, the chances of impacting any groups (including those with protected characteristics) is minimised. Due to careful routing and siting, the Project has avoided areas where</li> </ul>

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			<p>groups with protected characteristics may be more present, such as schools, hospitals and care homes.</p> <ul style="list-style-type: none"> <li>As detailed at Section 6.10.7 of the Consultation Report, National Grid became aware of a traveller encampment within the Project's Order limits. Table 6.5 of the Consultation Report sets out the engagement undertaken with this community to date. The response to written question <b>Q4.9.4</b> provides ongoing consultation with this community. The traveller encampment is the only group identified with protected characteristics, identified as a stakeholder for the Project.</li> <li>In terms of impacts of the Project on the traveller encampment, the works in this location involve the re-alignment of the existing XC line. An existing pylon located close to the travellers' encampment will be moved westwards. This scope of works proposed are consistent with those proposed along others parts of the route and works are required in this location as the existing pylon XC522 would not be able to accommodate the new twin conductor system required for the Project as it is over utilised and as a result needs replacing. Therefore there is no discrimination in terms of the proposed works in this location, and impacts on the traveller community. The land rights sought in this location relate to oversailing of an overhead line and access, and the approach taken is entirely consistent with that taken across the Project in comparable locations.</li> <li>Although the travellers' encampment does not benefit from planning consent, a precautionary approach has been taken in terms of considering the travellers' encampment as a sensitive receptor in relation to noise, air and health impacts (<b>Document 5.2.14</b>) [APP-086], (<b>Document 5.2.13</b>) [APP-085], (<b>Document 5.2.15</b>) [APP-087] respectively). An ES Addendum has also been</li> </ul>

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			<p>submitted at Deadline 1 to consider visual impacts from the occupiers of the travellers encampment (<b>Document 5.2.20 [REP1-013]</b>). This information was also provided to the site owners, their agent, and the relevant Local Planning Authority and a non-statutory site notice erected at site.</p> <ul style="list-style-type: none"> <li>An up-to-date summary of the engagement undertaken with the travellers can be found in the <b>Summary of actions and engagement in relation to the traveller community (Document 8.13) submitted at Deadline 2</b> (as per response to Q4.9.4 below).</li> </ul> <p>b) The traveller community located on the travellers' encampment near Monk Fryston is the only known affected group with protected characteristics, affected by the Project. The above information details how this group have been taken into account.</p>
<p>Document 8.9.1 Applicant's Response to Examining Authority's First Written Questions (ExQ1)</p>	<p>REP2-038</p>	<p>Q4.9.3</p>	<p><b>Question:</b> The European Convention on Human rights (the Convention) applied within UK domestic law by the Human Rights Act 1998 The SoR, states that in pursuing the dDCO, the Applicant has weighed the potential infringement of the Convention rights in consequence of the inclusion of compulsory powers within the dDCO and concluded that the significant public benefits outweigh the effects of the dDCO upon persons who own property in the Order limits such that there would not be a disproportionate interference with <b>Article 8 and Article 1 First Protocol rights [APP-069]</b>, para 8.1.7 to 8.1.10.</p> <p>Explain more precisely the factors which have been placed in the balance (including references to any paragraphs of the relevant National Policy Statements (NPS) and Government Guidance), the weight attributed to those factors and how this exercise has been undertaken.</p> <p><b>Applicant's Response:</b></p>

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			<p>The process to develop new network infrastructure has many stages where the impact of development is considered. The consideration of project impacts, the presence or absence of a compelling case in the public interest, and the consequences of the exercise of powers of compulsory acquisition are part of various processes throughout the Project development cycle. In answer to the question there is, therefore, no single ‘exercise’ to which the Examining Authority (ExA) can be directed because the considerations form part of National Grid’s iterative Project development process. Please note National Grid has also addressed the Public benefit and private loss assessment in response to <b>Q.4.4.2</b> above.</p> <p>Statutory duties imposed on a Transmission Operator by the Electricity Act 1989, and the Licence Conditions applied by Ofgem, ensure that the need for the project, and balancing of public benefit versus private loss remain live considerations from the outset of a project and major development stages throughout the life of any project. Projects are designed to comply with statutory duties and Licence obligations.</p> <p>This work is recorded through the iterative Project development process in documents such as:</p> <ul style="list-style-type: none"> <li>• Need Case as detailed in <b>Updated Need Case (Document 7.4) [APP-205]</b>;</li> <li>• Strategic Options and related documents as detailed in the following documents:</li> <li>• <b>Strategic Proposal 2019 (Document 7.5) [APP-206]</b></li> <li>• <b>Strategic Proposal Back Check and Review 2020 (Document 7.6) [APP-207]</b></li> <li>• <b>Strategic Proposal Addendum 2021 (Document 7.7) [ APP-208]</b></li> <li>• <b>Corridor and Preliminary Routing and Siting Study (CPRSS) (Document 7.8) [APP-209]</b></li> </ul>



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			<p>Policy also requires these matters to be considered in the design and routing of any proposed project. National Policy Statement (NPS) for Electricity Networks Infrastructure EN -5 refers to the long established Holford Rules in paragraphs 2.9.16 - 2.1.17 and states that:-</p> <p>“...they should be embodied in the applicants’ proposals for new overhead lines...”.</p> <p>Holford Rule 7 guides new lines to routes where the impact on development is minimised as far as possible. It also requires alignment to be chosen only after consideration of the effects on the amenity of existing development and on proposals for new development. This policy guidance is considered at each of the iterative project development stages. The Horlock Rules which set out the approach to substation siting and design in the context of National Grid’s duties under Schedule 9 of the Electricity Act 1989, including Horlock Rule 3 also guides that areas of local amenity value should be protected as far as reasonably practicable. National Grid attaches significant weight to both NPS EN - 5 and the Holford Rules and Horlock Rules in the development of and selection of corridors for new overhead line infrastructure and substation sites, the identification of a preliminary route swathe within a preferred corridor and in the design of the defined proposal and alignment and siting of infrastructure. It is known that Holford Rule 7 encourages network development away from residential buildings and gardens, and as a consequence also drives compliance with Article 8.</p> <p>Further details can be seen in the <b>Planning Statement (Document 7.1) [APP-202]</b> and <b>Design and Access Statement (Document 7.2) [APP-203]</b> submitted as part of the application. Policy, and custom &amp; practice also work together to shape the rights that National Grid seeks to deliver infrastructure. The vast majority of the assets forming part of the</p>

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			<p>electricity network are secured via the lowest level of intervention with the landowner concerned. The vast majority of the network is secured via rights in the form of wayleaves and easements, rather than by ownership. Freeholds are only sought where absolutely necessary.</p> <p>This approach is now driven by policy in the form of NPS EN-5, and custom and practice where Development Consent Orders are not involved. Draft NPS EN-5 which is being consulted on at present confirms that this approach should continue in paragraph 2.6.4, with the only change being a strong preference for permanent rights (easements) over voluntary and terminable rights (wayleaves) because:-</p> <p>“...of their greater reliability and economic efficiency and reflecting the importance of the relevant infrastructure to the nation’s net zero goals”.</p> <p>It is known that policy, and custom and practice, drives compliance with Article 1. National Grid attaches significant weight to NPS EN - 5 and notes the emerging importance of draft NPS EN-5.</p> <p>Guidance - as noted in the <b>Statement of Reasons (Document 4.1) [APP-069]</b> National Grid has also had regard to the Guidance related to procedures for compulsory acquisition of land (first referenced at para 1.1.2). At paragraph 6.17 of the Statement of Reasons the Applicant has referenced paragraphs 8 to 22 of the Guidance which include alternatives to compulsory acquisition. The principles set out above have influenced the location of the interests to be acquired and the need to minimise the impact and number of landowners affected. The need and requirements for each plot was considered as part of the design and the detail of what is required first set out at the Application stage in Appendix A of the Statement of Reasons. National Grid places significant weight on the Guidance which has informed the approach to acquisition. National Grid’s preference as noted in the Statement of Reasons (paragraph 5.8.1) is to acquire by negotiation and agreement.</p>

Document	Examination Reference	Paragraph	Text
			This is reflective of the Guidance – see for example paragraph 25. As noted above National Grid has also addressed the Public benefit and private loss assessment including in respect of where freehold rights are sought in response to written question 4.4.2 above.
Document 4.1 Statement of Reasons	APP-069	Section 1.8	<p>1.8.1 The CA Guidance states that the Secretary of State must be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected (paragraph 10).</p> <p>1.8.2 In preparing the DCO, the Applicant has had regard to the European Convention on Human Rights (the Convention) and the Human Rights Act 1998. Chapter 6 of this Statement considers how the Project complies with the Convention and with this legislation, notwithstanding any infringement of the private rights of those whose interests in the land may be affected by the exercise of powers of compulsory acquisition in connection with the Project.</p>
Document 4.1 Statement of Reasons	APP-069	Section 1.10.6	1.10.6 It (this statement) explains why the use of powers of compulsory acquisition in these circumstances is legitimate and proportionate, and why any interference with the human rights of those with interests in the land proposed to be acquired is justified.
Document 4.1 Statement of Reasons	APP-069	Section 6.1.7	<p>Paragraphs 8 to 22 of the CA Guidance provide a number of general considerations that applicants should demonstrate to the satisfaction of the decision maker:</p> <ul style="list-style-type: none"> <li>• All reasonable alternatives to compulsory acquisition (including modifications to the Project) have been explored (paragraph 8).</li> <li>• The development is of legitimate purpose, necessary and proportionate (paragraph 8).</li> <li>• How the land which is to be subject to compulsory acquisition powers is intended to be used and that there is no doubt as to the</li> </ul>

Document	Examination Reference	Paragraph	Text
			<p>particular purposes for which any land is to be compulsorily acquired (paragraph 9).</p> <ul style="list-style-type: none"> <li>• There is a reasonable prospect of the requisite funds becoming available (paragraph 9).</li> <li>• There is justification for interfering with the human rights of those with an interest in the land affected (paragraph 10).</li> <li>• There is a compelling case for the compulsory acquisition (paragraph 12).</li> <li>• The public benefit will outweigh the private loss and (paragraph 12).</li> <li>• Any risks or impediment to the scheme have been properly managed (paragraph 19).</li> </ul>
Document 4.1 Statement of Reasons	APP-069	Section 8.1	<p>8.1.1 The European Convention on Human rights (the Convention) was applied within UK domestic law by the Human Rights Act 1998.</p> <p>8.1.2 The CA Guidance states that the Secretary of State must be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected (paragraph 10).</p> <p>8.1.3 The articles of the Convention that are particularly relevant in determining whether the DCO for the Project should be made which includes powers of compulsory acquisition are Article 1 of the First Protocol to the Convention, Article 6 and Article 8.</p> <p>8.1.4 Article 1 of the First Protocol to the Convention protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws and principles.</p>

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			<p>8.1.5 Article 6 entitles those affected by powers sought for the Project to a fair, public hearing.</p> <p>8.1.6 Article 8 protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety, or the economic well-being of the country.</p> <p>8.1.7 National Grid has carefully considered the human rights relevant to this Project prior to making the Application and for the reasons summarised below has concluded that proposed interference with those rights would be in accordance with law, proportionate and justified in the public interest.</p> <p>8.1.8 The DCO for the Project has the potential to infringe the human rights of persons who hold interests in the Order Land. Such infringement can be authorised by law provided the appropriate statutory procedures for making the DCO are followed and a compelling case in the public interest is made for the compulsory acquisition and the interference with the convention right is proportionate. On the basis of decisions of the courts, the test of proportionality is satisfied if the DCO strikes a fair balance between the public benefit sought and the interference with the rights in question.</p> <p>8.1.9 The Applicant has weighed the potential infringement of convention rights in consequence of the inclusion of compulsory powers within the DCO with the potential public benefits if the DCO is made.</p> <p>8.1.10 The Applicant has concluded that the significant public benefits outweigh the effects of the DCO upon persons who own property in the Order limits such that there would not be a disproportionate interference with their Article 8 and Article 1 First Protocol rights.</p>

Document	Examination Reference	Paragraph	Text
			<p>8.1.11 The need for the Project that will be brought about by the proposed development is well established and is of national importance, particularly in respect of meeting electricity demands and net zero targets, as detailed in the Updated Need Case (Volume 7, Document 7.4) and Planning Statement (Volume 7, Document 7.1), Second, those affected by the exercise of compulsory acquisition or temporary use powers will be entitled to compensation and the Applicant has the resources to provide such compensation.</p> <p>8.1.12 As for Article 6, third parties have been able to make representations on the application for development consent while it is being prepared. In accordance with Part 5 of the Act, the Applicant consulted persons set out in the categories contained in section 44 of the Act. This included the known owners and occupiers of land within the Order limits and those who might be able to make claims either under section 10 of the Compulsory Purchase Act 1965 in respect of injurious affection, or under Part 1 of the Land Compensation Act 1973. The beneficiaries of restrictive covenants and other rights that would be overridden by the exercise of powers in the DCO would be capable of making claims under section 10 of the Compulsory Purchase Act 1965.</p> <p>8.1.13 Furthermore, representations can be made by way of objections to the application in response to any notice given under section 56 of the Act ('Notifying persons of accepted application'). The Act provides for a detailed examination of any application for development consent by an independent Examining Authority. The Examination includes careful scrutiny of any powers of compulsory acquisition or other compulsory powers, to ensure that they are justified and proportionate. Although the Examination is a process mainly conducted in writing, where the Examining Authority receives one or more requests for a compulsory acquisition hearing from affected persons within the date specified, it must cause a hearing to be held. All affected persons are invited to</p>

Document	Examination Reference	Paragraph	Text
			<p>these compulsory acquisition hearings and have the opportunity to make oral representations about the compulsory acquisition requests.</p> <p>8.1.14 Should the DCO be made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out. In relation to disputes about compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), an independent tribunal.</p> <p>8.1.15 For the above reasons, the Applicant considers that the inclusion of powers of compulsory acquisition in the DCO would not constitute any unlawful interference with Convention Rights and further that it would be appropriate and proportionate to make the DCO for the Project, including the grant of powers of compulsory acquisition.</p>
Document 8.9.2 Applicant's Response to Examining Authority's First Written Questions (EXQ1) Appendices	REP2-039		Please refer to <b>Appendix H response to Q4.4.2</b> in this document as there is a large volume of relevant text which was considered not to be appropriate to copy here.

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