



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

## **Yorkshire Green Energy Enablement Project**

Examining Authority's Report  
of Findings and Conclusions

and

Recommendation to the Secretary of State for  
Energy Security and Net Zero

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### Examining Authority

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14 December 2023

# OVERVIEW

File Ref: EN020024

The application, dated 10 November 2022, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 15 November 2022.

The Applicant is National Grid Electricity Transmission (NGET) plc.

The application was accepted for Examination on 8 December 2022.

The Examination of the application began on 22 March 2023 and was completed on 15 September 2023.

The development proposed comprises a new substation at Overton (Overton Substation), cable sealing end compounds (CSECs) and new overhead lines connecting into Overton Substation (including a 2.8km 400kV overhead line and two 275kV overhead lines 1.5 – 2.1km in length). Also included is the removal of existing 275kV overhead line, realignment and refurbishment of existing overhead line within the areas north-west of York, Poppleton, Tadcaster and Monk Fryston. Two new CSECs are proposed at Tadcaster, along with a new substation at Monk Fryston and realignment of 275kV and 400kV overhead lines in this location, together with other associated works at the existing Osbaldwick Substation.

## **Summary of Recommendation:**

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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The Planning  
Inspectorate

**ERRATA SHEET – Yorkshire Green Energy Enablement Project - File  
Ref: EN020024**

**Examining authority’s Report of Findings and Conclusions and  
Recommendation to the Secretary of State for the Department of  
Energy Security & Net Zero dated 14 December 2023**

**Corrections agreed by the Examining Authority prior to a decision  
being made**

<b>ePage No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>
190	6.6.119	“We accept the Applicant’s explanation that a landing gantry solution for the CSEC would not be physically possible because of proximity to pylon XD001.”	Given the ExA’s consideration of the landing gantry as the more suitable design for the eastern CSEC at Tadcaster, the sentence should read “We accept the Applicant’s explanation that <i>an anchor block</i> solution would not be...”

# **1. INTRODUCTION**

## **1.1. BACKGROUND TO THE EXAMINATION**

- 1.1.1. This Recommendation sets out the Examining Authority's (ExA) findings, conclusions and recommendations to the Secretary of State for Energy Security and Net Zero (the SoS) in relation to the application by National Grid Electricity Transmission plc (the Applicant) for an Order granting development consent for the Yorkshire Green Energy Enablement Project (Yorkshire GREEN) (the Proposed Development).

## **1.2. APPOINTMENT OF THE EXAMINING AUTHORITY**

- 1.2.1. On 13 December 2022, Jessica Powis, John Anderson and Annie Coombs were appointed as the ExA for the application under s61 and s65 of the Planning Act 2008 as amended (PA2008) [PD-004]. On 16 March 2023, Gavin Jones was appointed as a replacement member of the ExA, following the resignation of John Anderson [PD-006].

## **1.3. THE APPLICATION**

### **Application for Determination under PA2008**

- 1.3.1. The Yorkshire GREEN application [APP-001] to [APP-211] was submitted by the Applicant to the Planning Inspectorate (the Inspectorate) on 15 November 2022, under section 31 of PA2008. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State for Levelling Up, Housing and Communities in its decision to accept the application for examination in accordance with s55 of PA2008 on 8 December 2022 [PD-001].
- 1.3.2. On this basis, the Inspectorate agreed with the Applicant's view that the Proposed Development is an NSIP because it comprises new overhead electricity connections, in England, of more than 2 kilometres (km) in length, with an operating voltage above 132 kilovolts (kV) as set out in the Application Form [APP-002]. It is therefore within s16 of PA2008, and so requires development consent in accordance with s31 of PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(b) of PA2008.

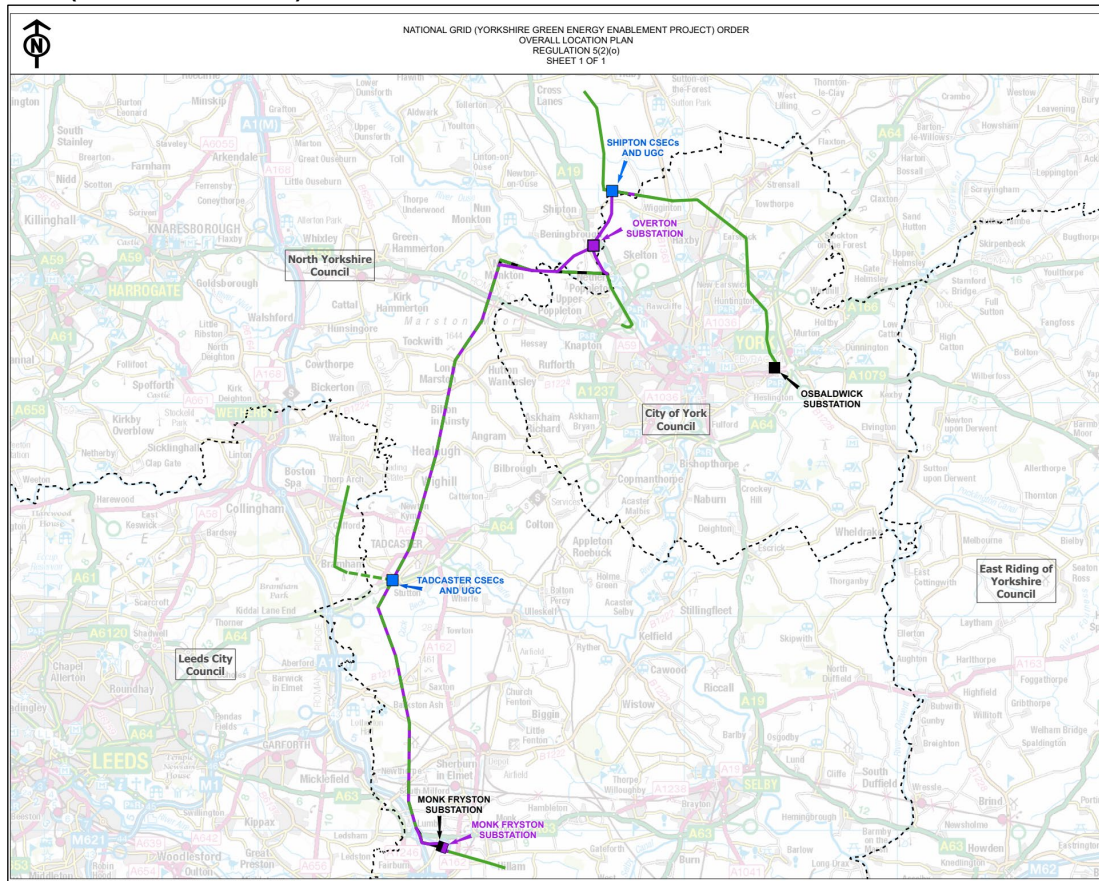
### **Proposed Development, Site and Setting**

- 1.3.3. The Applicant states that the high-level objective of the Yorkshire GREEN project is to upgrade and reinforce the 275kV and 400kV high-voltage power network because the existing electricity transmission network was not designed to transfer the current and increasing volume of generation capacity securely from the north to major centres of electricity demand in central and southern England. Growth in offshore wind generation and interconnectors to Europe has resulted in a significant number of connections planned in Scotland and coastal areas of the north of England, such that the network will require urgent, significant reinforcement in the Yorkshire area to provide capacity for these connections [APP-074], Section 2.4. The capacity and rating of the existing overhead lines need to be increased to allow more power to be transferred [REP1-017], page 3.
- 1.3.4. The Proposed Development would be sited within Yorkshire. The most northerly components would be approximately 1.5km north-east of the village of Shipton,

approximately 10km north-west of York city centre, and the most southerly components would be at Monk Fyston Substation, located to the east of the A1(M) and immediately south of the A63. The majority of the land-use over which the Proposed Development would take place is agricultural. Other major features include the River Ouse, the East Coast Mainline Railway, parts of the strategic road network; the A1(M) and the A19, and other main roads including the A63, A64 and A659 and the National Cycle Network route 65.

1.3.5. The location of the proposed linear site lies within the administrative areas of the City of York Council (CYC), Leeds City Council (LCC) and North Yorkshire Council (NYC) and is wholly in England. After acceptance of the Application, under Local Government Reorganisation on 1 April 2023, Hambleton District Council, Harrogate Borough Council, North Yorkshire County Council and Selby District Council ceased to exist and were replaced by NYC. Local Government arrangements in CYC and LCC were unaffected.

**Figure 1.3.1: Location of the Proposed Development, extract from Overall Location Plan (source REP7-002)**



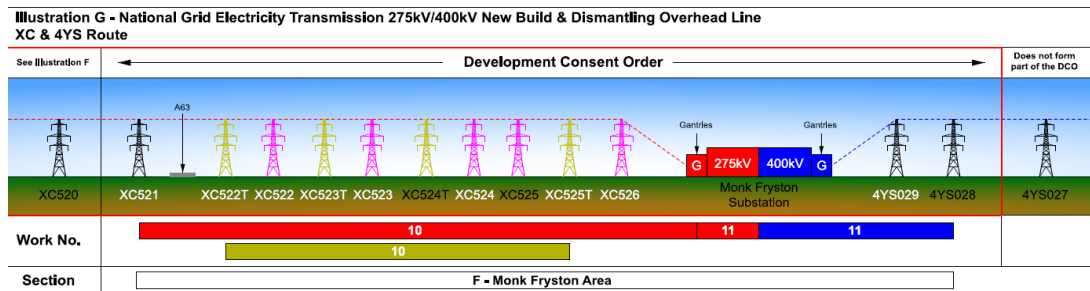
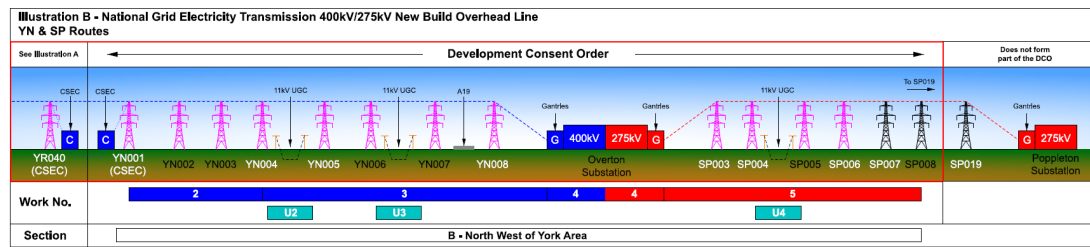
**LEGEND**

- LOCAL AUTHORITY BOUNDARY
- EXISTING OVERHEAD LINE - NOT AFFECTED
- EXISTING OVERHEAD LINE - TO BE MODIFIED
- EXISTING OVERHEAD LINE - TO BE RECONDUCTORED
- EXISTING OVERHEAD LINE - TO BE DISMANTLED
- INDICATIVE NEW OVERHEAD LINE
- EXISTING SUBSTATION
- INDICATIVE NEW SUBSTATION
- INDICATIVE NEW CABLE SEALING END COMPOUNDS (CSECs) AND UNDERGROUND CABLE (UGC)



- 1.3.6. The landscape setting of the northern sections of the Proposed Development's Order limits is largely open and flat on low-lying land crossed by the River Ouse corridor. The Tadcaster and Monk Fryston sections comprise a more undulating landscape where land rises most notably to the south-west of the Order limits at Tadcaster and to the north-west at Monk Fryston, reflecting the underlying limestone geology, distinct from the river floodplain landscape and gentle valley sides elsewhere. At Monk Fryston itself and southwards, the setting comprises a flat, low-lying and large-scale, agricultural landscape [APP-078].
- 1.3.7. The Proposed Development would deliver new electricity infrastructure as well as works to existing overhead lines and substations, and the dismantling of some existing overhead lines. It would also comprise temporary diversions, temporary bridges and culverts to allow for new infrastructure to be installed, and temporary construction compounds. Diversion of several third-party utilities would be needed and in the case of lower voltage overhead lines, they would be placed underground [APP-075], Section 3.6.32 to 3.6.34.
- 1.3.8. The Applicant divides the proposed works into six sections, Sections A to F for the purpose of describing the Proposed Development and its environs [APP-075]. These are shown on the Project Component Plans [APP-162] and précised in the Design and Access Statement [APP-203]. Annex B1 of this Recommendation describes the six geographic sections and provides references for each section of the final submitted Works Plan and Land Plan.
- 1.3.9. Descriptions of the components of the Proposed Development section-by-section, together with the exemplar illustrations are provided in the Environmental Statement (ES) Chapter 3: Description of the Project [APP-075] and in the Non-Technical Summary [APP-072]. In the Applicant's final draft Development Consent Order (dDCO) [REP8-004], Schedule 1 and in Annex B1 of this Recommendation, full details of the Proposed Development are described in terms of its section location and as a series of:
- overhead electrical line and substation works (Work No. 1 to Work No. 11);
  - undergrounding works (Work No. U1 to Work No. U13);
  - such associated development deemed necessary or expedient in connection with the aforementioned Work Nos; and
  - other associated development.
- 1.3.10. The numbering of the undergrounding works changed between the application dDCO [APP-066] and the Applicant's final dDCO [REP8-004] because two sections of undergrounding were deleted. This is explained further below in the sub-section on changes and in Annexes B3 and B4.
- 1.3.11. A cross-section diagram requested by the ExA in its Rule 6 letter [PD-005], Procedural Decision 6a, brings together information diagrammatically to aid comprehension of the Proposed Development and its constituent parts, to show the relationship of Sections, Work Nos, the different overhead line and substation voltages and pylon numbers [REP1-044]. An extract is shown below (Figure 1.3.2).

**Figure 1.3.2: Extracts from Applicant’s Cross-section Illustration of the Proposed Development (source [REP1-044])**



**Legend**

- 400kV Work Number
- 275kV Work Number
- Dismantling & Removal Work Number
- Utility Work Number
- Extract of DCO
- 400kV Overhead Line
- 400kV Underground Cable
- 275kV Overhead Line
- 275kV Underground Cable
- Proposed Pylon
- Existing Pylon
- Existing Pylon to be Dismantled
- Third-Party Asset to be Undergrounded

1.3.12. Further explanation of the terms used to describe the works, particularly relating to reconductoring, overhead line modification, and realignment were provided by the Applicant at Issue Specific Hearing 1 (ISH1) [EV-003b] and [REP1-017], Table 2.1, pages 2 to 3. An annotated table listing indicative (subject to limits of deviation (LoD)) lengths of different works to overhead lines and numbers of pylons affected was provided in response to ExQ1 1.0.1, [REP2-038], pages 2 to 7.

1.3.13. There were three areas about which the ExA sought additional explanations at ISH1 [EV-003b] and [REP1-017], Tables 2.2 to 2.4, pages 5 to 11. Two of these; namely Work No. 8 at the site for the Tadcaster East and West Cable Sealing End Compounds (CSEC) and Work No. 10 south west of Lumby on and close to land occupied by a traveller community, were areas that were explored further through written questions and at hearings. They are described in more detail in this Recommendation in various topic sections in Chapter 3 and in Chapter 6 covering land rights and related matters.

**Relevant Planning History**

1.3.14. The Applicant has not identified any specific planning history of relevance to the application.

1.3.15. In its Local Impact Report (LIR), LCC identifies the application made by National Grid Electricity Transmission plc on 3 February 2006 for the diversion of part and construction of a new 275kV overhead electricity line carried on towers near to Warren Lane, Bramham (Leeds City Council reference 06/00769/N1490). That

application was granted consent under section 37 of the Electricity Act 1989 and deemed planning permission pursuant to section 90(2) of the Town and Country Planning Act 1990 by the then Department of Energy and Climate Change. It included consent for the construction of the now existing XD 275kV overhead line that runs west from pylon XC481 near the A64 to the Bramham Substation. Part of the XD 275kV overhead line consented by the 2006 application is proposed to be modified by the present application for development consent [REP6-012].

1.3.16. During the Examination, information was submitted to confirm the planning status of the existing Travellers' Site at the junction of the A1(M) and the A63. Part of the Site falls within the Order limits for the Proposed Development, as shown on the Applicant's composite plan [REP2-039], Appendix A. In its response to our first written questions, NYC explained [REP2-083] that the current use of the site by members of the traveller community is unauthorised and is subject to an Enforcement Notice dated 4 August 2021 [REP2-129]. That Enforcement Notice was appealed and upheld in an Inspector's decision dated 15 December 2022, with a compliance period of 12 months from that decision. NYC stated that it would consider taking formal enforcement action after the expiry of that compliance period [REP2-083].

1.3.17. No other relevant planning history is identified in the LIRs from CYC [REP1-047] or NYC [REP1-056], or in the submissions of other Interested Parties (IPs).

### **Related Projects**

1.3.18. In addition to needing increased capacity to allow more power to be transferred, the Applicant explains in its updated Need Case [APP-205] that three contracted customers have connection offers which are reliant on reinforcement of the network. The Applicant confirmed the status of these projects in response to an action from ISH4 [REP6-062], action no. 38:

- Continental Link: a 1.8GW Interconnector between England and Norway to connect in the Creyke Beck Substation, close to Hull. Status: listed on the Planning Inspectorate National Infrastructure Planning website as an application expected to be submitted in Q2 2025 with a connection date of 2027;
- The Atlantic Superconnection: a 1GW Interconnector from Iceland expected to connect in the Creyke Beck Substation, close to Hull. Status: the National Grid Electricity System Operator Connection Register Portal lists the project status as at 'Scoping' with a connection date of 2027; and
- Hornsea Offshore Project 4: a two phased connection application for 2.6GW (1.5GW in 2027 and 1.1GW in 2028) of offshore wind generation with an offer to connect in the North-East in April 2027 and October 2028 for each phase respectively. Status: development consent was granted on 12 July 2023.

1.3.19. Plans and projects which have the potential to give rise to cumulative effects with the Proposed Development are set out in the Applicant's ES Chapter 18 [APP-090], supplemented by the ES Addendum [REP7-005] and Errata [REP7-003] documents. Where such projects are relevant to the case for development consent, they are reported in Section 3.15 (Chapter 3) of this Recommendation.

### **Examination Library and Applicant's Guide**

1.3.20. All documents relevant to the Examination of the application can be found in the Yorkshire GREEN [Examination Library](#) (EL) which can be found at Annex F of this Recommendation. Each document has a unique reference number which is used throughout this Recommendation, to allow the reader to access the source.

- 1.3.21. The Applicant provided an updated Navigation Document and Application Guide at each deadline throughout the Examination, listing all of its application and Examination submission documents, with revisions [REP8-002].

## **1.4. THE EXAMINATION**

### **Summary of Events in the Examination**

- 1.4.1. The Preliminary Meeting (PM) took place on 22 March 2023 [EV-002c] and the Examination closed on 15 September 2023 [PD-018]; a week short of the statutory six-month deadline. Prior to that the Relevant Representation (RR) period had run from 5 January 2023 to 13 February 2023. One Affected Person was notified under s56 of PA2008 on 17 January 2023 due to a change in address and given a later deadline of 16 February 2023 for receipt of any Relevant Representations [AS-002] [OD-003].
- 1.4.2. The Examination Timetable identified dates for hearings and set deadlines for receipt of written material. Events, including all deadlines, which took place during the Examination can be found in the ExA's Rule 8 letter [PD-008], Annex A and on the Planning Inspectorate website: <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN020024/examination-timetable>.
- 1.4.3. The ExA issued written questions in the following forms:
- First Written Questions, ExQ1 [PD-007];
  - Further Written Questions, ExQ2 [PD-011];
  - Commentary and questions on the dDCO [PD-015];
  - The ExA's Report on the Implications for European Sites (RIES) [PD-016];
  - Rule 17 letter to Stephenson's Rural LLP [PD-014]; and
  - Rule 17 letter to the Applicant [PD-017].
- 1.4.4. Four Issue Specific Hearings (ISH) were held: ISH1 [EV-003], ISH2 [EV-005], ISH3 [EV-006] and ISH4 [EV-009]. Two Compulsory Acquisition Hearings (CAH) were held: CAH1 [EV-007] and CAH2 [EV-008]. One Open Floor Hearing (OFH) was held: OFH1 [EV-004]. The ExA undertook a two-day Unaccompanied Site Inspection (USI) in February 2023 [EV-001] and an Accompanied Site Inspection (ASI) on 23 May 2023 [EV-001b].
- 1.4.5. Procedural Decisions taken by the ExA are recorded in the EL [PD-001] to [PD-018]. They detail the ExA's decisions relating to the procedure of the Examination.

### **Statements of Common Ground**

- 1.4.6. In its Rule 6 letter [PD-005] Annex F, the ExA requested the submission of Statements of Common Ground (SoCG) between the Applicant and various IPs. The Applicant's final Statement of Commonality [REP8-015] Table 3.1 summarises the status of agreement on SoCGs at the end of the Examination.
- 1.4.7. Annex B2 of this Recommendation provides EL references for the final submitted SoCGs.

## **1.5. CHANGES TO THE APPLICATION**

### **Background to the Proposed Changes**

- 1.5.1. On 19 June 2023, the Applicant gave notice of its intention to submit a request for up to four proposed changes to the Yorkshire GREEN application [AS-020]. On 22 June 2023, the ExA used its discretion to accept the change notification letter and responded with advice about the procedural implications of the proposed change requests [PD-012]. The ExA subsequently accepted a further letter of clarification from the Applicant dated 26 June 2023 [AS-021].
- 1.5.2. The Applicant's Change Application, submitted on 11 July 2023, contained three proposed changes to the application [REP5-090] to [REP5-096]. Details of the changes and Change Application documents are provided in Annexes B3 and B4 to this Recommendation. The three changes relate to the following elements of the Proposed Development:
- Change 1: Shipton North CSEC reduction in LoD (within Work No.2);
  - Change 2: New Farm/ Skelton Springs Cottages access (within Work No.5, including removal of Work No. U4); and
  - Change 3: Shipton CSEC access (within Work No.2).
- 1.5.3. A fourth potential change request that had been included in the change notification letter (relating to the potential reorientation of the Tadcaster West CSEC) was not applied for in the Change Application.

### **The ExA's Consideration of the Change Application**

- 1.5.4. The ExA considered the Change Application documents in light of its duties under the relevant Guidance (The Planning Act 2008: Guidance for the examination of applications for development consent (former Department for Communities and Local Government), March 2013, para 109-115) and the Planning Inspectorate's Advice Note 16.
- 1.5.5. Our consideration of the Change Application is set out in our letter dated 13 July 2023 [PD-013]. The Change Application confirmed that all of the land required in relation to each change would fall within the existing Order limits and Order land. Whilst there would be changes to the nature of certain land rights to be compulsorily acquired (as set out in Annex B4 of this Recommendation), all of the proposed changes related to land already proposed for compulsory acquisition and there would in some cases be a reduction in the land required. On this basis, the ExA was satisfied that The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the CA Regulations) were not engaged.
- 1.5.6. Furthermore, based on the submitted material, there was no indication that the proposed changes would result in any new or different likely significant environmental effects to those originally assessed. Having regard to the above considerations, the ExA was satisfied that the proposed changes, whether considered individually or taken together, would not be so substantial as to amount to a materially different project from that which was applied for.
- 1.5.7. The ExA considered that the changes were capable of being examined within the remaining statutory examination timescale and that there was sufficient time available for Interested Parties to digest, understand and comment upon them. For these reasons, the ExA decided to accept all three of the proposed changes for Examination.

- 1.5.8. In order to afford all IPs a fair and reasonable opportunity to consider and comment upon the Applicant's Change Application, the ExA made some amendments to the Examination Timetable [PD-013], Annex A. The Examination proceeded in consideration of the changed application.

### **Changes to Works Numbering in the Order**

- 1.5.9. Change 2 included removal of Work No. U4 (the undergrounding of a low voltage overhead electrical line) from the dDCO, because it was no longer required to facilitate the Proposed Development. Another proposed undergrounding of an overhead electrical line, Work No. U8, was removed from the dDCO during the Examination because it had already been carried out by others. The effect on numbering of the Works between earlier versions of the draft DCO and the Applicant's final dDCO can be seen in Annex B1. The Works numbers used in this Recommendation reflect those used in the Applicant's final draft DCO [REP8-004].

## **1.6. OTHER CONSENTS AND UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

### **Consents**

- 1.6.1. The application and submissions during the Examination identify consents which the Applicant has obtained or that the undertaker would need to obtain in addition to the Order. These fall into two categories:
- those sought as part of the DCO process [REP7-016], section 1.2; and
  - those for which approvals would be sought post-consent, which are listed in the Applicant's updated Details of Consents and Other Licences [REP7-016], Table 2.1.

- 1.6.2. These matters are considered further in Chapter 7 of this Recommendation.

### **Undertakings, Obligations and Agreements**

- 1.6.3. At the end of the Examination, the Applicant updated its planning obligations and commercial side agreements tracking list [REP8-021]. Table 2.1 of that document provides a list of commercial side agreements which have either been agreed or are under preparation between the Applicant and other parties, identifying the subject matter and status at the close of the Examination.

- 1.6.4. Table 3.2 of [REP8-021] presents a summary of planning obligations progressed under the Town and Country Planning Act 1990. Before the Examination closed, a Section 106 (s106) Agreement to secure those obligations was completed between the Applicant, CYC, LCC and NYC [REP7-032]. The s106 Agreement covers two principal areas:

- measures to secure project commitments to the achievement of 10% Biodiversity Net Gain; and
- a Service Level Agreement to support the Councils in managing the process and costs associated with the discharge of DCO Requirements and other consents pursuant to the Articles of the Order.

- 1.6.5. These matters are considered further in the subsequent chapters of this Recommendation.

## **1.7. STRUCTURE OF THIS RECOMMENDATION**

1.7.1. The main chapters of this Recommendation are structured as follows:

- This Chapter 1 introduces the application, the Applicant and the Examination.
- Chapter 2 provides an overview of key considerations governing the determination of the application.
- Chapter 3 considers the need case, and sets out the ExA's findings and conclusions in relation to the planning issues on a topic-by-topic basis.
- Chapter 4 is a summary of the Habitats Regulations Assessment (HRA).
- Chapter 5 sets out the case for the making of a DCO in light of the balance of planning considerations arising from Chapters 3 and 4.
- Chapter 6 covers land rights and related matters.
- Chapter 7 reports on the implications of matters arising in preceding Chapters for the Development Consent Order (DCO) and other consents.
- Chapter 8 is a summary of conclusions and recommendations.

1.7.2. These chapters are supported by several annexes which are listed on the Contents pages.

## **2. DETERMINING THE APPLICATION**

### **2.1. INTRODUCTION**

2.1.1. This Chapter identifies the key legislation and policy relevant to the consideration of the application.

2.1.2. In Annex C of its Rule 6 letter [PD-005], the Examining Authority (ExA) set out its Initial Assessment of Principal Issues as required under section 88(1) of the Planning Act 2008 (PA2008). In making its Recommendation the ExA has taken into account all written and oral submissions that have been received during the course of the Examination.

### **2.2. LEGISLATION AND POLICY**

#### **Key legislation**

##### **Planning Act 2008**

2.2.1. PA2008 provides the basis for decision-making in relation to applications for Nationally Significant Infrastructure Projects (NSIP). National Policy Statements (NPS) EN-1 and EN-5 have effect in relation to development of the description to which the application relates and therefore the Proposed Development is to be considered under s104 of PA2008.

2.2.2. S104(2) of PA2008 sets out the matters to which the Secretary of State (SoS) must have regard in deciding the application:

- any national policy statement which has effect in relation to development of the description to which the application relates;
- the appropriate marine policy documents (if any), determined in accordance with section 59 of the Marine and Coastal Access Act 2009;
- any local impact report (within the meaning given by section 60(3)) submitted to the SoS before the deadline specified in a notice under section 60(2) of PA2008;
- any matters prescribed in relation to development of the description to which the application relates; and
- any other matters which the SoS thinks are both important and relevant to the SoS's decision.

2.2.3. S104(3) of PA2008 requires the SoS to decide the application in accordance with any relevant NPS, except to the extent that one or more of the exceptions in subsections (4) to (8) applies. The exceptions are that the SoS is satisfied that:

- deciding the application in accordance with any relevant NPS would lead to the United Kingdom being in breach of any of its international obligations;
- deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on the SoS by or under any enactment;
- deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment;
- the adverse impact of the proposed development would outweigh its benefits; or
- any condition prescribed for deciding an application otherwise than in accordance with a national policy statement is met.

2.2.4. This Recommendation sets out the ExA's findings taking these matters into account and applying the approach set out in s104 of PA2008.



### **Equality Act 2010**

- 2.2.5. The Equality Act 2010 established a duty (the Public Sector Equality Duty (PSED)) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not.

### **Human Rights Act 1998**

- 2.2.6. The compulsory acquisition of land and rights can engage various Articles under the Human Rights Act 1998. This has been considered throughout the Examination and the implications of this for persons with an interest in the land are considered in Chapter 6 of this Recommendation.

### **Climate Change Act 2008 (as amended)**

- 2.2.7. The Climate Change Act 2008, as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019, established a legally binding framework to tackle the dangers of climate change. It sets statutory climate change projections and includes the setting of legally binding targets for greenhouse gas emission reductions in the United Kingdom of at least 100% by 2050 (Net Zero).
- 2.2.8. The Act also created the Committee on Climate Change which has responsibility for setting five-year Carbon Budgets covering successive periods of emissions reduction to 2050.
- 2.2.9. PA2008 requires the Secretary of State to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS. The ExA has had regard to these objectives throughout this Recommendation.
- 2.2.10. A summary list of other legislation relevant to the Proposed Development is set out in Annex B5 of this Recommendation.

### **National Policy Statements**

- 2.2.11. The National Policy Statements (NPSs) which are relevant in this case are:
- Overarching National Policy Statement for Energy (July 2011) (NPS EN-1); and
  - National Policy Statement for Electricity Networks Infrastructure (July 2011) (NPS EN-5).

#### **Overarching National Policy Statement for Energy (NPS EN-1)**

- 2.2.12. NPS EN-1 sets out the Government's policy for the delivery of major energy infrastructure. It provides general principles and generic impacts to be taken into account in considering applications for energy NSIPs. All other energy NPSs sit under the policy framework set out in this framework.

#### **National Policy Statement for Electricity Networks Infrastructure (NPS EN-5)**

- 2.2.13. NPS EN-5 sets out policy relevant to electricity transmission and distribution systems. It provides a framework of technology-specific impacts to be considered for electricity networks infrastructure including substations, overhead lines and cable sealing end compounds.

### **Draft Revised National Policy Statements (March 2023)**

- 2.2.14. Both NPS EN-1 and NPS EN-5 are in the process of being revised. Consultation on the revised draft energy NPSs ran from 30 March 2023 to 23 June 2023. At the closure of the Examination, the revised energy NPSs remained in draft format.
- 2.2.15. The draft NPSs (March 2023) are clear that “...for any application accepted for examination before designation of the 2021 amendments, the 2011 suite of NPSs should have effect in accordance with the terms of those NPS” (para 1.6.2 of draft NPS EN-1, March 2023). However, it is also clear in para 1.6.3 that any emerging draft NPSs are potentially capable of being important and relevant considerations in the decision-making process, pursuant to s104(2)(d) of PA2008. We return to this under later Chapters of this Recommendation.
- 2.2.16. For the avoidance of doubt, references to the draft revised NPSs in Chapter 3 of this Recommendation are to the March 2023 versions of the documents.

### **Published Revised National Policy Statements (November 2023)**

- 2.2.17. On 22 November 2023, the revised Overarching National Policy Statement for Energy (EN-1) and revised National Policy Statement for Electricity Networks (EN-5) were published, alongside the Government’s response to the March 2023 consultation on the draft NPSs. Since this occurred during the recommendation period for this project, the parties have not had an opportunity to comment on the content of the published NPSs. At the point of submitting our Recommendation, the revised NPSs had not been formally designated.
- 2.2.18. In Chapter 8 of this Recommendation, we consider the implications of the November 2023 revised NPSs for our findings and conclusions in relation to the Proposed Development.

### **Other Relevant National Policies**

- 2.2.19. Other relevant Government policy which has been taken into account includes:
- The National Planning Policy Framework (September 2023);
  - Net Zero: The UK’s Contribution to Stopping Global Warming Emissions (May 2019);
  - Energy White Paper: Powering our Net Zero Future (2020);
  - Net Zero Strategy: Build Back Greener (2021);
  - British Energy Security Strategy (2022); and
  - Powering up Britain (2023).
- 2.2.20. Annex B6 of this Recommendation presents a summary of each of these policy documents.

### **Local Planning Policy**

- 2.2.21. Local planning policy can be important and relevant considerations in the determination of NSIP applications. Local Plan policies relevant to the Proposed Development are summarised in Annex B8 of this Recommendation. The Local Plan policies relevant to specific planning matters considered in Chapter 3 of this Recommendation are set in in Annex B9 of this Recommendation.
- 2.2.22. Subsequent Chapters of this Recommendation consider in more detail compliance of the Proposed Development with national and local legislation, policy and guidance.

## **2.3. LOCAL IMPACT REPORTS**

2.3.1. Local Impact Reports (LIRs) were submitted by City of York Council [REP1-047], Leeds City Council [REP1-053] and North Yorkshire Council [REP1-056].

2.3.2. In addition to providing commentary on relevant local planning policies, these LIRs also provided comments regarding the following subject areas:

- air quality and emissions;
- agricultural land;
- archaeology and built heritage;
- biodiversity;
- Development Consent Order (DCO);
- flood risk and hydrology;
- Green Belt considerations;
- landscape and visual impacts;
- minerals and waste planning;
- noise (including disturbance);
- other infrastructure;
- principle of development;
- socio-economic considerations; and
- traffic and transport, including Public Rights of Way.

2.3.3. The Applicant submitted its comments on the LIRs in [REP2-040]. The issues raised in the LIRs are considered in detail in the relevant chapters of this Recommendation.

## **2.4. ENVIRONMENTAL IMPACT ASSESSMENT**

2.4.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development). On 17 March 2021 the Planning Inspectorate received on behalf of the Secretary of State a Scoping Request under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, as amended (the EIA Regulations). The Applicant also provided notification under Regulation 8(b) of the EIA Regulations that it proposed to provide an ES in respect of the Proposed Development.

2.4.2. The Planning Inspectorate, on behalf of the Secretary of State, provided a Scoping Opinion on 28 April 2021 [APP-105]. In accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an Environmental Statement (ES).

2.4.3. On 20 February 2023 the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of PA2008 had been complied with [OD-003] and [OD-004].

2.4.4. Overall, the ExA considers that the ES, as supplemented by additional information during the Examination, is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations. Consideration is given to the findings of the ES in subsequent chapters of this Recommendation.

## **2.5. HABITATS REGULATIONS ASSESSMENT (HRA)**

2.5.1. The SoS is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of

Offshore Marine Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). The Habitats Regulations were amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

- 2.5.2. The Applicant submitted a No Significant Effects Report (Habitats Regulations Screening) with the application [APP-200]. An updated version of this Report [AS-018] was submitted in the Pre-Examination stage to address minor formatting errors highlighted in Section 51 advice [PD-002], provided following the acceptance of the application. Annex C of this Recommendation provides a record of considerations relevant to the HRA, a summary of which can be found in Chapter 4 of this Recommendation.

## **2.6. WATER FRAMEWORK DIRECTIVE ASSESSMENT**

- 2.6.1. Directive 2000/60/EC (the Water Framework Directive or WFD) sets objectives to prevent and reduce pollution, improve aquatic ecosystems and mitigate the effects of floods. It provides for the production of River Basin Management Plans for the sustainable management of rivers. The Directive is transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

- 2.6.2. The Applicant submitted a Hydrogeology Water Framework Directive (WFD) Assessment [APP-142]. The Proposed Development was assessed to have no effects that would be likely to cause deterioration in WFD status or prevent waterbodies from achieving their WFD objectives, provided that best practice and established guidance are adhered to, in accordance with the embedded measures identified in ES Chapter 10 [APP-082] and the Code of Construction Practice [REP7-042].

## **2.7. TRANSBOUNDARY EFFECTS**

- 2.7.1. A transboundary screening under Regulation 32 of the 2017 EIA Regulations was undertaken on behalf of the SoS on 22 November 2021 following the Applicant's request for an EIA Scoping Opinion, with a second screening on 13 December 2022 following submission of the application documents [OD-008]. No significant effects, either alone or cumulatively, were identified which could impact on a European Economic Area State.

- 2.7.2. The Regulation 32 duty is an ongoing duty, and on that basis, the ExA has considered whether any facts have emerged to change these screening conclusions, up to the point of closure of the Examination. No relevant issues arose during the Examination and the ExA is therefore satisfied that the duties under Regulation 32 have been satisfied.

## **2.8. MADE DEVELOPMENT CONSENT ORDERS**

- 2.8.1. In its response [REP5-083] to the ExA's Further Written Question (ExQ2) 5.7.1, the Applicant set out the made DCOs upon which articles of the draft DCO are based.

- 2.8.2. Made Orders that have been referred to by the Applicant and Interested Parties during the Examination are listed in Annex B7 of this Recommendation.

### **3. FINDINGS AND CONCLUSIONS ON THE PLANNING ISSUES**

#### **3.1. INTRODUCTION**

3.1.1. This Chapter addresses the potential effects of the Proposed Development.

3.1.2. The Examining Authority's (ExA's) initial assessment of principal issues [PD-005], Annex C was informed by our reading of the application documents, Relevant Representations (RR) and our consideration of any other important and relevant matters. Building on this, we have taken account of all Examination submissions, made both in writing and orally, in identifying the main planning issues relevant to our consideration of the Proposed Development.

3.1.3. The need for the Proposed Development and the alternatives to it are covered in Sections 3.2 and 3.3 of this Chapter. The main planning issues are reported in Sections 3.4 to 3.15 (inclusive) of this Chapter under the following topic headings:

- landscape and visual;
- biodiversity and natural environment;
- noise and vibration;
- traffic and transport;
- socio-economic;
- land use, including Green Belt, agricultural land and Green Infrastructure;
- flood risk, hydrology and hydrogeology;
- air quality and human health;
- historic environment;
- good design and climate change;
- other planning issues; and
- cumulative effects.

3.1.4. Each section follows a similar format:

- introduction to the topic;
- relevant policy considerations;
- the approach taken in the application;
- issues considered during the Examination; and
- the ExA's conclusions, including if we are recommending any changes to the draft Development Consent Order (dDCO).

3.1.5. Matters are generally only reported upon if we consider them to be important and relevant to the decision and they have not been agreed or adequately justified or are controversial. The planning issues sections consider the effects of the Proposed Development alone; our findings in respect of potential cumulative effects are contained in Section 3.15 of this Chapter.

3.1.6. Following the ExA's acceptance of the Applicant's Change Application [PD-013], the Examination proceeded in consideration of the application as changed. Therefore, our consideration of the planning issues within this Chapter is based on the changed application.

3.1.7. The term 'impact' is used in this Chapter. To clarify, environmental 'impacts' and 'effects' are both considered in this Recommendation to be 'environmental effects'.

- 3.1.8. To aid the reader, we use the following approach in our assessment of the weight to be attached to each of the planning issues:
- Where there is no weight: The ExA considers that there are no matters relating to that issue which would weigh for or against the making of the Order.
  - First level: The ExA ascribes a little weight to matters relating to the issue for or against the making of the Order.
  - Second level: The ExA ascribes moderate weight to matters relating to the issue for or against the making of the Order.
  - Third level: The ExA ascribes great weight to matters relating to the issue for or against the making of the Order.
  - Fourth level: The ExA ascribes very great weight to matters relating to the issue for or against the making of the Order.

## **3.2. THE NEED CASE**

### **Introduction**

- 3.2.1. This Section considers the need for the Proposed Development.

### **Policy Considerations**

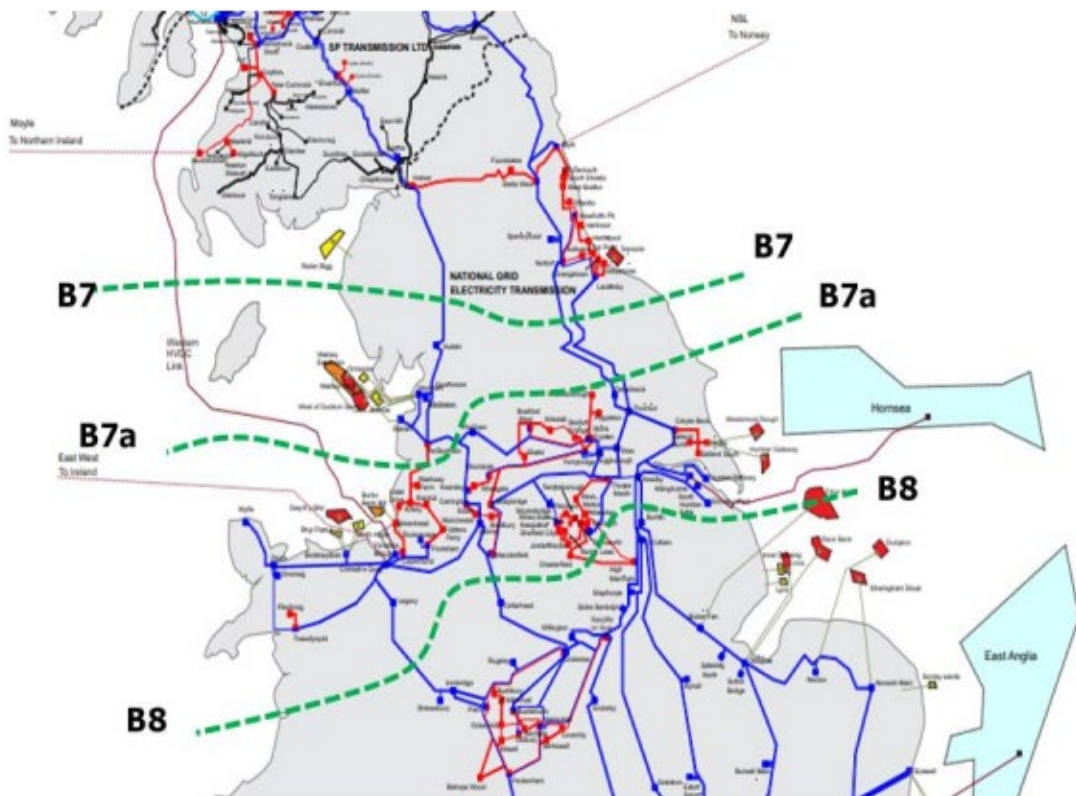
- 3.2.2. The Overarching National Policy Statement for Energy (NPS EN-1, July 2011) (para 3.3.1) is clear that there is an urgent need for new nationally significant electricity infrastructure projects in order to achieve energy security and carbon reduction objectives in the UK. For this reason, it articulates in para 4.1.2 a presumption in favour of granting consent for applications for energy nationally significant infrastructure projects (NSIPs), subject to the provisions of the Planning Act 2008 (PA2008) and specific NPS policies.
- 3.2.3. Para 3.7.2 of NPS EN-1 notes that the need for new and reinforced electric network infrastructure is driven by the requirement to connect new sources of electricity generation, the growth in demand for electricity and the need to build resilience in order to avoid large scale interruptions.
- 3.2.4. At para 3.7.10, NPS EN-1 states that *“the need for any given proposed new connection or reinforcement has been demonstrated if it represents an efficient and economical means of connecting a new generating station to the transmission or distribution network, or reinforcing the network to ensure that it is sufficiently resilient and has sufficient capacity (in the light of any performance standards set by Ofgem) to supply current or anticipated future levels of demand”*.
- 3.2.5. Para 3.2.3 instructs that the weight to be attributed to considerations of need should be proportionate to the anticipated extent of a project’s actual contribution to satisfying the need for a particular type of infrastructure.
- 3.2.6. Furthermore, the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5) recognises that the deployment of the new electricity generating infrastructure urgently required in the UK will be heavily dependent on the availability of an electricity network that is fit for purpose and robust. This means a network that is able to support a more complex system of supply and demand and an increasing diversity in the location of electricity generation.
- 3.2.7. Since the designation of NPS EN-1 and NPS EN-5, there has been a strengthening legislative and national policy imperative to urgently decarbonise the UK’s energy

supply and improve energy security, as evidenced in Chapter 2. This reinforces the urgent need for electricity network infrastructure articulated in the NPSs.

### The Application

- 3.2.8. The specific need for the Proposed Development is primarily set out by the Applicant in Environmental Statement (ES) Chapter 2 [APP-074] and its Updated Need Case [APP-205]. The Planning Statement [APP-202] echoes the need case. These documents explain that significant reinforcement of the existing electricity transmission network in Yorkshire is required to transfer the increasing volume of generation capacity in Scotland and the North of England to major centres of electricity demand in central and southern England.
- 3.2.9. The Applicant states that under its Transmission Licence (licence granted under Section 6(1)(b) of the Electricity Act 1989), it is obliged to provide an efficient, co-ordinated and economical system of electricity transmission, which requires it to plan and develop the system and offer connections to it via the National Grid Electricity System Operator (NGESO). The Applicant's assessment, which is supported by NGESO's Network Options Assessment (NOA) and the Future Energy Scenarios, is that by 2027, boundaries B7, B7a and B8 of the transmission system (shown in Figure 3.2.1, below) will exceed their current capacity [APP-205], Table 3.2.

**Figure 3.2.1 B7, B7a and B8 transmission system boundaries (source: [APP-205], Figure 3.2)**



- 3.2.10. ES Chapter 2 [APP-074] explains that the NGESO manages shortfalls in boundary capacity by reducing power flows and constraining generation, the latter of which creates 'constraint costs' that are passed on to consumers through electricity bills. A core driver of the Proposed Development, therefore, is to increase boundary

capability and mitigate the high constraint costs associated with managing the boundary capacity shortfall [APP-074]. The Applicant states that “*without reinforcement by 2027 there can be no further unconstrained connections above boundary B8*” [APP-205].

- 3.2.11. An additional driver of need for the Proposed Development is to enable the connection of three projects with grid connection offers which are reliant on the reinforcement of the network, namely:
- Continental Link: a 1.8 gigawatt (GW) interconnector between England and Norway, connecting to the Creyke Beck Substation close to Hull by 2027;
  - The Atlantic Superconnection: a 1.8 GW interconnector between England and Iceland, expected to connect to the Creyke Beck Substation close to Hull by 2027; and
  - Hornsea Project Four Offshore Wind Farm (OWF): 2.6 GW offshore wind generation with an offer to connect in the North East in two phases (1.5 GW in April 2027 and 1.1 GW in October 2028).

### **Issues Considered During the Examination**

- 3.2.12. We explored the matter of need as part of Issue Specific Hearing (ISH) 1 [EV-003]. The Applicant provided satisfactory answers to our questions about the need for the Proposed Development as a whole and for certain aspects of the proposed works [REP1-017].
- 3.2.13. In terms of the three projects which are reliant on the reinforcement of the network, we note that Hornsea Project Four OWF secured development consent in July 2023. Applications have not, at the time of writing, been submitted for the two proposed interconnector projects. In response to questions from the ExA at ISH4 [EV-009i], the Applicant emphasised that regardless of the consenting status of the interconnectors, as long as the agreements are in place it is contractually required to progress plans to reinforce the network to meet the 2027 connection agreement dates [REP6-062]. We accept that this is a legitimate position.
- 3.2.14. In its Local Impact Report (LIR), City of York Council (CYC) accepts the Applicant’s overarching need case and notes the benefits of the Proposed Development in terms of network resilience and supporting decarbonisation [REP1-047]. The LIR from North Yorkshire Council (NYC) also acknowledges the national need for energy security [REP1-056]. The LIR from Leeds City Council (LCC) does not directly address the question of need for the Proposed Development but acknowledges the positive contribution that would be made by upgrading the network. We did not receive submissions from any Interested Parties (IPs) questioning the need for the Proposed Development as a matter of principle.
- 3.2.15. The ExA is content that together, NPS EN-1 and NPS EN-5 present a clear case underpinning the need for new and reinforced electricity transmission infrastructure. Having considered all the relevant evidence, we accept the Applicant’s need case [APP-074] and [APP-205] and consider that the rationale for the Proposed Development has been clearly articulated.
- 3.2.16. The revised drafts of NPS EN-1 and NPS EN-5 (published March 2023) remained as consultation documents at the close of the Examination and therefore do not form part of the current policy framework at the time of writing. Nonetheless, we deem them to be important and relevant considerations for the purposes of our Recommendation. In response to action point 5 arising from ISH2 [EV-005a], the Applicant stated a view that the Proposed Development would fall within the



definition of “*Critical National Priority*” (CNP) infrastructure (as defined in revised draft NPS EN-1 (March 2023)), because it would support the transfer of energy generated from OWF developments and is identified as a Holistic Network Design essential option within the NOA 2021/22 Refresh [REP4-026]. In ExQ2 1.1.1 [PD-011], the ExA invited responses to this position but none were received. We accept the Applicant’s evidence in this regard and consider that it provides further justification in support of the need for this type of electricity network infrastructure.

## **Conclusions**

- 3.2.17. On the basis of the submitted evidence, the ExA is satisfied that there is a compelling and urgent need for the Proposed Development. By reinforcing the transmission network in the Yorkshire region, the Proposed Development would ensure that there is sufficient resilience and capacity to supply current and forecast demand beyond 2027. It is also necessary to enable the connection of three major generation and interconnection projects in line with their grid connection agreements. All of this would support the UK’s transition toward a low carbon economy and its Net Zero Strategy.
- 3.2.18. Consequently, we are satisfied that the need for the Proposed Development has been demonstrated in accordance with the provisions of the NPS framework. In light of this finding, and having regard to para 3.1.4 of NPS EN-1, the ExA ascribes very great weight to the contribution that the Proposed Development would make toward satisfying the urgent need for new electricity network infrastructure in the UK.
- 3.2.19. In drawing this conclusion, the ExA notes that on 4 August 2023, the UK’s Electricity Networks Commissioner, Nick Winser, published a report and recommendations on the topic of accelerating the delivery of UK electricity transmission infrastructure. The Government did not publish any response to the report before the Examination closed and the views of IPs about the report were not explicitly sought during the Examination. The ExA’s conclusions in relation to the need for the Proposed Development would not be altered by the Electricity Networks Commissioner’s report.

## **3.3. ALTERNATIVES**

### **Introduction**

- 3.3.1. This Section considers the alternatives considered by the Applicant in defining and designing the Proposed Development.

### **Policy Considerations**

- 3.3.2. There is a general requirement under Regulation 14(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (‘the EIA Regulations’) to consider alternatives as part of the Environmental Impact Assessment (EIA) process.
- 3.3.3. NPS EN-1 does not contain any general policy imperative to consider alternatives but does identify circumstances in which there is a requirement to consider alternatives, for example in relation to Habitats Regulations Assessment (HRA) and flood risk. In para 3.7.10, NPS EN-1 recognises that there may be a choice of technological solutions for connections to, or reinforcements of, the electricity transmission network, including underground cables. It stipulates that the costs and benefits of these alternatives should be properly considered in line with the provisions of NPS EN-5.

- 3.3.4. Section 2.8 of NPS EN-5 sets out the framework for this balancing exercise in cases where there are serious concerns about potential adverse landscape and visual effects. In para 2.8.7, the NPS is clear that the Holford Rules should be taken into account in the consideration of alternatives.
- 3.3.5. In terms of project-level site selection considerations, NPS EN-5 (para 2.2.2) acknowledges that “*the general location of electricity network projects is often determined by the location, or anticipated location, of a particular generating station and the existing network infrastructure*”. It goes on to note (para 2.2.5) that there is usually some flexibility around the location of associated substations, and that applicants should consider local landscape features such as topography.
- 3.3.6. The Holford Rules [REP4-026] Appendix B, provide guidelines for the routing of new high voltage overhead transmission lines. The Horlock Rules [REP4-026] Appendix B set out guidelines on the siting and design of new substations and cable sealing end compounds.
- 3.3.7. Revised draft NPS EN-1, which forms an important and relevant consideration in this case, instructs that the assessment of alternatives should be carried out in a proportionate manner and that only alternatives that can meet the objectives of the Proposed Development need be considered (para 4.2.21).

### **The Application**

- 3.3.8. The Applicant’s consideration of alternatives is contained within ES Chapter 2 [APP-074] and its supporting figures [APP-163], as well as in the Planning Statement [APP-202]. These documents describe the Applicant’s project development and options appraisal processes, which followed National Grid’s guidance entitled “*Our Approach to Consenting*” [APP-092] and “*Our Approach to Options Appraisal*” [APP-093].
- 3.3.9. Alternatives were considered at three main stages:
- i. strategic route options: involving the identification of a long list of strategic options to meet the need case, and then refinement to and assessment of a short list to establish a “*Strategic Proposal*” (as detailed in [APP-074], Section 2.5);
  - ii. route corridor alternatives: involving a Corridor and Preliminary Routing and Siting Study and Options Appraisal, leading to the identification of a preferred route corridor and preliminary route swathe and “*Siting Areas*” (as described in [APP-074], Section 2.6 and [APP-163], Figures 2.3 to 2.7); and
  - iii. project design alternatives: evolution of the project design taking account of the detailed environmental assessment, land rights and responses to non-statutory and then statutory consultation (as set out in [APP-074], Sections 2.7 and 2.8).
- 3.3.10. The Planning Statement [APP-202], Section 5, seeks to demonstrate how appraisal against the Holford Rules and Horlock Rules was undertaken at each of these three stages. This process led to the final design of the Proposed Development as assessed in the ES and defined in the Applicant’s final draft Development Consent Order (dDCO) [REP8-004].

### **Issues Considered During the Examination**

- 3.3.11. At ISH1, the ExA asked questions about the scope of the Proposed Development, which included questions about the alternatives that had been considered by the

Applicant, in particular for Work No. 6 (south-east of Moor Monkton), Work No. 8 (south-west of Tadcaster) and Work No. 10 (south-west of Lumby) [EV-003]. The Applicant's responses, summarised in [REP1-017] tables 2.2 to 2.4, provide further explanation as to its approach to optioneering in these areas. The ExA is satisfied that all of its questions in this respect have been adequately addressed.

- 3.3.12. None of the LIRs identified issues with, or concerns about, the Applicant's assessment of strategic alternatives, routeing or site selection. Engagement with the Councils (or their predecessor authorities) as the project design evolved is evident in ES Chapter 2 [APP-074] and the Consultation Report [APP-195]. NYC's LIR [REP1-056], para 8.24 raises a specific matter in relation to the consideration of alternative mitigation for landscape and visual effects which is dealt with in Section 3.4 of this Recommendation.
- 3.3.13. Whilst some matters were raised by IPs in relation to site-specific alternatives (dealt with later in this Recommendation), no in-principle objections were raised by IPs in relation to the Applicant's consideration of alternatives at a project level. Submissions relating to alternatives from a land rights perspective are dealt with in Chapter 6 of this Recommendation.

### **Conclusions**

- 3.3.14. In terms of the strategic question of alternatives, it is the ExA's view that the Applicant has demonstrated that a systematic and logical appraisal of strategic alternatives, routeing and siting options was carried out in designing and refining the Proposed Development. We therefore find that adequate regard has been had to alternatives and that the legislative (EIA Regulation 14) and policy (NPS EN-1 and NPS EN-5) requirements outlined earlier in this Section have been met. The Applicant has also demonstrated how, through this process, it has had due regard to the Holford Rules and the Horlock Rules. There is also no conflict with March 2023 draft EN-1 in respect of the assessment of alternatives.
- 3.3.15. Consequently, we are satisfied that at a strategic level, the Applicant has adequately considered alternatives to the Proposed Development to which this application relates. The ExA therefore concludes that there are no matters relating to the consideration of alternatives which would weigh for or against the Order being made.
- 3.3.16. Where matters arose during the Examination in respect of site-specific alternatives for example in connection with mitigation options or alternative access points, these are dealt with under subsequent Sections of this Chapter. We consider the specific matters relating to alternatives in a flood risk context under our consideration of the Sequential Test and the Exception Test in Section 3.10 of this Chapter. Our consideration of alternatives in a Habitats Regulations Assessment context is set out in Annex C and summarised in Chapter 4 of this Recommendation. Having regard to all relevant matters, the ExA's final findings in respect of the Applicant's consideration of alternatives are set out in Chapter 5 of this Recommendation.
- 3.3.17. Where the question of alternatives arose in the specific context of Compulsory Acquisition and land rights, those matters are considered in Chapter 6 of this Recommendation.

## **3.4. LANDSCAPE AND VISUAL**

### **Introduction**

- 3.4.1. This Section considers the landscape and visual effects that would arise from the Proposed Development. There are linkages with effects on biodiversity, green infrastructure (GI) and the approach to good design, which are reported in Sections 3.5, 3.9 and 3.13 of our Recommendation respectively.

### **Policy Considerations**

#### **National policy**

- 3.4.2. The assessment for landscape and visual impact as set out in NPS EN-1, requires the applicant to:
- carry out, and report in the ES, a landscape and visual assessment for the construction and operation stages of the proposed development, which should refer to landscape character assessment studies, take account of relevant local development plan policies based on these assessments, include construction and operational effects and the visibility and conspicuousness of the project's potential impacts on views and visual amenity including light pollution effects (NPS EN-1, para 5.9.5 to 5.9.7);
  - consider the existing character of the local landscape and its capacity to accommodate change (NPS EN-1, para 5.9.8); and
  - consider providing examples of existing permitted infrastructure which has a similar magnitude of effect on sensitive receptors (NPS EN-1, para 5.9.19).
- 3.4.3. In reaching a decision the SoS should be satisfied that:
- the project has been designed carefully to minimise harm to the landscape; having regard to siting, operational and other relevant constraints, providing reasonable mitigation where possible (NPS EN-1, para 5.9.8 and 5.9.17);
  - no adverse impact on the landscape would be so damaging as not to be offset by the benefits, including the need (NPS EN-1, para 5.9.15);
  - any adverse impact is temporary and will be capable of being reversed in a reasonable timescale (NPS EN-1, para 5.9.16);
  - visual effects on sensitive receptors such as local residents outweigh the benefits of the project (NPS EN-1, para 5.9.18);
  - whether reducing the scale of the project (if applicable) to mitigate visual and/ or landscape effects outweighs marginal loss of function (NPS EN-1, para 5.9.21);
  - adverse landscape and visual effects would be minimised through appropriate siting and through design including materials, colour (materials and designs of buildings should always be given careful consideration) and landscape schemes (NPS EN-1, para 5.9.22); and
  - where appropriate, off-site planting such as filling gaps in hedge lines, would mitigate the impact when viewed from more distant vista (NPS EN-1, para 5.9.23).
- 3.4.4. Draft NPS EN-1 (March 2023), which for the purposes of this Recommendation is an important and relevant consideration, strengthens certain factors which applicants should undertake and to which the SoS should have regard. This includes early consideration of landscape and visual matters for siting and design and establishing design principles which minimise negative effects and create positive benefits or enhancement and using landscape management plans. It also states that the SoS should be satisfied with the level of detailed design that applicants have provided and is secured in the Order, including the extent to which

design details are subject to future approvals, and be satisfied that local authorities will have sufficient design content secured to ensure future consenting to meet landscape, visual and good design objectives (draft NPS EN-1 (March 2023), Section 10).

- 3.4.5. NPS, EN-5 sets out specific considerations which apply to electricity networks infrastructure for landscape and visual effects (NPS EN-5, Section 2.8) including the impact of overhead lines, substations, cable sealing end compounds (CSEC), and other above ground installations, also recognising the potential for cumulative effects where overhead lines are located alongside other related development. It also recognises that positive benefits can arise through reconfigurations of existing network infrastructure (para 2.8.2 to 2.8.3).
- 3.4.6. The assessment for landscape and visual impact and mitigation of adverse effects as set out in NPS EN-5, requires the applicant to:
- follow the Holford Rules when designing proposals (para 2.8.4 to 2.8.6);
  - select the most suitable type and design of support structure to minimise overall visual effects (para 2.8.10);
  - offer constructive proposals for additional mitigation eg consider off-site tree and hedgerow planting to soften the effect of new overhead lines, in agreement with relevant landowners (para 2.8.4 and 2.8.11); and
  - in mitigation consider localised planting in the immediate vicinity of residential properties and principal viewpoints for screening and/ or softening the effect (para 2.8.11).
- 3.4.7. In reaching a decision NPS EN-5 states that the SoS should be satisfied that:
- The Holford Rules have been taken into account. (The Holford Rules are a series of planning guidelines first developed in 1959 by Lord Holford, adviser to the Central Electricity Generating Board, on amenity issues. They were submitted into the Examination [REP4-026], Appendix B).
- 3.4.8. NPS EN-5 Section 2.8 also sets out matters relating to alternatives to overhead lines, which are reported in Section 3.3 of our Recommendation.
- 3.4.9. Draft NPS EN-5 (March 2023), which for the purposes of this Recommendation is an important and relevant consideration, strengthens some of the requirements for applicants such as embodying the Horlock Rules. (The Horlock Rules are guidelines for the design and siting of substations which were established by National Grid in 2009 in pursuance of its duties under Schedule 9 to the Electricity Act 1989. They were submitted into the Examination [REP4-026], Appendix B). The draft NPS confirms that CA powers may be used for landscape schemes and/ or screening mitigation and that a landscape management plan must be developed at least in outline by the end of the examination to secure the integrity and benefit of these landscape schemes (Sections 2.9 to 2.11).

### **Local policy**

- 3.4.10. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the landscape and visual effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation.
- 3.4.11. The Applicant identifies legislation and policy that it considers to be important and relevant to this topic in ES Chapter 6 [APP-078], Tables 6.1 and 6.2.

## **The Application**

- 3.4.12. The Applicant's assessment of potential effects on landscape character and visual amenity is presented in its landscape and visual impact assessment (LVIA) in ES Chapter 6 [APP-078]. At the point of submission, this was supported by relevant figures [APP-167] to [APP-170], visualisations for 29 viewpoints [APP-171] to [APP-181] and appendices [APP-108] to [APP-115]. Further viewpoint assessments with visualisations were submitted after a request by the ExA [REP2-045] and [REP2-046] and on request some of the initial ES visualisations were annotated with tree removal and retention information [REP2-047] and [REP2-048].
- 3.4.13. During the Examination the ES was updated with an LVIA addendum providing a viewpoint analysis to represent an additional sensitive receptor (the traveller community at the junction of the A1(M) and A63) [REP1-013]. A consolidated addendum [REP7-005], as well as errata documents, updated throughout the Examination which were brought together in a final version [REP7-003]. The changes to the application, as they affected landscape and visual matters are reported below.

### **Key mitigation measures relevant to adverse landscape and visual effects**

- 3.4.14. The application included outline landscape mitigation strategy plans, secured in the dDCO, which the Applicant explained provided mitigation proposals developed to a level of detail sufficient to facilitate the assessment of the likely significant landscape and visual effects at Overton Substation, Monk Fryston Substation and the Tadcaster CSECs [APP-078], para 6.1.7. The outline landscape mitigation strategies were updated during the Examination and are found in the Project Description Figures [REP7-015].
- 3.4.15. Mitigation of adverse effects elsewhere would be addressed through the Arboricultural Impact Assessment (AIA), which quantifies the area of tree canopy and lengths of hedgerows that would be affected by the Proposed Development [APP-102] to [APP-104] (submission version), updated by [REP7-011] to [REP7-014].
- 3.4.16. The Applicant sets out the adverse effects, mitigation measures and where and how they are secured in the Embedded Measures Schedule (submission version) [APP-094], pages 51 to 53 and 67 to 69. For construction stage adverse effects, the mitigation would be secured through the CoCP and for the operation stage through the Outline Landscape Mitigation Strategy and AIA. During the Examination, the Applicant submitted a Design Approach for Site Specific Infrastructure (DASSI), parts of which are secured in the dDCO [REP5-077]. This is reported under good design in Section 3.13 of our Recommendation.

### **Residual effects identified in the ES**

- 3.4.17. A summary of the findings of the LVIA is provided in [APP-078], Section 6.14. The Applicant considers that a small number of significant long-term adverse landscape and visual effects that are localised in nature would remain following the growth of mitigation planting and that such a pattern of effects is to be expected for an infrastructure project of this scale. The significance of adverse effects is qualified by stage: construction, Year 0 and Year 15. These findings were supplemented by the information in the addendum and errata documents [REP7-003] and [REP7-005]. The Applicant provides a description of the residual significant landscape and visual adverse effects at Table 6.16 [APP-078], Section 6.14 (pages 115 to 132).

## Issues Considered During the Examination

3.4.18. The main issues arising during the Examination related to both methodological assessment matters and to issues related to effectiveness of the mitigation of adverse effects, as listed below:

- visual methodology and the fitness for purpose of the visualisations;
- the assessment assumptions for the Travellers' Site LVIA Addendum;
- compliance with the Holford Rules;
- the number of residual, adverse effects not mitigated;
- the way in which mitigation is secured via dDCO Requirements 8, 9 and 10;
- construction effects including construction compounds/ works areas;
- the mitigation at the proposed Overton Substation;
- Woodstock Lodge Wedding Venue; and
- management and maintenance.

### Visual methodology and the fitness for purpose of the visualisations

- 3.4.19. From the outset, NYC expressed concerns about the accuracy of the LVIA visualisations because it considered that the proposed overhead line infrastructure was incomplete and thus could have a bearing on some of the judgements for landscape and visual effects made in the LVIA. Specific concerns on a number of the visualisations were identified [REP1-056], page 27 to 28 and Appendix A.
- 3.4.20. The Applicant argued in response, that the level of detail provided in its visualisations was not unusual at this stage of a project, because it is depicting the 3D model prior to commencement of detailed engineering design. It also provided responses to all NYC's detailed points [REP2-040], page 16 to 18 and Appendix A.
- 3.4.21. This matter was discussed further at ISH2, when we learned that the visualisations do not represent the worst-case scenario in terms of maximum height, rather they reflect the modelled design because, in the Applicant's opinion, maximum heights would represent unrealistic and misleading (ie taller than likely) visualisations. The Applicant also confirmed that the assessment itself is based on maximum Limits of Deviation (LoD) and, therefore, does take account of the maximum height of pylons [REP4-023], pages 13 to 14.
- 3.4.22. However, the Applicant gave assurances that the model used for the visualisations had no bearing on the overall judgement in the assessment, that site visits had been undertaken and professional judgement used in undertaking the assessments based on other data, such as zones of theoretical visibility (which did use LoD) and that visualisations are supplemented by other information [REP4-023], page 14 to 16. The Applicant acknowledged the missing details on the photomontages including insulators, steel cross arms and substation structures.
- 3.4.23. As a way forward, it was agreed that NYC and the Applicant would discuss and look to agree wording which could be added to the ES LVIA methodology, which would reflect the requirements of a type 3 photomontage with reference to Landscape Institute Technical Guidance Note TGN 06/19 - Visual representations of development proposals, September 2019 (TGN 06/ 19), and would set out the purpose of the visualisations for the Proposed Development. NYC confirmed its agreement with the wording which had been discussed with the Applicant, and that it agreed with all other methods used in the LVIA [REP4-041], action point 12.
- 3.4.24. The Applicant provided the wording [REP4-026], action point 12. Subsequently the agreed wording was added to ES Appendix 6C Landscape and Visual Impact

Assessment Methodology [APP-110] and included in the ES errata document [REP7-003], page 26 to 27. NYC agreed with this in the final SoCG with the Applicant, stating that although it would have been preferable to have depicted all insulators and minor lattice work on the proposed pylons, it is acknowledged that this would require a more advanced infrastructure design. It did however agree that the addition of the minor infrastructure details would not have the potential to alter the magnitude of change and therefore level of adverse effect recorded in the LVIA [REP7-083], ID 3.3.9.

*ExA's reasoning: Visual methodology/ fitness for purpose of visualisations*

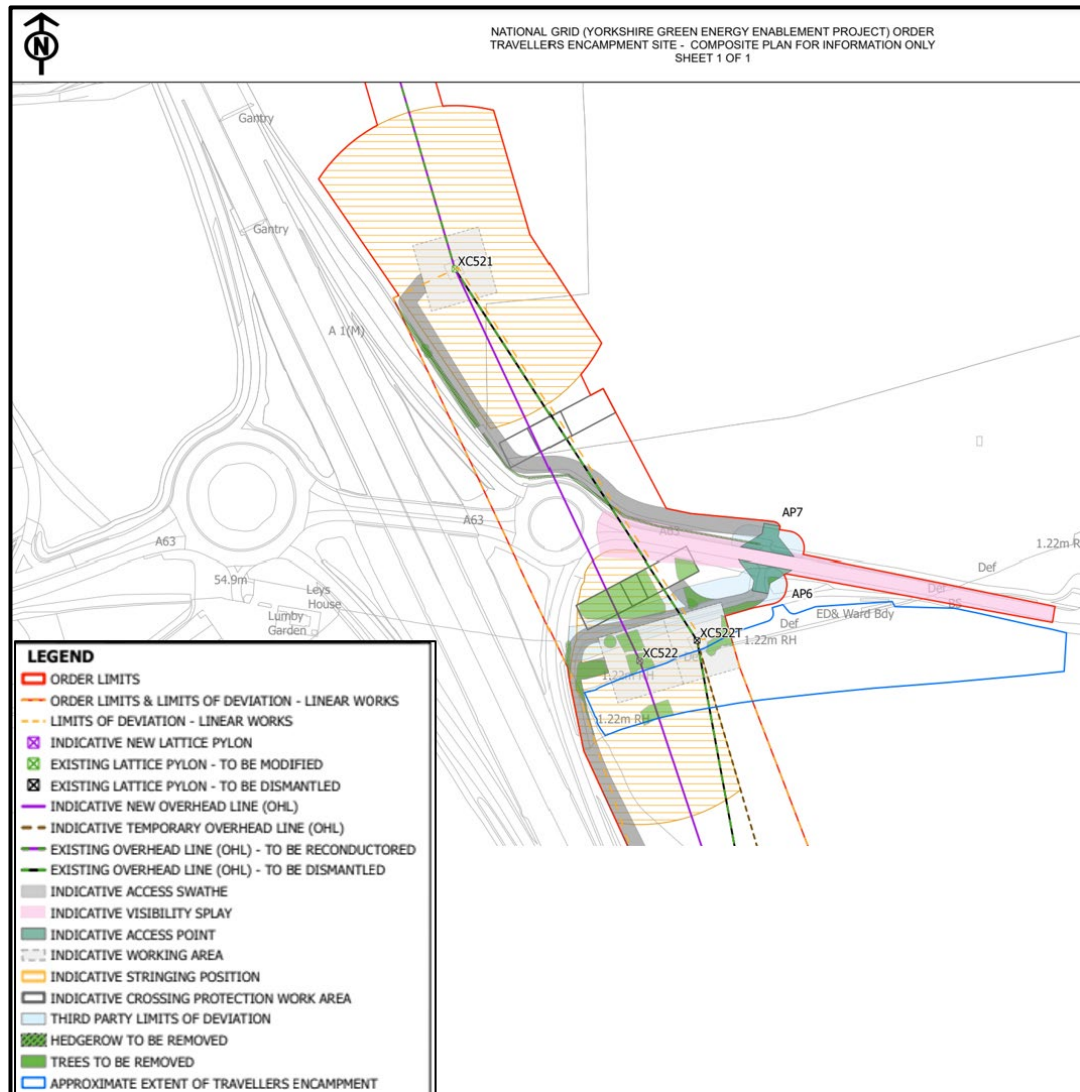
- 3.4.25. The ExA also asked some questions on the accuracy of the visualisations. However, the important point for us, is that the Applicant was not relying solely on the visualisations to undertake its visual assessment, they are there to supplement it. Whilst we consider that additional detail such as insulators could have been included, even at this stage, and would have been an improvement, we are content that the visualisations are fit for the purpose stated and accord with the technical standards set out in TGN 06/19, which was the standard agreed during pre-application consultation.
- 3.4.26. The ExA considers that the addition to the LVIA Methodology Statement, which was agreed between the Applicant and NYC is helpful and clarifies the purpose of the visualisations satisfactorily. We are content with the position reached between the parties.
- 3.4.27. Turning to the point regarding the visualisations not being based on the worst-case scenario, we accept the point made by the Applicant, that the assessment is based on the worst-case, but that the modelled engineering design to date provides appropriate data from which to generate visualisations as the most-likely scenario. We agree that use of the worst-case for visualisations of pylons, substations and CSECs would present unrealistic images because the maximum LoD for the worst-case scenario would present taller pylons throughout whereas we have been told that maximum height pylons would only be used where technical, or safety clearance conditions necessitated. Likewise, the worst-case for the substations based on maximum LoD would present a box-like structure, inconsistent with the modelled engineering design presented.

#### **The assessment assumptions for the Travellers' Site LVIA Addendum**

- 3.4.28. The proposed works at the Travellers' Site at the junction of the A1(M) and A63 comprise part of Work No. 10 in Section E. The works would consist of constructing and installing a new overhead line (one pylon X522 would be on the site), and the dismantling and removal of part of the XC overhead line, including removal of pylon XC522T and associated fittings and foundations. We asked for a composite plan of the works in this area, an extract of which is included as Figure 3.4.1 below. This was submitted by the Applicant for information purposes only.



Figure 3.4.1: Travellers' Site Works Composite Plan (source [REP2-039], Appendix A)



- 3.4.29. The ExA disagrees with the way in which the Applicant has assessed the sensitivity of the receptors at the Travellers' Site at the junction of the A1(M) and A63 in the ES Addendum [REP1-013]. This was not resolved in terms of the assessment. But a way forward was achieved which would help to mitigate construction stage adverse effects via new Requirement (R)19 (a site specific mitigation scheme must be submitted and approved by NYC prior to commencement). NYC does not disagree with the Applicant's assessment [REP7-083], ID 3.3.11. The ExA's reasons for disagreement are presented below.
- 3.4.30. We do not intend to report all the discussions, but feel it is important to set out our concerns and findings in the context of the SoS's responsibility under Public Sector Equality Duty (PSED) because the receptors in question are persons who share a protected characteristic for the purposes of the Equality Act 2010. We report in full the actions taken with regards PSED in Chapter 6 and Annex D of this Recommendation.
- 3.4.31. On the ASI, access was not granted for the ExA to visit the specific location which had been used for the visual assessment (overlooking but not on the Travellers' Site) but we did visit the Travellers' Site [EV-001b]. We are grateful to the site agent and NYC for facilitating this with the Applicant.

- 3.4.32. The Applicant assessed the receptors to be of medium sensitivity in the context of all other residential receptors in the LVIA being assessed as having high sensitivity and in other sections of the ES the traveller community was assessed either as having the same sensitivity as all other residential receptors, or in the case of noise and vibration having a sensitivity greater than others. We explored this at ISH2 [EV-005b] and [EV-005d].
- 3.4.33. The ExA disagrees with this approach because, in our view, the traveller community as a receptor should be assessed as having at least the same sensitivity as other residential receptors. We are not persuaded by the Applicant's arguments. We asked the Applicant for a without prejudice assessment outcome based on the receptors having high sensitivity. We acknowledge that the Applicant considered the response we requested represents an over-reliance on matrices, which it argued is counter to guidance in the Landscape Institute and Institute of Environmental Management & Assessment (2013) Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3) [REP5-083], Q11.1.3.
- 3.4.34. The comparison that the information presented enabled us to view is that, if assessed using the matrices (against the Applicant's advice), there would be significant adverse visual effects for Year 0/ Year 1 operation, using the higher sensitivity, for residents close to the pylon, but in all other respects the significance of adverse effects would be the same (construction stage significant and Year 15 not significant). We found this helpful in terms of demonstrating the importance of addressing the construction stage effects (which are not limited to visual amenity).
- 3.4.35. The discussion which took place at ISH2, which included contributions from Mr Carruthers, the agent representing the traveller community and which includes those with a legal interest in the land, led the Applicant to propose a new requirement, which became R19, at ISH3. This would require a site specific construction stage mitigation scheme to be submitted for approval by the relevant planning authority before Work No. 10 that affects the Travellers' Site could commence [REP8-004], R19. The Applicant explained in the Explanatory Memorandum (EM) that because the nature of use and occupation of the Travellers' Site could vary, then the site specific mitigation scheme might need to vary, hence the inclusion of a tailpiece [REP8-006], para 5.3.20.

*ExA's reasoning: Assessment assumptions for the Travellers' Site LVIA Addendum*

- 3.4.36. The ExA recognises that there would be significant adverse visual effects during construction at this location, for which mitigation would not be feasible. We also recognise, as stated in the EM, that the specifics of the mitigation would need to relate specifically to the occupation and use of the site at the time construction activities would be taking place. We are therefore satisfied with this being secured via future approvals and with the tailpiece. We are content that the introduction of R19, would be helpful in tailoring the mitigation to suit the needs at the time of construction.
- 3.4.37. The fact that we disagree with the way the sensitivity of the traveller community is assessed in the Applicant's LVIA addendum does not mean that we consider more mitigation would be needed. We are content that the post-consent approval of R19 would ensure that NYC could satisfy itself that mitigation to address adverse landscape and visual effects would be fitting for the situation at the time. However, we have taken account of the significant residual landscape and visual adverse effects which would arise during construction and operation in reaching our conclusions on this topic. Additionally, this location would experience cumulative

(intra-related) effects which are reported in Section 3.15. PSED is reported in Chapter 6 of this Recommendation.

### **Compliance with the Holford Rules**

- 3.4.38. Stephensons Rural LLP challenged the Applicant's compliance with the Holford Rules when objecting to the location of the CSECs at Shipton, arguing that an alternative location would be more compliant [REP5-118]. The Applicant explained that the alternative put forward would require at least four angle pylons in a short section, and lead to zig-zagging of the line and would therefore be less Holford compliant because it would not take the most direct line, would have sharp changes of direction and thus more angle towers [REP6-058], page 40.

#### *ExA's reasoning: Holford Rules*

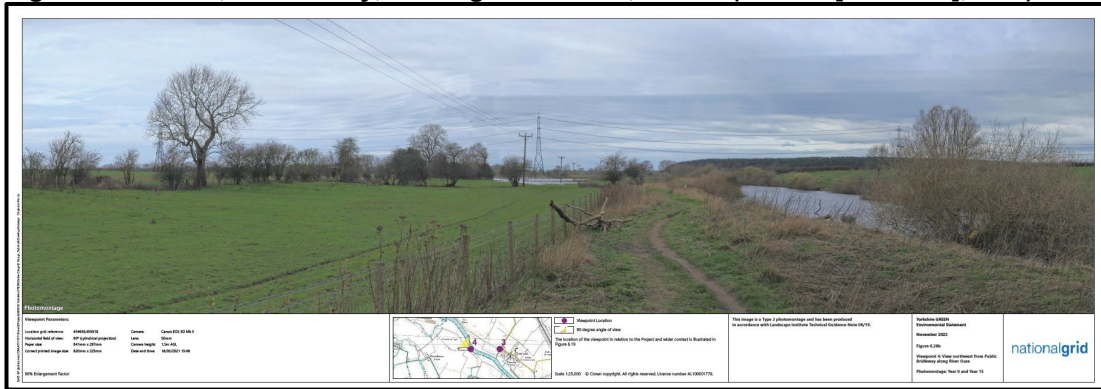
- 3.4.39. We are satisfied with the Applicant's case in terms of the location and alignment in its final dDCO would be Holford compliant as far as possible. Further non site specific reporting on compliance with the Holford Rules is set out in Section 3.3.

### **The number of residual, adverse effects not mitigated**

- 3.4.40. In its LIR, NYC quoted from GLVIA3 regarding effects not considered to be significant not being completely disregarded. It stated that it wanted to continue to work with the Applicant on detailed aspects of the landscape and visual mitigation, to ensure the adverse effects (whether significant or not), are offset or compensated for, in keeping with the local area [REP1-056], para 8.23.
- 3.4.41. At ISH2 and following up in response to actions, NYC stated its view that mitigation for some of the receptors was insufficient. It cited specifically, users of Public Rights of Way (PRoW) (NCN Route 65 and Jorvic Way long distance footpath) and the PRoW east of Shipton, near Newlands Farm [REP4-041], action point 11. In response to ExQ2, NYC stated that for these two receptors a more detailed understanding of the approach to and type of mitigation should be expected at this point, and it would want to see mitigation as close to the receptor as possible to maximise screening and filtering of views [REP5-117], ExQ2 11.2.1.
- 3.4.42. The Applicant provided lengthy site specific explanations on the constraints to providing landscape mitigation in those particular locations, and the appropriateness of what would be proposed in terms of replacement planting. The Applicant followed up NYC's suggestion to contact the White Rose Community Forest initiative to seek potential locations for planting outside Order limits [REP5-082], action point 11.
- 3.4.43. The Applicant reported at D6, that this had not resulted in any suitable sites, but in any case, its view was that unless land available for tree planting could be located very close to the PRoW, where significant visual effects would be experienced, any new planting would be unlikely to mitigate the specific significant adverse visual effects identified. Also, the Applicant argued that the outline landscape mitigation strategies, relating to the non-linear works, more than compensated for the potential loss of trees across the entire Proposed Development, and replacement planting along the linear infrastructure would provide further tree and hedgerow planting. The Applicant confirmed that it is seeking opportunities as close to the Order limits as possible to provide Biodiversity Net Gain (BNG) in compliance with the mitigation hierarchy [REP6-058], ExQ2 11.2.1 to 11.2.2. BNG is reported in Section 3.5 below.
- 3.4.44. There was further discussion at ISH4 regarding certain aspects of the planting scheme, which the Applicant felt could be resolved at post-consent approval stage.

The Applicant commented further on the Jorvic Way, stating that because part of the overhead line would be decommissioned, and so one crossing would effectively be replaced by another, albeit with taller pylons, the adverse effect was considered neutral, relative to the baseline situation. (This can be seen on the visualisations of Viewpoint (VP) 4 [APP-168], Figure 3.4.2 below). The Applicant does not think that new planting should be installed here because it would restrict views at and across the river [REP6-060], pages 5 to 6.

**Figure 3.4.2: VP4, Jorvic Way, looking north-west, Year 0 (source [APP-168], VP4)**



3.4.45. There were no further submissions made in this specific regard and in part it relates to the improved clarity of the reworked Requirements 8, 9 and 10, which we report on below. Throughout its submissions, NYC expressed a desire to continue to work with the Applicant on landscape and visual mitigation proposals. In the main both parties acknowledged that there would be limited opportunities to screen or limit the adverse visual effects of pylons and overhead lines [REP1-047], para 8.6.

*ExA's reasoning: Residual adverse effects not mitigated*

3.4.46. From the evidence submitted on residual significant adverse landscape and visual effects, we have estimated that whilst eight out of ten construction stage adverse landscape effects assessed remain significant, by Year 1 of operation that has reduced to two. Both would be in the area of the Shipton CSECs and related construction compounds. In terms of visual effects, roughly 27% of adverse visual effects assessed would be significant and by Year 1 (and Year 15) that has reduced to 19% and 18% respectively. In our view, this emphasises the importance of addressing construction stage adverse effects, especially as the construction time frame is years, not months.

3.4.47. Whilst we find the number of residual significant adverse visual effects high, we agree with the Applicant that because of the nature of the linear infrastructure there would be limited opportunities for screening/ mitigating. We understand from submissions that some receptors would prefer the view of pylons to being screened close by. We walked this section of the Jorvic Way on our USI [EV-001], and we agree with the Applicant that attempts to screen would be inappropriate and nigh impossible to achieve from sequential views experienced along a linear path.

3.4.48. We also acknowledge the policy positions in NPS EN-1 and EN-5, that new above ground electricity lines can give rise to adverse landscape and visual effects and that all proposed energy infrastructure is likely to have adverse visual effects for many receptors, often being visible for many miles. We are therefore content with the mitigation and replacement planting as proposed and that by necessity some significant adverse visual effects would remain.

- 3.4.49. The ExA is content that the approvals required under R10 (Replacement planting), as amended in the Applicant's final dDCO, would give the relevant planning authorities the means to ensure that the proposals do meet the principles now set out in the CoCP, and any relevant Local Plan policies.
- 3.4.50. The ExA notes that draft NPS EN-5 (March 2023) allows for compulsory acquisition of land or land rights to mitigate adverse landscape and visual effects for off-site planting, therefore strengthening expectations in relation to securing mitigation outside the Order limits. This places additional duties on the Applicant to secure such mitigation, if required. We have considered this as an important and relevant matter, but would not conclude differently from above. This is because in reaching our conclusion, we have noted that replacement planting would contribute more than one for one replacements, the commitment to BNG would identify sites close to the Order limits where planting would be delivered and we agree that screen planting (within the Order limits or off-site) would not be a realistic means of mitigation for the linear infrastructure.
- 3.4.51. We have not relied on off-site planting agreements which are not before us in reaching our conclusions. Draft NPS EN-5 (March 2023) would potentially give the Applicant a case for land rights in the two locations where we have been informed that agreement is being sought/ has been made. However, from what we have been told, the Applicant has made effort to reach agreement by negotiation, which would be an equally acceptable route under draft NPS EN-5 (March 2023). Accordingly, we consider that there would be no conflict with the draft NPS in this regard.

#### **The way in which mitigation is secured, dDCO Requirements 8, 9 and 10**

- 3.4.52. There was some confusion from the outset about how landscape and visual mitigation would be secured in the dDCO. The Applicant's approach in its application dDCO had been to include:
- mitigation at non-linear sites (Overton and Monk Fryston Substations and the Tadcaster CSECs) via the outline landscape mitigation strategies, which included landform design as well as planting proposals; and
  - mitigation planting for the rest of the Proposed Development (linear works and Shipton CSECs) via a scheme which would accord with the AIA.
- 3.4.53. The ExA was not clear on what basis the relevant planning authority would approve submissions under R8 for the non-linear works. NYC thought that no proposals for mitigation existed outside the vicinity of the substations and CSECs and felt that there was no evidence how significant adverse effects would be addressed or mitigated beyond the outline landscape mitigation strategies for the non-linear works [REP1-056] and [REP2-083], Q11.4.1. As a related matter, the ExA was not satisfied with the absence of an outline Tree and Hedgerow Protection Strategy (THPS) in the dDCO.
- 3.4.54. As not all the Councils were present at ISH1, the ExA explored this through ExQ1, certain matters such as management and maintenance were discussed at ISH2. At ISH3 the Applicant advised that it would be proposing new drafting for R8, R9 and R10 in its next dDCO to include:
- i. landscape works in respect of permanent infrastructure at Overton, Tadcaster and Monk Fryston as a separate requirement;
  - ii. obligations in respect of the protection and retention of trees; and
  - iii. replacement planting [REP4-025], page 20.

3.4.55. The changes can be seen in the track changed comparison between submission dDCO and the Applicant's final dDCO [REP8-009]. The changes were discussed at ISH4. The Applicant provided a clear rationale for the changes, explaining it had made the changes to aid clarity. The Requirements now are:

- i. R8 deals with non-linear works, for which a landscape mitigation strategy must be submitted for approval, based on the outline landscape mitigation strategies, prior to which works must not commence.
- ii. R9 covers protection and retention of trees that would be identified in the submitted THPS and applies to, but is not limited to, the linear works.
- iii. R10 concerns replacement planting [REP6-060], page 36.

3.4.56. LCC stated that it was satisfied with the changes, but reminded the Applicant that the Council had referred previously to its replacement planting policy, which sets out a ratio of 3:1 replacement [EV-009f]. The Applicant noted that the 3:1 ratio was not a policy requirement for other local authorities and that there was no planting proposed to be removed within the Leeds administrative area, so if trees were affected, this would most likely require management rather than removal and replacement [REP6-060], page 37. The Applicant also reminded parties of the post-consent approvals, for which the Councils would have responsibility [EV-009f].

3.4.57. The Applicant also explained the use of its "*replacement*" and "*reinstatement*" terminology confirming that replacement planting would not necessarily be like-for-like in its form and nature, that there would be various benefits that could be delivered through replacement planting which would go beyond binary replacement; including numbers, diversity and quality [REP6-060], page 36. The CoCP was updated to reflect this in response to the ExA's dDCO commentary [REP7-042], para 2.3.22. NYC was content with the redrafted Requirements and particularly with the statement above regarding the nature and quantum of replacement planting [REP7-083], ID 3.3.7.

*ExA's reasoning: dDCO Requirements, R8, R9 and R10*

3.4.58. The ExA is satisfied with the changes that the Applicant has made in its final dDCO. We think that the re-structuring of R8, R9 and R10 together with a distinction between mitigation and replacement/ reinstatement planting would be much clearer for the discharging authorities post-consent. We agree with LCC, that it would have been better if one term was used, but we consider that the Applicant has made its use of the two words clear.

3.4.59. With regards to replacement planting, the ExA welcomes the additional definition in the CoCP, which we consider should give comfort to the Councils as well as more certainty for assessing and discharging post-consent approvals. We are satisfied with the Applicant's response regarding the ratio of new planting to trees removed.

**Construction effects including construction compounds/ works areas**

3.4.60. Adverse construction stage landscape and visual effects were identified by both CYC and NYC in their LIRs. CYC notes that the construction phase of the project would likely see the most significant adverse visual effects on surroundings, especially in and around the works areas. CYC acknowledged that they would be temporary when considered against the operational lifetime of the Proposed Development, and stated that they are to a great extent unavoidable in the context of maintaining an operational electricity network. CYC welcomed mitigation measures such as the use of landscape bunds [REP1-047], para 8.2 to 8.4.

- 3.4.61. NYC also mentioned construction stage effects in its LIR, stating that harm, albeit temporary, would be quite considerable and over a not insubstantial period and would warrant further consideration [REP1-056]. In response, the Applicant drew attention to the construction phase mitigation which would include solid timber fencing to the perimeter of the construction compounds where there is the potential for views into the compounds from sensitive receptors at close range [REP2-040], page 16.
- 3.4.62. In the final SoCG, it was agreed between the Applicant and NYC that potential additional mitigation measures comprising temporary fast-growing planting around construction compounds would not be appropriate as it would have a minimal additional benefit and would typically not be deliverable within the Order limits due to lack of space [REP7-083], ID 3.3.4.
- 3.4.63. This matter was also raised by the ExA in ExQ1, in response to which the Applicant stated that it considered proposed measures comprising solid fencing and temporary grassed soil mounds adjacent to the temporary construction compounds would deliver reasonable and appropriate mitigation. We also explored this at ISH4, asking the Applicant to reconsider whether fast-growing planting as screening could be accommodated along the northern boundary fence of the western compound on Rawfield Lane, which could be seen from the A63 and Butts Lane (visible on the right-hand side of the visualisation for VPE [REP2-045]). The Applicant agreed to review this [REP6-060], page 7.
- 3.4.64. Construction site layout and good housekeeping, including no lighting is covered in the CoCP [REP7-042], page 15 to 16 These commitments would be secured through rDCO R5(2)(a) and R6(1)(d).
- 3.4.65. In response to a CA query justifying the land for the construction compounds, the Applicant stated that the compound locations had been carefully considered, and would be close to the main development sites, such as the proposed substation and CSEC locations to minimise activities such as double handling of materials and deliveries [REP2-038], Q4.4.8.

*ExA's reasoning: Construction effects, construction compounds*

- 3.4.66. The ExA is satisfied that the selection of construction compound/ works areas has been undertaken using functional criteria to minimise activities and that in most cases, there would be limited sensitive receptors to views of the compounds. Whilst the construction period would extend over three years, as shown on the indicative construction programme, [REP7-003], Appendix B, we are content that the adverse effects on landscape and views would be reversible post construction and that the CoCP and other outline plans are secured in the rDCO.
- 3.4.67. We agree with the Applicant that additional land to screen construction compound fencing would not be justified under current policy. However, we feel that effort could be made in the one location, where there would be elevated longer-distance and nearby views, to reduce the footprint of the compound marginally to accommodate a row of fast-growing planting. We acknowledge this would be up to the contractor.

**The mitigation/ enhancement at the proposed Overton Substation**

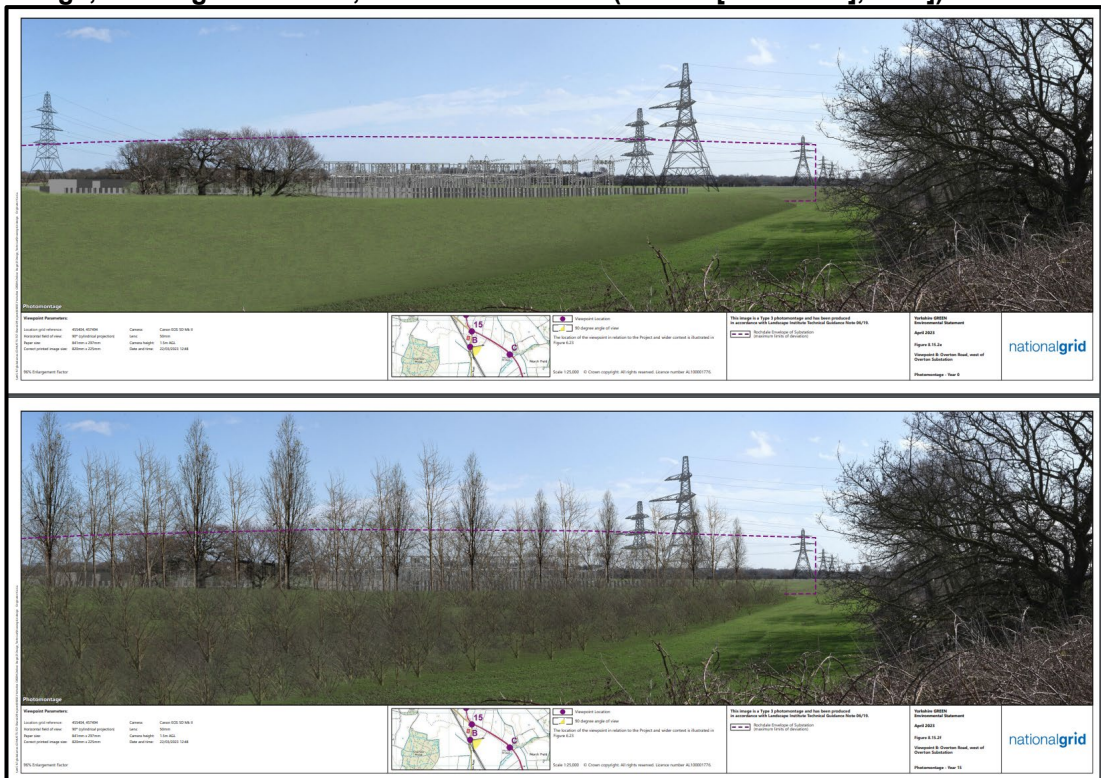
- 3.4.68. In its LIR, CYC noted that it would wish to see suitable screening to reduce the overall adverse landscape and visual effects as far as is practicable for the larger elements of proposed infrastructure, particularly the Overton Substation [REP1-047]

para 8.6. The proposed location for Overton Substation is in the NYC administrative area, but within viewing distance from the CYC area. Hurns Gutter, which forms the edge of the proposed Substation site is the boundary between the two Council areas. This can be seen on the Work Plan [REP6-010], Section B, Sheet 2 of 5, and Figure 3.4.4 below, the view towards the proposed Substation from Hurns Gutter.

3.4.69. We sought clarification about a range of mitigation measures proposed for the Overton Substation in ExQ1 and we asked for the visualisations of this area to be resubmitted with trees for removal marked up [REP2-038], [REP2-047], [REP2-048]. We also requested a new visualisation from the elevated railway bridge on Overton Lane, with the extent of the Rochdale envelope marked on (ie to show the LoD, or maximum potential extent of the Proposed Development). This was submitted as VPB [REP2-045], which is included below (Figure 3.4.3) (the purple dotted line is the Rochdale Envelope, or LoD).

3.4.70. The Applicant explained that the visualisations of the substations are based on modelling of engineering design but not the LoD, so they only include infrastructure up to 15m in height, in certain locations, where the current engineering design would require this [REP2-038], Q11.1.3.

**Figure 3.4.3: VPB: Southern Part of Overton Substation from Overton Lane Railway Bridge, Looking South-east, Year 0 and Year 15 (source [REP2-045], VPB)**



3.4.71. On our ASI, Mr E Stephenson of Stepsons Rural LLP and his three clients, Mr P Bulmer, Ms G Eves and Ms P Husband joined us at VPB on Overton Lane railway bridge [EV-001b]. They pointed out the direction of Skelton Springs Cottages (referred to as New Farm Cottages by the Applicant), to the south, which we visited later in the day. At the rear of Skelton Springs Cottages we looked towards the proposed Overton Substation site, and the railway bridge where we had stood previously was pointed out, as was the vegetation along Hurns Gutter.



- 3.4.72. At ISH2, the day after the ASI, Mr Stephenson submitted evidence on behalf of his clients regarding the adverse effects on views from the rear of these properties that they considered would arise from the proposed Substation and also the new pylons. In a post-hearing submission, a photograph of the view with the railway bridge marked was submitted [REP4-032].
- 3.4.73. We had asked for a visualisation from the A19 looking north-west towards the proposed Overton Substation from close to Hurns Gutter. Whilst this location is more than halfway towards the proposed Overton Substation from Skelton Springs Cottages, and the photograph submitted shows that there is intervening vegetation along Hurns Gutter, we include it below (Figure 3.4.4) because we think it illustrates the point being made about the height and visibility of the pylons in views from the south. Mr Stephenson's point on behalf of his clients was that there is a gap in the Hurns Gutter vegetation, which would give views of the proposed Substation, and his clients were also concerned about views of the pylons. Mr Stephenson said that his clients would like to see a 2m bund with planting south of the Substation in the vicinity of the gap in existing vegetation [EV-005d].

**Figure 3.4.4: VPC: Southern Part of Overton Substation from A19 near Hurns Gutter Looking North-west, Existing, Year 0 and Year 15 (source [REP2-046], VPC)**



3.4.74. The Applicant responded pointing out that there could be issues with a bund in that area because some of that area is in Flood Zone 3, although not all, and mentioned that there is no right to a private view [REP4-023], pages 21 to 22. During the Examination further discussions took place regarding possible planting within the constraints of the location.

3.4.75. At CAH2, it was reported that agreement had been reached on a different location for planting, on land owned by Stephenson's Rural LLP's clients and that it was only the detail of the planting that was outstanding which would be submitted at D6 [REP6-059], page 4 to 5. At the final Deadline, Stephenson's Rural LLP confirmed that discussions were advanced over the details, stating that they would be agreed in the near future [REP8-023].

*ExA's reasoning: Overton Substation mitigation/ enhancement*

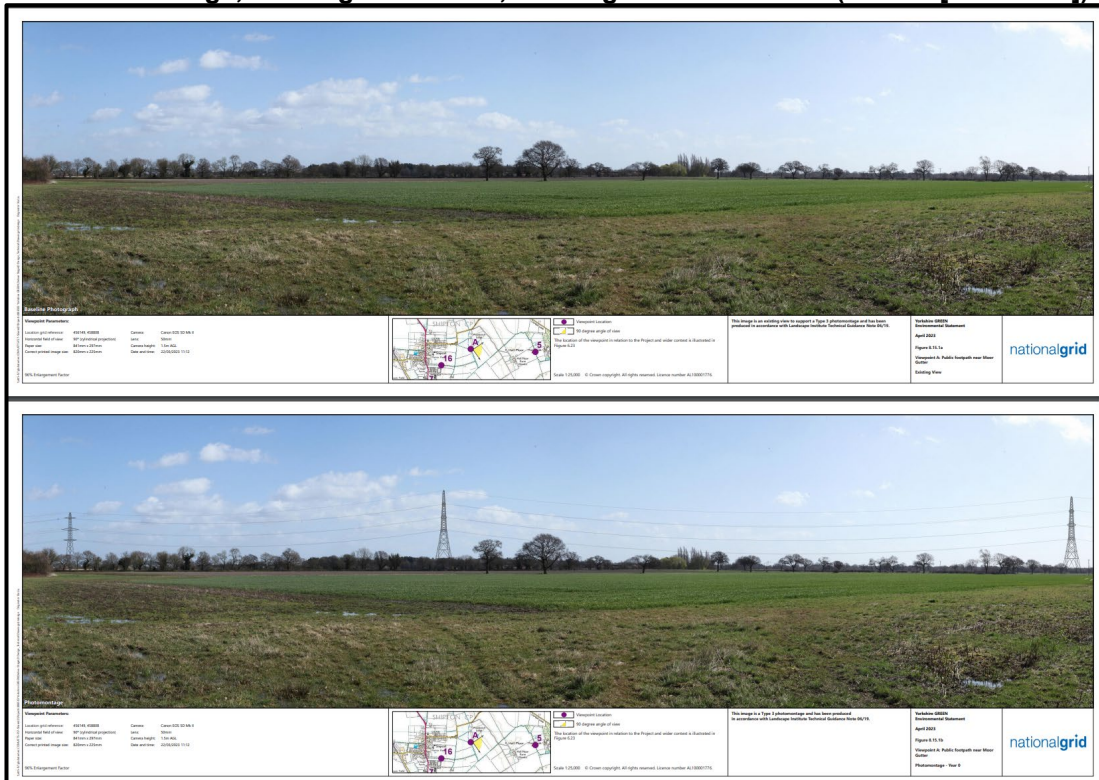
3.4.76. As this proposed planting would represent enhancement and not mitigation or reinstatement, the ExA is satisfied that this is a matter for landowner and Applicant negotiation.

3.4.77. Matters to do with the overall good design at the proposed Overton Substation are reported in Section 3.13 of this Recommendation under good design.

**Woodstock Lodge Wedding Venue**

3.4.78. The Applicant’s LVIA acknowledged that guests at the Woodstock Lodge Wedding Venue would experience relatively unrestricted views of several pylons on the new 400kV YN overhead line. This can be seen on the ExA requested visualisation for VPA [REP2-045], which is from a public footpath just south of the wedding venue, included below (Figure 3.4.5). We visited this location on our USI [EV-001]. The Applicant’s assessment concluded significant adverse effects during construction, and operation for Years 0 and 15.

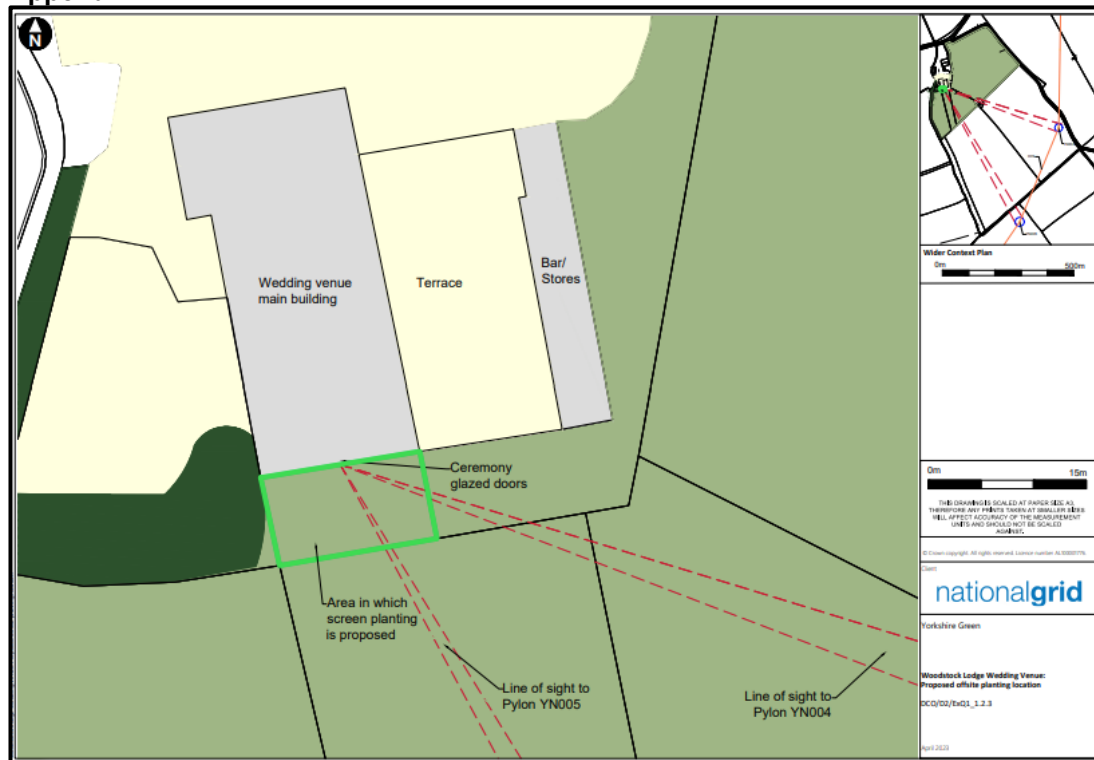
**Figure 3.4.5: VPA Towards Proposed New YN Overhead Line from South of Woodstock Lodge, Looking South-east, Existing View and Year 0 (source [REP2-045])**



3.4.79. In the ES, the Applicant describes additional, off-site measures that would limit the predicted adverse visual effects to still be significant during construction and Year 0, but which would reduce to a moderate adverse effect that is not significant on installation of the off-site planting (ie outside the Order limits) and reduce further once the planting had established, to minor adverse effects, which would not be significant after five years [APP-078], page 133. We visited Woodstock Lodge Wedding Venue on our ASI and had the location for the proposed planting pointed out [EV-001b].

3.4.80. The proposed area in which the planting would be located, with sightlines to the proposed pylons is set out on a drawing, which also indicates the location of the wedding ceremony glazed doors [REP2-039], Appendix B, which is included below (Figure 3.4.6).

**Figure 3.4.6: Woodstock Lodge, Proposed Planting Location (source [REP2-039])  
Appendix B**



3.4.81. The Applicant’s Closing Statement confirmed that planting beyond the Order limits has been designed to provide enhancement and also to reduce adverse effects on the business as a socio-economic consideration. It confirmed that a separate agreement has been reached and signed with the owners of Woodstock Lodge for them to install and maintain suitable planting outside the Order limits [REP7-039], para 12.1.12.

*ExA’s reasoning: Woodstock Lodge Wedding Venue*

3.4.82. We have received no submissions from the owners of Woodstock Lodge Wedding Venue, but we met the owner on site on our ASI, and he readily pointed out the proposed location for the planting. On that basis we see no reason not to accept the Applicant’s statement that an agreement has been signed to address the installation and maintenance of planting.

3.4.83. The ExA agrees with the Applicant’s assessment in terms of adverse visual effects with and without the additional measures described. We therefore agree, based on our ASI and the drawings submitted, that these measures, which the Applicant has stated it would deliver with the business owner, would provide suitable screening of views from the important locations associated with the wedding ceremonies and as such would comprise a suitable enhancement.

3.4.84. However, despite the positive measures described by the Applicant, there was no evidence submitted into the Examination that confirmed agreement for either the planting itself or the ongoing maintenance over five years. For that reason, and because it would be beyond the Order limits, in coming to overall conclusions on visual effects, the ExA has taken into account the significant adverse visual effects which would arise during construction and operation to Year 15 and beyond in the Applicant’s assessment, without additional off-site measures. This therefore adds in the planning balance to the residual adverse effects which would not be mitigated.

## Management and maintenance

- 3.4.85. In response to ExQ1, two of the Councils, LCC and NYC, disagreed with the Applicant's proposals for management and maintenance of planting in terms of the five years proposed for the maintenance regime and the five years proposed for replacement of dead, seriously damaged or diseased plant material as set out in R8 and R9 of its immediate post-application dDCO [AS-011]. They thought these periods should be longer, but were not at one with each other [REP2-076], Q5.4.7 and [REP2-083], Q5.4.7. LCC sought maintenance in perpetuity with replacement of failures for five years and NYC suggested a maintenance term of 30 years. CYC agreed with the Applicant's approach [REP2-057], Q5.4.7.
- 3.4.86. As mentioned earlier, the Applicant submitted new Requirements R8, R9 and R10 in order to provide clarity of purpose. In doing so, the Applicant also added the need for details of the management regime for any woodland planting in years six to fifteen also to be submitted for approval prior to commencement of the non-linear works, in its final dDCO [REP8-004], R8(2)(c). This was to address the point made by the ExA that the LVIA and its visualisations assesses the Proposed Development at Year 15, based on successful mitigation through planting, which would need maintenance.
- 3.4.87. At ISH4, the Applicant confirmed that it would maintain planting on the land that it had acquired as permanent land take in line with its usual estate management, so this planting would be maintained in perpetuity, consistent with the Applicant's normal approach to maintenance, but that the dDCO would be silent on this after Year 15 [EV-009e].
- 3.4.88. At ISH4, LCC and NYC confirmed that they were content with the revised requirements in terms of the time periods set for management and maintenance [EV-009e]. LCC confirmed its agreement [REP6-069], and it was set out in the final SoCG with NYC [REP7-083], ID 3.3.7. CYC was not in attendance at ISH 4, but had agreed the position earlier.

### *ExA's reasoning: Management and maintenance*

- 3.4.89. The ExA considers that the revised R8, R9 and R10 gave better clarity for the Councils in discharging these Requirements. Considering the management and maintenance terms, we are content that there is now a logic to the way that they are described. We are now satisfied that the revised requirement for management and maintenance of woodland planting associated with the non-linear sites on land permanently acquired by the Applicant would be secured in a way that ensures it would meet its mitigation function. This is because it would be subject to a plan that the Councils would need to approve for woodland planting for years six to fifteen.
- 3.4.90. The ExA notes that draft NPS EN-5 (March 2023) requires a management plan for landscape works, to be developed at least in outline by the end of the Examination because long-term management of the selected mitigation schemes is essential to their mitigating function. This was not provided. Draft NPS EN-5 (March 2023) does therefore place additional duties on the Applicant in this regard. However, the SoS can be satisfied that the Applicant's final dDCO would require such management plans (for linear and non-linear elements of the Proposed Development) to be submitted for the approval of the relevant planning authority before a stage of the authorised development could commence. The Councils engaged actively over the matter of landscape management and maintenance during the Examination, so we see no reason why that level of interest would not be sustained over discharge of post-consent approvals.

## **Other Matters**

### **Changes to the application**

- 3.4.91. The Changes accepted into the Examination have been reported in Chapter 1 and Annexes B3 and B4 of this Recommendation. The Applicant's Report on Proposed Changes considers the effects of the three changes accepted by the ExA during the Examination on landscape and visual receptors and related arboricultural impact [REP5-091]. The Report concludes that there would be no change to the assessment of landscape and visual effects or on the conclusions of the AIA resulting from Change 1. The effects on landscape and visual receptors and on the AIA for Changes 2 and 3 were considered, and it was concluded that there would be no change to the significance conclusions of the ES Chapter 6 and no new or materially different impacts in relation to arboriculture.
- 3.4.92. In the case of Change 2, the localised loss and trimming of vegetation along Hurns Gutter associated with the different access would in any case have been required to construct the proposed overhead line. The majority of additional loss would be focused on small newly planted trees, with retained trees being a more established group and hedgerow. Change 2 would also result in the full retention of two hedgerows and a small group of trees, previously shown for removal, associated with the Work No. U4 undergrounding. Change 3 would alter the location of the access off Newlands Lane to the Shipton CSECs from an existing field gate to a location with hedgerow, resulting in a slight increase in hedgerow removal, but no change to the conclusions of the LVIA. The AIA was updated.
- 3.4.93. These updates were implemented through the ES Errata document [REP7-003] and the updates to the AIA Report and tree and hedgerow potentially affected plan [REP7-011], [REP7-013], [REP7-014] and [REP6-018] to [REP6-020]. These matters were discussed at ISH4 and CAH2. The ExA is content with the Applicant's conclusions in this regard bearing in mind the relatively minor scale and highly localised nature of the changes.

### **Cumulative effects**

- 3.4.94. The Applicant cross references with Chapter 18 of its ES in considering cumulative effects on landscape and visual which could arise. Inter-project (combined with other development) cumulative effects are reported there. The Applicant states that the greatest potential for landscape and visual effects that are intra-related with other aspects, would be with: biodiversity, air quality, noise and vibration, traffic, socio-economic and health. The intra-related landscape and visual effects that have arisen under issues we have reported are connected with the Travellers' Site and the Woodstock Lodge Wedding Venue [APP-078], Section 6.15. These are reported under Section 3.15 of this Recommendation.
- 3.4.95. The Applicant also notes that there are potential intra-related effects with visual effects on residential receptors which would be affected by a combination of air quality, visual, traffic, socio-economic and health effects [APP-078], Section 6.13.
- 3.4.96. The ExA considers that there is overlap between landscape and visual effects and GI and with the overarching matter of good design. These are reported later in Sections 3.9 and 3.13 of this Recommendation. Matters raised in connection with the DASSI document are covered in Section 3.13.

## Conclusions

- 3.4.97. In terms of methodologies used, the ExA is satisfied that the visualisations included in the LVIA in the ES are fit for purpose, although they are not representative of the worst-case scenario, and lack some of the finer-detail engineering information. As stated above, the ExA does not agree with one element of the Applicant's LVIA in terms of the way in which the traveller community's sensitivity as a visual receptor has been assessed in the LVIA Addendum. This is a methodological disagreement and does not follow through to disagreement over the mitigation proposed, with which we are content. We are content that the LVIA meets the relevant guides and took account of local landscape character assessments (NPS EN-1, para 5.9.5 to 5.9.7 and 5.9.15).
- 3.4.98. In terms of effects on landscape, the ExA and IPs acknowledge that the Proposed Development would have an adverse effect, apart from in areas where overhead lines would be removed, in which case the landscape (and visual) effects would be locally beneficial through the reconfiguration of the network (NPS EN-5, para 2.8.3). There is little the Applicant could do to minimise harm with regard to the new pylons and increased heights of pylons because of the need to balance the routeing and locations with other constraints, including following the Holford Rules. In our view, the SoS can be satisfied that the routeing of the new lengths of overhead line is in accordance with the approach set out by the Holford Rules (NPS EN-5, para 2,8,5 to 2.8.7).
- 3.4.99. When considering the proposed substations and CSECs, even though there would be adverse effects, we consider that reasonable mitigation for the longer-term operational stage has been included, which we touch on further in Section 3.13 on good design (NPS EN-1 para 5.9.8).
- 3.4.100. As reported above, it is during the construction stage when the larger proportion of significant adverse landscape and visual effects would be extant. In reaching our recommendation, we have given regard to the Applicant's assessment which shows that most of the adverse effects on the landscape do not continue beyond Year 0, and therefore are capable of reversal. Having said that, the construction stage is over three years, and with reinstatement extends to four and a half years, beyond which reinstatement planting would still need time to mature sufficiently to perform its previous function. We consider this is still reasonable in the context of the linearity of the Proposed Development, but would urge for successive completions along the route wherever possible (NPS EN-1, para 5.9.15).
- 3.4.101. Turning to visual effects, the ExA is content that the effects on sensitive receptors have been assessed and the Applicant's Design and Access Statement (DAS) and the DASSI both include examples of similar infrastructure to that which is proposed (NPS EN-1, para 5.9.18 to 5.9.19). Many of the significant adverse visual effects would not be capable of being mitigated even by Year 15 because of the nature of the Proposed Development, including the height of the pylons. Whilst we find the number of operational stage, residual, significant adverse visual effects to be high, the linear nature of the infrastructure which results in sequential views of pylons and CSECs means that there would be limited opportunities for screening (NPS EN-1, para 5.9.18).
- 3.4.102. In terms of mitigation, the Proposed Development is a network reinforcement option (as described under alternatives in Section 3.3) and the ExA is satisfied that the lattice towers are the most suitable support structure in the context of new parts of the route being joined to existing lines, also supported on lattice towers (NPS EN-5,

para 2.8.10). No loss of function was proposed as mitigation, nor do we consider it to be necessary or relevant (NPS EN-1, para 5.9.21). The ExA is satisfied that the outline landscape mitigation strategies for the non-linear elements of the Proposed Development cover landform as well as planting and the DASSI provides some details on materials and designs, although we have made additions and changes in our rDCO to matters secured from the DASSI. This is explained in Section 3.13 in terms of meeting good design policy, as well as that for landscape and visual mitigation (NPS EN-1, para 5.9.22).

- 3.4.103. Off-site planting was a matter of discussion, with one Council in favour and the Applicant arguing that screening the 275kV and 400kV pylons would only be feasible at the location of the receptor and would thus restrict the experience of wider views. On this matter, we agree with the Applicant (NPS EN-1, para 5.9.23 and EN-5, para 2.8.11). The Applicant has confirmed that it has reached agreement on one enhancement scheme in the immediate vicinity of a business and is at a detailed stage for another agreement near residential properties where localised planting would help to screen views (NPS EN-5, para 2.8.11). The ExA welcomes these enhancements, but has not given weight to them as there is no evidence that they have been or would be secured.
- 3.4.104. However overall, it is the ExA's opinion that the adverse landscape and visual effects do not outweigh the benefits of the Proposed Development (NPS EN-1, para 5.9.15 and 5.9.18), based on the mitigation secured within the Order limits. There is nothing in the revised drafts of NPS EN-1 or EN-5 that would alter the ExA's conclusions in this regard. The ExA has taken regard of the points raised in the LIRs and the Local Plan policies to which they refer. We have reported and concluded in this Section of our Recommendation issues raised through the LIRs. In our opinion there would be no conflict with Local Plan policies highlighted through the LIRs.
- 3.4.105. Taking all the matters reported above, acknowledging that there are some beneficial landscape and visual effects as well as adverse ones, the ExA ascribes moderate weight against the Order being made to the landscape and visual effects.

## **3.5. BIODIVERSITY AND NATURAL ENVIRONMENT**

### **Introduction**

- 3.5.1. This Section considers the effects of the Proposed Development on biodiversity and ecology. This is distinct from the ExA's consideration of matters relevant to Habitats Regulations Assessment which is contained in Chapter 4 and Annex C of this Recommendation. There are linkages between this Section and our consideration of GI and landscape and visual effects, which are reported in Sections 3.9 and 3.5 of this Recommendation respectively.

### **Policy Considerations**

- 3.5.2. The EIA Regulations specify that an EIA must identify, describe and assess the direct and indirect significant effects of the Proposed Development on (amongst other things) biodiversity, with particular attention to species and habitats protected under the Habitats Directive. In deciding whether to make an Order granting development consent, the SoS must take account of the environmental information and consider whether it is appropriate to impose monitoring measures.

### **National Policy**

- 3.5.3. The assessment for biodiversity as set out in NPS EN-1, requires that the Applicant:



- clearly sets out any effects on internationally, nationally and locally designated sites of ecological importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity (para 5.3.3);
- shows how the project has taken advantage of opportunities to conserve and enhance biodiversity (para 5.3.4);
- aims to avoid significant harm to biodiversity, including through mitigation, consideration of reasonable alternatives and where necessary, appropriate compensation measures (para 5.3.7);
- sets out proposals for the conservation of ancient woodland and aged or 'veteran' trees, or justifies their loss where it is unavoidable (para 5.3.14); and
- includes appropriate mitigation measures to minimise the effects of construction and operation on biodiversity features, including restoration and where possible enhancement of existing habitats (para 5.3.18).

3.5.4. With particular reference to electricity networks infrastructure, NPS EN-5 requires that the Applicant:

- considers whether proposed overhead lines could give rise to collisions with, or electrocution of, large birds such as swans and geese, particularly in feeding, hunting and breeding grounds and migration corridors (para 2.7.2); and
- where necessary, employs appropriate mitigation for any such effects (as described in para 2.7.4. to 2.7.6).

3.5.5. In reaching a decision the SoS should be satisfied that:

- appropriate weight is attached to designated sites of international, national and local importance, protected species, habitats and other species of principal importance for the conservation of biodiversity, and to biodiversity interests within the wider environment (para 5.3.8);
- due consideration has been given to sites of biodiversity interest designated at the national, regional and local level (para 5.3.11 and 5.3.13);
- any loss or deterioration of ancient woodland as a result of proposed development is outweighed by the benefits of the scheme in that location, and loss of aged or 'veteran' trees has been avoided as far as possible (para 5.3.14);
- opportunities to build beneficial biodiversity features into the design of the proposal have been taken, and secured via requirements or planning obligations (para 5.3.15);
- species and habitats of principal importance for the conservation of biodiversity are protected from the adverse effects of development. This includes refusing consent where harm is not outweighed by the benefits (including need) of the development and giving substantial weight to any such harm to biodiversity features of national or regional importance (para 5.3.17); and
- mitigation measures are appropriately secured via Requirements or planning obligations (para 5.3.19) and account has been taken of whether relevant licences (including protected species licences) have been granted by the relevant statutory nature conservation bodies (para 5.3.20).

3.5.6. In specific respect of electricity networks infrastructure, NPS EN-5 additionally stipulates that the SoS should be satisfied that:

- the potential for large birds such as swans and geese to collide with or be electrocuted by proposed overhead lines has been duly considered and mitigated where necessary (para 2.7.3).

- 3.5.7. Draft NPS EN-1 (March 2023), which is an important and relevant consideration in this case, sets out matters relevant to biodiversity in Sections 4.5 (assessment principles) and 5.4 (generic impacts). Section 4.5 of the draft policy reflects a strengthened emphasis on energy NSIPs achieving BNG. Draft NPS EN-5 (March 2023), also an important and relevant consideration, indicates a continuation of policy relating to the assessment of effects of electricity network infrastructure including in respect of mitigation for ecological receptors.
- 3.5.8. The Environment Act 2021 includes provision (in Section 99 and Schedule 15) for NSIPs to be required to demonstrate BNG. These provisions have not yet been brought into effect, however as a statement of Government intent they are important and relevant considerations for the purposes of this Recommendation.

### **Local Policy**

- 3.5.9. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the biodiversity and natural environment effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation.
- 3.5.10. The Applicant identifies legislation and policy that it considers to be important and relevant to this topic in ES Chapter 8 [APP-080], Tables 8.1 and 8.2.

### **The Application**

- 3.5.11. The Applicant's assessment of potential effects on biodiversity and ecology is presented in ES Chapter 8 [APP-080]. At the point of submission, this was accompanied by a Biodiversity Figures document [APP-183], a Biodiversity Mitigation Strategy [APP-097] and a BNG Report [APP-210].
- 3.5.12. The potential effects of the Proposed Development on designated sites of international importance are assessed in the Applicant's No Significant Effects Report [AS-018] and reported in Annex C and Chapter 4 of this Recommendation. In terms of designated sites of national importance, ES Chapter 8 [APP-080], Table 8.9 identifies eight Sites of Special Scientific Interest within the study area, none of which fall within the Order limits and none of which were scoped in for further assessment.
- 3.5.13. A number of locally designated sites are identified, of which two sites (Overton Borrow Pits Site of Importance for Nature Conservation (SINC) and River Ouse candidate SINC) are located within the Order limits and a further five are within 100 metres of the Order limits. Deleted SINC are included within the assessment on a precautionary basis, two of which (Field nr Healaugh Manor Farm and Disused Quarry, Newthorpe) are within the Order limits [APP-080], Table 8.10. Following assessment, no likely significant effects are identified in relation to any of these sites [APP-080], Section 8.9.
- 3.5.14. The assessment considers potential effects on habitats, including Habitats of Principal Importance (HPIs), ancient woodland, veteran trees, woodland, grassland, hedgerows, standing water, rivers, streams, ditches, arable land, scrub and ephemeral vegetation [APP-080], Section 8.9. It also assesses effects on protected species, Species of Principal Importance (SPIs) and other conservation-notable species. This includes great crested newt, otter, water vole, reptiles, badgers, birds as well as relevant amphibians, fish, invertebrates and plants [APP-080], Section 8.9.

- 3.5.15. The biodiversity assessment outcomes are summarised in ES Chapter 8 [APP-080], Table 8.15. None of the predicted effects upon ecological features are found to be significant, largely due to the embedded environmental mitigation measures and habitat- or species-specific measures secured as part of the Proposed Development.
- 3.5.16. The principal embedded mitigation measures are summarised in ES Chapter 8 [APP-080], Table 8.12 and the Embedded Measures Schedule (submission version [APP-094]). As a result of these measures, the assessment concludes that there would be no significant residual effects on biodiversity or ecology receptors as a result of the Proposed Development.
- 3.5.17. ES Chapter 8 [APP-080], Section 8.13 identifies further work to be undertaken to support the biodiversity assessment, specifically important hedgerows surveys and bat surveys. ES Chapter 8 [APP-080], para 8.12.2 states that the Applicant seeks to deliver a 10% BNG through habitat enhancement or creation, which if provided would give rise to an overall low magnitude positive effect on all habitats included within Biodiversity Metric 3.1. At the point of submission, the Applicant's commitment to 10% BNG was not secured by Requirement or planning obligation.

### **Issues Considered During the Examination**

- 3.5.18. During the Examination, ES Chapter 8 was subject to:
- minor amendments and clarifications, captured in the final ES Errata Document [REP7-003]; and
  - substantive amendments, captured in the final consolidated ES Addendum [REP7-005], Section 4.
- 3.5.19. The Biodiversity Figures were updated during the Examination, the latest version being in two parts [REP5-022] and [REP5-023]. The Biodiversity Mitigation Strategy was also updated during the Examination, the latest version being [REP6-039], as was the CoCP, the latest version of which was [REP7-042].
- 3.5.20. The main issues arising during the Examination related to the following matters:
- biodiversity assessment scope, methodology and conclusions;
  - mitigation of potential effects on biodiversity receptors;
  - potential need for bird diverters on proposed overhead lines at river crossings; and
  - Biodiversity Net Gain.

### **Biodiversity assessment scope, methodology and conclusions**

- 3.5.21. ES Chapter 8 [APP-080] presents the Applicant's assessment of the potential effects of the Proposed Development on designated sites at the international, national and local levels, on habitats and species of principal importance, on red listed and legally protected species, on legally controlled species and on locations of bat roosting, existing European Protected Species licences, watercourses, ponds and ditches. The ExA asked questions about the biodiversity assessment scope, methodology and conclusions at ISH2 [EV-005], ISH3 [EV-006], ISH4 [EV-009] and in ExQ1 [PD-007] and ExQ2 [PD-011].
- 3.5.22. Responding to ExQ1 3.1.1 and ExQ1 3.2.1, the additional survey work identified in ES Chapter 8 [APP-080], Section 8.13 was submitted at Deadline 2, specifically: Bat Survey Report [REP2-030] and Extended Phase 1 Habitat Survey Report [REP2-

027] (the latter being subsequently further updated as [REP5-020]). ES Chapter 8 [APP-080] was updated to take account of these additional surveys via the ES Addendum [REP7-005], Section 4. The assessment of effects on bats and hedgerows was found to be unchanged by the results of the additional surveys and consequently, no changes to the Biodiversity Mitigation Strategy were identified [REP2-038]. In light of the results of the surveys, which fell within the worst-case assumptions within the assessment, the ExA accepts this position.

- 3.5.23. The Applicant's Report on Proposed Changes [REP5-091] considers the effects of the three changes accepted by the ExA during the Examination [PD-013] on biodiversity receptors. The Report concludes that there would be no change to the assessment of biodiversity effects as a result of Change 1. For Changes 2 and 3, the Report considers the effects on biodiversity receptors and concludes that there would be no change to the significance conclusions of ES Chapter 8 but that updates to the assessment are necessary, most notably to reflect the additional crossing of Hurns Gutter which forms part of Change 2 and the small increase (approximately 4 metres) in hedgerow removal comprised in Change 3 [REP5-091]. These updates were implemented through the ES Errata document [REP7-003]. The ExA explored this matter at ISH4 [EV-009]. Having regard to the relatively minor scale and highly localised nature of the three changes, the ExA accepts the Applicant's conclusions in this regard.
- 3.5.24. As described earlier in this Section and summarised in ES Chapter 8 [APP-080], Table 8.15, the biodiversity assessment concludes that no likely significant effects would arise in relation to any of the ecological features, principally due to the embedded environmental mitigation measures and habitat- or species-specific measures secured as part of the Proposed Development. The ExA's questions in this regard were all answered satisfactorily and no substantive matters remained disputed by any IPs at the end of the Examination, save for the question of bird diverters discussed in more detail in a subsequent part of this Section.
- 3.5.25. The Applicant's response to ExQ1 3.2.3 and ExQ1 3.2.4 clarified a number of apparent discrepancies between application documents in the figures quoted for the length of hedgerow that could be lost and affected by the construction of the Proposed Development [REP2-038], Table 2.6. These figures were further updated following the ExA's acceptance of the Change Application, the final position being that the Proposed Development would be likely to result in a total permanent loss of approximately 957 metres of native hedgerows [REP7-003]. Hedgerow removal would be mitigated within the Order limits by new hedgerow planting and reinforcement such that there would be an overall net increase in hedgerow length of approximately 70 metres [REP7-003], with an additional approximate length of 849 metres reinforced [APP-080]. Replacement hedgerow planting is discussed further below.
- 3.5.26. By the end of the Examination, agreement on the methodology, scope and conclusions of the Applicant's assessment of potential effects on biodiversity was confirmed by CYC [REP5-033], LCC [REP7-028] and NYC [REP7-083]. There were also no objections raised in this regard by Natural England [REP5-037] or the Environment Agency [REP7-030]. Whilst Yorkshire Wildlife Trust (YWT) maintained an objection about the use of bird diverters until the end of the Examination (discussed in a subsequent part of this Section), the final SoCG [REP5-039] records agreement with the Applicant's biodiversity assessment in all other respects.

### *ExA's reasoning*

- 3.5.27. On the basis of the above analysis, the ExA is satisfied that the assessment reported in ES Chapter 8 [APP-080], as supplemented and updated during the Examination, provides a satisfactory assessment of the likely significant effects of the Proposed Development on biodiversity receptors as required by the EIA Regulations, NPS EN-1 and NPS EN-5. It follows that the ExA accepts the assessment's conclusion that there would be no significant residual effects on biodiversity or ecology receptors as a result of the Proposed Development.
- 3.5.28. The ExA's detailed consideration of the potential for effects on designated sites of international importance is set out in Annex C of this Recommendation and summarised in Chapter 4.

### **Mitigation of potential effects on biodiversity receptors**

- 3.5.29. Mitigation of potential biodiversity effects is secured via the following mechanisms:
- Biodiversity Mitigation Strategy [REP6-039], pursuant to dDCO Requirement 5(2)(c) [REP8-004];
  - CoCP [REP7-042], pursuant to dDCO Requirement 5(2)(a) [REP8-004];
  - Noise and Vibration Management Plan [APP-101], pursuant to dDCO Requirement 5(2)(f) [REP8-004];
  - Lighting Scheme (to be produced post-consent and which must be in accordance with the certified construction management plans), pursuant to dDCO Requirement 6(1)(d) [REP8-004];
  - Tree and Hedgerow Protection Strategy (THPS) (to be produced post-consent and which must be in accordance with the certified construction management plans), pursuant to dDCO Requirement 6(1)(g) [REP8-004]; and
  - Replacement planting scheme (to be produced post-consent and which must be in accordance with the CoCP and which must replace the trees and hedgerows identified to be removed in the THPS), pursuant to Requirement 10.
- 3.5.30. The Biodiversity Mitigation Strategy [REP6-039] was updated once during the Examination to reflect the outcomes of the post-submission bat surveys referred to above. The Applicant clarified some matters relating to the content of the Strategy that we raised through ExQ1 3.3.1 to 3.3.3 [PD-007], ExQ2 3.1.1 [PD-011] and at ISH2 [EV-005]. The Strategy sets out the respective roles and responsibilities of the Ecological Clerk of Works and the principal contractor's ecologists, together with details of general and species/habitat specific mitigation measures.
- 3.5.31. The CoCP [REP7-042] was updated a number of times during the Examination. The document specifies the good practice construction measures which should be followed relevant to biodiversity receptors (Section 3.5), trees (Section 3.3) and more general measures including lighting (Section 3.2).
- 3.5.32. The Noise and Vibration Management Plan [APP-101] sets out measures to control and limit construction and operational noise arising from the Proposed Development, which minimises the potential for auditory disturbance to foraging, commuting and resting species. In a similar vein, disturbance to species from lighting associated with the construction of the Proposed Development would be minimised through the Lighting Scheme which must be produced prior to commencement of any stage of works and which must comply with the provisions of Requirement 6(5) [REP8-004] and the construction management plans.

- 3.5.33. Having regard to duties under para 5.3.14 of NPS EN-1, the ExA notes that approximately 1.68 ha of ancient woodland is identified within the Order limits. At the start of the Examination, the Woodland Trust raised concerns about the effect of the Proposed Development on ancient woods and trees and emphasised the need for appropriate mitigation to protect these natural assets from harm [RR-036]. In response, the Applicant signposted to its assessment of effects and described the mitigation secured through the THPS pursuant to dDCO Requirement 6(1)(g) [REP1-015], Table 2.33.
- 3.5.34. The ExA notes that refinements to the design of the Proposed Development prior to submission mean that all ancient woodland would be avoided, resulting in no loss. Alongside the Biodiversity Mitigation Strategy [REP6-039] and the CoCP [REP7-042], the THPS, which must be produced prior to commencement of any stage of works and which must accord with the construction management plans, would specify measures to protect retained woodland close to working areas, thus avoiding damage to ancient woodland.
- 3.5.35. A total of twelve veteran trees are identified within the Order limits, of which nine are potentially ancient. All twelve trees would be avoided by micro-siting the proposed works and suitable root protection zones would be implemented during construction [APP-080], Table 8.11. Consequently, through the combination of measures specified in the Biodiversity Mitigation Strategy [REP6-039], the CoCP [REP7-042] and the Tree and Hedgerow Protection Strategy, the loss of or damage to veteran trees would be avoided.
- 3.5.36. While a degree of hedgerow removal is unavoidable in constructing the Proposed Development, the ExA is satisfied that appropriate measures would be in place (principally through the CoCP [REP7-042] and Biodiversity Mitigation Strategy [REP6-039]) to minimise the loss of hedgerow in the final design stage. The drafting of Requirement 10 of the Applicant's final dDCO [REP8-004] pertaining to replacement planting was discussed throughout the Examination and the final position is reported in Section 3.4 of this Chapter and Chapter 7 of this Recommendation. In terms of replacement hedgerow planting, the ExA considers that the Applicant's commitments are adequately secured through Requirement 10 of the dDCO [REP8-004].

*ExA's reasoning*

- 3.5.37. Drawing together all of the above considerations, the ExA concludes that reasonable alternatives have been considered and appropriate biodiversity mitigation measures are adequately secured under the provisions of Requirements 5, 6 and 10 of the Applicant's final dDCO [REP8-004]. As such, we consider that significant harm to biodiversity would be avoided and the effects of construction and operation of the Proposed Development on biodiversity features would be minimised, in line with the duties under para 5.3.7, 5.3.18 and 5.3.19 of NPS EN-1.
- 3.5.38. In arriving at these conclusions, the ExA has taken account of the need for European Protected Species and Protected Species licences to be obtained from Natural England (NE) in accordance with para 5.3.20 of NPS EN-1. The Applicant's Details of Other Consents and Licences [REP7-016], Table 2.1 summarises the position on such licences at the end of the Examination. A District Level Licence for great crested newts is the only licence identified, for reasons set out in that document. Agreement with this approach is confirmed by NE, as relevant licensing body, in [REP5-037], SoCG ID 3.6.1 to 3.6.3. Should pre-construction surveys indicate likely impacts on other protected species, the Biodiversity Mitigation

Strategy [REP6-039] requires that a licence should be sought from NE prior to commencement of the Proposed Development.

### **Potential need for bird diverters on proposed overhead lines at river crossings**

- 3.5.39. At ISH2 [EV-005], YWT made representations about the potential for bird strike with the proposed overhead lines where they would cross the River Ouse [REP6-008], Sheet 4 and River Wharfe [REP6-011], Sheet 8. YWT's submissions are set out in [REP1-026], [AS-023], [REP4-043] and [REP5-039]. In particular, potential effects on whooper swan and pink-footed geese as features of UK European sites were highlighted, although the possible effect of bird strike on local populations of goosander, mallard, grey heron and mute swans in the River Wharfe corridor was also mentioned in YWT's submissions. YWT sought a commitment from the Applicant to install bird diverters on the relevant sections of overhead line in order to avoid potential collision effects [REP4-043].
- 3.5.40. The ExA probed this matter throughout the Examination, including at ISH2 [EV-005], ISH3 [EV-006], ISH4 [EV-009] and in ExQ2 3.0.1 to 3.0.8 [PD-011]. Since YWT's submissions principally relate to potential effects on European sites, the ExA's consideration of this matter is primarily set out in Annex C and summarised in Chapter 4 of this Recommendation which deal with the Habitats Regulations Assessment (HRA). To avoid duplication, the remainder of this Section of the Recommendation relates only to the non-HRA aspects of YWT's submissions.
- 3.5.41. The Applicant's assessment of likely significant effects on birds is contained in ES Chapter 8 [APP-080], Section 8.9. This does not identify any likely adverse effects on birds. Measures to avoid or minimise the potential for nesting birds (including Schedule 1 species) to be killed or injured by the Proposed Development are secured via the Biodiversity Mitigation Strategy [REP6-039], as discussed above. On this basis, the Applicant maintained its position that there is no need to install bird diverters due to the negligible increased risk of collisions arising from the Proposed Development [REP4-023], [REP5-039], [REP5-082], [REP5-083] and [REP6-058]. This is a position supported by NE [AS-024], [REP5-037] and [REP8-028].
- 3.5.42. None of the local authorities expressed any views in relation to this specific matter, which remained unagreed between the Applicant and YWT at the end of the Examination, as recorded in the final SoCG [REP5-039].

#### *ExA's reasoning*

- 3.5.43. The ExA is mindful that the Proposed Development would involve only the reconductoring of the existing overhead line at the River Wharfe crossing and the dismantling of the existing overhead line at the River Ouse crossing and its replacement approximately 360 metres upstream. No evidence of collisions with the existing overhead lines is before us.
- 3.5.44. Furthermore, despite the ExA's requests for information both orally and in writing, YWT did not provide any concrete evidence to support its position in respect of potential collision effects with local populations of goosander, mallard, grey heron and mute swans in the River Wharfe corridor. Whilst we acknowledge the difficulties in obtaining evidence of bird strike and the need to take a precautionary approach, this must be balanced with the need to ensure that mitigation measures are necessary and proportionate.

- 3.5.45. In the absence of substantive evidence to the contrary, we accept the conclusions of ES Chapter 8 [APP-080] that no such effects would arise in this case. The Applicant sets out its approach to mitigation (which may involve retrospective installation of bird diverters), should evidence of bird strike at river crossings come to light once the proposed overhead lines were constructed [REP5-084], Appendix A. We explored the prospect of post-consent monitoring to validate the conclusions of the ES in this regard but in light of the evidence presented, we do not consider that it would be proportionate or reasonable to require that such monitoring is undertaken in this case.
- 3.5.46. As such, we consider that significant harm to birds as a result of collision effects would be avoided, in accordance with para 5.3.7 of NPS EN-1. The ExA is also satisfied that the Applicant has given due regard to whether the Proposed Development gives rise to the potential for large birds such as swans and geese to collide with or be electrocuted by the proposed overhead lines, as required by para 2.7.2 and 2.7.3 of NPS EN-5.
- 3.5.47. As a consequence, we do not consider that there is a robust justification for the installation of bird diverters or any other form of mitigation in this regard in the River Ouse and River Wharfe corridors. Since we deem that mitigation is unnecessary, para 2.7.4 to 2.7.6 of NPS EN-5 are not engaged.

### **Biodiversity Net Gain**

- 3.5.48. The question of BNG, the Applicant's commitment to which was not secured at the point of submission, was probed throughout the Examination, including at ISH2 [EV-005], ISH3 [EV-006], ISH4 [EV-009] and in ExQ1 3.4.1 to 3.4.3 [PD-007] and ExQ2 3.2.1 [PD-011]. The Applicant is not under any statutory requirement to demonstrate BNG but seeks to demonstrate a commitment to delivering 10% BNG as part of the Proposed Development. A BNG Report [APP-210] formed part of the application.
- 3.5.49. By the end of the Examination, and following detailed negotiations with CYC, LCC and NYC, a signed Section 106 (s106) Agreement [REP7-032] was submitted that sought to secure the Applicant's BNG commitments. In summary, the s106 Agreement [REP7-032], Schedule 2 requires the following measures in relation to BNG:
- **BNG Assessment:** within two months of the date of completion of each stage of the authorised development, the Applicant must submit to NE, CYC, LCC and NYC an updated BNG Assessment;
  - **Final BNG Assessment:** within six months of the end of the construction period, the Applicant must submit, following consultation with NE, a Final BNG Assessment to the Councils for approval;
  - **Biodiversity Offsetting Scheme:** if the Final BNG Assessment demonstrates that following construction, less than 10% BNG has been achieved overall across the administrative areas of the three Councils, the Applicant must submit a Biodiversity Offsetting Scheme within the Final BNG Assessment;
  - **Where a Biodiversity Offsetting Scheme is not required:** the three Councils must (within 25 days) notify the Applicant as to whether or not they approve the Final BNG Assessment;
  - **Implementation of the Biodiversity Offsetting Scheme:** must be as approved, unless otherwise agreed by the three Councils subject to para 2.6.1 to 2.6.4 of [REP7-032], Schedule 2;
  - **Completion Report:** must be submitted by the Applicant to the three Councils upon satisfactory completion of the Biodiversity Offsetting Scheme;



- **Delivery:** the Applicant would be responsible for ensuring the biodiversity enhancements pursuant to the Biodiversity Offsetting Scheme are delivered for a period of not less than thirty years;
- **Monitoring:** the Applicant must submit BNG Habitat Monitoring Reports to the BNG Monitoring Body (the relevant Council(s)) 1, 3, 5, 10, 20 and 30 years after the delivery of the biodiversity enhancements; and
- **Fee:** at the first anniversary of the biodiversity enhancements, the Applicant would pay the BNG Monitoring Fee (a sum capped at £5,000) to the BNG Monitoring Body.

- 3.5.50. The ExA notes that Schedule 4 of the s106 Agreement relates to the separate matter of a Service Level Agreement for the discharge of Requirements and is dealt with in Chapter 7 of this Recommendation.
- 3.5.51. The s106 Agreement was accompanied by a Community Infrastructure Levy (CIL) Compliance Statement [REP7-018] which explains how each main obligation can be demonstrated to meet the tests contained in Regulation 122 of the CIL Regulations 2010 (as amended) and para 57 of the National Planning Policy Framework (NPPF), specifically that the obligations are: necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.
- 3.5.52. The SoCG with NE [REP5-037], ID 3.7.1 records agreement on all matters relating to BNG, as does the SoCG with the Environment Agency (EA) [REP7-030]. Whilst not a matter central to its submissions, YWT's agreement to the approach to BNG is recorded in [REP5-039].
- 3.5.53. The SoCG with CYC [REP5-033] was agreed prior to completion of the s106 Agreement but records officer level agreement on the principles of the obligations, subject to legal review. CYC is a party to the final signed s106 Agreement and therefore its agreement to it is implicit. The SoCG with LCC [REP7-028] records BNG as a matter agreed on 15 August 2023. The SoCG with NYC [REP7-083] records BNG as a matter agreed on 15 May 2023.

*ExA's reasoning*

- 3.5.54. The ExA was not party to the detailed discussions on the drafting of planning obligations during Examination but has carefully considered the content of the final submitted s106 Agreement [REP7-032]. We are satisfied that its provisions are sufficiently clear and fit for purpose as to be effective in securing the Applicant's 10% BNG commitments. We also accept that in the particular circumstances of this case, where the location(s) of potential BNG offsetting site(s) is not yet known and may be outside of the Order limits, a s106 Agreement is the appropriate vehicle for securing BNG in preference to a Requirement.
- 3.5.55. The ExA has considered the s106 Agreement in the context of the policy and legal tests relevant to planning obligations. NPS EN-1 encourages the taking of opportunities to build beneficial biodiversity features into the design of projects (para 5.3.15) and enhancement of existing habitats where possible (para 5.3.18). Whilst provision of BNG is not currently a statutory requirement for NSIPs or stipulated in NPS EN-1 or EN-5, there can be no doubt that there is a clear direction of travel toward this objective. Section 99 of The Environment Act 2021 provides for the introduction of a statutory requirement for NSIPs (not yet brought into force) and draft NPSs EN-1 and EN-5 (March 2023) also reflect the strengthening of net gain expectations. A number of the local plan policies also support this objective, as summarised in [REP7-018], Table 2.2.

- 3.5.56. For these reasons, the ExA concludes that the s106 Agreement meets the necessity test. The BNG obligations would be directly related to the Proposed Development in the sense that they form part of the overall project description [APP-075], Section 3.8 and a clear commitment of the project. The s106 Agreement would deliver BNG at an equivalent level (10%) to that soon to be brought into effect for all NSIPs. We are therefore content that the obligations would be fairly and reasonably related in scale and kind to the Proposed Development.
- 3.5.57. Taking all of these considerations into account, the ExA concludes that the s106 Agreement [REP7-032] meets the relevant legal and policy tests for planning obligations. As a consequence, we have regard to the commitment to 10% BNG that it secures in forming our conclusions in relation to biodiversity effects.

### **Conclusions**

- 3.5.58. The ExA concludes that the Applicant's biodiversity assessment, as set out in ES Chapter 8 [APP-080] together with the final consolidated ES Addendum [REP7-005] and final consolidated ES Errata [REP7-003], provides sufficient information to understand the effects of the Proposed Development on biodiversity and ecological receptors, as required by the EIA Regulations, NPS EN-1 (para 5.3.8, 5.3.11 and 5.3.12) and NPS EN-5.
- 3.5.59. The Applicant has taken opportunities to conserve and enhance biodiversity, complying with NPS EN-1 para 5.3.4 and 5.3.15. All other duties upon the Applicant to consider effects on biodiversity set out in NPS EN-1 and NPS EN-5, including in relation to HPIs, SPIs, ancient woodland and veteran trees (para 5.3.14 and 5.3.17), have been adequately executed.
- 3.5.60. The ExA has taken account of the need for European Protected Species and Protected Species licences to be obtained from Natural England (NE) in accordance with para 5.3.20 of NPS EN-1. NE agrees that a District Level Licence for great crested newts is the only licence currently identified.
- 3.5.61. Due consideration has been given to the potential for birds to collide with or be electrocuted by proposed overhead lines (NPS EN-5, para 2.7.3). There is no substantive evidence to justify the installation of bird diverters on the overhead lines in the River Ouse and River Wharfe corridors.
- 3.5.62. Reasonable alternatives have been considered and appropriate mitigation measures are adequately secured, principally through the Biodiversity Mitigation Strategy [REP6-039] and the CoCP [REP7-042] which are documents to be certified under Article 48 of the Applicant's final dDCO [REP8-004]. This accords with NPS EN-1, para 5.3.7, 5.3.18 and 5.3.19.
- 3.5.63. Consequently, the ExA accepts the assessment's conclusion that there would be no significant residual adverse effects on biodiversity or ecology receptors as a result of the Proposed Development. The Applicant's commitment to 10% BNG is adequately secured by the signed s106 Agreement [REP7-032] and would lead to enhancement of local biodiversity as a result of the Proposed Development.
- 3.5.64. There is no conflict with any of the development plan policies identified by the three host authorities. In addition, all matters relevant to biodiversity effects raised in the LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] have been adequately addressed during the Examination.

- 3.5.65. On the basis of the above considerations, the ExA ascribes the overall effects of the Proposed Development on biodiversity moderate weight in favour of the making of the Order. No further changes to the Applicant's final dDCO [REP8-004] are recommended for this topic.

## 3.6. NOISE AND VIBRATION

### Introduction

- 3.6.1. This Section considers the effects of the Proposed Development on noise and vibration.

### Policy Considerations

#### National Policy Statements

- 3.6.2. The assessment for noise and vibration as set out in para 5.11.4 of NPS EN-1 requires from the Applicant:
- *“a description of the noise generating aspects of the development proposal leading to noise impacts, including the identification of any distinctive tonal, impulsive or low frequency characteristics of the noise;*
  - *identification of noise sensitive premises and noise sensitive areas that may be affected;*
  - *the characteristics of the existing noise environment;*
  - *a prediction of how the noise environment will change with the proposed development;*
  - *in the shorter term such as during the construction period;*
  - *in the longer term during the operating life of the infrastructure;*
  - *at particular times of the day, evening and night as appropriate;*
  - *an assessment of the effect of predicted changes in the noise environment on any noise sensitive premises and noise sensitive areas; and*
  - *measures to be employed in mitigating noise.”*
- 3.6.3. NPS EN-5 sets out additional technology-specific considerations, in addition to those contained in NPS EN-1, in regard to noise and vibration. For the assessment of rain-induced noise on overhead lines NPS EN-5 refers to alternative methods being required and makes reference to the methodology developed by National Grid as described in Report TR(T)94, 1993, 'A Method for Assessing the Community Response to Overhead Line Noise'.
- 3.6.4. Para 5.11.9 of NPS EN-1 requires that in reaching a decision in favour of granting development consent the SoS should be satisfied that the Proposed Development would:
- *“avoid significant adverse impacts on health and quality of life from noise;*
  - *mitigate and minimise other adverse impacts on health and quality of life from noise; and*
  - *where possible, contribute to improvements to health and quality of life through the effective management and control of noise.”*
- 3.6.5. NPS EN-1 also advocates (para 5.11.11) that the decision-maker should consider whether mitigation measures are needed both for operational and construction noise, over and above any which may form part of the application.
- 3.6.6. Para 2.9.10 of NPS EN-5 guides that the decision-maker should ensure that relevant assessment methodologies have been used and that appropriate mitigation

measures will be put in place. Where this can be demonstrated then residual noise impacts are unlikely to be significant. Para 2.9.11 of NPS EN-5 states that noise from overhead lines is unlikely to lead to the decision-maker refusing an application but the use of appropriate requirements should be considered to ensure noise is minimised as far as possible.

- 3.6.7. Draft NPS EN-1 and draft NPS EN-5 (March 2023), which are important and relevant considerations in this case, both indicate a continuation of policy relating to the assessment of noise and vibration effects.

### **Noise Policy Statement for England, March 2010**

- 3.6.8. Para 2.22 of the Noise Policy Statement for England (NPSE) states that it is not possible to have a single objective noise-based measure that defines the Significant Observed Adverse Effect Level (SOAEL) that is applicable to all noise sources in all situations. Therefore, SOAEL is likely to be different for different noise sources and receptors and at different times.

- 3.6.9. Para 2.22 to 2.24 of the NPSE state that projects should:

- avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development;
- mitigate and minimise adverse impacts on health and quality of life; and
- where possible, contribute to the improvement of health and quality of life.

- 3.6.10. Para 2.24 also states that: “...all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life whilst also taking into consideration the guiding principles of sustainable development. ... This does not mean that such effects cannot occur.”

### **Local Planning Policy**

- 3.6.11. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the noise and vibration effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation.

### **The Application**

- 3.6.12. Noise and vibration matters are considered in Chapter 14 of the ES [APP-086] and the Applicant also submitted the following documents to support the application:

- Appendix 3H Noise and Vibration Management Plan [APP-101];
- Appendix 14A Baseline Noise Report [APP-150];
- Appendix 14B Construction Plant and Activity Assumptions [APP-151];
- Appendix 14C Construction Modelling Results [APP-152];
- Appendix 14D Acoustic Screening Strategy [APP-153];
- Appendix 14E Overhead Line Noise Assessment [APP-154];
- Appendix 14F National Grid Policy Statement PS(T) 134 (2021) [APP-155];
- Appendix 14G National Grid Technical Report TR(E)564 (2021) [APP-156];
- Appendix 14H National Grid Technical Guidance Note TGN(E)322 (2021) [APP-157];
- ES Chapter 14 Noise and Vibration Figures [APP-190]; and
- Code of Construction Practice [APP-095].

- 3.6.13. Key mitigation measures are contained in the Noise and Vibration Management Plan (NVMP) [APP-101] which is intended to provide a framework for the management of noise during both the construction and operational phases of the Proposed Development. In addition, the Embedded Measures Schedule [REP6-035] and the CoCP [REP7-042], that were submitted during the course of the Examination, provide details of the proposed noise and vibration mitigation measures.
- 3.6.14. Table 14.34 of Chapter 14 of the ES [APP-086] contains a summary of the results of the noise and vibration assessment. The thresholds used for assessment of construction noise, derived from BS5228-1:2009 +A1 2014 'Code of practice for noise and vibration control on construction and open sites – Part 1: Noise', are as follows:
- 65dB Mondays to Fridays 07:00 to 19:00 and Saturdays 07:00 to 13:00;
  - 55dB Monday to Fridays 19:00 to 23:00 and Saturdays 13:00 to 23:00; and
  - 45dB Mondays to Sundays 23:00 to 07:00.
- 3.6.15. Also, the construction traffic vibration and noise impact magnitudes are set out in Tables 14.19 and 14.20 respectively of ES Chapter 14 [APP-086].
- 3.6.16. Table 14.34 of ES Chapter 14 [APP-086] identifies the noise impacts of the Proposed Development on receptors. All of the impacts are predicted to be “*Not Significant*” in terms of both noise and vibration for construction and operational noise during the core working hours and outside of the proposed core hours. The core working hours are set out in R7(1) and (2) of the Applicant’s final dDCO [REP8-004]. However, as noted in Table 14.34 the Applicant identifies that certain operations would exceed the relevant construction noise threshold. These are primarily for works between Monday to Sunday 23:00 to 07:00 consisting of pulling bonds over scaffold (ie ‘stringing’). However, due to the activity duration being lower than the temporal criteria the effects are predicted to be not significant. The temporal criteria as set out in para 14.9.17 of [APP-086], taken from Annex E of BS 5228-1:2009+A1:2014, are a period of ten or more days of working in any 15 consecutive days or for a total number of days exceeding 40 in any six consecutive months.

## **Issues Considered During the Examination**

### **Noise assessment methodology for construction noise**

- 3.6.17. In its LIR [REP1-056] NYC raised concerns regarding the Applicant’s assessment methodology for construction noise. This was not an issue specifically raised by CYC or LCC except that LCC noted in its LIR [REP1-053] that noise assessment findings should not be predicated on the Applicant’s perceived short duration of any out of hours operations.
- 3.6.18. The Applicant responded to NYC’s concerns in [REP2-040] to state that BS5228-1:2009 +A1 2014 'Code of practice for noise and vibration control on construction and open sites – Part 1: Noise' is the code of practice for construction noise approved under the Control of Pollution Act 1974, which is the standard methodology for assessing noise from construction operations.
- 3.6.19. However, in response to ExQ2 [PD-011] NYC stated in [REP5-117] that it considered the construction noise assessment to be satisfactory despite its disagreement with proposed construction working hours.

- 3.6.20. NYC did not agree with the application of Annex E ABC categories to determine significance for the construction noise assessment. By the close of the Examination this position had not changed. As reported in the final SoCG [REP7-083] with NYC, it was noted that “*While NYC do not agree with the methodology used to carry out the construction stage noise assessment ... the conclusions of no significant affects (sic) are agreed.*”
- 3.6.21. In terms of noise assessment methodology para 5.11.6 of NPS EN-1 states that: “*For the prediction, assessment and management of construction noise, reference should be made to any relevant British Standards and other guidance which also give examples of mitigation strategies.*” The footnote that accompanies this specifically references BS5228 which is the British Standard that the Applicant’s methodology has followed.
- 3.6.22. The Applicant has applied the ABC Method as set out in Annex E of BS5228 and has applied the lower cut-off values of 65dB, 55dB and 45dB for site noise alone for the daytime, evening and night-time periods. The Applicant contends that in applying these lower cut-off values to represent the onset of significance this represents the most conservative approach afforded by BS5228 [REP2-040].
- 3.6.23. In its ‘Deadline 6 Action Points’ submission [AS-025] NYC conceded that: “*There is agreement that Annex E ABC categories are commonplace for determining significance for the construction noise assessment.*”
- 3.6.24. Taking all of this into account, and having regard to NYC’s agreement with the conclusions of the noise assessment in terms of significance, the ExA considers that the Applicant has used the correct methodology, in accordance with NPS EN-1, for assessing construction noise.

### **Construction working hours**

- 3.6.25. In the Applicant’s original dDCO [APP-066] the proposed core construction working hours were set out in R7 as follows:
- “ *Construction hours*
- 7(1) Subject to paras (2) and (3) construction works may only take place between 0700 and 1900 Mondays to Fridays and between 0800 and 1700 on Saturdays, Sundays and Bank Holidays.*
- (2) Piling operations must take place only between 0800 and 1700 on Mondays to Fridays and 0900 to 1400 on Saturdays.*”
- 3.6.26. Whilst R7(1) and (2) represent the core construction working hours, R7(3) of the dDCO [APP-066] also specified a number of operations which may take place outside of core working hours, including the following:
- the jointing of underground cables;
  - the installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines and watercourses;
  - the completion of operations commenced during the core working hours which cannot safely be stopped; and
  - start up and close down activities which may take place one hour immediately prior to or after the core working hours.
- 3.6.27. Throughout the Examination NYC has objected to the Applicant’s proposed core construction working hours in terms of working on Saturday afternoons, Sundays

and Bank Holidays. In its LIR [REP1-056] NYC sets out its recommended core construction hours as being: 08:00 to 18:00 Mondays to Fridays, 08:00 to 13:00 on Saturdays, and not at all Sundays and Bank Holidays. NYC considered that these hours were necessary to safeguard residential amenity [REP7-047].

- 3.6.28. These concerns were echoed by LCC in its LIR [REP1-053]. CYC in its LIR [REP1-047] did not raise any concerns about the proposed working hours and welcomed the differentiation of separate working hours for piling operations. However, CYC did wish to ensure that the Applicant's ability to work outside of core hours in order to complete certain operations or to complete them up to a point at which they could be safely stopped would not be open to abuse. In terms of other IPs, Douglas Fletcher in [RR-014], and again in [REP1-049] on behalf of Protect Lumby Against New Environmental Threats (PLANET), raised concerns about noise impacts on the local community and queried how the agreed working hours would prevent disturbance to the residents of Lumby. Linda Palmer in [RR-020] also raised concerns about noise impacts in the Lumby area.
- 3.6.29. By the close of the Examination LCC had removed its objection to construction working on Saturday afternoons, Sundays and Bank and Public Holidays because the embedded mitigation indicated that significant effects on local amenity would not arise [REP4-037] and [REP7-028].
- 3.6.30. The issue of working hours was a matter that was not resolved between NYC and the Applicant by the close of the Examination. The Applicant's final dDCO [REP8-004] contained in R7 the same proposed construction hours as were contained in the dDCO that accompanied the application [APP-066].
- 3.6.31. When questioned at ISH2 [EV-005f] and [EV-005g] NYC confirmed that its objections to the working hours were primarily based on the proposed working on Sundays and Bank Holidays to protect residential amenity. This was because NYC considered the noise levels contained in the Construction Standards are quite generous in order to allow construction to occur and that works would take place within a quiet area. However, these comments were not included in NYC's Post-Hearing Submissions [REP4-041]. In the Applicant's Position Statement with NYC on Working Hours [REP7-047], NYC reiterated its position that in order to safeguard residential amenity the core construction working hours should be between 08:00 and 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays and not at all on Sundays and Bank Holidays. In [REP7-047] NYC confirmed that it was satisfied with the proposed working hours for piling operations as set out in R7(2).
- 3.6.32. In response to point 14 of the ExA's action points from ISH4 [EV-009i], to consider the alternate Sunday working arrangements that are included in the Orders for the Hinkley Point C Connector and the Richborough Connection Project, NYC responded in [REP6-077] as follows:

*"The ABC approach is limited in so far as the lowest noise threshold of 65dB LAeq,T significantly exceeds existing background levels in quiet rural areas as is the case here. The issue regarding Sun/BH working arises in connection with the Monk Fryston substation where background levels are predicted to be around 30dB LA90,T, so whatever the outcome of the ABC assessment it's hard to ignore the fact that significant noise impacts are likely at nearby receptors, and I maintain that Sun/BH tranquillity should be safeguarded.*

*It's difficult to put a value on such impacts occurring on alternate Sunday working arrangements and is a position we can probably all draw conclusion on regardless*

*of acoustic knowledge. However, by way of compromise, this approach will serve to reduce the persistency of construction noise impacts which we know is an aggravating factor to its effects. There is an argument that such an approach could result in less frequent noise effects but over a longer period.*

*The Council's preference would be to prohibit construction works in connection with the Monk Fryston substation on Sun/BH but will respect the ExA decision. You mention construction time pressures as the applicants' position and hopefully the ExA will be provided with clarity from the applicant in this regard in the context of prohibiting Sun/BH construction works in Monk Fryston."*

- 3.6.33. In response to NYC's recommended core working hours the Applicant's arguments centred on two points. Firstly, the Applicant contended, for example in [REP7-047], that the noise predictions at noise sensitive receptors demonstrated no significant effects with the mitigation provided in the NVMP [APP-101] through methods such as noise barriers and acoustic enclosures. Also, the piling operations would be time restricted as set out in R7(2) of the final dDCO [REP8-004].
- 3.6.34. The Applicant argued that there might be some confusion over the availability of baseline data. In [REP7-047] the Applicant stated that it had undertaken baseline measurements and the background noise levels were greater than the 30dB which NYC had assumed. For example, the Applicant cited background levels in the Monk Fryston area at receptor MF1 (Monk Fryston Lodge) where the existing ambient noise level recorded was 44dB and background L<sub>90</sub> levels of 37dB were measured [REP7-047].
- 3.6.35. In terms of the specific noise impacts, Table 14.26 of ES Chapter 14 [APP-086] sets out the predicted noise levels and comparisons to thresholds with the inclusion of acoustic screening where required. This indicates that for the proposed working hours of Mondays to Fridays 07:00 to 19:00 and Saturdays 07:00 to 13:00 then the applicable threshold of 65dB would be exceeded only at receptors SEL16 and SEL17 which are the Travellers' Site.
- 3.6.36. The second column of Table 14.26 predicts construction noise levels on Saturdays from 13:00 to 23:00 and Sundays from 07:00 to 23:00. Therefore, this covers the disputed weekend working and goes beyond this temporally up until 23:00 on both Saturdays and Sundays. Within these timespans there would be an additional four receptors that would be above the respective threshold limit and also the exceedance of the threshold limit at SEL16 and SEL17 would be increased to 26dB and 20dB respectively. In terms of the new receptors above the threshold limit the largest exceedance would be 7dB at SEL09 which is Red Brick Farm House West, Moor Lane.
- 3.6.37. As assessed in Table 14.27 of ES Chapter 14 [APP-086] the increase in traffic noise during the construction phase was predicted to be "*Negligible*" in all cases except for Common Croft Lane North of the A59 and Overton Road between Stripe Lane and the A19. For both of these locations the magnitude of change was predicted to be "*Minor*" with respective traffic noise increases of 1.4dB and 1.3dB [APP-101].
- 3.6.38. Secondly the Applicant argued that reducing the core working hours would reduce flexibility for construction operations and would adversely affect the time period by which the Proposed Development could be delivered. The Applicant considered that its proposed construction hours would be necessary in order for the Proposed Development to meet its September 2027 energisation dates [REP6-062]. The Applicant contended that there is a pressing need for the Proposed Development to be constructed in order to meet the Earliest In Service Date [REP7-047] and that



seven days a week working would reflect the shift patterns of the workforce which is typically based on a schedule of ten working days and then two days off [REP7-047].

- 3.6.39. Having considered the arguments regarding working hours that have been put forward by both the Applicant and NYC the ExA considers that NYC's concerns would seem to be more as a general matter of principle to provide respite from construction noise, particularly in areas such as Monk Fryston where construction operations would take place for the longest period of time. However, NYC has not provided specific evidence that any of the residential receptors would be adversely affected by the Applicant's proposed core working hours.
- 3.6.40. It is agreed by the local planning authorities (LPAs) that noise mitigation measures have been adequately secured in the NVMP and, apart from more general concerns about impacts on Lumby, objections regarding noise impacts at specific noise sensitive receptors have not been raised by other IPs. The ExA gives weight to the overall paucity of objections to the Proposed Development in terms of noise, especially from those residents of the nearest noise sensitive properties.
- 3.6.41. Furthermore, the ExA is persuaded of the pressing need for the Proposed Development to be constructed expeditiously, as noted in [APP-205] and [REP6-062]. In considering both the construction programme demands and the secured mitigation the ExA considers that reductions in the core working hours would not be merited based on the predicted noise impacts of construction operations as assessed in ES Chapter 14 [APP-086]. The ExA also acknowledges the Applicant's submissions that reductions in the core working hours would have the effect of delaying the overall construction programme. In reaching this conclusion the ExA has had regard to the mitigation measures that are detailed in the NVMP. The ExA understands that as this would be a 'live' document, further mitigation measures, should they be demonstrated to be necessary, are not precluded.
- 3.6.42. The ExA considers that due to the proven need for the Proposed Development, coupled with the assessed impacts during construction operations and locational aspects of the main areas of prolonged working, ie the Substations, CSECs and their construction compounds, the Applicant's preferred construction working hours as set out in R7(1) of the Applicant's final dDCO [REP8-004] should be adopted. In reaching this conclusion the ExA has had regard to the specific circumstances of the Proposed Development and does not consider that this should necessarily set a precedent for other types of development in this area, or for other NSIPs elsewhere, in terms of permitted working hours.

### **Vibration**

- 3.6.43. The LIRs from NYC [REP1-056], CYC [REP1-047] and LCC [REP1-053] did not specifically raise concerns regarding vibration matters. Table 14.34 of ES Chapter 14 [APP-086] summarises all the predicted construction vibration effects as being "*Not Significant*". In the final SoCG with NYC [REP7-083] it was agreed that there are no significant vibration effects from the Proposed Development. Consequently, the ExA is satisfied that the vibration impacts of the Proposed Development alone have been adequately assessed and would not be significant. Cumulative vibration impacts are considered separately in Section 3.15 of this Chapter.

### **Site-specific noise and vibration issues at the Travellers' Site**

- 3.6.44. Noise and vibration at the Travellers' Site has been assessed using receptors SEL16 and SEL17 which the Applicant respectively classified as "*Traveller*"

*encampment, A63/A1(M) roundabout west*” and “*Traveller encampment, A63/A1(M) roundabout east.*” As indicated in Table 14.28 [APP-086] in the worst-case scenario for vibration levels the predicted impact magnitude at receptors SEL16 and SEL17 would be “*High*” and “*Medium*” respectively. In ES Chapter 14 [APP-086] adverse vibration levels were only predicted at the Travellers’ Site if impact piling was to be used for foundations on pylon XC522. The Applicant noted in para 14.9.46 of [APP-086] that the geotechnical desk study has indicated likely suitable bearing-strata at a shallow depth at pylon XC522, similar to pylon XC523 where intrusive ground investigations have been carried out, and ground conditions would be unlikely to be conducive to the use of impact piling. If these assumptions turned out to be incorrect following site-specific ground investigations, and impact piling is required, vibration issues would be addressed using the Section 61 agreement process detailed in the NVMP [APP-101].

- 3.6.45. Table 14.26 of ES Chapter 14 [APP-086] indicated that at both SEL16 and SEL17 the predicted construction noise levels of 81dB at SEL16 and 75dB at SEL17 would be significantly above the respective threshold limits for daytime core hours and Saturday afternoons and Sundays. The predicted night time levels of 49dB for SEL16 and 50dB for SEL17 would also be above the 45dB night time threshold.
- 3.6.46. Para 14.9.23 of ES Chapter 14 [APP-086] states that: “*A review of the source breakdown from Table 14.23 shows the activities causing these exceedances are the construction of new pylon ID XC522, the stringing of pylon ID XC522, and the dismantling of pylon ID XC522T. It is also explained that the duration of these activities fall below the temporal criteria explained in paragraph 14.9.17 and the effects are therefore not significant.*”
- 3.6.47. At ISH2 the Applicant was questioned regarding the need for specific mitigation for construction noise at the Travellers’ Site. The Applicant contended that any noisier works would be of a short duration [EV-005f].
- 3.6.48. During the course of the Examination the Applicant submitted an additional Requirement to require the submission of a site specific mitigation scheme for the Travellers’ Site, including noise and vibration. This is secured in R19 of the Applicant’s final dDCO [REP8-004]. The Applicant submitted its Summary of Actions and Engagement in Relation to the Traveller Community [REP7-052]. This indicated that there had been no objection to the Proposed Development raised by occupiers of the Travellers’ Site.
- 3.6.49. The ExA considers that there would be the potential for significant noise impacts to occupiers of the Travellers’ Site. Noise levels would be well above the thresholds at times, although the construction operations would have a relatively short duration. There would also be vibration impacts should piling be required, although the ExA acknowledges that this is not considered likely. R19 of the Applicant’s final dDCO stipulates that a site specific mitigation plan must be approved by NYC prior to the construction of Work No.10. This plan would seek to mitigate the impact of the construction activities on occupiers of the Travellers’ Site including in terms of noise and vibration. The ExA is satisfied that the provisions of R19 secure adequate mitigation to minimise the noise and vibration impacts on the residents at the Travellers’ Site.

#### **Noise and vibration effects of HGV traffic in Lumby**

- 3.6.50. In [REP7-085] NYC raised the issue that it had over the years received complaints about noise and vibration caused by HGV traffic travelling through the village of

Lumby and that is why it forms part of a zonal weight restriction with the villages of South Milford and Sherburn in Elmet. Table 12A.3 of the Traffic Modelling Tables [APP-148] indicated the HGV traffic using Access Point 8 would be for a three-week period with there being 9 HGVs in Week 1, 6 HGVs in Week 2 and 52 HGVs in Week 3. The ExA does not consider that this level of HGV traffic over only a three-week period would give rise to any significantly adverse noise or vibration impacts for the residents of Lumby. The effects on traffic and transport are reported in Section 3.7 of this Recommendation.

### **Noise assessment methodology for operational noise**

- 3.6.51. Throughout the Examination NYC has raised concerns over the assessment of operational noise for overhead lines. This is a matter that is “*not agreed*” in the final SoCG [REP7-083]. However, as for construction noise, in response to ExQ2 [PD-011] NYC confirmed in [REP5-117] that whilst it did not agree with the methodology for the assessment of overhead line noise it did agree with the conclusions that had been drawn on this matter. The final SoCG with NYC [REP7-083] states that: “*NYC agrees that there are no significant effects from overhead line noise.*” Also, LCC or CYC did not raise any concerns on these matters.
- 3.6.52. The Applicant submitted an Overhead Line Noise Assessment [APP-154] to accompany the application. This sets out the approach to assessing noise from overhead lines. Operational noise had been scoped out of assessment for the reconductoring of the XC 275kV lines as this would represent a like for like replacement with no greater noise impacts [APP-086].
- 3.6.53. The Applicant used an updated version of the National Grid methodology in TR(T)94, PS(T)134, which it considered to be an evolution of TR(T)94 that was compatible with the assessment requirements in the NPSE [APP-155] and [REP3-031].
- 3.6.54. Having regard to the comments made by NYC, LCC and CYC and the justification for its approach to overhead line assessment put forward by the Applicant in ISH2 and as documented in [APP-154], the ExA is satisfied both with the methodology employed by the Applicant and the conclusions drawn that there would not be any significant adverse effects on receptors due to overhead line noise.

### **Conclusions**

- 3.6.55. The ExA is aware that there would be noise arising as a result of the Proposed Development, primarily during the construction phase, and that construction works could take place seven days a week, with the entire construction process, including the reinstatement works and landscape works, lasting for up to 4 years and 6 months [APP-072].
- 3.6.56. The NVMP [APP-101] is intended to be a live document that would evolve during the course of construction operations and would be relevant for the operational phase as well. This is secured in R5(2)(f) of the Applicant’s final dDCO [REP8-004]. Also, Table 3.10 the CoCP [REP7-042] contained noise and vibration good construction practice measures.
- 3.6.57. The ExA considers that the Applicant has adequately assessed the effects of noise and vibration as required in NPS EN-1 and NPS EN-5. We have identified no conflict with the draft NPSs (March 2023). Furthermore, the ExA is satisfied that, through embedded measures in the project design and measures contained in the NVMP, and through the requirement for the submission and approval of a site

specific mitigation plan that is secured under R19 of the final dDCO [REP8-004], significant adverse effects have been avoided as required by para 5.11.9 of NPS EN-1 and that other adverse impacts have been mitigated and minimised. Therefore, the ExA considers that the policy tests of NPS EN-1 and NPS EN-5 have been met in this regard.

- 3.6.58. Taking all of this into account, the ExA concludes that the noise and vibration effects of the Proposed Development carry a little weight against the making of the Order.

## **3.7. TRAFFIC AND TRANSPORT**

### **Introduction**

- 3.7.1. This Section considers the effects of the Proposed Development on traffic and transport matters. It also assesses matters affecting pedestrians, users of PRowS and cyclists.

### **Policy Considerations**

#### **National Policy Statements**

- 3.7.2. The assessment for traffic and transport as set out in para 5.13.3 of NPS EN-1 requires from the applicant that if a project is likely to have significant transport implications the applicant's ES should include a transport assessment using the NATA/WebTAG methodology. Also, para 5.13.4 of NPS EN-1 guides that the applicant should provide details of proposed measures to improve access by public transport, walking and cycling, to reduce the need for parking associated with the proposal and to mitigate transport impacts.
- 3.7.3. In reaching a decision the SoS should be satisfied that the Applicant has sought to mitigate the impacts on traffic and transport. Para 5.3.16 of NPS EN-1 states that: *"A new energy NSIP may give rise to substantial impacts on the surrounding transport infrastructure and the [decision-maker] should therefore ensure that the applicant has sought to mitigate these impacts, including during the construction phase of the development."*
- 3.7.4. Para 5.13.7 of NPS EN-1 states that: *"Provided that the applicant is willing to enter into planning obligations or requirements can be imposed to mitigate transport impacts identified ... the development consent should not be withheld, and appropriately limited weight should be given to residual effects on the surrounding transport infrastructure."*
- 3.7.5. Draft NPS EN-1 (March 2023), which is an important and relevant consideration, indicates a continuation of policy relating to the assessment of traffic and transport effects. Para 5.14.21 of draft NPS EN-1 states that *"The Secretary of State should only consider refusing development on highways grounds if there would be an unacceptable impact on highway safety, residual cumulative impacts on the road network would be severe, or it does not show how consideration has been given to the provision of adequate active public or shared transport access and provision."*

#### **National Planning Policy Framework**

- 3.7.6. Para 111 of the NPPF states that: *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

## National Planning Practice Guidance

- 3.7.7. The NPPG (reference ID:42-005-20140306) guides that Transport Assessments and Statements can be used to establish whether the residual transport impacts of a proposed development are likely to be severe, which may be a reason for refusal in line with the NPPF. It also states (reference ID: 37-004-20140306) that public rights of way form an important component of sustainable transport links and should be protected or enhanced.

## Local Planning Policy

- 3.7.8. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the traffic and transport effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation.

## The Applicant's Case

- 3.7.9. The Applicant's case regarding traffic and transport matters is primarily contained within ES Chapter 12: Traffic and Transport [APP-084], with PRow and cycle route matters also considered in ES Chapter 12.
- 3.7.10. The Applicant also submitted the following documents to accompany the application:
- Construction Traffic Management Plan (CTMP) [APP-099];
  - Appendix 12 A Traffic Modelling Tables [APP-148];
  - Traffic and Transport Figures [APP-188];
  - Traffic Regulation Order Plans [APP-056] to [APP-061];
  - Public Rights of Way Management Plan [APP-100]; and
  - Code of Construction Practice [APP-095].
- 3.7.11. During the course of the Examination the Applicant provided updated versions of a number of documents. The final version of the CTMP is [REP7-009], the CoCP final version is [REP7-042], the PRow Management Plan is [REP2-024] and the final version of the Traffic and Transport Figures is [REP6-052].
- 3.7.12. Table 12A.3 and Table 12A.4 of Appendix 12A: Traffic Modelling Tables [APP-148] set out the predicted heavy goods vehicle (HGV) and light goods vehicle movements for the Proposed Development across the entire construction programme per access per week. As reported in Table 12.12 of ES Chapter 12 [APP-084] the embedded environmental measures include the submission of a crossing schedule, HGV routeing to avoid a number of nearby settlements as set out in the CTMP, temporary diversions of PRows, and a 'left in left out' arrangement at the junction of the A63 and Rawcliffe Lane.
- 3.7.13. Para 12.9.11 of ES Chapter 12 [APP-084] identifies that there are a number of highway links (Link Nos. 4, 7, 10, 11, 12, 17 and 25) where the percentage change in total vehicles or HGVs results in the need for further assessment. As set out in Table 12.36 of ES Chapter 12 [APP-084] the residual impacts are considered to be as follows:
- Severance: "*Not Significant*", with all of the Links being classified as "*Negligible*" except Link 25 that was "*Minor*";
  - Driver Delay: "*Not Significant*" with all Links being classified as "*Negligible*";

- Pedestrian Amenity: “*Not Significant*”, with all Links classified as “*Negligible*”; and
- Accidents and Safety: “*Not Significant*”, with all Links classified as “*Negligible*”.

3.7.14. The Applicant contends that in ES Chapter 18: Cumulative Effects Assessment [APP-090] cumulative effects had been taken into account in the TEMPro long-term forecasts in traffic growth. The Applicant notes in para 18.4.6 [APP-090] that TEMPro forecasts take into account national projections of population, employment, housing, car ownership and trip rates and represents an accepted approach to assess future baseline traffic. The short list of projects for cumulative effects assessment are set out in Table 18.9 of ES Chapter 18 [APP-090].

## **Issues Considered During the Examination**

### **Assessment methodology**

- 3.7.15. In [REP7-084] the Applicant noted that the assessment guidance contained in the Guidance for the Environmental Assessment of Road Traffic (GEART) had been replaced in July 2023 by new guidance from the Institute of Environmental Management and Assessment known as the 'Environmental Assessment of Traffic and Movement' (EATM).
- 3.7.16. The Applicant has carried out an exercise in Table 2.15 of [REP7-084] of assessing the findings of ES Chapter 12 [APP-084] against EATM criteria, rather than GEART. The Applicant concluded in [REP7-084] that there would be no significant differences using the new EATM methodology. Since this arose late in the Examination, the ExA did not have the opportunity to specifically seek the views of IPs on this matter, particularly NYC, CYC, LCC and National Highways (NH). However, we note that there was a general opportunity at Deadline 8 for parties to respond to Deadline 7 submissions and no responses to the Applicant’s exercise were received. In light of the evidence before us, the ExA has no reason to disagree with the Applicant’s conclusions in this regard and is satisfied that the transport assessment is robust.

### **Construction traffic impacts in the Lumby area**

- 3.7.17. In order to access pylon XC520 the Applicant has proposed a route for construction traffic via the A63 and then heading north along Butts Lane through most of the village of Lumby before turning left on to Red Hill Lane at Access Point 8.
- 3.7.18. Concerns had been raised by Douglas Fletcher in [RR-014] and Linda Palmer in [RR-020] about traffic impacts on the village of Lumby. Also, NYC raised concerns about the impact of HGV construction traffic on the village of Lumby [AS-025] and [REP7-085] as it did not consider that Butts Lane would be suitable for HGV traffic due to the noise and vibration caused by HGVs and the narrowness of Butts Lane with its restricted forward visibility in places. In the final SoCG with NYC [REP7-083] this was recorded as a “*Not Agreed*” matter. The issue of noise and vibration arising from construction traffic is considered in Section 3.6 of this Recommendation.
- 3.7.19. In [AS-025] NYC stated that it might be possible for vehicles to traverse along Old Quarry Lane in order to gain access to Red Hill Lane whilst avoiding most of Lumby. The Applicant responded in [REP7-068] and [REP7-084] that Old Quarry Lane is a single-track road with no passing places for half a mile and had a 7.5T weight restriction. The Applicant considered the stretch of Old Quarry Lane within the Lumby area to be narrow and bound by residential properties; some of which had direct frontage onto the carriageway.

- 3.7.20. Furthermore, the Applicant noted that the junction of Old Quarry Lane/Butts Lane/Red Hill Lane is, in effect, a staggered priority junction. HGVs routing from Old Quarry Lane to Butts Lane would have to perform a slight turning manoeuvre with visibility limited to the left and right. Mitigation would be required for a route via Old Quarry Lane, similar to that required for the proposed route via Butts Lane, to ensure that appropriate and safe access would be maintained. Therefore, the Applicant did not consider routing HGV traffic via Old Quarry Lane would reduce potential traffic and transport impact compared with the proposed Butts Lane route. Having assessed the staggered junction and the nature of Old Quarry Lane during our USI [EV-001] and ASI [EV-001b], the ExA concurs with the view of the Applicant on this matter and does not consider it to be a better alternative route than Butts Lane for construction traffic.
- 3.7.21. The Applicant made reference to the possibility of using an alternative haul route to gain access to pylon XC520 for reconductoring. This alternative route is set out in Appendix A of [REP6-062] and would entail taking a temporary access from Access Point 7 to reach pylon XC521 and then extending this temporary track to reach pylon XC520. By the close of the Examination landowner agreement for this route had not been achieved [REP8-013]. The Applicant reported in [REP7-020] that: *“Whilst voluntary negotiations are progressing well, the option agreement will take some time to finalise and will not be completed during the course of the examination.”*
- 3.7.22. The Applicant contended in [REP7-020] that the wording of the CTMP would not preclude the use of a temporary construction access via Access Point 7 should agreement be reached with the landowner in the future.
- 3.7.23. The ExA notes that a section of this proposed alternative route to pylon XC520 via Access Point 7 would be outside of the Order limits. The alternative route would avoid HGV construction traffic through the village of Lumby and the ExA acknowledges that negotiations between the Applicant and the landowner may continue beyond the end of the Examination. However, in the absence of landowner agreement and appropriate controls through the dDCO, it is not a proposal upon which the ExA can rely.
- 3.7.24. The Applicant responded to NYC’s concerns in [REP7-020] by stating that notwithstanding the alternative access track it considered that its proposed access via Butts Lane and Red Hill Lane would be acceptable. In Table 12A.3 of the Traffic Modelling Tables [APP-148] the HGV traffic using Access Point 8 is predicted to take place for a three-week period with there being 9 HGVs in Week 1, 6 HGVs in Week 2 and 52 HGVs in Week 3. In [REP7-020] the Applicant cited the number of HGV movements through Lumby as being 52 per week which equated to an average of 8 HGV two-way movements per day.
- 3.7.25. The construction works at pylon XC520 would only take place for a three-week period, which in the ExA’s view would represent quite a limited period of time, especially considering the vast majority of the HGV movements are predicted to take place in the third week. Mitigation measures that are contained in the CTMP would involve the use of *“banksmen”* at sensitive locations such as the village of Lumby. This would further help to reduce any potential safety impacts of HGV construction traffic needing to travel through Lumby. Taking these figures into account, the ExA considers that the number of HGVs needing to go through Lumby would not be substantial enough to give rise to unacceptable traffic or road safety impacts. Consequently, it is the ExA’s opinion that the route through Lumby along Butts Lane and Red Hill Lane would be acceptable in terms of construction traffic

impacts. It follows that whilst the ExA acknowledges that the alternative HGV route to pylon XC520 would reduce HGV traffic through Lumby, this is not required to mitigate any unacceptable traffic effects in this location.

- 3.7.26. In [REP1-047] Douglas Fletcher also made reference to a potential increase in difficulty for traffic from Lumby to gain access on to the A63 at the Butts Lane/A63 junction. The Applicant has proposed a 'left in left out' arrangement for HGVs accessing the temporary construction compounds off Rawfield Lane. This would reduce delays from HGVs waiting to turn right either in to or out of Rawfield Lane and has been agreed with NYC, with local widening of Rawfield Lane and its junction with the A63 required [REP7-083]. Consequently, there is no substantive evidence that the Proposed Development would give rise to unacceptable traffic impacts at the Rawfield Lane/A63/Butts Lane junction.
- 3.7.27. The enforcement of this arrangement for HGV traffic would be a matter for the CTMP which is secured through R5(2)(d) of the Applicant's final dDCO [REP8-004]. Section 4 of the Applicant's final CTMP [REP7-009] contains details of the HGV routing strategy and Section 8 of the CTMP contains the monitoring and enforcement measures. Among other matters this would require the contractor to have a delivery management system agreed with the Applicant (para 7.3.12 of [REP7-009]). The ExA is satisfied that this has been properly secured in the CTMP [REP7-009] and that, if necessary, adequate provision has been made for enforcement.

#### **Need for a Travel Plan**

- 3.7.28. NH in its D2 submission [REP2-079] requested the inclusion of a Requirement in the dDCO in relation to a Construction Workers Travel Plan (CWTP). In response [REP3-032], the Applicant indicated that it did not consider that this would be feasible due to the nature of construction activities but that certain sustainable transport measures were contained in the CTMP [APP-099].
- 3.7.29. In response to ExQ2 [PD-011] LCC in [REP5-107] and CYC in [REP5-101] both confirmed that a CWTP would not be required due to the nature and location of the proposed construction activities. This was also an agreed matter in the final SoCG with NH [REP7-077]. The ExA has no reason to disagree with the views of IPs on this matter since the main construction operations would be located in areas that would be difficult to access by public transport and often construction vehicles would be used for commuting to, and travelling within, the various areas of construction.

#### **Impacts on PRowS, cyclists and horse riders**

- 3.7.30. ES Chapter 12 [APP-084] assessed the impacts on PRow users and in Table 12.12 it indicated that signage and/or temporary diversions would be provided during construction works. The PRow Management Plan [REP2-024] also made provision for condition surveys of PRowS to be undertaken before, during and after construction with PRowS returned to their pre-construction condition.
- 3.7.31. The ExA notes that mitigation for the impacts on PRowS during construction operations is contained in Table 3.1 of the PRow Management Plan that is secured in R5(2)(e) of the Applicant's final dDCO [REP8-004]. Mitigation would primarily take the form of temporary diversions during the period of construction operations [REP2-024].



- 3.7.32. Construction operations would impact on part of National Cycle Network (NCN) Route 65 at Overton Lane. An alternative route that would be in place for the construction period has been identified in the PRoW Management Plan [REP2-024].
- 3.7.33. In its RR [RR-035] the British Horse Society raised concerns that the rights of way statuses were not differentiated on the plans that had been submitted by the Applicant. However, in response the Applicant submitted a set of revised Access, Rights of Way and Public Rights of Navigation Plans [REP2-005] to [REP2-010] and the British Horse Society confirmed in [REP7-093] that it was content that the issues it had raised had been adequately addressed.
- 3.7.34. Overall, the ExA is satisfied that the Applicant has adequately assessed the effects on, and provided appropriate mitigation for, PRoW users, including pedestrians, cyclists and equestrian users, as required in NPS EN-1.

### **Other traffic and transport matters**

#### *Potential construction effects on the strategic road network*

- 3.7.35. Concerns had been raised by NH about potential impacts on the strategic road network that might arise as a result of construction operations and how appropriate consultation arrangements and mitigation would be secured in the dDCO. These included the provision of netting across the highway and the potential for water to escape on to the highway. However, by the close of the Examination as recorded in the final SoCG [REP7-077] these matters, including arrangements for Abnormal Indivisible Loads, had all been agreed through the inclusion of Protective Provisions in the Applicant's final dDCO [REP8-004]. The remaining disagreements between NH and the Applicant, pertaining to land rights matters, are discussed in more detail in Chapter 6 of this Recommendation.

#### *Potential effects of construction traffic on Newlands Lane*

- 3.7.36. In [REP4-031] Stephenson's Rural LLP on behalf of BW Rab and FK Rab suggested that construction traffic for all but pylons TW168 and TW169 should use a link road between the two temporary construction compounds rather than traversing along Newlands Lane.
- 3.7.37. In response [REP5-082] the Applicant stated that it would not propose a connecting road between the two temporary construction compounds as they would be used by separate contractors: the overhead line contractor and the CSEC contractor. As such they would have separate access points: AP95 for the southern compound and AP98 for the northern compound. Also, the Applicant contended in [REP5-082] that constructing a road between the two compounds would involve an additional stone access track and the removal of more trees on the boundary between the two different land holdings. This alternative route would also move the access onto another party's land. The Applicant did not consider this would be required since traffic would be managed along Newlands Lane and there would be new passing places and bellmouths being installed.
- 3.7.38. The ExA issued a Rule 17 letter to Stephenson's Rural LLP [PD-014] that, among other matters, asked for a response to the Applicant's comments in [REP5-082]. In [REP6-078] Stephenson's Rural LLP confirmed that it had no further comments to make other than those already provided.
- 3.7.39. CYC and NYC have not raised any specific concerns about the proposed use of Newlands Lane for construction traffic. The ExA notes that although the precise

location of passing places would be subject to detailed design, an illustrative layout was provided in Appendix A of [REP5-082]. The ExA is aware that the approval of the highway authority would be required at the detailed design stage. Also, the ExA notes that the CoCP and the CTMP that are both secured in R5 of the Applicant's final dDCO [REP8-004] make provision respectively for an Agricultural Liaison Officer (ALO) and an overarching Traffic Coordination Officer (TCO) with each principal contractor also being required to appoint a TCO. The ExA is therefore satisfied that there would be ongoing liaison with landowners and the highway authority during the construction programme.

- 3.7.40. The ExA considers that the Applicant has taken reasonable measures to ensure that the impacts of construction traffic using Newlands Lane would be mitigated. Furthermore, the ExA does not consider that there would be sufficient need for the alternative access route that has been proposed by Stephenson's Rural LLP that would justify and outweigh the land ownership and operational difficulties and the loss of tree cover that it would entail.

*Potential effects on access past Skelton Springs Cottages and New Farm*

- 3.7.41. In response to representations made by Stephenson's Rural LLP on behalf of Mrs P Husband, Ms G Eves and Mr P Bulmer [REP2-132] and [REP4-032] and the representations made by Mr D Blacker and Ms M Blacker [RR-022], [RR-024], [REP1-054] and [REP5-109] the Applicant submitted a Change Application at D5 [REP5-090] with an accompanying Report on Proposed Changes [REP5-091].

- 3.7.42. Change 2 removed the use of the access past Skelton Springs Cottages and New Farm for the majority of the construction traffic required for pylon SP005. Instead, it was proposed that the construction access for pylon SP005 would instead be taken from a haul route from pylon SP004 and then across Hurns Gutter. The ExA accepted the Change Application request [PD-013] and there were no objections raised to this by any of the IPs. The ExA considers that the traffic implications of this alternative access have been adequately assessed and would represent a preferable option.

*Potential traffic effects at Overton Grange*

- 3.7.43. Traffic issues were also raised in the representations made by Lister Haigh on behalf of James Bell in [RR-023]. The concerns were regarding the exit on to the A19 from the Overton Substation field and the fact that there would be multiple traffic movements from Overton Grange at all times but particularly during harvest that would entail large vehicles including grain trailers between July and September. In response, the Applicant in [REP1-015] stated that as assessed in ES Chapter 12 [APP-085] the peak week for construction traffic would result in up to 41 additional total traffic movements, of which 30 would be HGV movements. The Applicant contended that the impact of this would be "*Not Significant*" in highways terms.

- 3.7.44. In response to ExQ2, Lister Haigh on behalf of Mr Bell in [REP5-110] stated that "*most but not all*" of the concerns raised in [RR-015] relating to a number of matters including access and traffic management had been resolved and was "*hopeful that agreement would be reached soon.*"

- 3.7.45. Whilst the ExA has not been presented with any evidence that final agreement has been reached on all issues between the Applicant and Mr Bell, we are aware that, as recorded in [REP5-110] and [REP7-054] agreement had been reached on most issues. Furthermore, the ExA notes that NYC has not raised objections regarding traffic matters in the vicinity of the proposed Overton Substation, including in its

response to ExQ2 14.0.2 to which it replied in [REP5-117]. Having regard to all this, the ExA is satisfied that the traffic effects of the Proposed Development on Overton Grange and the area surrounding Overton Substation would be acceptable.

*Potential traffic effects at High Moor Farm*

- 3.7.46. Traffic issues were also raised by Lister Haigh on behalf of Richard Elliott in [RR-025] about the potential construction access route from AP40 going through a cattle yard at High Moor Farm. The Applicant responded in [REP1-015] that it would seek to further engage with the landowner to reach voluntary agreement on the alternative route suggested by the landowner and noted that a meeting had been held in March 2023.
- 3.7.47. In [REP4-024] the Applicant provided details of a potential voluntary agreement regarding an alternative route that would avoid running through the cattle yard. In response to ExQ2, Lister Haigh stated in [REP5-111] that the concerns raised in [RR-015] would be resolved via such a voluntary agreement for the alternative route. Whilst there would seem a reasonable prospect of an alternative route being developed that would avoid the section through the cattle yard, that alternative is not currently before the ExA. The ExA also notes that the roles of a National Grid Land Officer(s)/Agent(s) and ALO are specified in the CoCP [REP7-042] and a TCO is specified in the CTMP [REP7-009] to provide liaison with landowners during the construction phase.
- 3.7.48. The ExA is mindful that, as set out in Table 12A.3 of [APP-148] the proposed HGV traffic using AP40 would be 46 in total spread over a number of weeks, with no more than 13 in any week, and the total light vehicle traffic would be 44 and this would also be spread over a number of weeks.
- 3.7.49. Based on these figures and the liaison measures set out in the CoCP [REP7-042] and CTMP [REP7-009] the ExA considers that the adverse traffic effects resulting from use of this route would be limited because of the numbers of vehicles and the mitigation that is in place.

*Mr P Watson's traffic concerns*

- 3.7.50. In [REP2-054], [REP5-100] and [REP7-092] Carter Jonas on behalf of Mr P Watson raised concerns about the Applicant's proposed revised bellmouth access off the A659 in order to provide permanent access to the western CSEC. Some of Mr Watson's concerns related to land ownership rights, including the alternative location put forward by Mr Watson, the use of a shared access and control measures to prevent issues such as fly tipping or the parking of vehicles. These matters are considered in detail in Chapter 6 of this Recommendation. The ExA notes that in response the Applicant in [REP3-032] contended that it also would need unrestricted access so would take measures to address any fly tipping or parking in the entrance area.
- 3.7.51. Mr Watson raised concerns regarding the possibility of traffic along the A659 becoming very heavy or stationary if either the A1 or A64 become blocked. Also, in [REP7-092] Mr Watson raised concerns about visibility for traffic exiting on to the A659 should vehicles be parked in the expanded bellmouth area and also potential safety issues for him on entering and exiting the site, having to unlock and lock up whatever posts or gates are installed, especially as the speed limit along this stretch is 60 miles per hour. The Applicant responded in [REP8-013] that "... *should the option proposed to use bollards be undertaken then the area of land between the*

*bellmouth and gated access would need to remain to provide a location within the bellmouth to park vehicles.”*

- 3.7.52. Mr Watson in [REP7-092] contended that signage would be ineffective at preventing parking. However, the Applicant disputed this and indicated in [REP8-013] that it considered that the erection of signage to deter parking should be suitable along with the threat of prosecution. The ExA has no reason to doubt that appropriate signage could be effective in deterring parking if it was adequately monitored and enforced. Also, the ExA is content that the precise design of this bellmouth would need further consideration post-consent and that this would be subject to approval by NYC as the relevant highway authority.
- 3.7.53. The ExA notes that NYC has not raised any specific concerns over highway safety or increased congestion resulting from the Proposed Development at this location. The ExA is aware that the exact layout of the permanent bellmouth area and any security measures would be finalised at the detailed design stage. As indicated in [REP8-013] the Applicant produced an Illustrative Plan of this access arrangement in [REP7-046] and a further Illustrative Plan was contained in Appendix B of [REP8-014]. The Illustrative Plans indicate sufficient space for a low loader to park up and access the bellmouth area outside of the zone that would contain the retractable bollards and the security gate. Furthermore, the ExA considers that it would be in the interests of both the Applicant and Mr Watson to prevent both fly tipping and illegal parking from occurring. Taking this into account, the ExA concludes that an arrangement could be put in place that would allow for a suitable permanent access in this location to be provided for both the Applicant and Mr Watson whilst also alleviating Mr Watson’s concerns over fly tipping, vehicle parking, accessibility and highway safety. The roles of both an ALO and a TCO are secured in the Applicant’s final dDCO and these would be matters on which future liaison should take place.

*Potential traffic effects on Royal Mail Group operations*

- 3.7.54. Royal Mail Group submitted a relevant representation in relation to the effects on its operations should congestion on or disruption to the highway network arise as a result of the Proposed Development [RR-003]. It stated its satisfaction with the wording in para 8.2.5 to 8.2.6 of the submitted CTMP which it considered would provide satisfactory advance notification, liaison and information on works affecting the highway network. The final CTMP [REP7-009] contained this same wording and the ExA therefore considers that the Applicant’s commitments to addressing Royal Mail Group’s concerns have been adequately secured.

**Conclusions**

- 3.7.55. The impacts of the Proposed Development on traffic and transport would mainly arise during the construction phase, with the most significant effects being caused by the HGV movements that would be primarily associated with the temporary construction compounds to facilitate the construction of the proposed substations and CSECs.
- 3.7.56. In the final SoCGs with NYC [REP7-083], CYC [REP5-033], LCC [REP7-028] and NH [REP7-077] the assessment of likely significant effects for traffic and transport was an agreed matter.
- 3.7.57. The CTMP is intended to be a live document that would evolve during the course of construction operations. This is secured in R5(2)(f) of the Applicant’s final dDCO [REP8-004]. In addition, Table 3.10 of the CoCP [REP7-042] contains good practice measures in relation to traffic and transport.

- 3.7.58. The ExA considers that the Applicant has adequately assessed the effects on traffic and transport, including pedestrians, cyclists and equestrian users, as required in NPS EN-1. In addition, during the course of the Examination, the Applicant has amended elements of the scheme to assuage the concerns of some local residents, by for example removing the proposed access for construction traffic past Skelton Springs Cottages and New Farm.
- 3.7.59. The ExA is satisfied that, through embedded measures in the project design and measures contained in the CTMP and CoCP, significant adverse impacts have been avoided and that other adverse impacts have been mitigated and minimised as required by para 5.3.16 of NPS EN-1. Having regard to para 5.3.17 of NPS EN-1, the ExA therefore considers that the policy tests of NPS EN-1 have been met in this regard. There is also no conflict with draft NPS EN-1 (March 2023) or draft NPS EN-5 (March 2023). The Proposed Development would also accord with the NPPF and relevant Development Plan policies.
- 3.7.60. Taking all of this into account, the ExA concludes that the traffic and transport effects of the Proposed Development carry a little weight against the making of the Order.

## **3.8. SOCIO-ECONOMIC EFFECTS**

### **Introduction**

- 3.8.1. This Section considers the socio-economic effects of the Proposed Development. This includes commercial effects on individual farming operations. The consideration of impacts on agricultural land more broadly is considered in Section 3.9 of this Recommendation. Whilst access to services, including health services, is considered in this Section any potential impacts on health are considered in the Air Quality and Human Health Section of this Chapter. Furthermore, strategic level effects of the Proposed Development on the regional and national economy are considered in Section 3.2 of this Recommendation.

### **Policy Considerations**

#### **National Policy Statements**

- 3.8.2. Para 5.12.2 and 5.12.3 of NPS EN-1 require that where a project is likely to have socio-economic impacts at local or regional levels, the Applicant should undertake and include in its application an assessment of these impacts as part of the ES, and should consider all relevant socio-economic impacts, including the creation of jobs and training, the provision of additional services, effects on tourism, the impact of a changing influx of workers and cumulative effects.
- 3.8.3. In reaching a decision the SoS should have regard to the potential socio-economic impacts of new energy infrastructure. The decision-maker should consider any relevant positive provisions the developer has made or is proposing to make. Para 5.12.7 of NPS EN-1 advises that: “*the [decision maker] may conclude that limited weight is to be given to assertions of socio-economic impacts that are not supported by evidence (particularly in view of the need for energy infrastructure as set out in this NPS).*”
- 3.8.4. Draft NPS EN-1 (March 2023), which is an important and relevant consideration, indicates a continuation of policy relating to the assessment of socio-economic effects.

### **National Planning Policy Framework**

- 3.8.5. Para 81 of the NPPF states that: “*Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.*”
- 3.8.6. Para 84 of the NPPF says that planning policies and decisions should enable the development and diversification of agricultural and other land-based rural business and should enable sustainable rural tourism and leisure developments which respect the character of the countryside.

### **Local Plan Policies**

- 3.8.7. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the socio-economic effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation.

### **The Applicant’s Case**

- 3.8.8. The Applicant’s case regarding socio-economic matters is primarily contained within ES Chapter 16: Socio economics [APP-088]. In addition, ES Chapter 15 [APP-087] considers impacts on health and wellbeing, some of which pertain to socio-economic matters.
- 3.8.9. The Applicant also submitted the following documents to support the application:
- Chapter 15 Health and Wellbeing Figures [APP-191]; and
  - Chapter 16 Socio-economics Figures [APP-192].
- 3.8.10. Table 16.15 of ES Chapter 16 [APP-088] summarises the significance of socio-economic effects on receptors. All of the effects are assessed as being “*Not Significant*” except for the impacts on Squires Café and Caravan Park due to land take from within the caravan park and access road and on Woodstock Lodge Wedding Venue due to visual impacts on its outdoor area. These are both assessed as being “*Significant*”.
- 3.8.11. Table 15.23 of ES Chapter 15 [APP-087] assesses the effects on health and wellbeing for the following categories:
- access to work and training;
  - access to healthcare services and other social infrastructure;
  - changes to severance and accessibility to healthcare services and other social infrastructure;
  - accessibility and active travel;
  - access to open space and recreational facilities; and
  - air quality, noise and neighbourhood amenity.
- 3.8.12. For all of these criteria the Applicant predicts the effects of the Proposed Development to be “*Neutral*”.

## Issues Considered During the Examination

### Impacts on specific farms and farming operations

3.8.13. Objections were received from Stephenson's Rural LLP on behalf of BW Rab and FK Rab [REP2-131] and Newlands (York) Limited [REP6-078], Carter Jonas LLP on behalf of Mr P Watson [RR-006] and also Lister Haigh on behalf of Mr D Blacker and Ms M Blacker [RR-022] and [RR-024]. A number of subsequent representations were received by these IPs during the course of the Examination.

3.8.14. This Section therefore considers the impacts of the Proposed Development on the day to day farming operations and the economic viability of certain farms as businesses. Issues concerning the land take, compulsory acquisition and potential alternatives are considered in Chapter 6 of this Recommendation.

#### *BW Rab and FK Rab and Newlands (York) Limited*

3.8.15. Stephenson's Rural LLP on behalf of BW Rab and FK Rab and Newlands (York) Limited raised objections to the location of the proposed CSECs at Newlands Farm and the impact on both current and future farming operations. In [REP2-131] it was contended that the location of the northern CSEC would completely prevent the future logical expansion of the farm business. Furthermore, having each of the CSECs in separate fields: "...ruins 2 fields where as if they are put in the same field then at least only one field is ruined." In [REP2-131] it was stated that a cubicle building for 300 cows was planned for completion in 2026 but due to the relocation of the third silage pit the cubicle building has had to be re-located and built to a different design, both of which would increase costs.

3.8.16. Concerns were also raised in [REP2-131] regarding the use of Newlands Lane by construction traffic for the Proposed Development and the resultant potential for conflict with farm traffic. This is considered in more detail in Section 3.7 of this Recommendation.

3.8.17. In its ExQ2 13.0.1 [PD-011] the ExA asked for an explanation of the effects on Newlands Farm if the CSECs were constructed in their current locations or if they were constructed in the alternative locations as depicted in Plan 2 of [REP2-131]. A specific response on this was not provided, however, in [REP8-024] from BW Rab and FK Rab, it was stated that the Applicant and landowners were still in discussion regarding the following matters:

- *" the use of newlands lane as the access to the sealing end compounds;*
- *the purchase of the two sealing end compounds and the effect the scheme will have on the value of the farm as a whole; and*
- *the effect the scheme will have on the practical running of the farm."*

3.8.18. Based on the information that is before the ExA we consider that there is a likelihood that the Proposed Development, during both the construction and operation phase, would have an adverse effect on both the day to day farming operations at Newlands Farm and that it would have the potential to affect elements of any future expansion plans. Whilst it is difficult with the information available to quantify how much of an economic impact this would entail, the ExA has not been presented with any evidence that it would limit the ability of Newlands Farm to operate in its current format or would render the farming business unviable. The ExA also notes that any discussions regarding the potential for and quantum of financial compensation due to impacts on the farming operations would be matters between the Applicant and the landowner that would take place outwith the DCO

process. Chapter 6 of this Recommendation considers the dDCO provisions relating to compensation for effects on land rights. Notwithstanding this, the ExA considers that this is a matter that weighs against the making of the Order.

*Ms M Blacker and Mr D Blacker*

- 3.8.19. Lister Haigh on behalf of Mr D Blacker [RR-022] and Ms M Blacker [RR-024] of New Farm stated that the proposed new pylon SP006 should be moved further to the north to reduce the impact on the agricultural use of the field that it would lie within.
- 3.8.20. At ISH4 the ExA sought to gain an understanding of the impact of the Proposed Development on the day to day agricultural operations. In response to ExQ2 [PD-011] Lister Haigh on behalf of Mr D Blacker and Ms M Blacker stated in [REP5-109] that pylon SP006 would be currently set 14m from the field boundary at the entrance to the neck of the field. This would mean that the 24m wide sprayer would not pass the pylon on its eastern side which would result in an area that harbours weeds.
- 3.8.21. Furthermore, in [REP6-071] Ms M Blacker and Mr D Blacker commented that the position of pylon SP007 had resulted in them being able to farm 15% less of the field and that pylon SP006 would be located 150m away from this pylon. This would add a further pylon on more productive land.
- 3.8.22. The Applicant responded in [REP6-058] that the proposal from the landowner to remove pylon SP007 with the alignment to run from pylon SP006 to pylon SP008 would not be feasible as it would require a new tension pylon for SP008 and the distance from SP006 to SP008 would be too long.
- 3.8.23. Further details regarding the reasoning for the Applicant's positioning of pylon SP006, the need to retain pylon SP007 and the consideration of alternative locations are contained in Chapter 6 of this Recommendation.
- 3.8.24. As regards the issue of impact on farming operations the Applicant commented in [REP6-058] that: *"...the current location of pylon SP006 is considered to have a minimal effect on land take at New Farm. Taking a worst-case approach, the maximum area of land which could be impacted is 1 acre / 0.4 ha. A similar worst-case approach at pylon SP-005 could impact up to 1 acre/ 0.4 ha of land. From the land referencing exercise undertaken, the Applicant understands New Farm occupies and farms around 330 acres / 133 ha of land. These worst-case farmland impacts would therefore affect around 0.6% of the identified farm holdings. This is not considered to be significant when considered against the methodology set out in ES Chapter 16"*.
- 3.8.25. The ExA has not been presented with any evidence to dispute the comments made by the Applicant in [REP6-058] regarding the amount of farmland that could be impacted and how this would equate to the overall land holding at New Farm. In addition, the ExA notes that the role of ALO has been specifically referenced in the final CoCP [REP7-042]. Also, para 2.2.17 of the CoCP makes a specific commitment for liaison with the landowners on the final siting of pylons SP005 and SP006 as the detailed design is progressed. As reported in [REP7-046] this would be to establish whether there would be the potential to minimise the impact on farming practices through the micro-siting of the pylons in this location.
- 3.8.26. Taking all of this into account it is the ExA's view that there would be some adverse effects on the agricultural operations on the land in which Mr D Blacker and Ms M



Blacker have an interest as a result of the Proposed Development. This would be likely to result in areas in the vicinity of pylons SP005 and SP006 either not being farmed or not being farmed as efficiently as is currently the case.

- 3.8.27. However, the ExA notes the future liaison to which the Applicant has committed and the ExA considers that it has not been presented with any substantive evidence that the impacts on the farming operations at New Farm would be of a scale that would cause a significant adverse impact on the business overall. Chapter 6 of this Recommendation considers the provisions of the dDCO relating to land rights including compensation.

*Mr Philip Watson*

- 3.8.28. Carter Jonas LLP on behalf of Mr P Watson made a number of representations [RR-006], [PDA-001], [REP2-054], [REP2-055], [REP5-100] and [REP6-068]. In terms of the impact on agricultural operations it was contended that the location of the CSECs would lead to unfarmable areas within the field and would give rise to difficulties in accessing the field. The points reported below here form part of the wider objection to the land rights which the Applicant is seeking to acquire, which is reported in Chapter 6 of this Recommendation.
- 3.8.29. In [REP5-100] reference was made to the impacts on farming activities that would arise as a result of Mr Watson losing the right of way access past the eastern of the two CSECs. In [REP5-100] Mr Watson indicated that previously he had planted two different crops in the field within which the western CSEC would be located, using the A659 access for one part of the field and the right of way access for the other part. Mr Watson argued that it is not possible to undertake this from one access point due to different drilling times and harvest times of the two crops and therefore he would no longer be able to do this in the future should the right of way be extinguished. Whilst the Applicant disputed this, we have no substantive evidence that Mr Watson has not farmed two crops in this field on occasions.
- 3.8.30. In [REP5-100] Carter Jonas on behalf of Mr Watson replied that even if reoriented the western CSEC would still protrude at least 37 metres into the field. As a result of this it was contended that all farming activities would take a longer period of time in the field and the added soil compaction caused in the extra turning would have an adverse effect on yields. At the moment it is possible for Mr Watson to run farm machinery straight along that boundary side but it was argued that the extra work time year in year out and lost yield would be considerable.
- 3.8.31. In [REP7-092] Mr Watson disputed the Applicant's assessment at CAH2 of the area of his farming operations and he stated that he had a total of 168 acres of arable and a further 22 acres of grassland. In [REP6-059] the Applicant acknowledged that there would be slightly more impact on Mr Watson's farming business than for New Farm and Newlands Farm where both of those landowners were understood to have over 300 acres of land. In [REP7-092] Mr Watson stated that the field within which the CSEC West would be sited is 28 acres in size.
- 3.8.32. The ExA has no reason to doubt that the Proposed Development would give rise to lower yields in this immediate area around the western CSEC due to increased soil compaction and would also be likely to increase the length of time that farming operations would take. In addition, the ExA considers that the loss of the right of way access past the eastern of the two CSECs would either preclude or at least limit the ability of Mr Watson to farm two crops within the same field. However, the ExA has not been presented with any substantive evidence to demonstrate that the

Proposed Development would be significantly detrimental to the operational viability of Mr Watson's overall farming business. The ExA notes that the Applicant's responses have referred to compensation, which we cover in Chapter 6 of this Recommendation. Taking all of this into account, the ExA considers that the Proposed Development would have an adverse effect on Mr Watson's farming operations during both the construction and operation phases.

### **Impacts on employment and local businesses**

- 3.8.33. The Applicant stated in [APP-088] that the total cost of the Proposed Development would be £304 million, of which 65% would be spent on civil engineering works and around 35% on plant and equipment.
- 3.8.34. Para 16.8.35 of ES Chapter 16 [APP-088] predicted that there would be an average of 103 construction workers on the Proposed Development at any one time, and that these would be split between about 15% from the local area and 85% from elsewhere.
- 3.8.35. These predictions were not disputed by any of the IPs and the ExA acknowledges that economic benefits would accrue to the local area and nationally in terms of job creation and workforce spend within the local economy. Wider benefits in terms of improving the supply network are considered in more detail in Section 3.2 of this Recommendation.

#### *Woodstock Lodge Wedding Venue*

- 3.8.36. ES Chapter 16 [APP-088] identifies that the proposed new pylons along the 400kV YN overhead line to the south of the Woodstock Lodge Wedding Venue would result in a significant visual impact to guests of the wedding venue. However, the Applicant concludes in ES Chapter 16 [APP-088] that, with additional measures, socio-economic effects would not be significant. Para 6.15.1 of ES Chapter 6 [APP-078] stated that the additional measures would likely comprise landscape planting outside of the Order limits, and therefore would not be secured under the dDCO.
- 3.8.37. We visited Woodstock Lodge on our ASI [EV-001a] and [EV-001b] and the area for the proposed screen planting was indicated by the Applicant and the owner of the venue. During the course of the Examination the Applicant continued negotiations with the owners of Woodstock Lodge and we understand that a private agreement was reached for a planting scheme and maintenance that would help to screen views of the new infrastructure [REP7-039]. This planting would take place on land that is not within the Order limits.
- 3.8.38. Therefore, whilst this cannot be secured within the dDCO the ExA has a reasonable degree of confidence that planting would take place to the satisfaction of the landowner. During the course of the Examination the owners of Woodstock Lodge did not raise any specific objections to the Proposed Development. The ExA notes that the Applicant has taken measures to mitigate the visual impact of the Proposed Development and consequently we do not consider that, with this additional planting in place, the Proposed Development would have any significant detrimental financial impact on Woodstock Lodge as a business. However, as the ExA does not have the agreement for off-site planting before us we conclude that the Proposed Development, without this planting, would give rise to a significant adverse socio-economic effect on Woodstock Lodge.

### *Squires Café*

- 3.8.39. The Proposed Development would entail works going on within the area of Squires Café. This would involve land take during the construction phase and the Applicant identified in ES Chapter 16 [APP-088] that it would have the potential for some disruption of both the campsite and the café business.
- 3.8.40. We visited Squires Café on our ASI [EV-001a] and [EV-001b] and the ExA notes that no specific objections have been received from the landowners or operators regarding the Proposed Development. We note that the effects would be temporary in the sense that they would only arise during the construction phase. Taking this into account the ExA concludes that whilst there is likely to be a significant adverse effect on Squires Café and campsite during the construction operations the ExA has not been presented with any evidence to indicate that it would be sufficiently adverse so as to affect the overall viability of the business.

### **Impacts on local services**

- 3.8.41. The workforce would be a mixture of both local workers and also people coming in to the area from other parts of the country. The Applicant in [APP-088] assessed the impacts on local services as being “*Negligible*” and this was not disputed by NYC, CYC or LCC. Based on the likely workforce numbers the ExA also has no reason to disagree with the Applicant’s assessment on this matter.

### **Conclusions**

- 3.8.42. The ExA considers that there would be an adverse effect on the farming operations for the following;
- BW Rab and FK Rab and Newlands (York) Limited at Newlands Farm;
  - Ms M Blacker and Mr D Blacker at New Farm; and
  - Mr P Watson.
- 3.8.43. In all of these cases the Proposed Development would have an adverse effect on the day to day farming operations at parts of these overall farming units during the construction phase and during the operation phase due to the siting of new infrastructure.
- 3.8.44. The ExA also concludes that the Proposed Development would have a significant adverse effect on Squires Café during the construction phase and, in the absence of evidence that the planting and maintenance scheme is secured, on Woodstock Lodge Wedding Venue during construction and operation.
- 3.8.45. The Applicant has estimated that the Proposed Development would require a workforce of 103 people [APP-088] and as such this would either create new employment or it would safeguard and prolong existing employment as contractors moved onto this project from elsewhere. This is a matter that would weigh in favour of the Proposed Development.
- 3.8.46. The ExA is satisfied that, through embedded measures in the project design and measures contained in the CoCP [REP7-042], significant adverse socio-economic impacts would be minimised although it is noted that three farming businesses and two local business would be affected. The ExA has not been presented with evidence to demonstrate that the Proposed Development would be of a magnitude that would render any of these businesses unviable. We also note that in responding to these objections the Applicant points to its compensation

arrangements for effects on land rights, which are considered further in Chapter 6 of this Recommendation. Taking all of this into account and having regard to para 5.12.7 of NPS EN-1, the ExA therefore considers that the policy tests of NPS EN-1 have been met in this regard and the Proposed Development would accord with relevant Development Plan policies. We have also identified no conflict with draft NPS EN-1 or draft NPS EN-5.

- 3.8.47. Overall, the ExA concludes that there would be both positive and negative socio-economics effects of the Proposed Development at the local level. When taken together, and having particular regard to the adverse impacts on the aforementioned farming operations and local businesses, the ExA concludes that socio-economic considerations at the local level carry moderate weight against the making of the Order.

## **3.9. LAND USE (Green Belt, Agricultural Land and Green Infrastructure)**

### **Introduction**

- 3.9.1. This Section considers the effects of the Proposed Development on land use. The structure reflects the main land use themes arising in the Examination, specifically:
- Green Belt;
  - Agricultural land and soil resources; and
  - Green infrastructure.
- 3.9.2. The effects of the Proposed Development on the operations of individual farming businesses are considered in Section 3.8 of this Recommendation.

### **Green Belt**

#### **Policy Considerations**

##### *National Policy*

- 3.9.3. NPS EN-1 (para 5.10.4) states, “(t)he fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness”. This mirrors the National Planning Policy Framework (NPPF, para 137) which emphasises the essential characteristics of openness and permanence.
- 3.9.4. The assessment for Green Belt, as set out in NPS EN-1 (para 5.10.10 to 5.10.12), requires the Applicant to:
- determine whether the Proposed Development may be inappropriate development within the meaning of Green Belt policy; and
  - if the Proposed Development (or any part of it) may be inappropriate development, demonstrate that very special circumstances exist, meaning that the harm by reason of inappropriateness and any other harm, is outweighed by other considerations.
- 3.9.5. In reaching a decision, NPS EN-1 (para 5.10.17) requires that the SoS should:
- be satisfied that where major energy infrastructure projects may constitute inappropriate development, there are very special circumstances to justify it, having regard to the general planning policy presumption against inappropriate development; and

- in making the above determination in relation to linear infrastructure, attach substantial weight to any harm to the Green Belt while taking account of the extent to which its physical characteristics are such that it has limited or no impact on the fundamental purposes of Green Belt designation.

- 3.9.6. The NPPF, Section 13 sets out the purposes of Green Belt policy and is the successor to now revoked Planning Policy Guidance 2, to which NPS EN-1 refers in para 5.10.4. The NPPF is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (para 147). At para 149 and 150, it identifies some exceptions to the definition of inappropriate development. At para 151, it notes that in some specific circumstances, very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
- 3.9.7. The NPPG (para 001, Reference ID 64-001-20190722) sets out Government guidance on the role of the Green Belt in the planning system, including on assessing the impact of a proposal on the openness of the Green Belt. The NPPF and NPPG are important and relevant considerations in this context.
- 3.9.8. Section 5.11 of draft NPS EN-1 (March 2023) signals a continuation of Green Belt policy in relation to Nationally Significant Infrastructure Projects (NSIPs) and is also important and relevant to this Recommendation.

#### *Local Policy*

- 3.9.9. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the Green Belt effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation and discussed further below.
- 3.9.10. In terms of the York Green Belt, the CYC LIR [REP1-047] explains that saved Policy Y1 of the Yorkshire and Humber Regional Spatial Strategy 2008 defines the outer boundary of the York Green Belt, whilst the inner boundary has not been formally defined in policy but must conform with saved Policy YH9C of the Yorkshire and Humber Regional Spatial Strategy. The LIR identifies policies SS2 (*"The role of York's Green Belt"*) and GB1 (*"Development in the Green Belt"*) of the Publication Draft City of York Local Plan 2018 as being relevant to the ExA's consideration of Green Belt matters. The Draft Plan is not adopted but is at an advanced stage of preparation, with the LIR estimating adoption by the end of 2023.
- 3.9.11. Draft Policy SS2 [REP2-070] states that the primary purpose of the York Green Belt is to safeguard the setting and special character of York and deliver the Local Plan spatial strategy. It further states that the general extent of the Green Belt is shown on the key diagram. Draft Policy GB1 [REP2-067] sets the principles against which proposals for development in the Green Belt would be assessed, which closely align with the NPPF.
- 3.9.12. The NYC LIR [REP1-056] identifies the Hambleton District Local Plan 2022, Policy S6 (*"York Green Belt"*) as relevant to consideration of the effects on the York Green Belt. The Applicant also identifies Policy GS4 (*"Green Belt"*) of the Harrogate Local Plan 2014 as relevant to this matter.
- 3.9.13. Turning to the Leeds Green Belt, LCC LIR [REP1-053] identifies saved Policies N32 (*"Green Belt and the proposals map"*) and N33 (*"Development in the Green Belt"*) of the Leeds Unitary Development Plan (UDP) Review 2006 which respectively define

the extent of the Leeds Green Belt and set principles for development proposals within it. Supporting text at para 5.4.2 of the UDP explains that the core functions of Leeds Green Belt are to protect tracts of open countryside, maintain and enhance green corridors for recreation, amenity and nature conservation, and retain the separate identify and character of existing settlements.

3.9.14. The LCC LIR also refers to the Leeds Site Allocations Plan 2019 (amended in 2020) which classifies the land subject to the Proposed Development as Green Belt. Spatial Policy 10 ("*Green Belt*") of the Leeds Core Strategy 2014 (amended in 2019) deals with the process for reviewing the Leeds Green Belt.

3.9.15. The NYC LIR [REP1-056] identifies the following policies of the Selby District Core Strategy Local Plan 2013 as relevant to consideration of the effects on the Leeds Green Belt:

- SP2 A(d) ("*Spatial development strategy*") [REP2-096]; and
- SP3 ("*Green Belt*") [REP2-097].

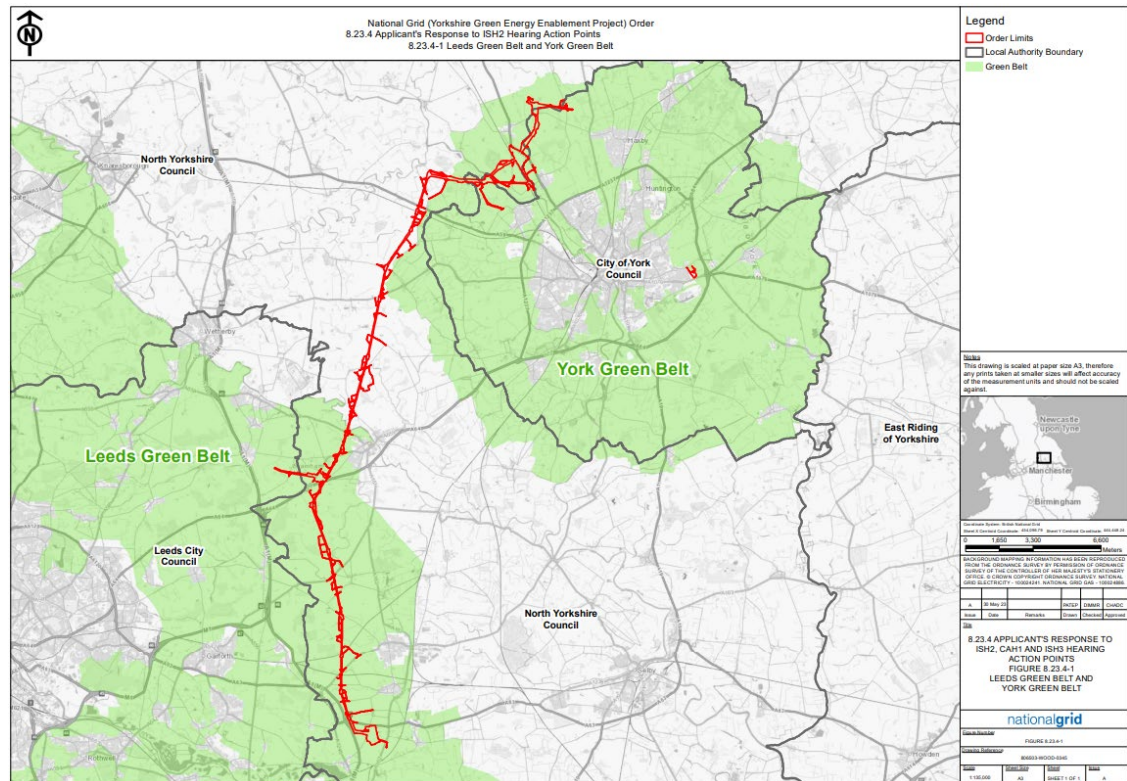
### **The Application**

3.9.16. The Applicant's consideration of Green Belt matters is principally set out within its Planning Statement [APP-202], Section 7.3. The Statement explains how the Green Belt designations were taken into account in the strategic consideration of alternatives and options through the Strategic Proposal Reports 2019 [APP-206], 2020 [APP-207] and 2021 [APP-208], and then in the more detailed Corridor and Preliminary Routeing and Siting Study 2021 [APP-209].

3.9.17. The existing 275kV Poppleton to Monk Fryston XC overhead line passes through the York Green Belt and the existing 275kV XD overhead line west of Tadcaster and the existing Monk Fryston Substation fall within the Leeds Green Belt. The Planning Statement [APP-202] makes the case that utilising this existing infrastructure is preferable to the creation of new infrastructure which would have greater adverse environmental effects and be more costly, contrary to National Grid's licence obligations and statutory duty. Para 7.3.60 to 7.3.72 of the same document describe the other constraints that had to be taken into account including designated heritage assets, river crossings, flood zones, residential properties and ancient woodland.

3.9.18. Figure 3.9.1 (below) shows the extent of the York and Leeds Green Belts overlain with the Order limits for the Proposed Development [REP4-026], Appendix A.

**Figure 3.9.1 Order limits of the Proposed Development and extent of the York and Leeds Green Belts (source: [REP4-026], Appendix A)**



3.9.19.

The following elements of the Proposed Development, as described in the Applicant's final dDCO [REP8-004], would fall within the York Green Belt:

- Work No. 2 – works to reconductor the existing YR 400kV overhead line and installation of the new YN 400kV overhead line, new Shipton North and Shipton South cable sealing end compounds (CSECs) and two temporary construction compounds;
- Work No. U1 – undergrounding of a section of existing distribution overhead electric line;
- Work No. 3 – installation of new YN 400kV overhead line and two temporary construction compounds south of Shipton-by-Beningbrough;
- Work No. U2 – undergrounding of a section of existing distribution overhead electric line;
- Work No. U3 – undergrounding of a section of existing distribution overhead electric line;
- Work No. 4 – construction of Overton Substation;
- Work No. 5 – works to install the new SP 275kV overhead line and dismantle the existing XCP 275kV overhead line;
- Part of Work No. 6 – works to dismantle XCP 275kV overhead line and install new XC 275kV overhead line; and
- Work No. U4 – undergrounding of a section of existing distribution overhead electric line.

3.9.20.

Work No. 1, which would involve works at the existing Osbaldwick Substation, would fall outside of the York Green Belt, a position which is agreed by CYC [REP1-047], para 7.5.

- 3.9.21. The following elements of the Proposed Development, as described in the Applicant's final dDCO [REP8-004], would fall within the Leeds Green Belt:
- Part of Work No. 7 – works to modify and reconductor the existing XC 275kV overhead line;
  - Work No. U6 – undergrounding of a section of existing distribution overhead electric line;
  - Work No. 8 – works to modify and reconductor the XC overhead line and modify the XD overhead line, two CSECs and one temporary construction compound;
  - Work No. U7 – undergrounding of a section of existing distribution overhead electric line;
  - Work No. U8 – diversion of an underground gas pipeline;
  - Work No. 9 – works to modify and reconductor the existing XC overhead line;
  - Work No. U9 – undergrounding of a section of existing distribution overhead electric line;
  - Work No. U10 – undergrounding of a section of existing distribution overhead electric line;
  - Work No. U11 – undergrounding of a section of existing distribution overhead electric line;
  - Work No. U12 – undergrounding of a section of existing distribution overhead electric line;
  - Work No. U13 – undergrounding of a section of existing distribution overhead electric line;
  - Work No. 10 – works to dismantle section of existing XC 275kV overhead line and install reconfigured new section of 275kV overhead line and one temporary construction compound; and
  - Work No. 11 – construction of Monk Fryston Substation and one temporary construction compound.

3.9.22. In its Planning Statement [APP-202], the Applicant makes the case that the proposed overhead lines (both new and existing as modified and reconducted) would comprise an engineering operation which benefits from the exception in NPPF para 150, meaning that the works would not constitute inappropriate development in the sense of NPPF para 147.

3.9.23. The Applicant also contends [APP-202] that the proposed new Overton and Monk Fryston Substations and the CSECs at Shipton and Tadcaster would form engineering operations but acknowledges that since they would not preserve the openness of the Green Belt, they may be considered to be inappropriate development.

3.9.24. The Planning Statement [APP-202] para 7.3.98 to 7.3.100, goes on to set out the very special circumstances which the Applicant argues outweigh the harm by reason of inappropriateness and any other harm resulting from the Proposed Development, as required by NPPF para 148. Very special circumstances essentially amount to the Applicant's need case, as recorded in ES Chapter 2 [APP-074], the Updated Need Case [APP-205] and the Planning Statement [APP-202], Section 3.3.

### **Issues Considered During the Examination**

3.9.25. The potential effect of the Proposed Development on the York and Leeds Green Belts was raised in Relevant Representations from the predecessor authorities to NYC [RR-018], [RR-019], [RR-032] and [RR-034] and in the LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056]. Concerns about effects on the Leeds Green Belt in the vicinity of Lumby were raised in the submissions of local residents



Mr D Fletcher [RR-014] [EV-004b] [REP1-049] and Ms L Palmer [RR-020]. No other IPs expressed views about the Applicant's approach to assessing effects on the Green Belt.

3.9.26. The ExA probed the issue through written questions (ExQ1 8.0.1 to 8.0.3 [PD-007] and ExQ2 8.0.1 to 8.0.2 [PD-011]) and orally at ISH2 [EV-005]. We also observed relevant areas of both York and Leeds Green Belts on our USI [EV-001] and ASI [EV-001b].

3.9.27. The three host local authorities did not agree with the Applicant's approach to assessing Green Belt effects and this disagreement was sustained throughout the Examination. At Deadline 7 and in response to ExQ2 8.0.2 [PD-011], this culminated in the submission of a Position Statement [REP7-034] by the Applicant which seeks to capture the respective positions of the Applicant, CYC and NYC in relation to Green Belt matters. Table 1.1 of the Position Statement [REP7-034] summarises the works proposed in the administrative areas of each Council and how they relate to the York and Leeds Green Belts. LCC was not party to the Position Statement because its final SoCG with the Applicant [REP7-028] distils its views on Green Belt matters.

3.9.28. We deal with the main areas of contention below in considering firstly, whether or not the proposed substations and CSECs would be inappropriate development and secondly, whether proposed pylons, overhead lines and temporary works would be inappropriate development.

*Whether or not proposed substations and CSECs would be inappropriate development*

3.9.29. The Position Statement [REP7-034] indicates that at the end of the Examination, NYC maintained an objection to the Applicant's characterisation of the proposed Overton and Monk Fryston Substations and proposed CSECs as "*engineering operations*" in the sense of NPPF para 150. However, since the Applicant accepts that in any event these works would not preserve the openness of the Green Belts, there is ultimately agreement between the parties that those proposed substations and CSECs would be inappropriate development in the Green Belt.

3.9.30. The ExA has visited the relevant sites and on our ASI the footprints of the proposed substations and CSECs were pegged out [EV-001] and [EV-001b]. We have also studied the indicative plans for the layouts and elevations of the proposed substations and CSECs [REP6-024]. They involve substantial built footprints and numerous structures, security fencing, and for the substations, Super Grid Transformers installed within concrete bunds. Despite planting schemes and bunding, which would help to address landscape and visual effects as discussed in Section 3.4 of this Recommendation, the considerable physical scale of the proposed works and their permanence would undoubtedly fail to preserve the openness of the York and Leeds Green Belts.

3.9.31. Furthermore, in terms of the purposes of including land within the Green Belt, we find that the proposed Overton and Monk Fryston Substations and the proposed CSECs would, by their presence and physical scale, fail to safeguard the countryside from encroachment. We do not consider that there would be conflict with any of the other four Green Belt purposes set out in NPPF para 138.

3.9.32. Consequently, the ExA considers that even if the proposed substations and CSECs did constitute "*engineering operations*", they would not benefit from the exception in

NPPF para 150. Therefore in our view, it is correct to consider the proposed substations and CSECs as inappropriate development. It is not necessary for the ExA to reach a finding on the specific question of whether or not the proposed substations and CSECs would constitute engineering operations, since it would make no difference to our findings in this regard.

*Whether or not proposed pylons, overhead lines and temporary works would be inappropriate development*

- 3.9.33. A further area of remaining disagreement relates to the Applicant's position [APP-202] [REP2-039] that the proposed new pylons, overhead lines, reconductoring works to existing overhead lines and pylons and temporary construction works would benefit from the exception in NPPF para 150, by virtue of being "*engineering operations*" that would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. Consequently, it is the Applicant's case that the works would not constitute inappropriate development in the sense of NPPF para 147. There are subtle differences between the final positions of the three Councils, therefore they are reported in turn below.
- 3.9.34. NYC accepts that these works may be categorised as "*engineering operations*" but maintains [REP5-117] and [REP7-034] that the proposed new pylons and new overhead electric lines would fail to preserve the openness of the Green Belt and would conflict with the purposes of including land within the Green Belt, specifically with reference to failing to safeguard the countryside from encroachment as required under NPPF para 138(c). It adopts the same position in relation to the proposed temporary working areas, which chiefly comprise the temporary construction compounds. For these reasons, NYC considers that the proposed new pylons, overhead lines and temporary working areas would be inappropriate development in the Green Belt.
- 3.9.35. In terms of the proposed works to modify and reconductor existing pylons and sections of overhead lines, NYC agrees with the Applicant that these works would preserve the openness of the Green Belt and identifies no conflict with the Green Belt purposes [REP5-117] [REP7-034]. Consequently, NYC accepts that these works would benefit from the exception in NPPF para 150 and as such would not be inappropriate development.
- 3.9.36. CYC accepts that these works may be categorised as "*engineering operations*" but takes the view that the proposed new pylons would harm the openness of the Green Belt, representing inappropriate development [REP1-047] [REP5-033] [REP7-034]. Due to the introduction of large areas of surfacing, access routes, bell mouths and temporary buildings, CYC takes the same position in relation to the temporary construction works.
- 3.9.37. In respect of works to modify existing pylons and overhead lines, CYC considers that they would be unlikely to have a greater effect on the Green Belt than the existing infrastructure but that there would be "*an element of temporary additional harm*" during the construction phase [REP7-034]. In the absence of an unequivocal statement of position in this regard, we proceed on the basis that CYC also alleges some harm to Green Belt openness as a result of these works, and therefore that they would be inappropriate development.
- 3.9.38. Since no new pylons or sections of overhead line are proposed in the Leeds administrative area, LCC did not adopt a position on new infrastructure [REP1-053]. It takes the view that works to reconductor the existing overhead line would not

have greater effects on the Green Belt than the existing infrastructure, other than where permanent or temporary highway infrastructure was required [REP1-053]. LCC's final position raises no specific concerns about inappropriate development in the Green Belt as a result of the proposed works within its administrative area [REP7-028].

- 3.9.39. In light of the final positions of the Councils, the Applicant in its closing statement [REP7-039], Section 8 notes: "*(g)iven the parties agree that elements of the development in the Green Belt would be inappropriate, albeit for differing reasons, National Grid is content for the ExA and the Secretary of State to proceed on the basis that all new development forming part of the Project in the Green Belt is inappropriate, without needing to reach any view as to why that is the case*". It refers to the judgement in the case of R (Samuel Smith Old Brewery (Tadcaster)) v SSECC [2012] EWHC 46 (Admin), although the ExA notes that the cited quote (para 86) does not refer to circumstances that are directly analogous to the question before us in this case.
- 3.9.40. Taking all of the above matters into consideration, the ExA finds that it is an acceptable approach, given the scale and context of the Proposed Development, to treat the proposed new pylons, overhead lines, reconductoring works to existing overhead lines and pylons and temporary construction works as "*engineering operations*" for the purposes of NPPF para 150. In order to benefit from the exception under NPPF para 150, development must also preserve the openness of the Green Belt and not conflict with its purposes.
- 3.9.41. The proposed new pylons would introduce very sizeable new structures into the landscape. Whilst the steel lattice design of the pylons would allow views through the structures, their presence collectively and in linear layout would nonetheless result in prominent new features in the landscape. Even where existing landscape features or proposed planting may be capable of reducing the effect on Green Belt openness from a visual perspective, there can be no doubt that by their very presence, the considerable number of new pylons would have a substantial spatial effect which would undermine openness. In making these findings, the ExA notes that most of the new pylons and overhead line associated with the Proposed Development are located within the York Green Belt, whereas new pylons within the Leeds Green Belt are proposed only where there would be realignment of a section of the existing overhead line.
- 3.9.42. We also find that there would be adverse effects on openness as a result of the temporary construction works associated with the Proposed Development, particularly the temporary construction compounds, three of which would be within the York Green Belt (Shipton North, Shipton South and Overton) and three of which would be within the Leeds Green Belt (one at Tadcaster and two at Monk Fryston). These compounds would each cover a significant footprint (approximately 24,000m<sup>2</sup> at Tadcaster and 14,300m<sup>2</sup> at each of the other locations) which would be stripped of topsoil, surfaced in aggregate and enclosed by fencing. They would comprise laydown and storage areas for equipment and fuel, generators, car parking, offices and portacabins housing welfare areas [APP-075] and [APP-065]. The indicative construction programme shows that they would be established at the start of the programme and would need to endure for up to three years until the construction works were completed [APP-075], Table 3.2. We acknowledge that these dimensions and timescales reflect a realistic worst-case scenario.
- 3.9.43. Whilst the land at the compounds would be eventually reinstated meaning that the works would be temporary, in our view the scale and duration of the works are such

that they would have a harmful effect on the openness of the Green Belts. Away from the construction compounds, some infrastructure would remain after the completion of construction in the form of new maintenance access routes and bell mouths. These features would also impinge on the openness of the Green Belt.

3.9.44. In considering the purposes of including land within the Green Belt, we find that the proposed new pylons, new overhead lines and construction compounds would, albeit to a limited extent, represent encroachment into the countryside. We are satisfied that they would not conflict with the four other Green Belt purposes set out in NPPF para 138.

3.9.45. When it comes to the proposed works to existing pylons and overhead lines, on balance we are content that they would not result in a form of development that is materially more harmful to the openness of the Green Belt than the existing infrastructure. Whilst there would inevitably be temporary effects during the construction phase, the works in each site-specific context would not persist over a sufficiently long timescale as to give rise to harm to openness or to cause any conflict with the purposes of Green Belt designation.

### **Conclusions on Green Belt**

3.9.46. Taking all of the above considerations into account, the ExA concludes that overall, the Proposed Development would result in a moderate adverse effect on Green Belt openness and would conflict with the purpose of the Green Belt to safeguard the countryside from encroachment.

3.9.47. As a consequence, the Proposed Development would be inappropriate development in the York and Leeds Green Belts. Inappropriate development is, by definition, harmful to the Green Belt. The ExA ascribes substantial weight to the harm to the York and Leeds Green Belts as a result of the Proposed Development. In accordance with NPS EN-1 and the NPPF, inappropriate development should not be approved except in very special circumstances.

3.9.48. In Chapter 5 of this Recommendation, we go on to consider the question of whether very special circumstances exist to clearly outweigh the harm by reason of inappropriateness and any other harm.

## **Agricultural Land and Soil Resources**

### **Policy Considerations**

#### *National Policy*

3.9.49. The assessment for soils and agricultural land, as set out in NPS EN-1, requires in para 5.10.8 that the Applicant: “... *should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations. Applicants should also identify any effects and seek to minimise impacts on soil quality taking into account any mitigation measures proposed.*”

3.9.50. In reaching a decision, as stated in para 5.10.15 of NPS EN-1, the decision-maker should ensure that: “... *applicants do not site their scheme on the best and most versatile agricultural land without justification. It should give little weight to the loss of poorer quality agricultural land (in grades 3b, 4 and 5), except in areas (such as*

*uplands) where particular agricultural practices may themselves contribute to the quality and character of the environment or the local economy.”*

- 3.9.51. Para 5.10.19 of NPS EN-1 acknowledges that: *“Although in the case of much energy infrastructure there may be little that can be done to mitigate the direct effects of an energy project on the existing use of the proposed site (assuming that some at least of that use can still be retained post project construction) applicants should nevertheless seek to minimise these effects and the effects on existing or planned uses near the site by the application of good design principles, including the layout of the project.”*
- 3.9.52. Draft NPS EN-1 (March 2023), which is an important and relevant consideration, indicates a continuation of policy relating to the assessment of effects on agricultural land and soil resources. Para 174 of the NPPF guides that planning decisions should recognise the economic and other benefits of the best and most versatile agricultural land.

#### *Local Policy*

- 3.9.53. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the effects of the Proposed Development on agricultural land and soil resources. The policies are listed at Annex B9 of this Recommendation.

#### **The Application**

- 3.9.54. Impacts on soils and agricultural land are considered in ES Chapter 11: Agriculture and Soils [APP-083] and the Applicant also submitted the following documents to support the application:
- Appendix 11A Agricultural Land Classification for Shipton North and South CSEC Area [APP-144];
  - Appendix 11B Agricultural Land Classification for Overton Substation [APP-145];
  - Appendix 11C Agricultural Land Classification for Tadcaster CSECs [APP-146];
  - Appendix 11D Agricultural Land Classification for Monk Fryston Substation [APP-147];
  - ES Chapter 11 Agriculture and Soils Figures [APP-187]; and
  - Code of Construction Practice [APP-095].
- 3.9.55. Table 11.15 of [APP-083] contains a summary of the embedded environmental measures. These measures include the following:
- where practicable locating elements of permanent and temporary development on non-agricultural land, or on agricultural land of lower classification;
  - where temporary land take occurs then providing reinstatement to the same quality or better;
  - use of trackway panels rather than stoned surfaces to minimise soil stripping;
  - avoiding peat deposits or peaty soils.
- 3.9.56. Table 11.24 of ES Chapter 11 [APP-083] identifies the area and percentage of the study area for both permanent and temporary land take, based on the project design, in regard to the agricultural land classification (ALC) grades. As regards permanent land take for best and most versatile (BMV) agricultural land there would be none for Grade 1, 7.7ha of Grade 2 (1.5% of land within the Study Area) and 8.9ha of Subgrade 3a (1.7%) of the Study Area. In addition, there would be 5.8ha of

permanent land take for Grade 3b land, 0.1ha of Grade 4 and 0.8ha of Grade 5 agricultural land. In terms of temporary land take of BMV land, as identified in Table 11.24, there would be 2.6ha of Grade 1, 60.8ha of Grade 2 and 41.7ha of Grade 3a agricultural land.

- 3.9.57. In terms of mitigation the Applicant makes reference to the embedded measure of avoiding BMV land as far as possible in the route design. As reported in Table 11.15 of ES Chapter 11 [APP-083] for areas of temporary land take embedded mitigation measures include the reinstatement of land back to the same ALC grade, receiving and considering feedback from landowners when managing construction works and the adoption of best practice methods for the handling and storage of soils.
- 3.9.58. Table 11.26 of [APP-083] contains the Applicant's summary of significance of effects. The Applicant's assessment of the permanent loss of agricultural land as a "Moderate" magnitude of change that would be "Significant". The other potential effects of temporary loss of agricultural land, loss of soil resources and damage to soil resources are all summarised in Table 11.26 as being "Not Significant".

### **Issues Considered During the Examination**

- 3.9.59. The effects on specific farming businesses are considered in Section 3.8 of this Recommendation. As reported in Table 11.24 of ES Chapter 11 [APP-083], based on the Project Design the overall permanent land take would be 23.5ha and the temporary land take would be 141.7ha. Of this land take, there would be the permanent loss of 16.6ha of BMV land and the temporary loss of 105.1ha of BMV land. The areas of permanent land take would comprise the following elements of the Proposed Development: new build pylons, CSECs, permanent access roads and bell mouths for the substations and CSECs, and the substations [APP-083].
- 3.9.60. The LIRs from both CYC [REP1-047] and NYC [REP1-056] did not specifically mention impacts on agricultural land and soils. LCC in its LIR [REP1-053] made reference to agricultural land but considered that as the part of the Proposed Development within the LCC area there would be temporary but no permanent loss of agricultural land. In addition, LCC noted in [REP1-053] that best practice measures for soil management were contained in the Outline Soil Management Plan [APP-098] and considered that with the embedded mitigation measures in place the effect on agricultural land would not be significant.
- 3.9.61. In [RR-031] NE made the following comments: "*Natural England confirmed agreement with the desk-based methodology for areas of temporary development, and with the survey methodology and spatial extent of ALC surveys in May 2022. Natural England also requested that detailed soil management plans were to be provided for areas subject to detailed soil surveys, and an approach to this has now been confirmed in an Outline Soil Management Plan.*"
- 3.9.62. Furthermore, in [RR-031] NE confirmed its agreement that the Outline Soil Management Plan would be revised prior to the commencement of construction operations and would be informed by the detailed pre-construction soil surveys that would form part of the Soil and Aftercare Management Plan that is secured under R6 of the final draft DCO [REP8-004].
- 3.9.63. In the final SoCGs with CYC [REP5-033], LCC [REP7-028] and NYC [REP7-083] the impact on agriculture and soils was an agreed matter, which included the assessment methodology and the embedded environmental measures. Also, in the final SoCG with NE [REP5-037] the Applicant's assessment methodology was an

agreed matter, but NE agreed that it would not be commenting on the embedded environmental measures or ES assessment of likely significant effects regarding ES Chapter 11 [APP-083].

- 3.9.64. No objections have been raised by any IPs to the Applicant's assessment methodology regarding agricultural land classification and soil resources. The ExA considers that the submitted land classification documents for the main areas of permanent development or long-term soil disturbance, comprising the substations and CSECs, [APP-144] to [APP-147] using both desk-based survey and site survey methods have provided a robust approach to assessing agricultural land classifications for these areas.
- 3.9.65. The issue of alternatives is considered in more detail in Section 3.3 of this Recommendation. Having regard to the linear nature of the Proposed Development, its generally rural location and the need to relate to the existing supply network and avoid other important environmental features the ExA considers that the Applicant has undertaken reasonable measures to minimise the permanent land take of BMV agricultural land as far as possible.
- 3.9.66. A Soil and Aftercare Management Plan is required prior to the commencement of development as secured in R6(1)(a) of the Applicant's final dDCO [REP8-004]. In addition, R11 of the Applicant's final dDCO [REP8-004] requires that any land temporarily used for construction is to be reinstated to its former condition within twelve months of the completion of construction.
- 3.9.67. The ExA considers that this represents a reasonable approach to ensuring that soil resources would be safeguarded during construction operations and that areas of temporary land take would be properly and promptly restored post-construction. This would minimise any deterioration of soil resources and any consequent downgrading of the ALC for temporary land take areas, thereby minimising the overall loss of BMV land.

### **Conclusions on Agricultural Land and Soil Resources**

- 3.9.68. In terms of the effects on agricultural land and soils, the ExA has reached the following conclusions. All matters concerning agricultural land and soils are agreed in the SoCGs with CYC [REP5-033], LCC [REP7-028], NYC [REP7-083] and Natural England [REP5-037]. The Proposed Development has been assessed as resulting in the permanent loss of 16.6 ha of BMV agricultural land (Grades 2 and 3a but not Grade 1).
- 3.9.69. There would also be the temporary loss of some 105.1ha of BMV agricultural land. However, the ExA has not been presented with any reason to cast doubt on the Applicant's contention that this land could be restored back to at least the same ALC grade.
- 3.9.70. The ExA concludes that the Applicant has taken reasonable measures in the project design to avoid loss of BMV land as far as possible. Furthermore, appropriate measures to safeguard soil resources and ensure effective reinstatement are secured through the need for submission and approval of a Soil and Aftercare Management Plan that is required under R6 and the reinstatement measures that are secured in R11 of the Applicant's final dDCO. Consequently, the ExA considers that the Proposed Development would accord with the policy tests in NPS EN-1, the NPPF and Development Plan policies. There would also be no conflict with draft NPS EN-1 (March 2023) or draft NPS EN-5 (March 2023).

- 3.9.71. The Proposed Development would, upon reinstatement, not have a significant effect on soils in areas of temporary land take. However, due primarily to the permanent loss of some 16.6ha BMV land the ExA concludes that the Proposed Development in relation to agricultural land and soils would carry moderate weight against the Order being made.

## **Green Infrastructure**

### **Policy Considerations**

#### *National Policy Statements*

- 3.9.72. NPS EN-1 identifies GI as a topic that should be considered in an applicant's assessment of any energy NSIP. It is noted that GI also will play an increasingly important role in mitigating or adapting to the impacts of climate change (NPS EN-1, para 5.10.2). NPS EN-1, footnote 30 defines GI as follows: "*Green infrastructure is a network of multi-functional green spaces, both new and existing, both rural and urban, which supports the natural and ecological processes and is integral to the health and quality of life of sustainable communities*".
- 3.9.73. Applicants are to consider providing new or additional open space, including GI to substitute for any losses resulting from their proposals (NPS EN-1, para 5.10.6).
- 3.9.74. In reaching a decision in terms of GI, the SoS should consider:
- imposing requirements to ensure the connectivity of the GI network is maintained (NPS EN-1, para 5.10.20); and
  - whether mitigation of adverse effects is adequately provided for by means of planning obligations e.g. for appropriate management and maintenance agreements (NPS EN-1, para 5.10.21).

#### *The National Planning Policy Framework*

- 3.9.75. The NPPF makes the point that new development should be planned to include climate change adaptation measures including planning for GI (para 154(a)). Also that plans should take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure (para 175). The NPPF September 2023 defines GI as follows: "*A network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity*."

#### *Local Policy*

- 3.9.76. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the green infrastructure effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation.

### **The Application**

- 3.9.77. The Applicant sets out how it considers the Proposed Development would meet national and local policy requirements for GI in its Planning Statement. There is not a separate ES section, but GI matters are touched on in ES chapters on biodiversity [APP-080], climate change [APP-089] and landscape and visual [APP-078].
- 3.9.78. The key mitigation measures relevant to GI are those which mitigate adverse effects on biodiversity, climate change, landscape and visual and good design. They are



not repeated here. Likewise residual effects are not specifically set out by the Applicant, but there are strong links to landscape effects and BNG.

### **Issues Considered During the Examination**

- 3.9.79. Initially, the ExA was concerned that the mitigation and design objectives of multifunctionality of GI for the substations was not adequately covered. The Applicant showed that the objectives for the planting at the substations and Tadcaster CSECs as set out in the DAS did state it would be to assist in enhancing GI potential and contributing to Biodiversity Net Gain opportunities [REP2-038], Q8.1.1.
- 3.9.80. The DAS was not secured in the dDCO and the Applicant argued against it being secured because it felt that the objectives suggested in the DAS would be delivered through the outline landscape mitigation strategies at the substations and construction management plans [REP2-038], Q8.1.1.
- 3.9.81. There was discussion at ISH4, regarding reinstatement planting, in connection with the rewording of R8, R9 and R10 (also reported in Section 3.4 of this Recommendation). Following this, the Applicant added wording to the final CoCP which states that where feasible, replacement planting would increase the quantum and species diversity of trees and hedgerows in comparison to those removed [REP7-043], para 2.3.22.
- 3.9.82. The Applicant's in-combination climate change impact assessment addresses the extent to which climate change exacerbates the effects the Proposed Development would have on the natural environment [APP-089], Table 17.28. Habitat creation and Biodiversity Net Gain measures are assessed in terms of their resilience to climate change to ensure their success. The assessment considers potential trends including drought, hot spells, increased mean temperatures, flooding and storm events and identifies the embedded mitigation. This would include habitat reinstatement which is reflective of the type and extent of habitats affected and local conservation objectives and initiatives where appropriate and the secured commitment to the five-year maintenance regime [APP-089].

### **Conclusions on Green Infrastructure**

- 3.9.83. Like good design and climate change adaptation and resilience, GI is an overarching topic. The ExA is content that the Applicant has had regard to the way in which the Proposed Development would affect GI and for the mitigation measures that would be put in place. These commitments are secured across a number of strategies and management plans (biodiversity mitigation strategy, CoCP, outline landscape mitigation strategies and R5, R6, R8, R9, R10 and R11).
- 3.9.84. The ExA is satisfied that GI connectivity would be maintained, and in places would be enhanced and extended (NPS EN-1, para 5.10.6 and 5.10.20) because of the:
- commitment to BNG (reported in Section 3.5) through the s106 Agreement;
  - retention and protection of existing trees (R9);
  - reinstatement/ replacement planting (R10); and
  - mitigation planting at Overton and Monk Fryston Substations and the Tadcaster CSECs site through the outline landscape strategies (R8).
- 3.9.85. We are also satisfied, now that there is an obligation for the woodland planting management regime of 15 years to be approved by the relevant local planning

authority (reported in Section 3.4), that there is a mechanism in place to ensure that the planting once undertaken would be adequately maintained and managed.

- 3.9.86. The benefits to be gained from the habitat creation and planting and its ongoing management and maintenance would not be delivered during construction nor initially during operation. However, in the longer term, at least by Year 15, we consider that the benefits of the additional planting would address temporary construction stage fragmentation and improve connectivity. We are also satisfied that the climate change adaptation measures have addressed planning for GI, as required by the NPPF. In the absence of greater certainty about how and where improved GI connectivity would be delivered, the ExA considers that matters relating to green infrastructure carry a little weight in favour of the Order being made.

### **Overall Conclusions on Land Use**

- 3.9.87. The ExA's conclusions on land use matters can be summarised as follows:
- the Proposed Development would be inappropriate development in the York and Leeds Green Belts which is, by definition, harmful. The ExA ascribes substantial weight to this harm. We go on to consider the question of whether very special circumstances exist to clearly outweigh the harm by reason of inappropriateness and any other harm in Chapter 5 of this Recommendation.
  - due primarily to the permanent loss of some 16.6ha of BMV land, the ExA concludes that the Proposed Development in relation to agricultural land and soil resources would carry moderate weight against the Order being made; and
  - due principally to the benefits which would arise over time, but which lack certainty in how and where that relating to BNG and replacement planting would actually deliver improved GI connectivity, matters relating to green infrastructure carry a little weight in favour of the Order being made.

## **3.10. FLOOD RISK, HYDROLOGY AND HYDROGEOLOGY**

### **Introduction**

- 3.10.1. This Section looks at the effects of the Proposed Development on flood risk, hydrology and hydrogeology.

### **Policy Considerations**

- 3.10.2. Para 5.7.4 of NPS EN-1 states that applications for energy projects of 1 hectare or greater in Flood Zone 1 and all proposals for energy projects located in Flood Zones 2 and 3 should be accompanied by a flood risk assessment (FRA). Para 5.7.5 of NPS EN-1 sets out the minimum requirements that should be contained in flood risk assessments. These include a consideration of both the risk of flooding arising from the project as well as flooding to the project, they should take the effects of climate change into account and be supported by appropriate data and information.
- 3.10.3. Para 5.7.3 of NPS EN-1 states that the aims of planning policy on development and flood risk are to ensure that flood risk from all sources of flooding is taken into account at all stages of the planning process to avoid inappropriate development in areas at risk of flooding.
- 3.10.4. In reaching a decision the decision-maker should be satisfied that where relevant:

- the application is supported by an appropriate FRA;
- the Sequential Test has been applied as part of site selection;
- a sequential approach has been applied at the site level to minimise risk by directing the most vulnerable uses to areas of lowest flood risk;
- the proposal is in line with any relevant national and local flood risk management strategy;
- priority has been given to the use of sustainable drainage systems as required in the next para on National Standards); and
- in flood risk areas the project is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any risk can be safely managed over the lifetime of the development.

3.10.5. Para 5.7.12 of NPS EN-1 states that: *“The [decision-maker] should not consent development in Flood Zone 2 in England ... unless it is satisfied that the sequential test requirements have been met. It should not consent development in Flood Zone 3 ... unless it is satisfied that the Sequential and Exception Test requirements have been met.”*

3.10.6. Para 5.15.6 of NPS EN-1 states that: *“The [decision-maker] should satisfy itself that a proposal has regard to the River Basin Management Plans and meets the requirements of the Water Framework Directive (including Article 4.7) and its daughter directives, including those on priority substances and groundwater.”*

3.10.7. NPS EN-1 also advises that projects may give rise to an increased risk of spills and leaks of pollutants to the water environment. NPS EN-1 also notes that the considerations regarding the interface between planning and pollution control will apply and para 4.10.3 states that the decision-maker: *“...should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes ... will be properly applied and enforced by the relevant regulator.”*

3.10.8. Draft NPS EN-1 (March 2023), which is an important and relevant consideration, indicates a continuation of policy relating to the assessment of flood risk effects and effects on water quality and resources, including the application of the Sequential Test.

#### **National Planning Policy Framework**

3.10.9. The NPPF states that the planning system should support the transition to a low carbon future in a changing climate, taking account of flood risk and coastal change. The NPPF makes reference to the application of both the Sequential Test and the Exception Test.

3.10.10. Para 159 of the NPPF states that: *“Inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”*

#### **National Planning Practice Guidance**

3.10.11. The NPPG refers to a process of avoid, control mitigate and manage residual risk for flood risk.

### **Local Plan Policies**

- 3.10.12. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the flood risk, hydrology and hydrogeology effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation.

### **The Application**

- 3.10.13. The Applicant's case regarding flood risk and hydrology is contained within ES Chapter 9 (Hydrology) [APP-081]. In addition, ES Chapter 10 (Geology and Hydrogeology) [APP-082] and ES Chapter 17 (Climate Change) [APP-089] consider other related matters.
- 3.10.14. The Applicant also submitted the following documents to accompany the application:
- Appendix 9B WFD Waterbody Status and Objectives [APP-136];
  - Appendix 9C Infrastructure Located in WFD Waterbody [APP-137];
  - Appendix 9D Flood Risk Assessment [APP-138];
  - Appendix 10D Hydrogeology Water Framework Directive (WFD) Assessment; and
  - ES Chapter 9 Hydrology Figures [APP-184] and [APP-185].
- 3.10.15. As set out in Table 4-1 of the FRA [APP-138] the potential sources of flooding assessed are fluvial, surface water run on and run off, groundwater and artificial, with tidal and sewer flooding screened out of assessment. As set out in Tables 2-2 and 2-3 of the FRA, the EA climate change allowances for peak river flow and rainfall have been considered in the FRA. During the Examination the Applicant submitted the Change Application: Flood Risk Assessment (FRA) [REP5-095], and the final version of the FRA is [REP6-047].
- 3.10.16. Section 5 of the FRA [REP6-047] contains an assessment of flood risk and it notes that whilst there would be no new permanent access track in Flood Zones 2 and 3 there would be short sections of temporary access track that would coincide with areas of Flood Zones 2 and 3. The Applicant also details in [REP6-047] that the proposed temporary construction compounds and the substations and CSEC working areas would be entirely situated in Flood Zone 1 as would most of the pylon working areas, stringing areas and crossing protection.
- 3.10.17. Table 9.27 of ES Chapter 9 [APP-081] provides a Summary of Significance of Effects and all of the effects (eg flood risk, changes to watercourse flow conveyance and deterioration in water quality) were considered to be "*Not Significant*".
- 3.10.18. Table 10.17 of ES Chapter 10 [APP-082] contains a summary of the significance of effects on geology and hydrogeology. Table 1.1 of the Hydrogeology Water Framework Directive (WFD) Assessment [APP-142] provides a summary of the hydrogeology at the three focus areas that comprise the main built elements of the Proposed Development where there would be the greatest ground disturbance. These areas are located within the Humber River Basin District. The effects of the Proposed Development on groundwater due to the mobilisation of pre-existing contamination, the release of contaminants from project activities, dewatering activities, the presence of new structures and surfaces are all assessed as being "*Not Significant*".

## Issues Considered During the Examination

### The Sequential Test

- 3.10.19. Para 7.1.1 and 7.1.2 of the FRA [RE6-047] contained the Applicant's explanation as to how the Sequential Test had been applied. The Applicant contended that "*A sequential approach has been taken in determining the location of the new overhead lines, substations and CSECs with flood risk being considered in the route selection process along with numerous other technical, environmental and social constraints*".
- 3.10.20. The Applicant noted that as the proposed Overton Substation was considered to be at risk of flooding in future climate scenarios an alternative location was considered. Additional modelling undertaken by the Applicant to inform this was reported in Appendix 9D.4 of the FRA. However, after additional flood modelling the risk of flooding at the alternative location was considered greater than at that proposed for the Overton Substation.
- 3.10.21. The Applicant considered that the Sequential Test had been satisfied. This was an agreed matter in the final SoCGs with the EA [REP7-030], NYC [REP7-083], CYC [REP5-033] and LCC [REP7-028] and was not disputed by any of the Internal Drainage Boards (IDBs). The ExA recognises that the Applicant has adopted a sequential approach in terms of the location of the new infrastructure and has taken account of flood risk considerations as far as possible within the locational context of the existing infrastructure and having regard to the distance the Proposed Development would be required to cover. The ExA therefore considers that the Sequential Test has been passed.

### The Exception Test

- 3.10.22. In para 7.2.1 of the FRA [REP6-047] the Applicant noted that the Exception Test needed to be passed for the Essential Infrastructure elements of the Proposed Development that were to be located in Flood Zone 3a and 3b. Table 3-1 of the FRA [REP6-047] provides a matrix that applies the NPPF flood risk vulnerability classification to the various elements of the Proposed Development and notes their compatibility with the Flood Zones.
- 3.10.23. In terms of Part 1 of the Exception Test, wider sustainability benefits, the Applicant noted the need for the electricity transmission network to be reinforced in the Yorkshire area. This is to provide capacity for the growth in energy provided by offshore wind generation and the need to move this from the North to centres of demand in the South and Central England. The need case for the Proposed Development is set out in more detail by the Applicant in ES Chapter 2 [APP-074] and is considered in more detail by the ExA in Section 3.2 of this Recommendation.
- 3.10.24. Part 2 of the Exception Test requires that the Proposed Development would be safe and would not increase flood risk elsewhere. The Applicant stated in para 7.2.7 of [REP6-047] that it considered Part 2 of the Exception Test to be passed on the grounds that:
- the potential effects of the overhead line construction would be localised and would be suitably managed by the embedded flood management measures;
  - the footings of the pylons located in Flood Zones 3a and 3b were considered to be water compatible and would not displace significant floodplain storage volumes; and

- Overton Substation is to be elevated on a platform to ensure that the National Grid design standard for flood resilience of the 0.1% annual exceedance probability (AEP) flood + 34% climate change event would be achieved. Also, the whole of the Overton Substation would be located outside of the 1% AEP +30% climate change event extent, and therefore the Applicant concluded that there would not be an increase in flood risk to third parties from the construction of the Overton Substation or during the lifetime of the Proposed Development.

3.10.25. As indicated in para 8.2.4 of the FRA [REP6-047] there has been agreement with the EA that there would be no requirement for compensatory flood storage. Also, finished surface levels were added to the Design Drawings [REP6-024] so that the 13.71m level at Overton Substation is secured through R3 of the dDCO. There have been no objections raised to the Applicant's assessment of the Exception Test from the EA, any of the IDBs or the LPAs. The ExA recognises the wider sustainability benefits that would arise from the Proposed Development in terms of reinforcing the distribution network in Yorkshire and assisting to facilitate the distribution of energy from offshore windfarms.

3.10.26. In terms of mitigation measures the ExA considers that a Drainage Management Plan has been adequately secured through R6(1)(b) of the Applicant's final dDCO [REP8-004] and an emergency response plan for flood events is contained in the CoCP [REP7-042]. Furthermore, the ExA considers that the Applicant has adequately demonstrated that the Proposed Development would be safe from flooding and would not increase the risk of flooding elsewhere. Taking all of this into account the ExA is content that the Exception Test has been passed.

#### **Water Framework Directive**

3.10.27. The Applicant submitted its WFD Waterbody Status and Objectives [APP-136] to accompany the application to establish the baseline of the WFD surface water bodies. Table 1.1 of [APP-136] contains baseline WFD data for the river water bodies within the study area. This lists the current overall waterbody status, the reasons for not achieving a "Good" status and the future objectives for improvement.

3.10.28. Section 9.14 of ES Chapter 9 [APP-081] contains the Applicant's integrated WFD assessment. The Applicant considers that the impacts of the Proposed Development on the aquatic environment could be suitably mitigated by the effective implementation of embedded measures, thereby reducing the residual effects to water quality and hydrogeomorphology to "Not Significant" [APP-081].

3.10.29. ES Appendix 10D [APP-142], presents the Applicant's WFD assessment for groundwater bodies. In terms of groundwater bodies, the Applicant concludes in ES Chapter 10: Geology and Hydrogeology [APP-082] that the Proposed Development would not give rise to any effects that would be likely to cause deterioration in WFD status or prevent waterbodies from achieving their WFD objectives, provided that best practice and established guidance is adhered to, in accordance with the embedded measures in Table 10.8 of Chapter 10 [APP-082] and the CoCP. Therefore, the Applicant argues that the embedded measures would be effective in supporting the WFD waterbody objectives.

3.10.30. In the final SoCG with the EA [REP7-030] it was recorded that the EA was content with the Applicant's methodology. No concerns were raised by any other IPs in regard to the integrated WFD assessment which has been completed within the hydrological impact assessment in ES Chapter 9 [APP-081] and which draws on information in [APP-142] in respect of groundwater bodies. The ExA is therefore

content that, with the mitigation measures that have been secured, there would be no deterioration to the waterbodies or prevention of future attainment of good status, and the therefore the Proposed Development would be acceptable in this regard.

### **Ainsty IDB's Concerns**

- 3.10.31. At the start of the Examination Ainsty IDB raised concerns about a number of matters including notification and responsibility for watercourses [RR-002]. However, as recorded in [REP5-097] and the final SoCG with Ainsty IDB [REP7-022] by the close of the Examination these matters were resolved to the satisfaction of Ainsty IDB with the exception of clearance heights around IDB-maintained watercourses.
- 3.10.32. The only matter not agreed was the wording of Article 19(12) of the Applicant's final dDCO that sought to amend the wording of Section 66 of the Land Drainage Act 1991 to state that:
- “No consent is required under any byelaw made by an internal drainage board under this section if it relates solely to the oversail of an overhead electric line which meets the minimum statutory clearances contained in Schedule 2 of the Electricity Safety, Quality and Continuity Regulations 2002 when measured from the top of the bank of any watercourse maintained by an internal drainage board.”*
- 3.10.33. In effect this relates to the intention of the Applicant under Article 19(12) of the final dDCO not to require the consent of any IDB for the over sail of overhead lines as long as the minimum safety clearances contained in Schedule 2 of the Electricity, Safety, Quality and Community Regulations 200 are met. However, Ainsty IDB sought a right of prior consent for any overhead lines below a minimum clearance height of 10.5m. This figure has been arrived at by combining the height of 3.5m for the equipment Ainsty IDB uses for maintaining watercourses together with the exclusion zone height of 7m for 275kV and 400kV lines, which Ainsty IDB considered was as required in HSE Guidance Note GS6 [REP6-067] and [REP7-086]. Ainsty IDB made reference to the Energy Networks Association publication 'Look Out Look Up! A Guide to the Safe Use of Mechanical Plant in the Vicinity of Electricity Overhead Lines' that advised a minimum exclusion zone of 7m for 275kV and 400kV lines. Ainsty IDB contended that if it could not carry out maintenance to the watercourse then over time it would affect flows and could cause blockages and then flooding [REP6-067]. The Association of Drainage Authorities in [REP7-088] stated that it agreed with the views of Ainsty IDB on this matter.
- 3.10.34. In [REP7-068] the Applicant contended that the GS6 Guidance does not limit working within this 7m exclusion zone with appropriate control measures in place. This could include measures such as line watchers, and height limiters on machinery. The Applicant noted that Ainsty IDB has stated that it already limits its machinery to a height of 3.5m when maintaining its watercourses. Under the safe working clearances as set out in the Energy Networks Association's Technical Specification 43-8 by limiting the height of the machinery to 3.5m, the Applicant contended that there would be no possibility that maintaining the Ainsty IDB watercourses would breach these safe clearances following construction of the Proposed Development, and in all instances it would be safe to work underneath the overhead line with appropriate control measures in place. In summary, the Applicant maintained that by designing to the statutory clearances, it would be safe for Ainsty IDB to maintain its watercourses underneath the overhead lines subject to an appropriate Risk Assessment and Method Statement being in place.

- 3.10.35. In [REP6-062] the Applicant argued that to achieve a 10.5m clearance over the Ainsty IDB-maintained watercourses would mean that pylon heights would need to be increased in order to achieve these clearances. The Applicant considered that this would not be appropriate, or justifiable as the design would meet all statutory clearances for the safe operation of the overhead line, and maintenance of the watercourses.
- 3.10.36. As noted in Table D.2 in Appendix D of [REP6-062] the clearance heights above the relevant watercourses would actually increase as a result of the Proposed Development, although this would be subject to detailed design. The Applicant commented in the final SoCG [REP7-022] that the clearance above the top of bank for crossings of Ainsty IDB maintained watercourses is expected to exceed 10.5m in all but one location on the existing XC route. For this location, the crossing of the Foss between pylons XC459 and XC460, the proposed clearance would be approximately 9.3 to 9.5m, which would exceed the existing clearance of approximately 8.0 to 8.2m. The Applicant did add the caveat that the clearance heights were based on the existing design, which may be subject to review and refinement at the detailed design stage.
- 3.10.37. The ExA gives weight to the fact that whilst not exceeding the 10.5m clearance height which Ainsty IDB considers necessary, nevertheless the bank clearance height between pylons XC459 and XC460 would be approximately 9.5m and 9.3m as a result of the Proposed Development. This would comply with the statutory minimum clearances specified in the Electricity Safety, Quality and Continuity Regulations 2002. In addition, it would represent an increase in clearance height of 1.3m from the current respective bank clearance heights of 8.2 and 8.0m at pylon XC459 which Ainsty IDB currently has to deal with when undertaking maintenance. The ExA has not been presented with any evidence that this stretch of watercourse is currently not maintained due to the existing clearance height. In addition, as demonstrated in Appendix D of [REP6-062] the clearance heights for other sections of overhead line that oversail watercourses maintained by Ainsty IDB would also be increased.
- 3.10.38. The ExA considers that the Applicant has adequately demonstrated that statutory minimum clearances would be met which would allow the watercourses to be safely maintained in accordance with the Energy Network Association's Technical Specification 43-8. Given this, and the urgent need to deliver the Proposed Development, we do not consider that there is sufficient justification in this case for requiring that an additional approval is obtained for overhead line crossings with a clearance of less than 10.5m. Furthermore, the only crossing of a watercourse that is unlikely to achieve the minimum clearance of 10.5m is an existing line to be reconducted. No evidence has been provided regarding maintenance issues with the existing line in this location and the Proposed Development would result in an improved clearance height. Taking all of this into account the ExA is satisfied that the Proposed Development would represent an improvement on the current clearance height at pylon XC459 and, with appropriate risk assessments and control measures in place by Ainsty IDB, then the Applicant's proposed wording of Article 19(12) would be acceptable. In Chapter 7 of this Recommendation, we make one minor change to the drafting of Article 19 to address a typographical error.

## **Conclusions**

- 3.10.39. The CoCP [REP7-042] contains embedded measures in regard to flood risk and hydrology during the construction phase and this is secured in R5 of the Applicant's final dDCO [REP8-004]. Also, as set out in R6 of the Applicant's final dDCO a



Drainage Management Plan, that would address permanent and temporary works including their maintenance, is required to be submitted to, and approved by, the relevant planning authority before any stage of the Proposed Development could commence. Furthermore, R12 of the Applicant's final dDCO secures measures to deal with any contamination of groundwater or controlled waters that might occur. As recorded in the final SoCGs with the EA [REP7-030], Kyle and Upper Ouse IDB [REP7-024] and Foss IDB [REP7-026] there were no matters outstanding or not agreed regarding hydrology, flood risk and hydrogeology.

- 3.10.40. The ExA concludes that as the Proposed Development would represent an improvement on the current situation in terms of clearance heights for the Ainsty IDB maintained watercourses then this would be acceptable subject to a risk assessment and safe working practices being adopted by the contractor undertaking the watercourse maintenance. For these reasons the ExA does not consider that any substantive changes to the drafting of Article 19 are required.
- 3.10.41. The ExA concludes that the Sequential Test and the Exception Test have been passed, regard has been given to the application of the climate change allowances for peak river flow and peak rainfall and the Proposed Development would ensure compliance with the WFD.
- 3.10.42. The ExA therefore considers that the policy tests of NPS EN-1 have been met in this regard and the Proposed Development would accord with the NPPF, the NPPG and relevant Development Plan policies. We have also identified no conflict with draft NPS EN-1 (March 2023).
- 3.10.43. Overall, the ExA considers that there would be both positive and negative effects of the Proposed Development in terms of flood risk. When taken together, the ExA concludes that the overall effects of the Proposed Development on flood risk, hydrology and hydrogeology do not weigh for or against the Order being made.

## **3.11. AIR QUALITY AND HUMAN HEALTH**

### **Introduction**

- 3.11.1. This Section considers the impact of the Proposed Development on air quality and other matters concerning human health.

### **Policy Considerations**

- 3.11.2. Para 5.2.9 of NPS EN-1 states that the SoS (as decision-maker) should generally give air quality considerations substantial weight where a project would lead to a deterioration in air quality in an area or leads to a new area where air quality breaches any national air quality limits. However, air quality considerations will also be important where substantial changes in air quality levels are expected, even if this does not lead to any breaches of national air quality limits.
- 3.11.3. Para 5.2.10 of NPS EN-1 confirms that in all cases the SoS must take account of any relevant statutory air quality limits. Where a project is likely to lead to a breach of such limits, developers should work with the relevant authorities to secure appropriate mitigation measures to allow the proposal to proceed. In the event that a project will lead to non-compliance with a statutory limit, consent should be refused.
- 3.11.4. Para 5.2.11, 5.2.12 and 5.2.13 of NPS EN-1 note that the SoS should consider whether mitigation measures are needed both for operational and construction

emissions over and above any which may form part of the application, as well as the methods that could effectively be employed to modify any mitigation at the application stage.

- 3.11.5. Para 2.10.2 of NPS EN-5 advises that electric and magnetic fields (EMFs) tend to be highest directly under an overhead power line and can have both direct and indirect effects on human health. NPS EN-5 notes that the International Commission on Non Ionizing Radiation Protection (ICNIRP) developed health protection guidelines in 1998 that cover both public and occupational exposure.
- 3.11.6. Para 2.10.9 of NPS EN-5 states that: *“Before granting consent to an overhead line application, the [decision-maker] should satisfy itself that the proposal is in accordance with the guidelines, considering the evidence provided by the applicant and any other relevant evidence. It may also need to take expert advice from the Department of Health.”*
- 3.11.7. Para 2.10.11 of NPS EN-5 notes that, wherever operationally possible, the industry applies optimal phasing to 275kV and 400kV overhead lines to help minimise the effects of EMFs. NPS EN-5 para 2.10.11 goes on to state that: *“Where the applicant cannot demonstrate that the line will be compliant with the Electricity Safety, Quality and Continuity Regulations 2002, with the exposure guidelines as specified in the Code of Practice on compliance, and with the policy on phasing as specified in the Code of Practice on optimal phasing then the [decision-maker] should not grant consent.”*
- 3.11.8. NPS EN-5 advises that where it can be demonstrated that an overhead line would comply with the current public exposure guidelines and the policy on phasing then no further mitigation should be necessary.
- 3.11.9. NPS EN-5 provides a simplified route map for dealing with EMFs and para 2.10.16 concludes that: *“Where EMF exposure is within the relevant public exposure guidelines, re-routing a proposed overhead line purely on the basis of EMF exposure, or undergrounding a line solely to further reduce the level of EMF exposure are unlikely to be proportionate mitigation measures.”*
- 3.11.10. Draft NPS EN-1 and draft NPS EN-5 (March 2023), which are important and relevant considerations, indicate a continuation of policy relating to the assessment of air quality and human health effects. In addition, draft NPS EN-1 (March 2023) guides that the SoS should give air quality considerations substantial weight where a project is proposed near a sensitive receptor site such as an education or healthcare facility or a residential use. Furthermore, draft NPS EN-1 states that *“where a project is proposed near to a sensitive receptor site for air quality, if the applicant cannot provide justification for this location, and a suitable mitigation plan, the Secretary of State should refuse consent.”*

### **National Planning Practice Guidance**

- 3.11.11. The NPPG, reference ID: 32-005-20191101, states that; *“Whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations”.*

## **Local Plan Policies**

- 3.11.12. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the air quality and human health effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation.

## **The Application**

- 3.11.13. The Applicant's case regarding air quality is set out in ES Chapter 13: Air Quality [APP-085]. In addition, ES Chapter 15: Health and Wellbeing [APP-087] considers matters of relevance to this Section.
- 3.11.14. The Applicant also submitted the following documents to accompany the application:
- Appendix 13A IAQM Construction Dust Assessment Methodology Tables [APP-149];
  - ES Chapter 13 Air Quality Figures [APP-189];
  - ES Chapter 15 Health and Wellbeing Figures [APP-191];
  - Electric and Magnetic Fields Report [APP-199];
  - Code of Construction Practice [APP-095]; and
  - Outline Soil Management Plan [APP-098].
- 3.11.15. Table 13.20 of ES Chapter 13 [APP-085] contains a list of dust management measures which would form part of the CoCP. These measures include carrying out regular site inspections to monitor compliance, ensuring an adequate water supply on site for dust suppression and using enclosed chutes and conveyors and covered skips. Table 3.9 of the final version of the CoCP [REP7-042] provides details of committed good practice measures including those pertaining to monitoring, vehicle and machinery operation, dust management, site preparation and maintenance.
- 3.11.16. Table 13.21 of ES Chapter 13 [APP-085] contains a summary of significance of effects for residential receptors, with the predicted effects assessed as arising due to increased dust emissions during the construction phase. The Applicant concludes that the impacts would be "*Not Significant*".
- 3.11.17. Table 15.23 of ES Chapter 15 [APP-087] provides a summary of significance of effects for various health and wellbeing matters, including air quality, access to healthcare services and neighbourhood amenity. Table 15.18 of ES Chapter 15 gives a summary of the embedded environmental measures which include developing a stakeholder communications plan, implementing dust management measures in the CoCP, avoiding major settlements with the HGV routing plan and providing signage and temporary diversions for public rights of way. The Applicant concludes that during both the construction and operation phases the impacts on air quality, access to healthcare services, changes in severance and accessibility to healthcare and neighbourhood amenity would be neutral.

## **Issues Considered During the Examination**

### **Impacts on air quality**

- 3.11.18. The potential impacts on residential amenity primarily due to dust arising during the construction operations, particularly in the Lumby area, was raised as a potential area of concern in the RRs from Douglas Fletcher [RR-014] and Linda Palmer [RR-020].

- 3.11.19. In the LIRs from CYC [REP1-047] and NYC [REP1-056] impacts on air quality, including dust, were raised as potential concerns. CYC in [REP1-047] noted that areas with significant earthworks had the potential to generate dust in the immediate locality. CYC in [REP1-047] commented that: *“The measures set out within the submitted Construction Code of Practice are generally welcomed by the LPA. These measures should be capable of achieving a balance between facilitating development in a timely manner in the event of the DCO being granted; whilst also providing important and necessary mitigations and safeguards to those receptors most impacted by the development.”*
- 3.11.20. NYC in its LIR [REP1-056] noted that a qualitative construction dust risk assessment following Institute of Air Quality Management (IAQM) guidance had been undertaken and this adequately addressed impacts during the construction phase. NYC in [REP1-056] also agreed with the Applicant’s assessment that a review of vehicle movements during the operational phase indicated no significant emissions to air.
- 3.11.21. In response to RR-014 and RR-020 the Applicant in [REP1-015] stated that residential properties along Butts Lane, Lumby were considered in ES Chapter 13 [APP-085] in line with the IAQM’s Guidance on the Assessment of Dust from Demolition and Construction, 2016. The Applicant concluded that with no mitigation in place then the risk of dust soiling from construction traffic would be medium but that with the mitigation measures proposed in Table 13.20 of ES Chapter 13 in place then the impact would be reduced to negligible levels. The ExA has not been presented with any substantive evidence to dispute this.
- 3.11.22. As reported in the final SOCGs with CYC [REP5-033], LCC [REP7-028], NYC [REP7-083] and the EA [REP7-030] impacts on air quality and human health were agreed matters. The ExA considers that the main areas of new development in terms of the substations, CSECs and their associated temporary construction compounds have been located some distance away from most residential receptors. The ExA notes the concerns raised by some local residents in the Lumby area but is not aware of any evidence that has been submitted to substantiate these concerns.
- 3.11.23. Dust management measures are contained in the CoCP [REP7-042] which is secured in R5 of the Applicant’s final dDCO [REP8-004]. The ExA considers that the predicted number of HGV movements through Lumby, should the alternative route for construction traffic not come to fruition, would be very limited and with the proposed mitigation measures in place would not cause air quality impacts due to vehicular emissions or increased dust soiling. Overall, the ExA is satisfied that impacts on air quality have been properly assessed and that appropriate mitigation measures have been secured in the Applicant’s final dDCO through the CoCP [REP7-042], and also through the Soil and Aftercare Management Plan and the Site Waste Management Plan that are required to be submitted for the approval of the relevant planning authority under R6 [REP8-004].

### **Electric and Magnetic Fields**

- 3.11.24. The Applicant submitted an Electric and Magnetic Fields Report [APP-199]. Table 2.1 of [APP-199] contained a compliance assessment with the relevant requirements of NPS EN-5 and the Applicant concluded that the Proposed Development would meet the minimum clearances as set out in Table 2.3 of [APP-199] that are taken from the Electricity Safety, Quality and Continuity Regulations 2002. In [APP-199] the Applicant concluded that: *“The Project would be fully compliant with the UK Government policies on EMFs. Specifically, all the EMFs*

*produced as a result of the Project would be below the relevant exposure limits, and the proposed overhead lines would comply with the policy on optimum phasing.”*

- 3.11.25. The Applicant’s assessment regarding EMFs was not challenged during the Examination by any of the IPs. The UK Health Security Agency in [RR-037] stated that: *“Following our review of the submitted documentation we are satisfied that the proposed development should not result in any significant adverse impact on public health.”*
- 3.11.26. The ExA therefore considers that no substantive evidence has been provided to dispute the Applicant’s assessment on this matter. Consequently, the ExA considers that the effects of the Proposed Development have been properly assessed in terms of EMFs and would be acceptable.

### **Conclusions**

- 3.11.27. The ExA notes that the Proposed Development, particularly during its construction phase, would entail activities that could give rise to increased dust. Also, additional traffic movements would increase vehicular emissions, particularly in the vicinity of the temporary construction compounds. However, the ExA is content that due to the location of the temporary construction compounds, substations and CSECs away from most receptors, the nature of the Proposed Development and the mitigation measures in the CoCP, together with the need for a Soil and Aftercare Management Plan and a Site Waste Management Plan that are secured in R6 of the Applicant’s final dDCO [REP8-004], the overall air quality and human health effects during the construction phase would be acceptable.
- 3.11.28. The Applicant has demonstrated in [APP-199] that the Proposed Development would be in accordance with the specific requirements on EMFs contained in NPS EN-5 as the Proposed Development would comply with optimum phasing, would comply with the ICNIRP 1998 guidelines and would also comply with the Electricity Safety, Quality and Continuity Regulations 2002.
- 3.11.29. The ExA concludes that the Applicant has provided an adequate assessment of air quality and human health impacts, including EMFs, and that the Proposed Development would not give rise to any substantial changes in air quality. Any effects on air quality would be adequately addressed through the control measures that are secured in the Applicant’s final dDCO. Furthermore, the ExA agrees with the Applicant’s findings that effects on access to healthcare services and changes in severance and accessibility to healthcare would be neutral. It is therefore the ExA’s view that the policy tests of NPS EN-1 and NPS EN-5 have been met in regard to air quality and human health. The ExA also considers that the Proposed Development would accord with the NPPF and relevant Development Plan policies in this regard.
- 3.11.30. The ExA acknowledges that the Proposed Development, particularly during the construction phase, might give rise to some minor, localised effects on air quality. However, these would be temporary and not significant in EIA terms. For these reasons the ExA concludes that impacts on air quality and human health would not weigh for or against the making of the Order.

## **3.12. HISTORIC ENVIRONMENT**

### **Introduction**

- 3.12.1. This Section considers the impact of the Proposed Development on the historic environment.

### **Policy Considerations**

- 3.12.2. The assessment for heritage matters as set out in NPS EN-1 requires the Applicant to:

- Provide a description of the significance of the heritage assets and likely archaeological features that may be affected by the Proposed Development and the contribution of their setting to that significance. Where proposed development would affect the setting of a heritage asset, the applicant may need to provide representative visualisations (para 5.8.8, 5.8.9 and 5.8.10).
- Carry out appropriate desk-based assessments, supplemented by field evaluation if the former is insufficient to assess archaeological interest (para 5.8.9).
- Ensure that the extent of the impact of the proposed development can be adequately understood from the application with supporting documents, and that the level of detail required is proportionate to the importance of the heritage asset (para 5.8.8 to 5.8.10).

- 3.12.3. In reaching a decision the SoS should:

- seek to identify and assess the particular significance of any heritage asset that may be affected including the setting of the heritage asset (para 5.8.11);
- take account of the particular nature of the significance of the heritage assets and the value they hold for this and future generations (para 5.8.12);
- take into account the desirability of sustaining and enhancing the significance of heritage assets (para 5.8.13);
- presume in favour of conserving designated heritage assets such that the greater the significance of the designated asset, the greater the presumption in favour of its conservation (para 5.8.14);
- weigh any harmful impact on the significance of a designated heritage asset against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will need to be for any loss. Where the application will lead to substantial harm to or total loss of significance of a designated heritage asset the decision-maker should refuse consent unless it can be demonstrated that the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm (para 5.18.15);
- where loss of significance of any heritage asset is justified on the merits of the development proposed, the decision-maker should consider imposing a condition or requirement for the applicant to enter into an obligation that will prevent such loss occurring until it is reasonably certain that the relevant part of the development is to proceed (para 5.8.17);
- require the developer to record and advance understanding of the significance of a heritage asset before it is lost, proportionate to the degree of significance of the asset where loss of significance of any heritage asset is justified on the merits of the development proposed (para 5.8.20);
- impose requirements where such recording and publication is required that such work is carried out in a timely manner in accordance with an agreed and secured written scheme of investigation (para 5.8.21); and

- impose requirements to secure appropriate identification and treatment of such assets discovered during construction where the decision maker considers there is a high probability of as-yet undiscovered assets (para 5.8.22).

3.12.4. Draft NPS EN-1 (March 2023), which is an important and relevant consideration, indicates a continuation policy relating to the assessment of effects on the historic environment.

### **National Planning Policy Framework**

3.12.5. Para 194 of the NPPF, among other matters, states that: *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance”*.

3.12.6. Para 199 of the NPPF requires that: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*

3.12.7. Para 202 of the NPPF states that: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

### **National Planning Practice Guidance**

3.12.8. The NPPG references the NPPF in regard to the historic environment and provides further clarification on the setting of a heritage asset. It states (Reference ID: 18a-013-20190723) that: *“The extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations. Although views of or from an asset will play an important part in the assessment of impacts on setting, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places.”*

3.12.9. The NPPG (Reference ID: 18a-020-20190723) also provides guidance on what is meant by the term public benefits. It states that: *“Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits...”*

### **Local Plan Policies**

3.12.10. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the historic environment effects of the Proposed Development. The policies are listed at Annex B9 of this Recommendation.

## The Application

- 3.12.11. The consideration of heritage, historic landscape character and archaeological matters is contained in ES Chapter 7: Historic Environment [APP-079]. In addition, the Applicant submitted the following documents to accompany the application:
- Historic Environment Desk Based Assessment (Appendix 7A) [APP-116];
  - Overton Geophysical Survey Results (Appendix 7B) [APP-117];
  - Monk Fryston Geophysical Survey Results (Appendix 7C) [APP-118];
  - Tadcaster Geophysical Survey (Appendix 7D) [APP-119];
  - Trial Trenching at Overton Substation and Monk Fryston Substation (Appendix 7E) (APP-120);
  - Technical Note for Beningbrough Hall (Appendix 7F) [APP-121];
  - Technical Note for Scheduled Monument at Lead (Appendix 7G) [APP-122];
  - Watching Brief on SI Works at Marston Moor (Appendix 7H) [APP-123];
  - Shipton Geophysical Survey Results (Appendix 7I) [APP-124]; and
  - Tadcaster Geophysical Survey Results (Appendix 7J) [APP-125].
- 3.12.12. The Applicant also submitted the following documents during the course of the Examination:
- Lane East of Shipton-by-Beningbrough Geophysical Survey Report [REP2-026]; and
  - Statutory or Non-Statutory Sites or Features of the Historic Environment Plan Section B [REP6-017].
- 3.12.13. As described in para 7.4.1 of [APP-079] the Applicant's assessment methodology identifies two study areas that comprise the following:
- a study area combining a 500m buffer of the existing and proposed operational components of the Proposed Development and a 2km buffer in the North-West of York area; and
  - a wider study area has also been defined to develop a baseline for consideration of change to setting which extended out to a maximum of 3km from the Scoping Red Line Boundary. This is referred to as the "*Extended Study Area*".
- 3.12.14. Section 3.1.3 of the Historic Environment Desk Based Assessment [APP-116] lists the designated heritage assets that have the potential to be affected by the Proposed Development. In addition, sections 3.1.6 and 3.1.11 of [APP-116] list the non-designated and historic landscape character assets with the potential to be affected. As reported in Annex E of [APP-116] none of the thirteen Conservation Areas that were initially considered in the Initial Scoping have actually been scoped in for assessment.
- 3.12.15. As reported in Table 7.7 of [APP-079] the embedded environmental measures mitigation would include the route alignment and placement of pylons to avoid as far as possible impacts on designated heritage assets and areas of archaeological potential. Table 7.14 of ES Chapter 7 [APP-079] contains the Summary of significance of effects. These are all classified as being "*Not Significant*" with the corresponding grading being either "*Nil*", "*Nil-Minor*" or "*Minor*".
- 3.12.16. Para 7.8.13 of [APP-079] states that: "*For the purpose of this assessment, adverse change assessed of negligible to medium magnitude to a designated heritage asset or a non-designated asset of equivalent heritage significance would normally be considered as harm, while a high magnitude of change would normally be*



*considered as substantial harm. ... The fact that the harm would be limited or negligible would contribute to the weight to be afforded to it as part of the planning balance and recognised in para 5.8.15 in NPS EN-1."*

- 3.12.17. The Applicant notes in ES Chapter 7 [APP-079] that the existing 275kV Poppleton to Monk Fryston (XC) overhead line would pass through the Marston Moor Registered Battlefield and intrusive foundations may be required at some of the existing pylons. Para 7.22.8 of [APP-079] states that archaeological features at risk of loss would be recorded before any loss occurs. The Applicant concludes in [APP-079] that for Marston Moor Registered Battlefield: *"This would constitute harm to a designated heritage asset, albeit of a very low magnitude of less than substantial harm."*
- 3.12.18. Beningbrough Hall is a Grade I listed building and its registered park and garden is Grade II listed. In relation to Beningbrough Hall and its registered park and garden the Applicant reports in para 7.6.12 of [APP-079] that: *"During construction, the intermittent and short-term visibility of at height works and the presence of the temporary pylons would increase the prominence of the proposed overhead line between pylons XC428 and XCP003. ... The increased prominence of the pylons in a small number of views would, however, draw the viewers eye, most notably during the short periods of construction work when at-height works would be visible."*
- 3.12.19. The Applicant concludes in [APP-079] that there would be a limited change to a small number of views and consequently the Proposed Development would give rise to *"a very limited magnitude of less than substantial harm to the significance of the Grade I listed Beningbrough Hall and the Grade II registered park and garden"*.
- 3.12.20. In addition to Beningbrough Hall, there are a number of associated Grade II Listed Buildings that are detailed in Appendix B of [APP-116] and which include The Brew House, The Laundry House, the skating pond lining and tank, wall to garden east of hall and wall linking to hall, and the stable block to the north of the kitchen garden. In Annex E of [APP-116] the Applicant concludes that none of these other designated heritage assets would be affected by the Proposed Development so have been scoped out of assessment. This is reiterated by the Applicant in ES Chapter 7 [APP-079] where it is concluded that other designated and non-designated heritage assets within the registered park and garden would not be affected.
- 3.12.21. Also, in [APP-079] the Applicant reports that construction noise associated with the construction of the Monk Fryston Substation that would be experienced at the Grade II listed Monk Fryston Lodge could be considered to give rise to less than substantial harm to the significance of this designated heritage asset. However, the Applicant finds that no harm to the significance of Monk Fryston Lodge would arise during the operational phase.
- 3.12.22. Table 7.14 of ES Chapter 7 [APP-079] contains the Summary of significance of effects on the historic environment. These are all classified as being *"Not Significant"* with the corresponding grading being either *"Nil"*, *"Nil-Minor"* or *"Minor"*.

## **Issues Considered During the Examination**

### **Designated heritage assets**

- 3.12.23. The LIR of CYC [REP1-047] considers that the Proposed Development would not give rise to significant changes in the Osbalwick area and it also reported that there were notable heritage assets north of York including the Skelton and

Poppleton Conservation Areas. In [REP1-047] CYC notes that the realigned section of overhead line would be further away from Poppleton but that this would be offset by the works to link the CSEC to the proposed Substation at Overton. CYC welcomed the inclusion of the Archaeological Written Scheme of Investigation (WSI).

3.12.24. LCC in its LIR [REP1-053] considers Bramham Moor Battlefield to be a valued landscape and was at threat from encroachment. LCC makes reference to the Archaeological WSI and notes in [REP1-053] that this approach had been agreed by the West Yorkshire Archaeological Advisory Service on behalf of LCC. The York Georgian Society in [RR-039] appreciates the need for the Proposed Development and states that it would only wish to object if it had an increased deleterious effect on any listed buildings or their settings. The York Georgian Society did not provide any further representations during the course of the Examination.

3.12.25. NYC in its LIR [REP1-056] does not raise any objections to the approach taken by the Applicant in terms of assessing impacts on the significance of designated heritage assets. As regards archaeology, NYC in its LIR notes that there is archaeological potential, particularly for remains of the later prehistoric through to the Roman periods, and states there is a noteworthy complex of remains at the Tadcaster CSECs including a Roman road. In para 11.3 of [REP1-056] NYC considers it preferable that trial trenching had been carried out at Tadcaster, as had been the case at Overton and Monk Fryston, but also notes that the types of remains expected would be unlikely to present a barrier to development.

3.12.26. In its LIR [REP1-056] NYC concludes that on balance the documents submitted represent an adequate assessment on non-designated heritage assets and the Archaeological WSI represents a proportionate response to the expected significance of the archaeological remains.

3.12.27. As recorded in [REP2-075] agreement has been reached with Historic England that the Proposed Development would not give rise to any significant effects on the settings of York Minster, Marston Moor Registered Battlefield or Beningbrough Hall.

*Medieval manorial complex, garden and water management features, St Mary's Chapel at Lead and a linear earthwork forming part of the Aberford Dyke system*

3.12.28. The Medieval manorial complex, garden and water management features, St Mary's Chapel at Lead and a linear earthwork forming part of the Aberford Dyke system is a Scheduled Monument and the Chapel of St Mary is Grade II\* listed. These designated heritage assets lie within the Order limits. The Applicant notes in [REP7-039] that a method statement has been agreed with Historic England in relation to the Scheduled Monument in order to provide access, comprising the temporary use of interlocking matting or panels, for the erection of a scaffold between pylons XC497 and XC498. This method statement is contained in the Technical Note for Scheduled Monument at Lead [APP-122] that was submitted to accompany the application.

3.12.29. Historic England confirmed in [REP2-075] that in relation to the Manorial Complex it was satisfied with the assessment undertaken by the Applicant and that: "*A method to enable safe and non-intrusive access has been agreed between Historic England and the Applicant in order to prevent direct harm to the scheduled monument.*" The Technical Note for Scheduled Monument at Lead [APP-122] is specifically referenced in the CoCP that is secured under R5(2)(a) of the Applicant's final dDCO

[REP8-004]. Historic England also confirmed in [REP2-075] that there is no need for the dDCO to specifically refer to works affecting a Scheduled Monument.

- 3.12.30. The Applicant concludes in [APP-079] that there would be no harm to the significance of either the Grade II\* listed St Mary's Chapel or the Scheduled Monument. Furthermore, in [APP-079] the Applicant concludes that the impact of the Proposed Development in EIA terms would be "*Not Significant*". Having regard to the comments made by Historic England, the ExA has no reason to disagree with the Applicant's assessment in this regard.

*Marston Moor Registered Battlefield*

- 3.12.31. For Marston Moor Registered Battlefield, the predicted effects were classed by the Applicant in [APP-079] as "*moderate*". The Applicant submitted a Watching Brief on SI works at Marston Moor [APP-123] which monitored excavations at the bases of two pylons (XC443 and XC444) and found no archaeological features or deposits to be present. Notwithstanding this, the ExA notes that archaeological features at risk of loss or disturbance because of the Proposed Development would be recorded before any loss occurs. This recording would be required through the Archaeological WSI [APP-096] that is secured under R5(2)(b) of the Applicant's final dDCO [REP8-004].
- 3.12.32. In response to ExQ2 [PD-011] Historic England states in [REP2-075] that: "*We are content that the works methodology outlined in Chapter 7 [APP-079] and Appendix 3C [APP-096] of the ES ensures that construction process will not generate a negative impact on the significance of Marston Moor (1644) Registered Battlefield.*"
- 3.12.33. With a robust scheme of investigation and recording in place, as secured in the Archaeological WSI, the ExA agrees with the Applicant's assessment that due to the potential for disturbance of archaeological remains associated with the Registered Battlefield the Proposed Development would give rise to less than substantial harm to the significance of Marston Moor Registered Battlefield.
- 3.12.34. The refurbishment of the overhead line would be visible for a short period of time across some views of the battlefield but on completion the overhead line would be restored to its baseline appearance and the Applicant contends in [APP-079] that there would be "*no discernible lasting perceptual change.*" The Applicant concludes in [APP-079] that: "*No loss of significance is anticipated from change to setting and consequently no effect would arise.*" This assessment has not been disputed by any of the IPs and the ExA has no reason to disagree with this.

*Towton Moor Registered Battlefield*

- 3.12.35. At its nearest point the Proposed Development would be around 100m from the Towton Moor Registered Battlefield. The Applicant contended in [APP-079] that no harm would arise to the significance of its setting as a result of proposed overhead line refurbishment works. This has not been disputed by Historic England and consequently the ExA concurs with the Applicant's assessment.
- 3.12.36. However, the exact area covered by the Battle of Towton is not known. The Applicant comments in Table 7.14 of [APP-079] that: "*Intrusive works including those relating to pylon work areas and proposed CSECs at Tadcaster Tee in the vicinity of the designated area may lead to the disturbance of as yet undiscovered archaeological artefacts and burial pits relating to the battle.*" Works within the Registered Battlefield area would consist of access to existing pylons using the existing track and the Applicant contends that no direct disturbance would arise. In

[REP2-028] the Applicant clarified that in respect of potential for disturbance to theoretical archaeological remains, this would be mitigated through measures contained in the Archaeological WSI [APP-096].

3.12.37. Historic England states in [REP2-075] that: “*We are content that the works methodology outlined in Chapter 7 [APP-079] and Appendix 3C [APP-096] of the ES ensures that construction process will not generate a negative impact on the significance of ... Towton Moor (1461) Registered Battlefield.*”

3.12.38. The ExA is satisfied with the Applicant’s assessment of potential impacts on Towton Moor Registered Battlefield itself and the immediate area beyond, and considers that appropriate mitigation has been secured through the WSI [APP-096] that is specified in R5(2)(b) of the Applicant’s final dDCO [REP8-004].

*Beningbrough Hall and its registered park and garden*

3.12.39. The Applicant provided a Technical Note [APP-121] for the purposes of consultation with the National Trust regarding the potential effects of the Proposed Development on the Grade I listed Beningbrough Hall, its Grade II registered park and garden and the associated listed buildings and non-designated heritage assets. The Applicant considers in para 7.16.12 of [APP-079] that during the construction phase: “*the intermittent and short-term visibility of at height works and the presence of the temporary pylons would increase the prominence of the proposed overhead line between pylons XC428 and XCP003.*” However, the Applicant concludes in [APP-079] that as the proposed works would remain in the background and would be in locations from which pylons were already visible then it would represent a very limited adverse effect and would be “*a very limited magnitude of less than substantial harm to the significance of the Grade I listed Beningbrough Hall and the Grade II registered park and garden.*” The Applicant does not consider any harm would arise to the significance of the other associated designated heritage assets comprising the complex of features associated with Beningbrough Hall and its registered park and garden.

3.12.40. The National Trust in [RR-030] concurs with the Applicant’s assessment and comments that: “*... it is agreed that any harm accruing to the Grade I Beningbrough Hall would arise solely from change to setting during the construction period. This harm would constitute a very low magnitude of less than substantial harm and would occur for a limited duration. No harm would accrue to the registered park and garden, or the other designated heritage assets contained within it*”. The SoCG with the National Trust [REP5-045] confirmed that all matters had been agreed.

3.12.41. In [REP2-075] Historic England confirms that it is satisfied with the Applicant’s assessment regarding Beningbrough Hall and noted that “*...the impact on significance, will be as currently experienced.*”

3.12.42. The ExA notes that the National Trust and also Historic England agree with the Applicant’s assessment. Given this, the ExA also agrees with the Applicant’s assessment that the Proposed Development would only impact on the significance of the Grade I listed Beningbrough Hall and the Grade II registered park and garden for a limited time during the construction phase, and this would be at the lower end of less than substantial harm. In addition, the ExA has no reason to disagree with the Applicant’s assessment that there would be no harm to the significance of the other designated heritage assets that are associated with Beningbrough Hall and its registered park and garden.

### *Monk Fryston Lodge*

- 3.12.43. The Grade II listed Monk Fryston Lodge is located 200m north-east of the proposed Monk Fryston Substation. The Applicant notes in [APP-079] that the setting contributes to its architectural value. The Applicant concludes in [APP-079] that whilst there would be limited direct visibility, the construction noise would be audible and there would be visibility from the fringes of the parkland around Monk Fryston Lodge. The Applicant therefore concludes that there would be less than substantial harm of a very limited magnitude to the significance of Monk Fryston Lodge during the construction phase of the Proposed Development, but no harm would arise during the operational phase.
- 3.12.44. The LPAs in their respective SoCGs [REP5-033], REP7-028] and [REP7-083] note that they agree with the Applicant's methodology and assessment of effects for the historic environment. The ExA considers that the Applicant has adopted a realistically cautious approach and we concur with the Applicant's assessment of impacts for Monk Fryston Lodge.

### *Listed mile posts*

- 3.12.45. The Applicant has indicated that the three Grade II listed mileposts at: A659 Wetherby Road (NHLE 1132447), close to the junction with Sutton Lane (NHLE 1132446) and close to the junction with Garnet Lane (NHLE 1132445) would have the potential to be inadvertently affected if not properly identified and appropriate protective measures put in place. However, as specifically indicated in the CoCP [REP7-042] identification and demarcation of these features would take place with specific instructions to be issued to the contractor(s). The ExA is content that this would provide an appropriate mitigation measure and that there would be no harm to the significance of these designated heritage assets.

### **Non-designated heritage assets**

- 3.12.46. Section 3.1.11 of [APP-116] lists the non-designated heritage assets that are located within the Site; with the Site being defined as the scoping red-line boundary.
- 3.12.47. As detailed in para 31.11 of [APP-116] the non-designated heritage assets with the potential to be affected are as follows: Pollums House, Highmoor House, Cottages at Garnet Lane, Keeper's House, Thickpenny, Wood House, Overton Grange, non-designated buildings at Overton, Hall Moor Farm (North) and Hall Moor Farm (South). In Table 7.14 of [APP-079] the Applicant concluded that the impacts of the Proposed Development on all non-designated heritage assets would be "*Not Significant*". The Applicant's assessment of impacts on non-designated heritage assets as "*Not Significant*" has not been disputed by any of the IPs and the ExA has not been presented with any substantive evidence to disagree with this.

### **Archaeology**

- 3.12.48. The Applicant acknowledged in para 7.46.1 of [APP-079] that: "*Aside from the recorded designated and non-designated heritage assets throughout the Study Area, there is the potential for as yet undiscovered archaeological remains. The DBA (desk-based assessment) ...highlights the potential for archaeological remains to be present in areas of the Project where such remains are not presently recorded.*"
- 3.12.49. The ExA notes that programmes of geophysical survey and trial trenching were undertaken at the proposed Overton and Monk Fryston Substations. By the close of

the Examination there were no outstanding concerns with IPs regarding the assessment methodology and predicted impacts on archaeology, and this was an agreed matter in the final SoCGs with CYC [REP5-033], LCC [REP7-028] and NYC [REP7-083].

- 3.12.50. Taking this into account, the ExA considers that the Archaeological WSI [APP-096] that is secured in R5 of the Applicant's final dDCO would represent an appropriate approach towards monitoring, investigating and recording any features of archaeological interest that might be encountered during the construction phase.

### **Conclusions**

- 3.12.51. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, we have had regard to the desirability of preserving designated heritage assets, including listed buildings and their settings, the character and/or appearance of Conservation Areas and Scheduled Monuments or their settings.
- 3.12.52. The ExA considers that the Applicant's assessment of effects on designated and non-designated heritage assets represents a realistic worst-case assessment which has been agreed with by the LPAs in their respective final SoCGs, by Historic England in [REP2-075] and [REP5-104] and by the National Trust in [RR-030] and [REP5-045]. The ExA has no reason to disagree with this. Furthermore, the ExA considers that appropriate mitigation would be secured through the Archaeological WSI that is required under R5(2)(b) of the Applicant's final draft DCO [REP8-004].
- 3.12.53. We have not identified any instances, during construction or operation, in which the Proposed Development is likely to result in substantial harm to or loss of any heritage asset.
- 3.12.54. The ExA concludes that the Proposed Development during the construction phase would give rise to less than substantial harm to the significance of the following designated heritage assets:
- Marston Moor Registered Battlefield;
  - the Grade I listed Beningbrough Hall and its Grade II registered park and garden; and
  - the Grade II listed Monk Fryston Lodge.
- 3.12.55. The ExA considers that the Applicant has provided a realistic and cautious assessment of the predicted effects on the significance of these designated heritage assets arising from the construction of the Proposed Development, and the impacts would all be at the lower end of less than substantial harm. The weighing exercise that is required under NPS EN-1 and the NPPF, in terms of the public benefit when less than substantial harm has been found to a designated heritage asset, is carried out in Chapter 5 of this Recommendation.
- 3.12.56. Also, the ExA concurs with the Applicant's assessment that the Proposed Development would have the potential to disturb archaeological remains associated with the Battle of Towton, due to refurbishment works on the existing overhead line, although this disturbance would be outside of the Registered Battlefield area.
- 3.12.57. The ExA agrees with the Applicant's view on the designated and non-designated heritage assets that have been scoped in for assessment and which are listed in Table 7.9 of ES Chapter 7 [APP-079]. In addition, the ExA concurs with the Applicant's assessment, as set out in Table 7.14 of ES Chapter 7 [APP-079] that:

- there would be no harm to the significance of the other designated heritage assets that have been listed in Table 7.14 of [APP-079] and which have not already been specifically referenced in this Section;
- in EIA terms, the impacts of the Proposed Development would be not significant on the designated and non-designated heritage assets, except for the following where the impacts would be significant in EIA terms:
  - disturbance of possible archaeological remains associated with Marston Moor Registered Battlefield; and
  - disturbance of possible archaeological remains associated with the Battle of Towton.

3.12.58. In line with the approach outlined above, the ExA's conclusions in relation to the effects of the Proposed Development on the historic environment are carried forward to Chapter 5 of this Recommendation.

### **3.13. GOOD DESIGN AND CLIMATE CHANGE**

#### **Introduction**

3.13.1. This section considers good design aspects of the Proposed Development. As an overarching policy matter there are linkages across a number of other topics and we have linked good design to climate change adaptation and resilience, which is also reported below.

#### **Good Design Policy Considerations**

##### **National Policy**

3.13.2. The criteria for good design in energy infrastructure are set out in NPS EN-1, Section 4.5. Applicants are:

- required to demonstrate the evolution of the proposed design, and to set out reasons for the option selected (NPS EN-1, para 4.5.4);
- required to demonstrate how siting and the use of appropriate technologies have been used to mitigate adverse effects (NPS EN-1, para 4.5.2); and
- encouraged to take independent professional advice on design aspects (NPS EN-1, para 4.5.5).

3.13.3. In reaching a decision the SoS should be satisfied that:

- both function (including fitness for purpose and sustainability) and aesthetics have been taken into account as far as possible (NPS EN-1, para 4.5.3);
- developments are sustainable (sensitive to place, efficient in use of natural resources in construction and operation, matched by good aesthetics as far as possible) and, having regard to other constraints, are as attractive, durable and adaptable as possible (NPS EN-1, para 4.5.1 and 4.5.3);
- opportunities to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation have been taken (NPS EN-1, para 4.5.3); and
- the design and sensitive use of materials in eg electricity substations which will assist in ensuring that such development contributes to the quality of the area has been considered (NPS EN-1, para 4.5.3).

3.13.4. Draft NPS EN-1 (March 2023) sets out a more holistic approach to good design than current NPS EN-1, linking good design principles to other topic areas (Section 4.6 and other topic areas). It states that applicants should consider, and the SoS

should be satisfied that good design principles and sufficient design content are considered in assessments of and mitigation for adverse effects on biodiversity, flood risk, heritage, landscape and visual, land use and green infrastructure and soils. Applicants are encouraged to ensure good design is embedded early and by adherence to design principles (such as Design Principles for National Infrastructure published by the National Infrastructure Commission and the National Design Guide and National Model Design Code) and by appointment of a project board level design champion.

- 3.13.5. Other matters in draft NPS EN-1 (March 2023) for the SoS to consider are that assessment of effects must be that a wide range of effects should be considered in the design process and for the stated design life of the scheme rather than a shorter time-period. It also states that the SoS may wish to take independent design advice, such as independent design review.
- 3.13.6. The criteria set out in NPS EN-5 for consideration of good design refer back to those in NPS EN-1 and to mitigation of potential adverse effects associated with overhead lines in relation to biodiversity, landscape and visual, noise and vibration and EMFs.
- 3.13.7. Draft NPS EN-5 (March 2023) states that applicants should consider the criteria for good design set out in draft NPS EN-1 (March 2023) Section 4.6 at an early stage when developing projects. Also, that the criteria should govern the design to the fullest possible extent but that the functional performance of the infrastructure in respect of security of supply and public and occupational safety must not be threatened (NPS EN-5, Section 2.4).

### **Local Policy**

- 3.13.8. Good design is an overarching topic. Each of the Local Plans have policies which touch on this. The Applicant remarks that within the Local Plans there are a number of policies which highlight the importance of high quality and sustainable design, and which acknowledge the importance of local character, but do not provide criteria for determining the acceptability of NSIPs, and as such are not always directly applicable to linear infrastructure projects [APP-203], para 3.2.19.
- 3.13.9. The ExA agrees with this approach, so rather than list policies here, we refer to where the Councils have made specific reference to design in their LIRs.
- 3.13.10. CYC stated that throughout the pre-application process the Applicant endeavoured to address concerns that were raised and provided justification for the design decisions made [REP1-047], para 4.1. NYC stated that it is pleased that design routing iterations have minimised tree loss and excluded impacts on ancient trees and veteran woodland. It also makes comments on good design in relation to landscape and visual effects which we have reported in Section 3.4 of our Recommendation [REP1-056].

### **Good Design, the Application**

- 3.13.11. The application includes a DAS, which sets out the Applicant's approach to good design and how it considers the Proposed Development meets the tests in NPS EN-1 and EN-5 [APP-203]. It explains why particular options were brought forward and demonstrates how design development has responded positively to consultation. In response to the Examining Authority's written questions (ExQ1), the Applicant submitted a DASSI, setting out design principles for the non-linear works, which was updated [REP5-077] and [REP2-038].



- 3.13.12. In the DASSI, the Applicant explained that it applied its design principles throughout the iterative design process, which includes the Holford Rules and Horlock Rules to ensure good design [REP5-077], Section 1.4. The Applicant explained that good design has been achieved through the embedded mitigation and through evolution of design for the overhead line and the non-linear elements [APP-203], Sections 5 and 6. This has involved consideration of physical and social, ecological, landscape and visual, socio-economic, historic environment, climate change and flooding context.
- 3.13.13. The Applicant concludes that the DAS demonstrates that the Proposed Development would satisfy good design criteria identified within NPS EN-1 and NPS EN-5 [APP-203].

### **Good Design Issues Considered During the Examination**

- 3.13.14. The main issues which arose during the Examination relating to good design were related to the approach to the design of the proposed substations (and to a lesser extent the CSEC sites) and how, and if, design intent could be secured. One proposed substation is at Overton on open agricultural land and the other is next to an existing substation at Monk Fryston. The matters raised, where changes were made to the dDCO and/ or differences remained at the end of the Examination are reported below. They are:
- landform design, including cut and fill balance; and
  - the DASSI and which elements of the DASSI should be secured in R18.

#### **Landform design**

- 3.13.15. The Consultation Report indicates that NYC had asked the Applicant to explain key features and characteristics of the existing site and proposals including levels and landform, buildings, structures hard surfaces and screening [APP-195], page 199 to 200. We asked NYC if the information now available was sufficient. NYC responded that it wished to continue working with the Applicant on these matters [REP2-083], Q7.0.4.
- 3.13.16. The ExA had concerns about how the eventual landform would comply with the policy for good design in terms of siting relative to existing landscape character, landform and vegetation; also how it would conform with Horlock Rule 9. Horlock Rule 9 states *“The design of access roads, perimeter fencing, earthshaping, planting and ancillary development should form an integral part of the site layout and design to fit with the surroundings.”* The images in the visualisations at both substations, Viewpoints (VP15 and VP25), show sharp engineered slopes, prior to planting becoming established [APP-175] and [APP-180]. The Applicant considers that tree growth would help in softening and integrating the earthworks [REP2-038], Q7.0.4.

**Figure 3.13.1: VP15 Overton Substation from Overton Lane (source [APP-175])**



**Figure 3.13.2: VP25 Monk Fyston Substation from A63/ Rawfield Lane (source [APP-180])**



3.13.17. In response to ExQ1, the Applicant justified compliance with Horlock Rule 9 on the grounds that there are similar or steeper/ taller man-made landform features in the locality, giving examples of earthworks bunds and road and rail embankments. It stated that the outline earthworks design would strike a balance between location in

relation to sensitive receptors and accounting for other constraints. The Applicant explained that gentler, lower mounds had been considered but ruled out because of greater land take for a larger footprint and adverse effects on BMV agricultural land [REP2-038], Q7.0.2.

- 3.13.18. The Applicant included the need for post-consent approvals from the relevant planning authority for the levels of any permanent earthworks in an updated (not final) version of dDCO R8. We felt this did not go to the heart of the good design points we had made about integration with surroundings and therefore asked in our commentary on the dDCO that the Applicant reconsider the wording so there is clarity that it covers not just proposed levels, but also the detailed fine-tuning of the landform [PD-015]. The wording in the Applicant's final dDCO R8(2)(d) is "*details of the design of the proposed levels and slope profiles of any permanent earthworks*". [REP7-084], Q8.0.9 and [REP8-004].
- 3.13.19. In terms of the timing of the creation of the landscape mounds and their planting the Applicant explained that this could only take place late in the construction programme because the locations for the mounds would be occupied by site compounds and/ or temporary soil storage [REP2-038], Q11.4.5.
- 3.13.20. We also asked, in ExQ1, about cut and fill balance of material at the proposed substation sites because this would impact on sustainability overall and on other environmental effects relevant to good design, such as traffic and transport if import or export would be required. The Applicant explained that at Overton a cut and fill balance would not be achievable because a finished level of 13.71m above ordnance datum would be required to address flood risk, the current site levels are below this, so imported engineering fill would be needed to construct the site platform. At Monk Fryston an overall net cut is anticipated because of the importance of tying in to existing topography and to levels of the existing substation in terms of electrical plant and access [REP2-038], Q7.0.3.
- 3.13.21. The Applicant explained that at the substations surplus soils would be utilised for landscape mounds. The fill required for the landscape mitigation mounds at both substation sites could be achieved from on-site topsoil and subsoil and that all excess topsoil/ subsoil from clearing the substation sites could be accommodated in the creation of the landscape mitigation bunds. However, across the Proposed Development as a whole, small volumes of soil generated in some places, such as the CSECs might need to be exported from site for reuse elsewhere, outside the Order limits. Also, should any surplus topsoil remain after completion of the landscape works, the Contractor would be obliged to consider the most sustainable solution for any material removed from site in line with the measures set out in the Outline Soil Management Plan, secured by R6 [REP2-022], para 1.10.4 and [REP2-038], Q7.0.3.

*ExA reasoning: Landform including cut and fill balance*

- 3.13.22. Whilst we acknowledge the point made by the Applicant that tree growth would help in softening and integrating the earthworks, the ExA does not accept that the existence of a steeply engineered slope nearby to support, for example the East Coast Mainline (ECML) Railway in the vicinity of Overton Substation justifies a similar approach to the profile of the landscape bunds. We acknowledge all the points the Applicant makes regarding the steepness of slope, minimising land take and maximising height for screening. But we are of the opinion that these highly engineered slopes would look incongruous in the flat landscape settings. Therefore,

we consider that attention needs to be paid to the detail profiling of these slopes, complemented by a mosaic of planting.

- 3.13.23. The Applicant's final dDCO R8 now includes the requirement for the relevant planning authority to approve post-consent landscape strategies for Overton, Tadcaster and Monk Fryston, which would include full planting and maintenance details, and slope profiles as well as levels for any earthworks. All three sites are in the NYC administrative area. NYC engaged in detail on landscape and good design matters throughout the Examination. We note the s106 Agreement in place to support NYC in its discharge of requirements [REP7-032], Schedule 4. We are therefore satisfied that there is a mechanism in place which would enable the planning authority to resource the skills it needs to respond to submissions made by the undertaker and the required approvals would give the planning authority the necessary control to ensure that good design in terms of siting, landscape character and topography would be achieved. However, uncertainty remains until those detail designs approvals are discharged.
- 3.13.24. Turning to the cut and fill balance, the ExA is satisfied that any transport of fill in or out of non-linear sites has been satisfactorily assessed in the ES. We are also content that the requirement for the landscape bunds and the CoCP and its component construction management plans would control minimising any transport off site of soil and/ or subsoil. In terms of a sustainable approach to the landform design, we are content that the Applicant has justified why a cut and fill balance cannot be achieved and that controls are in place to ensure movement of materials would be minimised.
- 3.13.25. The ExA acknowledges that the Applicant has endeavoured to include early completions for landscape mounding and planting at the proposed Overton Substation and that there are construction logistical reasons for this not being possible in other locations.

### **The Design Approach for Site Specific Infrastructure Document**

- 3.13.26. The Applicant submitted the first version of its DASSI in response to ExQ1. Its purpose was stated to outline design principles to be taken forward for detailed design, set out a design approach for site-specific infrastructure of non-linear works, and to detail those elements of the design which have some flexibility in their appearance [REP2-049], updated [REP5-077]. Initially none of the elements described in the DASSI were secured in the dDCO, but the Applicant indicated that it was considering how and if they should be.
- 3.13.27. The Applicant's final dDCO included R18, which stated that details of the external colour and surface finishes of buildings and the colour of acoustic enclosures at Overton and Monk Fryston Substations must be submitted for approval to the relevant planning authority (which would be NYC) having regard to the DASSI and must be implemented as approved.
- 3.13.28. There was sustained disagreement between the Applicant and NYC over whether other features of the substations should be cited in R18 [REP7-083], ID4.4.2. This matter was discussed at two ISHs. NYC's position is that the R18 should also cover approvals for:
- details of fencing and acoustic enclosures;
  - surfacing for roads and footpaths; and
  - CSECs.

- 3.13.29. NYC is especially keen to be able to influence the colour of fencing such that it fits with the local context, stating that there are locations where it would be more appropriate and would help reduce the impact if it were not galvanised steel. NYC acknowledges that galvanised steel fencing is commonly used but thinks that there are locations where this would result in a harsh intrusive industrial impact. NYC cites locations where it considers green fencing should be used, such as Overton, and states that it has negotiated use of green palisade fencing in rural locations on other developments, and that cost should not be the over-riding factor in fencing choice [REP4-041], Appendix B, action point 18.
- 3.13.30. NYC considers that some of the surfacing materials do not accord with the Horlock Rules and that more muted coloured materials would be more suitable and would not have any impact on the maintenance of the materials. NYC argues that surface materials at CSECs should also be chosen to chime with local conditions.
- 3.13.31. The Applicant disagrees strongly with the suggestion to paint galvanised fencing because it is not considered necessary as the boundary of the CSECs and substations would either not be visible from public locations or would be predominantly screened by intervening planting, even in winter. Furthermore, the Applicant argued that green palisade fencing has higher maintenance requirements, a significantly lower lifespan and repainting the fencing needs to be in a controlled factory environment, leaving safety concerns on site if removed [REP5-082], page 25 to 26.
- 3.13.32. The Applicant provided a robust, technical case with appendices for the reasons why galvanised steel has been selected. It set out an appendix providing evidence of the durability of powder coating versus galvanising and another appendix which demonstrates that the life expectancy of 85 micron thick hot dip galvanized steel is 57 years for Monk Fryston and 85 years in the York area, which would comply with the Applicant's minimum design life of 50 years. This contrasts with powder coating which it is stated would be 20 years.
- 3.13.33. The Applicant concluded that the cost, programme, and security implications of providing a powder coated finish would be demonstrably greater than the standard galvanised option. It therefore plans to proceed with galvanised only fencing for all sites. If a powder coated application is specified, there would be programme, cost, security and operational safety implications arising from the need to remove and repaint an existing fence of an operational high voltage substation. It states that this would not be acceptable, even if the increased costs could be accommodated because any maintenance would likely require bespoke and complex mitigation to ensure security and safety throughout [REP5-083], Q7.0.1, [REP5-084], Appendix C and D.
- 3.13.34. The Applicant argued that there are very few instances in which roads and footpaths would be visible from a public accessible location, so it does not feel that this should be subject to approval under R18. It notes that there is scope for variation in the DASSI [REP5-082], page 26.
- 3.13.35. At ISH4, the ExA had asked the Applicant to consider whether a tailpiece was required in R18(2). In its response the Applicant agreed to remove the tailpiece based on the retention of "*have regard to*" which would remove any potential for duplication [REP6-062], action point 29. In its dDCO commentary, the ExA asked the Applicant if it would object to replacing "*have regard to*" with "*in accordance with*" in R18(2).

- 3.13.36. The Applicant objected strongly to such a replacement. It explained that the nature of the DASSI is not a prescriptive document that could be directly adhered to. It would be treated as a brief because it is an outline of the design principles to be taken forward, where there is design flexibility [REP7-084], DC1 8.0.12.
- 3.13.37. In its dDCO commentary, the ExA asked the Applicant to provide some additional wording relating to relocated buildings and permanent security fencing at non-linear sites without prejudice to its in-principle position that R18 need not be further amended. This wording was provided by the Applicant caveated with its strong objection to the need for the inclusion of fencing based on the position reported above and a view that the addition of “*relocated buildings*” would not be necessary because they would be covered by permanent buildings [REP7-084], Q8.0.13.
- ExA’s reasoning: DASSI*
- 3.13.38. The ExA is content that the DASSI would guide detail design development for the CSECs as well as the substations.
- 3.13.39. The ExA agrees with the Applicant that the footpaths and roads within the substation sites would in the main not be visible from public locations and in any case would be seen as associated with the infrastructure present. We have therefore not made any changes to the rDCO in this regard. We note the Applicant’s point regarding design flexibility at a later stage, and also that the DASSI guides selection of aggregate colour to be explored to assist in reducing the overall mass of all the substations and CSECs, and a variety of permeable surfacing options are listed [REP5-077].
- 3.13.40. Having considered the Applicant’s response to the matter of whether R18 should state “*have regard to*” or be “*in accordance with*” the DASSI, the ExA is persuaded by the Applicant’s case that the DASSI is a guide, not detailed and prescriptive. As such we agree that it would not be workable for works to be in accordance with the DASSI because the detail would not be contained there.
- 3.13.41. The ExA has made changes to the rDCO which would require the pre-commencement approvals process to include relocated buildings in R18(1) and fencing in R18(2). The wording in R18 is precisely as submitted by the Applicant without prejudice to its position that no amendments are required to R18. We make this recommended change to the Applicant’s final dDCO on the grounds that the DASSI is a guidance document and there would still be the opportunity during the pre-application process for discharge of R18 for those discussions to take place with the relevant planning authorities.
- 3.13.42. The landscape mitigation strategies are currently still outline and potentially subject to change, so until the final design for all landscape and visual mitigation can be seen in the context of the boundaries of the substation and CSEC sites, there is no certainty over the visibility or otherwise of the fencing locations from sensitive receptors.
- 3.13.43. To be clear, the ExA is not stipulating that fencing should be powder coated and coloured. We are just stating that the decision on the need for a fence colour other than galvanised steel should be taken as part of a holistic design approach to the substations and CSECs. Neither is the ExA saying that if colour is found to be appropriate that it should be green. Other colours could prove to be a more appropriate way of blending with surroundings. Any decision over powder coating

and colour should accord with good design in terms of existing landscape character and with minimising adverse visual effects (NPS EN-1, para 4.5.3 and 5.9.22).

- 3.13.44. The ExA makes this recommendation in the full knowledge that there is strong objection by the Applicant. This is because we have listened to the submissions made by NYC (and LCC earlier) and we do not think the case on the grounds of visual mitigation already screening fencing can be made with assurance based on outline strategies. We acknowledge that more frequent ongoing fencing maintenance would be required and that there would be a cost implication.
- 3.13.45. The Applicant's concern over safety and security implications of needing to remove the fencing from site to re-coat it is noted and has been considered. These would need to be set out in detail to the relevant planning authority for any areas where it was deemed colour, powder-coated fencing could be appropriate. Until details of location and length of fencing proposed for this treatment are known, the extent of the safety and security implications is unclear.
- 3.13.46. The ExA has also added in the reference to relocated buildings because again we think that their colour and materials need to be considered as part of the overall design approach to the infrastructure asset.
- 3.13.47. Turning to the specific wording proposed by the Applicant for R18, and considering it against the provisions of NPS EN-1 para 4.1.7, the ExA has some reservations regarding the enforceability of an approach in which the completion of the buildings, acoustic enclosures and especially the fencing, would be the timing trigger point for approval of details. Based on what the Applicant has stated about powder-coating for fencing colour, any decision on colour (or otherwise) would need to be taken before completion.
- 3.13.48. Deciding whether works are complete can be more ambiguous than deciding whether or not works have commenced. This could make the Requirement difficult to enforce. The final EM [REP8-006] does not explain the reasons for the adopted approach. To improve enforceability, we recommend that the drafting of R18(1) and R18(2) is amended to prevent commencement of the permanent buildings, acoustic enclosures and fencing until approval of details by the relevant planning authority.
- 3.13.49. We acknowledge that this front-loads approval of the required details but we deem that this is necessary and justified given the design context of the Requirement. The Applicant has committed to early engagement with the relevant planning authorities on post-consent approvals, including establishing a 'pre-application' process for the discharge of Requirements as secured in the final s106 Agreement [REP7-032]. For these reasons, we consider the proposed change to the timing trigger point for this Requirement would make little difference to the way in which it is to be discharged in practice but would improve compliance with NPS EN-1 para 4.1.7.
- 3.13.50. This change to wording in the Applicant's final dDCO was not before parties during the Examination, so we return to this point in Chapter 7 on the DCO.

*Changes to the rDCO*

- 3.13.51. The rDCO R18 therefore reads as follows:

*18(1) Any permanent buildings (including relocated buildings) and the acoustic enclosures at –*

*Overton Substation; and*

*Monk Fryston Substation,*

*must not be commenced until details of the external colour and surface finish of the permanent buildings and the external colour of the acoustic enclosures have been submitted to and approved by the relevant planning authority.*

*(2) Any non-linear site permanent security fencing at –*

*(a) Shipton Tee Cable Sealing End Compounds;*

*(b) Overton Substation;*

*(c) Tadcaster Tee Cable Sealing End Compounds; and*

*(d) Monk Fryston Substation,*

*must not be commenced until details of the colour or type of the fencing, which must comply with Technical Specification TS2.10.02 Perimeter Security, has been submitted to and approved by the relevant planning authority.*

*(3) Any details to be approved under sub-paragraphs (1) and (2) must be produced having regard to the design approach to site specific infrastructure and must be implemented as approved.*

### **Good Design Conclusions**

- 3.13.52. The Applicant has set out the evolution of its design with options considered, with which we have concluded we are satisfied in Section 3.3 of this Recommendation (NPS EN-1, para 4.5.4). The Applicant has not taken independent professional design advice, but it did prepare the DASSI, which sets out the design principles to be applied (NPS EN-1, para 4.5.5).
- 3.13.53. The ExA is of the view that the Applicant has considered the use of natural resources and set out the design intentions as far as possible with regards good aesthetics, in the main through mitigation using landform and planting (NPS EN-1, para 4.5.1 to 4.5.3). None of the mitigation proposed is secured in detail (although the outline landscape strategies set out design intent and planting proposals). They would be subject to discharge of requirements by the relevant local planning authority. The Applicant has emphasised that the DASSI provides guidance, but is not prescriptive nor a detailed design. Also, the ExA notes that the elements from the DASSI which would be secured in the Order are limited.
- 3.13.54. In terms of sensitive use of materials at substations, the rDCO now requires future approvals to consider buildings, relocated buildings and fencing. As reported above, we have included additional elements in the rDCO to be secured over and above those which the Applicant considers necessary. This would give the Councils the opportunity to satisfy themselves that the detail design of these assets would contribute to the quality of an area, as far as possible (NPS EN-1, para 4.5.3). The ExA welcomes the addition to R8 regarding earthworks design, which is subject to future approval by the relevant local planning authority.
- 3.13.55. Even so, there is uncertainty at this stage over whether the details of the Proposed Development would fully meet policy with regard to sensitive to place, matched by good aesthetics as far as possible and, having regard to other constraints as attractive, durable and adaptable as possible (NPS EN-1, para 4.5.3). Also, whether it would fully meet Horlock Rule 9, currently guidance, but policy in draft NPS EN-5 (March 2023).



- 3.13.56. The ExA fully accepts the Applicant's need for flexibility at this stage, prior to detailed design being developed by contractors, which aligns with the policy position on fitness for purpose and functionality (NPS EN-1, para 4.5.3). We are content that the s106 Agreement would provide a mechanism to assist the Councils in responding to post consent approvals for detail designs. The reliance on future approvals is reflected in the weight we consider that good design would carry against the making of the Order.
- 3.13.57. Turning to the way that good design is a mechanism for meeting other NPS policy objectives, the ExA considers that the Applicant has sought to meet other policy objectives for matters such as climate change (including sustainability and flood risk), green infrastructure and landscape and visual (NPS EN-1, para 4.5.2). For policy topics where adverse effects would be largely apparent during construction stage (such as noise and vibration, traffic and transport, agriculture and soils and air quality and human health) we are content that these would be addressed through appropriate mitigation measures, and these would not weigh against the Order in terms of good design. These have been reported earlier in this Recommendation.
- 3.13.58. Emerging policy as set out in draft NPS EN-1 (March 2023) and draft NPS EN-5 (March 2023) is structured to require a more holistic approach to good design, linking policy topics and mitigation of adverse effects more clearly with good design objectives. We are content that the Applicant has addressed this, for relevant topics. Under the draft NPSs (March 2023), the overt presentation of an integrated design approach to cover a wider range of topics might be expected. We have considered this as an important and relevant matter. Whilst the draft NPSs would require a more overt consideration of good design objectives, we are content that the Applicant had given consideration at application stage as set out in the DAS and that the introduction of the DASSI has provided guidance for design matters for future approvals and secures some details.
- 3.13.59. We have made changes to the rDCO in terms of the elements secured. We do not think that the draft NPSs (March 2023) make a difference to our conclusions on the Applicant's final draft dDCO, or our conclusion on good design. Accordingly, we consider that there would be no conflict with the draft NPSs in this regard.
- 3.13.60. Good design embraces other topics as part of the policy requirement. In reaching our overall conclusion on good design, we have taken care not to double count either adverse or beneficial weightings which we have attributed to other topics. For the reasons set out above, acknowledging fully that the policy position is that there will often be limits to the extent to which infrastructure can enhance an area, the ExA considers that matters relating to good design carry a little weight against the Order being made.

## **Climate Change Policy Considerations**

### **National Policy**

- 3.13.61. NPS EN-1 states that the Government is committed to cut greenhouse gas (GHG) emissions by at least 80% by 2050, compared to 1990 levels (NPS EN-1, para 2.2.1). It sets out how the energy sector can help deliver the Government's climate change objectives by clearly setting out the need for new low carbon energy infrastructure to contribute to climate change mitigation (NPS EN-1, para 2.2.11).
- 3.13.62. In terms of climate change adaptation, NPS-EN1 cautions that if new energy infrastructure is not sufficiently resilient against the possible impacts of climate change, it will not be able to satisfy the energy needs outlined (NPS EN-1, para

4.8.1). It states that applicants must consider the effects of climate change in terms of location, design, build, operation and decommissioning in their ES setting out how the proposed development would take account of projected impacts of climate change (NPS EN-1, para 4.8.5).

3.13.63. In reaching a decision, NPS EN-1 states that the decision maker must:

- take into account the potential impacts of climate change using the latest UK Climate Projections available at the time the ES was prepared to ensure it has identified appropriate mitigation or adaptation measures (para 4.8.6).
- be satisfied that there are not features of the design of new energy infrastructure critical to its operation which may be seriously affected by more radical changes to the climate beyond that projected in the latest set of UK climate projections (NPS EN-1, para 4.8.8).

3.13.64. Draft NPS EN-1 (March 2023) includes a section on climate change adaptation (Section 4.9) which sets out more detail than current NPS EN-1 such as encouraging nature-based solutions, which are multi-functional in terms of BNG and increasing absorption of carbon dioxide from the atmosphere, including the role of GI. A section on resource management (Section 5.15) refers to the move toward a more circular economy, encouraging applicants to source materials from recycled or reused sources and use low carbon materials, sustainable sources and local suppliers.

3.13.65. NPS EN-5, refers to generic considerations found in NPS EN-1 that applicants should take into account in to help ensure that electricity networks are resistant to climate change. It refers specifically to flooding, particularly for substations, effects of wind and storms on overhead lines and increased temperature which can lead to transmission losses (NPS EN-5, Section 2.4).

3.13.66. Draft NPS EN-5 (March 2023) has greater focus on achievement of net zero emissions, referring to the use of Sulphur Hexafluoride (SF<sub>6</sub>) (a GHG) used in high voltage switchgear for electricity networks. The draft NPS (March 2023) states that in early design applicants should consider whether the proposed development could be reconceived to avoid the use of SF<sub>6</sub>-reliant assets, and if not, must provide evidence of their reasoning.

### **Local Policy**

3.13.67. The LIRs from CYC [REP1-047], LCC [REP1-053] and NYC [REP1-056] identify the local planning policies that the Councils consider may be important and relevant considerations in relation to the effects of the Proposed Development in relation to climate change. The policies are listed at Annex B9 of this Recommendation. The CYC LIR states that CYC declared a Climate Emergency in 2019, with the target of becoming a net-zero carbon city by 2030 [REP1-047].

### **Climate Change, the Application**

3.13.68. The Applicant's assessment of climate change is set out in ES Chapter 17 on climate change [APP-089]. It is stated that it should be read with respect to other relevant parts of the ES, namely: Biodiversity [APP-080], Hydrology [APP-081], Agriculture and Soils [APP-083], Traffic and Transport [APP-084] and Air Quality [APP-085]. ES Chapter 17 is informed by the latest UK Climate Projections 2018 (UKCP18) [APP-089]. The Applicant's Report on Proposed Changes listed effects on climate change as having no/ negligible change resulting from all 3 changes [REP5-091].

### **Mitigation and residual effects**

- 3.13.69. The Applicant provides a GHG emissions assessment for all phases of the Proposed Development. The findings show that the Proposed Development would have a minor adverse effect and is therefore assessed as being not significant. In the assessment, GHG emissions, including SF<sub>6</sub>, are considered in the context of the global climate and the ability of the UK government to meet its carbon reduction targets (up to the 6th carbon budget).
- 3.13.70. A climate change resilience assessment and an in-combination climate change impact assessment are also undertaken and reported [APP-089], Table 17.28. These also conclude that there would be no significant adverse effects because all relevant and implementable environmental measures have been embedded into the Proposed Development and would be effective and deliverable [APP-089].
- 3.13.71. The embedded measures are summarised in the assessment [APP-089], Tables 17.13 and 17.4 for GHG and climate change resilience respectively. There is overlap with other aspects assessed in the ES including flood risk.
- 3.13.72. The overlap between topics is a result of embedded and other mitigation measures, which address adverse effects in other topic areas such as:
- goals to reduce embodied carbon in construction materials (CoCP);
  - measures to minimise GHG emissions associated with construction traffic such as consolidating deliveries and no idling (CoCP and CTMP);
  - utilise existing pylons as far as possible rather than introducing new construction materials;
  - reducing operational emissions by 50% equated to a 30% reduction in SF<sub>6</sub> emissions;
  - emergency planning for extreme weather events and health and safety workforce procedures (CoCP);
  - embedded drainage design measures assessed in the FRA [REP5-095] and application of the EA's climate change allowances for peak river flow and peak rainfall in considering flood risk and drainage design (dDCO R6);
  - material specifications and the detailed design of Proposed Development assets to respond to climate change trends;
  - adaptive capacity through maintenance regimes such as heat-related or water-related deterioration and replacement requirements and increasing vegetation management regimes; and
  - resilience measures to the interdependencies that affect operation such as back up telecommunication connections or diesel generators in substations.
- 3.13.73. Based on matters which arose and the Applicant's in-combination climate change assessment, the ExA considers that socio-economic matters and landscape and visual/ green infrastructure matters are also of relevance. For example, the commitment to re-use of existing pylons is a matter of objection for farming efficiency reasons (below and Section 3.8 and Chapter 6 of our Recommendation) and the management and maintenance of planting is a matter touched on regarding both reinstatement and mitigation planting (Section 3.4 of our Recommendation).

### **Climate Change Issues Considered During the Examination**

- 3.13.74. There were no major issues raised regarding climate change adaptation, resilience, and mitigation and GHG emissions which arose during the Examination. The strategic and national effects on climate change arising from the Proposed Development are covered earlier in the Section on Need (Section 3.2 of our

Recommendation). The ExA asked for further detail on some matters and the Applicant's response to questions in some places referred to climate change. We report briefly on these.

### **Greenhouse gas emissions and circular economy principles**

- 3.13.75. The ExA asked about how the circular economy principles would be deployed. The Applicant explained that carbon measuring and reporting would be undertaken and opportunities to reduce the carbon footprint of the Proposed Development would be worked through at sustainability workshops. Main works contractor(s) would be required to maintain a Carbon Interface Tool to record the carbon footprint, which would be reviewed quarterly. Additions were made to the CoCP [REP7-042], Section 3.12, [REP6-060], page 24 to 25 and [REP6-035], page 16.
- 3.13.76. The Applicant explained that one of the embedded mitigation measures in connection with the reconductoring works is that existing pylons would be utilised as far as possible rather than introducing new construction materials. The justification for retaining existing pylons arose in two locations, where objections on grounds of difficulties for farming operations (hence socio-economic) were raised [REP6-060], page 24 and [REP6-035], page 17. This is reported further in Section 3.8 and Chapter 6 of this Recommendation.
- 3.13.77. The Applicant acknowledges that the use of SF<sub>6</sub> within switchgear equipment is a potential source of GHG emission over the lifetime of the Proposed Development. These emissions have been estimated as part of the GHG assessment. A target of reducing operational emissions by 50%, which is equated to a 30% reduction in SF<sub>6</sub> emissions has been set and SF<sub>6</sub> would be monitored with a gauge inspected regularly. This monitoring would sit outside of the DCO, controlled by the Network Asset Risk Metric Framework [REP6-035], page 17.

### **Flood risk with climate change**

- 3.13.78. The Applicant's ES explains that all proposed substations would be located in current FZ1 but due to climate change, Overton would be at risk of flooding during a 1% Annual Exceedance Probability +50% climate change event [APP-089], Table 17.26. This is a climate change resilience matter as well as one for flood risk (covered earlier in Section 3.10 of this Recommendation). The EA agreed the approach would be sufficiently conservative for climate change resilience in setting a 0.1% AEP with +34% climate change allowance and 300mm freeboard [REP1-027], ID 3.2.3.
- 3.13.79. In explaining the rationale for the landform at the Overton Substation site, the Applicant pointed out that it would be located to avoid Flood Zone 2 and Flood Zone3, which follows the first step of the sequential test, outlined in the NPPF, Section 14, for obtaining the lowest probability of flooding. Whilst conforming with this, the Applicant's specific policy for all substation sites is to be flood resilient for a 1:1000 year + climate change event, which is a more onerous flood resilience requirement [REP2-038], Q7.0.3. Flood risk is reported in Section 3.10 of this Recommendation.

### **Climate Change Conclusions**

- 3.13.80. The ExA is satisfied that the Applicant has used the most recent UK climate projections, namely UKCP18, produced by the Met Office and provides the latest set of climate change projections for the UK, which sets out climate data for the specified climate parameters for the 2030s, 2050s, 2070s and 2090s (NPS EN-1,

para 4.8.6). The ExA is also satisfied that the Applicant has considered all carbon budgets that have been legislated or are under draft legislation in its assessment.

- 3.13.81. The Applicant's ES covers all stages of the Proposed Development and sets out mitigation proposals which are secured (NPS EN-1, para 4.8.5). We are also satisfied that the Applicant has considered extreme weather conditions and set out appropriate embedded mitigation measures (NPS EN-1, para 4.8.8 and NPS EN-5, Section 2.4).
- 3.13.82. We agree with the Applicant's view that the Proposed Development would increase GHG emissions, but to a degree that would not affect the ability to meet UK carbon budgets.
- 3.13.83. The ExA is content that for climate change resilience and adaptation the Proposed Development would not result in significant adverse effects and that mitigation is secured appropriately. There is nothing in the revised March 2023 drafts of NPS EN-1 or NPS EN-5 that would alter the ExA's conclusions on climate change. Indeed, in places, the Applicant has demonstrated it has been mindful of, and responded to, those enhanced and more detailed requirements.
- 3.13.84. We agree with the Applicant's assessment that there would be some residual, negligible and minor, adverse effects during construction and operation. However, in light of the embedded, and other mitigation secured and the unlikely/ very unlikely risk ascribed by the Applicant to these effects (with which we agree), the ExA considers that there are no matters relating to climate change which would weigh for or against the making of the Order in terms of the effects of the Proposed Development itself. The contribution of the capacity of the Proposed Development to climate change mitigation is dealt with in the need case in the planning balance in Chapter 5 of this Recommendation.

## **3.14. OTHER PLANNING ISSUES**

### **Introduction**

- 3.14.1. This Section considers the following other relevant matters that either formed part of the Applicant's ES or which are referenced in the NPSs:

- Decommissioning;
- Contaminated Land, Geology and Ground Conditions;
- Minerals resources;
- Waste;
- Civil and military aviation and defence interests; and
- Major accidents and disasters.

### **Decommissioning**

- 3.14.2. This Section looks at the overall effects of the Proposed Development for its decommissioning stage, should the DCO be made.

### **Planning Policy**

- 3.14.3. NPS EN-1 paragraph 4.2.3 states that: *"For the purposes of this NPS and the technology-specific NPSs the ES should cover the environmental, social and economic effects arising from pre-construction, construction, operation and decommissioning of the project."*

- 3.14.4. Paragraph 5.6.10 of NPS EN-1 requires that the decision-maker: "... *should consider whether to require the applicant to abide by a scheme of management and mitigation concerning insect infestation and emissions of odour, dust, steam, smoke and artificial light from the development. The [decision-maker] should consider the need for such a scheme to reduce any loss to amenity which might arise during the construction, operation and decommissioning of the development.*"
- 3.14.5. Furthermore, paragraph 5.8.1 of NPS EN-1 acknowledges that the decommissioning of energy infrastructure has the potential to result in adverse impacts on the historic environment. Also, paragraph 5.12.1 of NPS EN-1 makes a similar point for socio-economic impacts at local and regional levels.

### **The Application**

- 3.14.6. The Applicant states in paragraph 4.7.14 of ES Chapter 4 [APP-076] that the Proposed Development is assumed to have a design life of 80 years with the decommissioning phase expected to be approximately two years in duration.
- 3.14.7. In terms of the assessment of specific impacts during decommissioning, in relation to air quality the Applicant states in paragraph 13.7.5 of ES Chapter 13 [APP-085] that: "*The Project is expected to have a life span of more than 80 years. If decommissioning is required at any future point in time, then activities and effects associated with the decommissioning phase are expected to be of a similar level to those during the construction phase works, albeit with a shorter duration of two years. Therefore, the likely significance of effects relating to the construction phase assessment would be applicable to the decommissioning phase and decommissioning effects are not discussed further in this chapter.*"
- 3.14.8. In the ES the Applicant has also provided similar comments to those for air quality in relation to decommissioning in the ES Chapters on the following matters:
- Landscape and Visual [APP-078];
  - Historic Environment [APP-079];
  - Biodiversity [APP-080];
  - Hydrology [APP-081];
  - Geology and Hydrogeology [APP-082];
  - Agriculture and Soils [APP-083];
  - Traffic and Transport [APP-084];
  - Noise and Vibration [APP-086];
  - Health and Wellbeing [APP-087]; and
  - Socio-economics [APP-088].
- 3.14.9. In regard to climate change matters, Table 17.17 of ES Chapter 17 [APP-089] included a specific consideration of decommissioning and the effects that are scoped in for further assessment are summarised in Table 17.18 of [APP-089] and in paragraph 17.9.7 of [APP-089] the Applicant has included decommissioning into its overall calculation of emissions associated with the Proposed Development. Table 17.27 of [APP-089] specifically assess Climate Change Resilience effects during the decommissioning phase and concludes that the residual significance of all likely residual impacts would be either "*Negligible*" or "*Minor*", both of which the Applicant considers to be not significant.

### **The ExA's Findings and Conclusions on Decommissioning**

- 3.14.10. Paragraph 2.3.9 of the Inspectorate's Scoping Opinion [APP-105] refers to the Applicant needing to do the following:

*"The Inspectorate considers that a high-level environmental assessment of the decommissioning of the Proposed Development should be provided in the ES. The assessment should provide information about the predicted future baseline which has been applied to the assessment of decommissioning effects. The estimated timescales for the life span of the Proposed Development should also be set out, along with an indication of the certainty in this regard. The sensitivity of the findings in the assessment to any departure or deviation from the estimated timescales should be explained. The process and methods of decommissioning should be considered and options presented in the ES."*

- 3.14.11. The ExA considers that the Applicant has stated the expected design life for the Proposed Development and has addressed decommissioning in the ES Chapters that have been referenced above. Where decommissioning has been specifically referenced in one of the topic-based ES Chapter then, the Applicant has stated that the effects would be similar to those associated with the construction phase.
- 3.14.12. The ExA notes that the Applicant's methodology is an agreed matter in the final SoCGs with CYC [REP5-033], the EA [RE7-030], Historic England [REP5-043], LCC [REP7-028] and NYC [REP7-083]. Furthermore, no specific concerns regarding decommissioning have been raised by any of the IPs during the Examination.
- 3.14.13. With an envisaged design life of more than 80 years the ExA considers it axiomatic that the social, environmental and technological circumstances prevailing at that time are likely to be different from now. Consequently, the ExA acknowledges that assessing the effects of decommissioning currently is difficult to predict accurately. Moreover, we are mindful that the Proposed Development would form part of the national transmission network and as such, there could be decommissioning of certain elements of the Proposed Development over time to meet future network needs, as opposed to wholesale decommissioning of the project currently before us. Some elements of the Proposed Development could endure well beyond the 80 year design life. In light of these considerations and noting that future decommissioning could also give rise to some positive effects for example with regard to landscape and visual and agricultural land effects, the Applicant's assessment that effects would be no worse than for the construction phase would appear to the ExA to represent a reasonable basis on which to assess such future effects.
- 3.14.14. The methodology described in ES Chapter 18 [APP-090] demonstrates that the decommissioning phases of the Proposed Development and other projects subject to cumulative effects assessment were considered as an integral part of both the intra-project and inter-project assessments. As a consequence, the ExA is satisfied that the cumulative effects of decommissioning have been adequately addressed.
- 3.14.15. R16 of the Applicant's final dDCO [REP8-004] requires the approval by the relevant planning authority of a written scheme of decommissioning prior to any decommissioning of the authorised development taking place. This secures the future assessment of effects at a time contemporaneous to any decommissioning, whenever that might be. Responding to ExQ1 5.4.13, the Applicant explained that a future written scheme of decommissioning would be expected to cover matters including: the current baseline/ site characteristics; anticipated programme of decommissioning; decommissioning methodology; further environmental assessment as necessary including surveys and mitigation; and land reinstatement/ restoration [REP2-038]. Under the provisions of R16, the written scheme must be submitted at least six months prior to any decommissioning works and the process

for the discharge of Requirements set out in Schedule 4 of the Applicant's final dDCO would apply to any such approvals.

- 3.14.16. The ExA considers that R16 is a reasonable and proportionate mechanism by which to secure future approvals for any decommissioning activity. On the basis of this Requirement, and noting that no concerns were raised during the Examination and no disagreement is recorded in any of the final SoCGs regarding the Applicant's methodological approach, the ExA concludes that the Applicant has adequately assessed the effects of decommissioning and that these would be no greater than for any of the specific construction-based effects.
- 3.14.17. Taking all of this into account, the ExA concludes that the decommissioning effects of the Proposed Development would not weigh for or against the making of the Order.

### **Contaminated Land, Geology and Ground Conditions**

- 3.14.18. Para 4.10.3 of NPS EN-1 advises that "*In considering an application for development consent, the [decision maker] should focus on whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves.*"
- 3.14.19. Draft NPS EN-1 (March 2023), which is an important and relevant consideration, indicates a continuation of policy relating to the assessment of effects on contaminated land, geology and ground conditions.
- 3.14.20. Potential issues surrounding the ability to deal with any unexpected areas of contamination were raised by the joint local authorities, that have now become NYC, in [RR-018], [RR-019] [RR-032] and [RR-034]. In response to ExQ1 6.0.8 [PD-007] the Applicant contended in [REP2-038] that as set out in the CoCP and Table 10.9 of ES Chapter 10, should any unexpected contamination be encountered then works would be stopped and a risk assessment carried out that would include testing, and which would be used to inform any remediation or additional protection measures. The ExA is content that these measures would be appropriate and have been adequately secured in R12 of the Applicant's final dDCO [REP8-004].
- 3.14.21. The CoCP [REP7-042] contains a number of relevant good practice measures including:
- the requirement for all fuels, chemicals and oils to be stored within bunded areas;
  - the use of contractor(s) Risk Assessment Method Statements; and
  - all earthworks and material movements to be conducted under appropriate environmental permits, exemptions or in accordance with CL:AIRE, 2011, The Definition of Waste: Development Industry Code of Practice Version 2.
- 3.14.22. Furthermore, R12 of the Applicant's final dDCO [REP8-004] requires the further identification of the extent of any contamination and the submission of proposed remedial measures.

### **Minerals Resources and Safeguarding**

- 3.14.23. Para 5.10.9 of NPS EN-1 guides that applicants should safeguard mineral resources, "*as far as possible, taking into account the long-term potential of the land after decommissioning has taken place.*"



- 3.14.24. The Applicant submitted a Mineral Resource Assessment [APP-211] to accompany the application. The Mineral Resource Assessment notes that the Proposed Development is located in a Mineral Safeguarding Area for limestone, sandstone, brick clay and building stone. However, the Applicant considered that due to their size and the location of existing infrastructure the minerals deposits had already been sterilised and it was highly unlikely that they would be worked in the absence of the Proposed Development. As a result, the Applicant concluded that notwithstanding the Proposed Development's location within a Mineral Safeguarding Area there was no potential value for the minerals present as they could not be worked economically. The Applicant's findings in [APP-211] were not disputed by any of the IPs.
- 3.14.25. NYC in [REP1-056] noted that part of the Proposed Development would be within 250m of an active quarry but since power lines were already present in the vicinity then there would be no new sterilisation of minerals resources.
- 3.14.26. The ExA has not been presented with any evidence to dispute the Applicant's assertion that any minerals resources that existed would not be economically viable to extract and that they had in effect already been sterilised. Consequently, the ExA considers that the Proposed Development would not give rise to any significant adverse effects on minerals resources or mineral safeguarding areas.

### **Waste Management**

- 3.14.27. Para 5.14.2 of NPS EN-1 makes reference to the waste hierarchy and para 5.14.6 requires that the applicant should prepare a Site Waste Management Plan. The decision-maker should consider whether the applicant has proposed an effective system for managing hazardous and non-hazardous waste (para 5.14.7 of NPS EN-1).
- 3.14.28. In the Planning Statement [APP-202] the Applicant noted that hazardous waste had been scoped out as an ES assessment topic. In the Applicant's final dDCO [REP8-004] R6(1)(f) requires the submission of a Site Waste Management Plan.
- 3.14.29. The ExA is aware that objections have not been received from any IPs about waste management matters. The ExA has no reason to disagree with this and we consider that the Site Waste Management Plan would adequately secure waste management objectives including the application of waste hierarchy principles. Consequently, the ExA concludes that the Proposed Development would accord with NPS EN-1 in regard to waste management.

### **Civil and Military Aviation and Defence Interests**

- 3.14.30. For the consideration of civil and military aviation and defence interests para 5.4.14 of NPS EN-1 states that the decision-maker: *"should be satisfied that the effects on civil and military aerodromes, aviation technical sites and other defence assets have been addressed by the applicant and that any necessary assessment of the proposal on aviation or defence interests has been carried out."*
- 3.14.31. In its Planning Statement [APP-202] the Applicant recorded that: *"Following consultation, the MOD has confirmed that the development will have no detriment to the operation of their technical asset, and as such MOD has no concerns at this point regarding the physical form of the development."*
- 3.14.32. *National Grid also consulted the National Air Traffic Service (NATS), who confirmed they had examined the Project from a technical safeguarding aspect and concluded*

*it does not conflict with their safeguarding criteria.*” In [RR-027] NATS reported that it did not operate any infrastructure in the vicinity of the area of the Proposed Development and therefore did not anticipate any impacts from it.

- 3.14.33. Based on the Applicant's comments in [APP-202] and the response from NATS in [RR-027] the ExA considers that the Proposed Development would not have any adverse effects on civil and military aviation and defence interests. Therefore, the ExA concludes that the Proposed Development would comply with NPS EN-1 in this regard.

### **Major Accidents and Disasters**

- 3.14.34. Paragraph 4.11.1 of NPS EN-1 advises that the Health and Safety Executive (HSE) is responsible for enforcing a range of legislation, some of which is relevant to energy infrastructure. Applicants are advised to consult with HSE on matters relating to safety.
- 3.14.35. The Applicant's Scoping Report, as referenced in the Planning Inspectorate's Scoping Opinion [APP-105], concluded that significant effects arising from major accidents and disasters were not considered likely and it was proposed that this aspect be scoped out of the ES.
- 3.14.36. In Appendix 1 of [APP-105] the HSE commented that: *“based on the information provided in ... the EIA Scoping Report it is unlikely that HSE would advise against the development.”* Also, in Appendix 1 of [APP-105] the Coal Authority commented that it had no objections to the Proposed Development.
- 3.14.37. The Planning Inspectorate's Scoping Opinion [APP-105] noted the response that had been received from the HSE in relation to the Proposed Development falling within the Consultation Zones of a number of Major Accident Hazard Pipelines (MAHP), and stated therefore that the Applicant should make the relevant approaches to the relevant pipeline operators. The Applicant responded to this in paragraphs 4.7.54 to 4.7.62 of ES Chapter 4 [APP-076] confirming that risks associated with these hazards would be managed through risk assessment under the Construction (Design and Management) Regulations 2015 and the CoCP [APP-095] (now [REP7-042]).
- 3.14.38. In paragraph 4.7.56 of ES Chapter 4 [APP-076] the Applicant notes that the Proposed Development would fall within the Consultation Zones of a number of MAHPs. The Applicant states in [APP-076] that where the Proposed Development would be in close proximity to underground utility systems, relevant Protective Provisions (PP) would be included in the DCO.
- 3.14.39. The Applicant engaged with two gas pipeline operators; Northern Gas Networks (NGN) and National Gas Transmission plc (NGT), evidenced by D1 SoCGs [REP1-040] and [REP1-039], showing liaison had commenced in June 2022 and August 2022 respectively. Both Statutory Undertakers (SU) engaged during the Examination with final positions in updated SoCGs [REP8-019] and [REP8-017].
- 3.14.40. NGN submitted an objection, which was not withdrawn, on the basis that it had a number of gas assets in the vicinity of some of the Proposed Development, one of which at least is recorded as a MAHP with the HSE [PDA-004]. The Proposed Development would include the diversion of a NGN medium pressure gas pipeline in the vicinity of the Tadcaster CSECs. Although the objection was not withdrawn, PPs for the benefit of NGN were agreed with the Applicant at the end of the

Examination. These form Part 8 of Schedule 15 in the Applicant's final dDCO [REP8-004]. There were no outstanding matters or matters not agreed between the parties in the final SoCG [REP8-019].

- 3.14.41. Turning to NGT, the position at the end of the Examination was that its objection [RR-028] had not been withdrawn and there were outstanding areas of disagreement over the wording of some of the PPs for the benefit of NGT [REP8-017] and [REP8-026]. The Proposed Development would involve rights over land where seven crossings of NGT's high-pressure gas pipeline apparatus are situated. The Applicant argued that the crossings would present minimal interference and a low risk to NGT's apparatus because they would be non-intrusive [REP5-088].
- 3.14.42. NGT accepted that the Proposed Development would not propose to break the surface of the land over which NGT has rights and under which NGT operates MAHPs, but it had considerable concerns over the risks posed to its apparatus should any accidents occur. This is because without there being suitable measures in place, catastrophic consequences could arise should any accidental damage be caused to its MAHP. NGT summarised the interaction between the authorised development and the MAHPs as "*low risk, high severity*" [REP7-089].
- 3.14.43. NGT considered it wholly inappropriate for these activities to be carried out over NGT's land without the Applicant first agreeing to NGT's PPs [REP6-073]. The Applicant's proposed PPs are included in Part 7 of Schedule 15 of its final dDCO [REP8-004]. The detail of the differences between parties regarding the wording on PPs and the ExA's recommendations in this regard are reported in Chapter 6 of this Recommendation and contained in the ExA's rDCO. Providing our recommended wording is included, (or the SoS is made aware of other agreed wording from the two parties for the PPs to protect NGT's undertaking), we are content that the potential risk arising from the MAHP crossings would be adequately protected against major accidents and disasters.
- 3.14.44. The Applicant had also submitted extracts from Unexploded Ordnance (UXO) Reports [APP-141] to accompany the application which indicate that for the proposed Overton and Monk Fryston Substation sites the potential for unexploded ordnance to exist is considered "*unlikely*" and no further action is required to address UXO risk at the study site.

## Conclusions

- 3.14.45. The final SoCGs with CYC [REP5-033], LCC [REP7-028], NYC [REP7-083] and the EA [REP7-030] did not raise any concerns regarding the following issues:
- Contaminated land, geology and ground conditions;
  - Minerals resources and safeguarding;
  - Waste management;
  - Civil and military aviation and defence interests; and
  - Major accidents and disasters.
- 3.14.46. Taking this into account the ExA concludes that the Proposed Development would comply with NPS EN-1 in regard to all of these matters. Therefore, the ExA concludes that the effects of the Proposed Development for contaminated land, geology and ground conditions, minerals resources and safeguarding, waste management, civil and military aviation and defence interests, and major accidents and disasters would not weigh for or against the Order being made.

## 3.15. CUMULATIVE EFFECTS

### Introduction

- 3.15.1. This Section considers the potential cumulative effects of the Proposed Development. Cumulative effects in this context covers both:
- the accumulation of, and interrelationship between, effects arising from the Proposed Development; and
  - interactions between the effects of the Proposed Development and the effects of other existing and approved projects.

### Policy Considerations

- 3.15.2. The EIA Regulations, schedule 4, para 5 require that an ES should include “a description of the likely significant effects on the environment resulting from, *inter alia*, (e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources”.
- 3.15.3. The assessment of cumulative effects as set out in NPS EN-1 and NPS EN-5, requires from the Applicant:
- information on how the effects of the proposed development would combine and interact with the effects of other development (including projects for which consent has been sought or granted and projects already in existence) (NPS EN-1, para 4.2.5); and
  - consideration of cumulative landscape and visual impacts where new overhead lines are required along with other related developments such as substations (NPS EN-5, para 2.8.2).
- 3.15.4. In reaching a decision the SoS should consider:
- how the accumulation of, and interrelationship between, effects might affect the environment, economy or community as a whole, even though they may be acceptable when considered on an individual basis with mitigation measures in place (NPS EN-1, para 4.1.3 and 4.2.6); and
  - the cumulative effects on health (NPS EN-1, para 4.13.2), pollution control (NPS EN-1, para 4.10.7), aviation and defence interests (NPS EN-1, para 5.4.12), flood risk (NPS EN-1, para 5.7.5) and in relation to socio-economic considerations (NPS EN-1, para 5.12.3).
- 3.15.5. Draft NPS EN-1 (March 2023) para 4.1.5 and 4.2.19, which is an important and relevant consideration for the purposes of this Recommendation, retains this emphasis on taking account of any cumulative adverse impacts arising from proposals. The Planning Inspectorate’s Advice Note 17 provides advice about the cumulative effects assessment approach that applicants may wish to adopt for NSIPs.
- 3.15.6. The Applicant summarises the legislation and policy that it considers to be relevant to the consideration of cumulative effects in ES Chapter 18 [APP-090], Tables 18.1 and 18.2. No specific development plan policies relevant to cumulative effects are highlighted in the LIRs from CYC [REP1-047], LCC [REP1-053] or NYC [REP1-056], although the ExA has had regard to the local policies identified in the LIRs to the extent that they apply to the effects discussed in this Section.

## The Application

3.15.7. The Applicant's assessment of cumulative effects arising from the Proposed Development is presented in ES Chapter 18 [APP-090]. At the point of application, this was supported by a Long List of Other Developments [APP-161] and Cumulative Effects Figures [APP-194].

3.15.8. ES Chapter 18 [APP-090] divides the consideration of cumulative effects into two main areas:

- the combined effects of the Proposed Development on any given receptor or group of receptors (referred to as "*intra-project effects*"); and
- the interactions between the effects of the Proposed Development and the effects of other projects (referred to as "*inter-project effects*").

3.15.9. The assessment takes account of the embedded mitigation measures secured as part of the Proposed Development and where relevant, any mitigation forming part of the other developments.

### Intra-project effects

3.15.10. In terms of intra-project effects, ES Chapter 18 [APP-090], Table 18.12 summarises the Applicant's assessment of significance upon identified receptors, based on the methodology described in Section 18.5 of the same Chapter. The assessment concludes that significant cumulative effects would be likely to arise at the following receptors as a result of the Proposed Development:

- Woodstock Lodge Wedding Venue near Shipton-by-Beningbrough, during construction and operation stages, due to the combination of significant visual and socio-economic effects; and
- the Travellers' Site at the junction of the A1(M) and the A63 near Monk Fryston, due to the accumulation of different types of noise and vibration effects and visual effects during the construction stage.

3.15.11. An In-combination Climate Change Impact assessment [APP-089], Table 17.28 concludes that with the embedded environmental measures in place, there would be no significant in-combination climate change effects.

### Inter-project effects

3.15.12. In assessing inter-project effects, the Applicant undertook a two-stage process described in ES Chapter 18 [APP-090], Section 18.4 which involved identifying a long list of other developments [APP-161] and then refining this to identify a short list of 24 developments to be taken forward for cumulative effects assessment [APP-090], Table 18.9.

3.15.13. The assessment concludes that there is the potential for significant effects to occur when the Proposed Development is considered cumulatively with the following other developments:

- a proposed battery storage scheme on Rawfield Lane, near the proposed Monk Fryston Substation (Applicant's reference ID40), due to cumulative visual effects from the nearby PRow;
- a proposed mineral extraction development at Lumby Quarry, near Monk Fryston (Applicant's reference ID109), due to the combined effects on biodiversity in the short term; and

- the combined effects of all of the development considered together with the Proposed Development as a result of the loss of BMV land and loss of soil resources.

### **Issues Considered During the Examination**

3.15.14. During the Examination, ES Chapter 18 was subject to:

- minor amendments and clarifications, captured in the final ES Errata Document [REP7-003]; and
- substantive amendments, captured in the final consolidated ES Addendum [REP7-005], Section 5.

3.15.15. The Cumulative Effects Figures were updated during the Examination, the latest version being [REP3-013]. Also updated during the Examination was the Applicant's Long List of Other Developments, the latest version of which is [REP7-007].

### **Intra-project effects**

3.15.16. The main issues in respect of intra-project effects related to the potential accumulation of adverse effects of the Proposed Development on the following receptors:

- occupiers of the Travellers' Site at the junction of the A1(M) and the A63;
- Woodstock Lodge Wedding Venue; and
- landowners and occupiers in the vicinity of Work No.8 near Tadcaster.

#### *Occupiers of the Travellers' Site*

3.15.17. Proposed Work No.10, which involves dismantling the existing XC overhead line and installing a new overhead line slightly west of the existing line, would pass through land currently occupied by a group of travellers at the junction of the A1(M) and the A63 near Lumby.

3.15.18. ES Chapter 18 [APP-090] concludes that whilst individually the different types of construction noise and vibration effects on occupiers of the site would not be significant, when considered cumulatively a significant adverse effect during the construction period is likely. This assessment was supplemented during the Examination by the ES Addendum [REP7-005] which concluded that significant adverse visual effects would also arise for residents of the Travellers' Site during the construction phase, although this was not judged to alter the original finding of significant cumulative adverse effects during construction.

3.15.19. On our ASI [EV-001b], we spent time at the Travellers' Site and the surrounding land understanding the nature of the proposed works and the proximity to the people living there. We probed the matter through written questions ExQ1 1.0.5, 2.0.5, 11.4.2, 13.0.2 [PD-005] and ExQ2 4.5.1, 4.5.2, 11.1.3 [PD-011]. The Applicant provided a composite plan of the area to assist in illustrating the nature of proposed works in more detail [REP2-039], Appendix A (Figure 3.4.1 of this Recommendation).

3.15.20. We also examined this issue orally at ISH2 [EV-005] and ISH4 [EV-009]. We were assisted by the verbal submissions of Mr Carruthers [EV-005b] [EV-005d] [EV-005f], acting on behalf of the traveller community on the site. On the basis of this evidence, it is clear to the ExA that due to the very close proximity of the proposed works to the caravans of site occupiers and the nature of the construction works, a

significant accumulation of adverse effects is likely to arise for the residents of the site.

- 3.15.21. As reported in earlier Sections of this Chapter, discussions during the Examination resulted in the insertion of a new Requirement (19) into the dDCO [REP8-004]. The Requirement stipulates that Work No. 10 must be carried out in accordance with a site specific scheme that mitigates the construction impacts (in terms of noise, dust, vibration and visual effects) and which has been approved by the relevant planning authority (North Yorkshire Council) prior to commencement of those works. The Requirement also specifies that the scheme must include the approach to liaison with the traveller community during the construction period, and the Applicant's commitments regarding liaison with residents of the Travellers' Site are set out in the final CoCP [REP7-042] para 2.2.12, pursuant to Requirement 5(2)(a) of the final dDCO [REP8-004].
- 3.15.22. The ExA is content that Requirement 19 and the CoCP together provide an effective additional mechanism for the control of cumulative construction effects and communication with residents on the site which is necessary in light of the potentially significant accumulation of adverse effects in this location and of the protected characteristics of the receptor group.
- 3.15.23. We therefore find that the cumulative effects for occupiers of the Travellers' Site have been satisfactorily assessed and that whilst a significant accumulation of adverse construction effects cannot be avoided entirely, the proposed mitigation would be effective in minimising those effects as far as reasonably possible.

#### *Woodstock Lodge Wedding Venue*

- 3.15.24. Turning to Woodstock Lodge Wedding Venue, ES Chapter 18 [APP-090] identifies the potential for significant adverse effects during construction and operation stages due to the combination of significant visual and socio-economic effects. The ExA asked written questions about the potential accumulation of visual and socio-economic effects arising from the Proposed Development in ExQ1 1.2.3 and 11.3.1 [PD-007] and observed the location of the venue relative to the proposed works on our ASI [EV-001b]. In broad terms, we accept the conclusions of ES Chapter 18 [APP-090], para 18.7.3 in relation to the likely effects arising for this receptor.
- 3.15.25. As discussed in more detail in Sections 3.4 and 3.8 of this Recommendation, the Applicant submits that it and the owners of Woodstock Lodge reached a private agreement during the Examination to enable the installation and maintenance of enhancement planting outside of the Order limits. The purpose of this planting would be to screen views toward the proposed new overhead lines to the east and south of Woodstock Lodge, seeking to address adverse visual effects on its users and reduce socio-economic effects on the wedding venue business [REP7-039], para 12.1.12.
- 3.15.26. The content of the private agreement is not before the ExA. However, we have been provided with details of the nature and location of the proposed enhancement planting [REP2-038] [REP2-039] Appendix B. We also met the owner on site during our ASI and he pointed out the proposed location for the planting. As discussed in Sections 3.4 and 3.8 of this Recommendation, we see no reason not to accept the Applicant's statement that an agreement has been signed to address the installation and maintenance of planting.

3.15.27. We are satisfied that the off-site planting would provide suitable screening of views from key locations at the wedding venue and as such, would assist in reducing the combined effects on Woodstock Lodge as a business and its users as visual receptors. For the reasons set out above, we have a high level of confidence that the off-site planting would be delivered to a mutually acceptable standard. However, since the planting is not secured by the Order or any other mechanism that is before us, we are unable to fully rely upon it for the purposes of this Recommendation.

3.15.28. Therefore, it is the ExA's view that the accumulation of adverse effects at Woodstock Lodge has been properly considered and whilst a private agreement is likely to minimise these effects, in its absence significant adverse cumulative effects would arise.

#### *Work No.8 near Tadcaster*

3.15.29. Whilst not identified in ES Chapter 18 [APP-090] as being subject to significant cumulative effects, the ExA's consideration of accumulated effects also included the users of land in the vicinity of Work No.8 near Tadcaster. Due to the complex nature of the proposed works in this location, we explored the potential for combined effects at ISH1 [EV-003], after which the Applicant submitted a detailed description of the evolution of the project design in this area [REP1-017], Table 2.3 and an illustrative composite plan of the area [REP2-037], Appendix A to aid understanding. We also observed the site and its surroundings on our USI [EV-001] and our ASI [EV-001b].

3.15.30. On the basis of the submitted evidence, which includes the submissions of the main landowners in this location [RR-006] [RR-013] [PDA-001] [REP2-054] [REP2-055] [REP2-056] [REP5-100] [REP6-068], we are satisfied that the finding in ES Chapter 18 [APP-090] that no significant cumulative effects would be likely to arise in this location is robust. The ExA's detailed consideration of the acquisition of land and rights in this area is contained in Chapter 6 of this Recommendation.

#### **Inter-project effects**

3.15.31. The main issues in respect of inter-project effects related to the following matters:

- the status and known details of other planned projects with which cumulative effects may arise;
- measures to minimise significant cumulative effects, where they are likely to arise; and
- other cumulative considerations stipulated by NPS EN-1 and NPS EN-5.

#### *Status of other planned projects*

3.15.32. As described earlier in this Section, ES Chapter 18 [APP-090] identifies the potential for significant cumulative effects to arise when the Proposed Development is considered alongside a proposed battery storage scheme on Rawfield Lane and a proposed mineral extraction development at Lumby Quarry, both in the vicinity of the proposed Monk Fryston Substation. It also identifies significant cumulative effects arising from the combined effects of the Proposed Development with all of the other short-listed developments as a result of loss of BMV land and soil resources.

3.15.33. In response to ExQ1 1.2.2 [PD-007], both CYC [REP2-057] and LCC [REP2-076] confirmed that they were content with the projects short-listed for inclusion in the cumulative effects assessment and identified no additional other developments.



NYC [REP2-083] identified two additional projects that it deemed should be included. In responding to these submissions, the Applicant noted that the first development had been included in the Cumulative Effects Long List and the second formed part of the environmental baseline [REP3-031], Table 2.6.

- 3.15.34. Responding to ExQ1 1.2.4 [PD-007], the Applicant confirmed that since submission of the application, planning permission had been granted on appeal for the battery storage project adjacent to the proposed substation at Monk Fryston [REP2-038]. Copies of plans and the appeal decision were submitted [REP2-039], Appendices C and D. The Applicant confirmed that there was no change to the cumulative effects assessment [APP-090] as a result of permission being granted. Since the assessment was undertaken on the reasonable worst-case assumption that permission would be granted, the ExA accepts the Applicant's position in this regard.
- 3.15.35. In its response to ExQ1 1.2.5 [PD-007], the Applicant reported that the planning application for the proposed mineral extraction development at Lumby Quarry had not yet been determined by NYC [REP2-038]. This position remained unchanged at the end of the Examination. A plan showing the Lumby Quarry application site overlaid with the Order limits for the Proposed Development is contained in [REP2-039], Appendix E.
- 3.15.36. During the Examination, ExQ1 1.2.1 [PD-007] prompted the submission of an updated inter-project assessment in the ES Addendum [REP3-010], Section 3 which was subject to further review in a final consolidated document prior to the closure of the Examination [REP7-005]. The final consolidated ES Addendum supplements the submitted ES Chapter 18 [APP-090] and should be read alongside it. The ES Addendum [REP7-005] adds 11 further projects to the updated Long List of Other Developments [REP7-007], of which two were taken forward for cumulative effects assessment ([REP7-005], Table 5.1). The locations of the short-listed projects are shown on the updated Cumulative Effects Figure 18.1(B) [REP3-013].
- 3.15.37. Following cumulative assessment, the ES Addendum [REP7-005] identifies one of those projects, a solar photovoltaic and battery storage scheme with substation at Nether Poppleton (ID136), as a further development with which significant cumulative landscape and visual effects are likely to arise. These effects would arise during the construction phase and therefore be temporary in nature (up to two years). An assessment of likely cumulative landscape and visual effects arising from that project, which was at EIA Screening stage at the closure of Examination, is set out in [REP7-005], Table 5.2.
- 3.15.38. The second project shortlisted in the ES Addendum [REP7-005] is a proposed residential development comprising 500 dwellings and public open space at Kelbar Hill, Tadcaster (ID135). The proposed site would overlap with the Order limits for the Proposed Development. Whilst that project does not change the conclusion of the original cumulative effects assessment [APP-090], it would result in further permanent loss of agricultural land and soil resource, contributing to the significant adverse cumulative effect identified in this respect.
- 3.15.39. The final ES Addendum [REP7-005], Section 3.3 also includes an assessment of the potential cumulative effects with the Travellers' Site at the junction of the A1(M) and A63 and found there to be no change to the conclusions of ES Chapter 18 [APP-090] in this regard. The ExA has seen no evidence to contradict this finding.

- 3.15.40. The ExA examined the updated cumulative effects assessment orally at ISH2 [EV-005] and was broadly content with the Applicant's approach. At ISH2, LCC and NYC drew our attention to additional other developments that they considered may need to be included in the cumulative assessment and the Applicant responded to these submissions in [REP4-026]. In response to ExQ2 1.2.1 [PD-011], both Councils [REP5-107] [REP5-117] confirmed that they were content with the Applicant's explanation. By the end of the Examination, there were no outstanding issues raised by any of the Councils in relation to cumulative effects [REP5-033] [REP7-028] [REP7-083].
- 3.15.41. Having considered all of the above evidence, the ExA is satisfied that the Applicant has undertaken a robust assessment of cumulative effects and had due regard to the status of other planned projects. We accept its conclusions on the significance of any residual effects.

*Measures to minimise significant cumulative effects*

- 3.15.42. ES Chapter 18 [APP-090] identifies major adverse cumulative visual effects that would be significant for users of the nearby public footpath (VP23) as a result of the combined effects of the Proposed Development and the proposed battery storage scheme on Rawfield Lane. The ExA walked the footpath in question (between Rawfield Lane and the A162) and observed the respective sites from VP23 during our USI [EV-001]. Our observations validated the Applicant's position that, *"(f)ollowing the growth of mitigation planting along the southern boundary of the battery storage scheme the views of the Project and the majority of the closer battery storage scheme would be screened from the public footpath"* [REP2-038]. On the basis that the proposed battery storage scheme has obtained planning permission with that boundary planting secured by condition, the ExA is content that the significant cumulative effects identified in ES Chapter 18 will be minimised.
- 3.15.43. ES Chapter 18 [APP-090] also identifies significant cumulative effects arising as a result of potential interactions between the Proposed Development and the proposed mineral extraction development at Lumby Quarry due to the combined effects on biodiversity in the short term. The assessment is updated in the ES Addendum [REP7-005], Section 5.3. These potential effects arise because some areas of the Lumby Quarry boundary planting along the A63 may need to be temporarily removed to facilitate the construction of Work No. 10 (as shown on [REP2-039], Appendix E).
- 3.15.44. The ExA probed this matter in ExQ1 1.2.5 [PD-007] and at ISH2 [EV-005]. In its submissions, the Applicant demonstrated engagement with the agent progressing the Lumby Quarry application [REP2-038]. Extracts of documents submitted in support of the Quarry application indicate that there would be sufficient flexibility in the plans to enable the two projects to work around one another where there is physical overlap in the site boundaries and a degree of willingness to do so, although we have no direct evidence from the Lumby Quarry promoters before us.
- 3.15.45. The ExA accepts that since the Lumby Quarry application remained undetermined at the closure of the Examination, there is some uncertainty as to whether permission will be granted, and if it is, when that permission would be implemented. In this context, we consider that the Applicant has made reasonable efforts to plan for the various scenarios that might arise in terms of the sequencing of construction works for the Proposed Development relative to proposed advance planting and extraction works at the Quarry.

- 3.15.46. No specific commitment to prevent removal of boundary planting for the Quarry site has been secured in the dDCO or construction management plans. However, we note that in the absence of a decision in respect of the Quarry application by the end of the Examination, it is unlikely that advance planting for that scheme would be implemented prior to work commencing on the Proposed Development. Given these circumstances, the ExA considers that adequate measures are secured via Sections 3 and 4 of the Biodiversity Mitigation Strategy [REP6-039] and the CoCP [REP7-042] to ensure that as the design is refined at the post-consent stage, the loss of planting would be minimised for example through negotiation on sequencing of works with the Quarry developer and careful micro-siting of pulling equipment for overhead line works in this location. Consequently, the ExA is satisfied that the significant cumulative effects identified in respect of this issue can be reduced or potentially avoided by careful construction management.
- 3.15.47. Turning to the cumulative effects in terms of agriculture and soils, ES Chapter 18 [APP-090] identifies significant adverse effects in respect of the loss of BMV land and loss of soil resources when the Proposed Development is considered together with other developments listed in ES Chapter 18 [APP-090], Table 18.11. This assessment is amended by the ES Addendum [REP7-005], Table 5.1 which identifies further permanent and long term temporary loss of agricultural land arising from projects ID135 and ID136. We note, however, that these projects are at the EIA scoping and screening stages and therefore considerable uncertainty exists about whether or not they will be delivered. No significant adverse effect in terms of damage to soil resources is identified.
- 3.15.48. The ExA notes that the Proposed Development alone would give rise to permanent loss of between 5 and 20 ha of agricultural land classified as Grades 2 – Subgrade 3b, with the permanent loss of the food production soil function, which ES Chapter 11 [APP-083] finds to be a significant adverse effect. This contributes to the cumulative totals of BMV and non-BMV agricultural land identified in ES Chapter 18 [APP-090], para 18.6.57. Those totals were updated by Table 5.3 of the ES Addendum [REP7-005] to take account of projects ID135 and ID136.
- 3.15.49. ES Chapter 11 [APP-083], Table 11.15 states that minimising permanent loss of agricultural land including BMV was a factor in the route design, however permanent loss of such land could not be avoided completely. The ExA acknowledges that due to the scale and nature of the proposed works and the locational constraints in grid reinforcement projects (as discussed in Sections 3.2 and 3.3 of this Chapter), permanent loss of agricultural land is unavoidable. Nonetheless, the significant cumulative adverse effects in terms of loss of agricultural land are factors that weigh against the making of the Order.
- 3.15.50. The ExA notes that the Proposed Development alone is not assessed to give rise to significant adverse effects in terms of loss of soil resources [APP-083] due to the embedded soil management measures, but since equivalent measures cannot be confirmed for the other developments, a significant adverse effect cumulatively is identified. The ExA considers that whilst this must be the case, reasonable measures (most notably through the Outline Soil Management Plan [REP2-022] and CoCP [REP7-042]) are secured to minimise the contribution of the Proposed Development to the cumulative total of soil loss.

*Other cumulative considerations stipulated by NPS EN-1 and NPS EN-5*

- 3.15.51. As required in para 2.8.2 of NPS EN-5, ES Chapter 18 [APP-090] sets out a robust consideration of cumulative landscape and visual impacts where new overhead

lines are required along with other related development, in para 18.6.5 to 18.6.16 for inter-project effects and in Table 18.12 for intra-project effects.

- 3.15.52. The Applicant's Report on Proposed Changes [REP5-091] concludes that there would be no change to the cumulative effects assessment as a result of the three changes accepted by the ExA during the Examination [PD-013]. Having regard to the relatively minor scale and highly localised nature of the three changes, the ExA accepts this conclusion.
- 3.15.53. In terms of the other specific requirements to consider cumulative effects in NPS EN-1, the ExA notes the following:
- cumulative effects on human health, as required by para 4.13.2 of NPS EN-1, are assessed in para 18.6.62 to 18.6.66 ("*air quality*") and 18.6.79 to 18.6.81 ("*health*") of ES Chapter 18 [APP-090];
  - cumulative effects of pollution, as required by para 4.10.7 of NPS EN-1, are considered in para 18.6.50 to 18.6.51 of ES Chapter 18 [APP-090];
  - cumulative effects relating to flood risk, as required by para 5.7.5 of NPS EN-1, are set out in para 18.6.50 to 18.6.51 of ES Chapter 18 [APP-090];
  - cumulative effects relevant to socio-economic considerations, for example workforce availability, as required by para 5.12.3 of NPS EN-1, are considered in para 18.6.82 to 18.6.92 of ES Chapter 18 [APP-090]; and
  - cumulative effects in relation to aviation and defence, as required by para 5.4.12 of NPS EN-1, are not considered in ES Chapter 18 [APP-090] because this topic was scoped out at the EIA scoping stage as part of major accidents and disasters.
- 3.15.54. Neither the CYC LIR [REP1-047] or LCC LIR [REP1-053] raised any specific matters relating to the Applicant's consideration of cumulative effects. The NYC LIR [REP1-056] raised one specific point in relation to the Applicant's approach to assessing Green Belt effects and the need to consider the Proposed Development in the context of other proposed projects in the Monk Fryston area when assessing the impact on openness. This matter is dealt with in Section 3.9 of this Chapter. By the end of the Examination, agreement on the Applicant's cumulative effects assessment methodology and conclusions was confirmed by CYC [REP5-033], LCC [REP7-028] and NYC [REP7-083].

## Conclusions

### Intra-project effects

- 3.15.55. The ExA is satisfied that the potential intra-project effects arising from the accumulation of various effects of the Proposed Development have been adequately assessed. Cumulative effects for occupiers of the Travellers' Site have been satisfactorily assessed and whilst a significant accumulation of adverse construction effects cannot be avoided entirely, the proposed mitigation (which includes Requirement 19 of the Applicant's final dDCO [REP8-004]) would be effective in minimising those effects as far as reasonably possible.
- 3.15.56. The accumulation of adverse effects at Woodstock Lodge has been properly considered and whilst a private agreement seeks to minimise those effects, significant cumulative effects would arise due to the combination of visual and socio-economic effects. In respect of receptors in the vicinity of Work No. 8 near Tadcaster, the ExA accepts the finding in ES Chapter 18 [APP-090] that no significant cumulative effects would be likely to arise in this location. We are therefore satisfied that the tests in NPS EN-1, para 4.2.6 are met.

### **Inter-project effects**

- 3.15.57. The ExA is satisfied that the Applicant's inter-project assessment, as set out in ES Chapter 18 [APP-090] together with the final consolidated ES Addendum [REP7-005] and final consolidated ES Errata [REP7-003], provides sufficient up-to-date information to understand how the effects of the Proposed Development would combine and interact with the effects of other development, as required by the EIA Regulations and NPS EN-1.
- 3.15.58. Significant residual effects would arise in relation to the cumulative loss of agricultural land (including BMV land) and cumulative loss of soil resources. These are permanent effects. There would also be significant residual cumulative effects on biodiversity for a temporary period when considering the construction of the Proposed Development together with a proposed mineral extraction project at Lumby Quarry. Significant residual visual effects would arise as a result of the construction of the Proposed Development when considered cumulatively with a proposed battery storage scheme adjacent to the proposed Monk Fryston Substation.
- 3.15.59. In all cases, whilst significant adverse effects would not be avoided completely we have found that reasonable steps have been taken to avoid and minimise the magnitude of those effects where opportunities to do so exist. All other duties upon the Applicant to consider cumulative effects in respect of specific topics, as set out in NPS EN-1 and NPS EN-5, have been adequately executed.
- 3.15.60. Drawing together all of the above findings, we conclude that the Applicant's cumulative effects assessment (as amended during the Examination) fulfils the requirements of the EIA Regulations and meets the tests set out in NPS EN-1 and NPS EN-5. As some residual significant adverse cumulative effects remain after mitigation and having particular regard to the cumulative loss of agricultural land including BMV land and soil resources, the ExA considers that matters relating to cumulative effects attract moderate weight against the making of the Order.

## **4. SUMMARY OF FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT**

### **4.1. INTRODUCTION**

4.1.1. This chapter sets out a summary of the Examining Authority's (ExA) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). The ExA's full analysis of matters relevant to the HRA is presented in Annex C of this Recommendation.

4.1.2. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European sites and no reasonable scientific doubt remains.

4.1.3. The ExA has been mindful throughout the Examination of the need to ensure that the Secretary of State for Energy Security and Net Zero (SoS) has such information as may reasonably be required to carry out their duties as the Competent Authority. We have sought evidence from the Applicant and relevant Interested Parties (IPs), including Natural England (NE) as the Appropriate Nature Conservation Body (ANCB), through written questions and hearings.

#### **Report on the Implications for European Sites (RIES) and Consultation**

4.1.4. The ExA produced a Report on the Implications for European Sites (RIES) [PD-016] which compiled, documented, and signposted HRA-relevant information provided in the application and Examination representations. Consultation on the RIES took place between 16 August 2023 and 6 September 2023.

4.1.5. Our recommendation is that the RIES, and consultation on it, may be relied upon as an appropriate body of information to enable the SoS to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations, should the SoS wish to do so.

#### **Proposed Development Description and HRA Implications**

4.1.6. The Proposed Development, as described in Chapter 1 of this Recommendation, is not directly connected with, or necessary to, the management of a European site. Therefore, where making an appropriate assessment of the implications of the Proposed Development on potentially affected European sites, the SoS must do so in light of their Conservation Objectives.

4.1.7. The Applicant's assessment of effects is presented in a No Significant Effects Report (NSER) [AS-018]. No relevant HRA matters arose from the Change Application [REP5-090] accepted by the ExA on 13 July 2023. Only UK European sites are addressed in this Recommendation.

### **4.2. SUMMARY OF FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS (LSE)**

4.2.1. Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects.

## European sites within the UK National Site Network

4.2.2. The European sites and qualifying features considered in the Applicant's NSER [AS-018] are:

- Lower Derwent Valley Ramsar site: Criterion 1, 2, 4, 5 and 6;
- Lower Derwent Valley Special Protection Area (SPA): Bewick's swan, ruff, golden plover, teal, wigeon, shoveler (all non-breeding) and waterfowl assemblage;
- Lower Derwent Valley Special Area of Conservation (SAC): all qualifying features; and
- River Derwent SAC: all qualifying features.

4.2.3. The ExA sought clarification from the Applicant about its conclusions regarding screening out the Lower Derwent Valley SAC and River Derwent SAC from further assessment. We also sought confirmation from NE with regard to the Applicant's approach. For the reasons set out in the NSER [AS-018] and discussed in Annex C of this Recommendation, the ExA is content that the Lower Derwent Valley SAC and River Derwent SAC did not need to be considered in the HRA screening.

4.2.4. During the Examination, Yorkshire Wildlife Trust (YWT) [REP4-043] identified six additional UK European sites and qualifying features that it considered could potentially be affected during the operation of the Proposed Development from an increased strike risk with overhead lines on bird migration routes:

- North Norfolk Coast SPA: pink-footed goose;
- North Norfolk Coast Ramsar site: pink-footed goose (wintering) (part of Ramsar Criterion 6);
- Ouse Washes SPA: whooper swan;
- Ouse Washes Ramsar site: whooper swan (wintering) (part of Ramsar Criterion 6);
- The Wash SPA: pink-footed goose; and
- The Wash Ramsar site: pink-footed goose (wintering) (part of Ramsar Criterion 6).

4.2.5. The potential for LSE to these additional European sites and features is reported below.

### Likely significant effects from the Proposed Development alone

4.2.6. The impact pathways considered by the Applicant are listed in [AS-018], Section 5.3. Based on the information presented in [AS-018] and the relevant Examination submissions including those from NE, the ExA is satisfied that there would be no LSE from the Proposed Development alone to the Lower Derwent Valley SPA and Ramsar site.

4.2.7. In terms of the six additional European sites identified by YWT, the ExA examined the potential for increased strike risk on bird migration routes through both written questions [PD-007] and [PD-011] and hearings [EV-005].

4.2.8. The Proposed Development would result in minimal change from the existing overhead line crossings, with one replacement crossing circa 360m upstream on the River Ouse and reconductoring of existing overhead line at the River Wharfe. To summarise our findings:

- we were not presented with any firm evidence of bird collisions arising from the presence of the existing overhead lines crossing the Rivers Ouse and Wharfe;
- there is no evidence before us to indicate that significant numbers of whooper swan or pink-footed goose use the area around the rivers;
- no firm evidence has been provided that would indicate any whooper swan or pink-footed goose in the area originate from the European sites identified by YWT, and we note that those sites are more than 130km distant from the location of the replacement crossing at the River Ouse; and
- study evidence suggests during migration, geese and swans fly at heights considerably greater than the maximum height of the proposed pylons and associated overhead lines.

4.2.9. Considering all of the information provided, and the view of NE as ANCB [REP2-080] [AS-024], the ExA is content that the installation of the proposed overhead line crossing the River Ouse and reconductoring of overhead line at the River Wharfe would not result in LSE to the European sites and qualifying features identified by YWT and that embedded mitigation in the form of bird diverters is not required.

### **LSE from the Proposed Development In Combination**

4.2.10. The ExA is satisfied with the Applicant's approach to assessment of in-combination effects and agrees with the conclusion that there would be no LSE from in-combination effects arising from the Proposed Development and other plans and projects on the basis described in [AS-018].

## **4.3. SUMMARY OF HRA CONCLUSIONS**

4.3.1. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment in [AS-018], and that all potential impacts which could give rise to significant effects have been identified.

4.3.2. On the basis of the information provided, we are satisfied that the correct impact pathways on each site have been assessed. We are also satisfied with the approach to assessment of LSE, alone and in-combination.

4.3.3. For the reasons outlined in Annex C, the ExA is satisfied that there would be no LSE on the qualifying features of any European sites. We are also satisfied that there are other relevant measures secured by the Applicant's final Development Consent Order (dDCO) [REP8-004], and summarised in the Embedded Measures Schedule [REP6-035], which would minimise impacts to the European sites, but which have not been relied upon in reaching the conclusion of no LSE.

4.3.4. Overall, our findings are that the Proposed Development is not likely to have a significant effect on the qualifying features of the European sites listed in Tables C2.1 and C2.2 of Annex C of this Recommendation, when considered alone, or in combination with other plans or projects. We consider that there is sufficient information before the SoS to enable them to conclude that an appropriate assessment is not required.



## **5. THE CASE FOR MAKING A DEVELOPMENT CONSENT ORDER**

### **5.1. INTRODUCTION**

5.1.1. This Chapter sets out the Examining Authority's (ExA) overall assessment of the planning merits of the Proposed Development.

5.1.2. The Overarching National Policy Statement for Energy (NPS EN-1) and National Policy Statement for Electricity Networks Infrastructure (NPS EN-5), both designated in July 2011, provide the primary basis for the Secretary of State for Energy Security and Net Zero (SoS) to make decisions on development consent applications for electricity transmission Nationally Significant Infrastructure Projects (NSIPs) in England. The ExA's conclusions on the case for development consent are therefore reached within the context of the policies contained in these NPSs. In arriving at the conclusions set out in this Chapter, we have taken all other relevant law and policy into account. This includes relevant sections of the revised drafts of NPS EN-1 and NPS EN-5 published for consultation in March 2023 where these might be considered important and relevant. Our consideration of revised NPS EN-1 and revised NPS EN-5, published in November 2023, is set out in Chapter 8 of this Recommendation.

### **5.2. SUMMARY OF THE MAIN PLANNING ISSUES**

5.2.1. The ExA's findings in relation to the effects of the Proposed Development and its performance against relevant policy and legislation are summarised below, drawing on the analysis of planning and Habitats Regulations Assessment matters contained in Chapter 3 and Chapter 4 of this Recommendation.

5.2.2. In making our findings, we have given full consideration to the Local Impact Reports (LIRs) submitted by City of York Council (CYC) [REP1-047], Leeds City Council (LCC) [REP1-053] and North Yorkshire Council (NYC) [REP1-056]. The planning matters and potential effects raised in the LIRs are considered in the relevant Sections of Chapter 3.

#### **The Need for the Proposed Development**

5.2.3. The Applicant makes the case that significant reinforcement of the existing electricity transmission network in Yorkshire is required to transfer the increasing volume of electricity generation capacity in Scotland and the North of England to major centres of electricity demand in central and southern England. This includes the growth in offshore wind generation in the North Sea.

5.2.4. The Proposed Development would improve the resilience and capacity of the electricity transmission network in the Yorkshire region to meet forecast demand. It would also enable the connection of two major interconnectors (Continental Link and The Atlantic Super Connection) and the Hornsea Project Four Offshore Wind Farm.

5.2.5. In Section 3.2 of this Recommendation, we have found that there is an urgent and compelling need for the Proposed Development, which would provide extensive benefits at the national scale in terms of enhancing energy security and supporting the achievement of carbon reduction objectives in the UK. We have therefore found that the urgent need for the Proposed Development has been demonstrated in accordance with the provisions of NPS EN-1 and NPS EN-5.

- 5.2.6. Accordingly, we attach very great weight to the contribution that the Proposed Development would make toward the urgent need for new and reinforced electricity transmission network infrastructure identified in NPS EN-1.

### **Alternatives**

- 5.2.7. In Section 3.3 of this Recommendation, we have concluded that at a strategic level, the Applicant has adequately considered alternatives to the Proposed Development. Where matters arose during the Examination in relation to site-specific alternatives, for example in respect of alternative site access points and haul routes (as discussed in Section 3.7 of this Recommendation), we consider that they have been adequately addressed by the Applicant.
- 5.2.8. Overall, we consider that the legislative and policy requirements relating to the consideration of alternatives have been met. The Applicant has also demonstrated how it has had due regard to the Holford Rules and the Horlock Rules.
- 5.2.9. The consideration of alternatives has been sufficient for EIA purposes to enable site avoidance or mitigation in relation to environmental, biodiversity, flood risk, heritage and geological significance, as required by the relevant NPSs. All relevant due processes have been carried out. In Chapter 4 of this Recommendation, we conclude that alternatives do not need to be considered under the Habitats Directive because we recommend to the SoS that an appropriate assessment is not required.
- 5.2.10. Having regard to all of these findings, we conclude that there are no matters relating to the consideration of alternatives which would weigh for or against the Order being made.
- 5.2.11. The question of alternatives in the specific context of land rights matters is dealt with in Chapter 6 of this Recommendation.

### **Landscape and Visual**

- 5.2.12. In Section 3.4 of this Recommendation, we have found that the effects of the Proposed Development in landscape and visual terms have been adequately assessed. Significant adverse landscape and visual effects would arise during the construction stage. Whilst these effects are capable of reversal and in that sense temporary, we have had regard to the estimated length of the construction phase (approximately three years) and the time it would take for reinstatement planting to mature sufficiently to perform its previous function.
- 5.2.13. There would be an adverse effect on landscape during the operational stage, apart from in areas where overhead lines would be removed, in which case the landscape (and visual) effects would be locally beneficial. We are satisfied that the routing of the new lengths of overhead line is in accordance with the approach set out by the Holford Rules. There would also be adverse landscape effects as a result of the proposed substations and CSECs, however, we have found that reasonable mitigation for the longer-term operational stage has been secured.
- 5.2.14. There would also be, what we consider to be a high number of residual long term significant adverse visual effects. However, we are satisfied that those adverse effects such as at the substations, where screening could be effective would include suitable mitigation of mounding and planting by Year 15. In other areas, the linear nature and height of the infrastructure means that there would be limited scope for screening.

- 5.2.15. Off-site planting on land outside of the Order limits via private agreement has been proposed to screen views from Woodstock Lodge Wedding Venue and is under discussion with the occupiers of residential properties near to the proposed Overton Substation. Whilst we welcome these enhancements, we do not have the agreements before us and therefore cannot rely on them.
- 5.2.16. Overall, we have concluded that the policy tests contained in NPS EN-1 and NPS EN-5 have been met. Taking account of all relevant matters, and acknowledging that there are some beneficial landscape and visual effects as well as adverse ones, we conclude that the adverse landscape and visual effects of the Proposed Development carry moderate weight against the Order being made.

### **Biodiversity and Natural Environment**

- 5.2.17. As reported in Section 3.5 of this Recommendation, we are satisfied that the effects of the Proposed Development on biodiversity, ecology and the natural environment have been adequately assessed. Taking into account the embedded mitigation, the Proposed Development would avoid significant harm to biodiversity interests and take opportunities to conserve and enhance biodiversity. All relevant legislative and policy requirements, including those contained in NPS EN-1 and NPS EN-5, have been met.
- 5.2.18. Due consideration has been given to the potential for birds to collide with or be electrocuted by proposed overhead lines and there is no substantive evidence to justify the installation of bird diverters on the overhead lines in the River Ouse and River Wharfe corridors.
- 5.2.19. The Applicant's commitment to 10% Biodiversity Net Gain is adequately secured by the signed s106 Agreement and would lead to the enhancement of local biodiversity as a result of the Proposed Development.
- 5.2.20. Taking all matters into consideration, we conclude that the overall effect of the Proposed Development on biodiversity carries moderate weight in favour of the making of the Order.

### **Noise and Vibration**

- 5.2.21. In Section 3.6 of this Recommendation, we have found that the Applicant has adequately assessed the effects of noise and vibration arising as a result of the Proposed Development. We are satisfied that, through embedded and additional measures, significant adverse effects would be avoided and other adverse effects would be appropriately mitigated and minimised. Consequently, the policy tests contained in NPS EN-1 and NPS EN-5 have been met in this regard.
- 5.2.22. We note that there would be significant adverse effects in terms of noise and potentially vibration for occupiers of the Travellers' Site at the junction of the A1(M) and the A63 during the construction stage. We are satisfied that the site specific mitigation scheme secured by R19 of the Applicant's final dDCO would be effective in minimising these adverse effects. Taking all of this into account, we conclude that the noise and vibration effects of the Proposed Development carry a little weight against the making of the Order.

## **Traffic and Transport**

- 5.2.23. We have found in Section 3.7 of this Recommendation that the Applicant has adequately assessed the effects on traffic and transport, including pedestrians, cyclists and equestrian users, as required in NPS EN-1.
- 5.2.24. The effects of the Proposed Development on traffic and transport would mainly arise during the construction phase with Heavy Goods Vehicle movements primarily associated with the temporary construction compounds. During the Examination, some elements of the scheme have been amended to assuage the concerns of some local residents, by for example removing the proposed access for construction traffic past Skelton Springs Cottages and New Farm.
- 5.2.25. We are satisfied that, through embedded and additional secured measures, significant adverse impacts would be avoided and other adverse impacts would be appropriately mitigated and minimised. We therefore consider that the policy tests of NPS EN-1 and EN-5 have been met in this regard.
- 5.2.26. Having regard to all relevant matters, we conclude that the traffic and transport effects of the Proposed Development carry a little weight against the making of the Order.

## **Socio-Economic Effects**

- 5.2.27. In Section 3.8 of this Recommendation, we have found that there would be an adverse effect on farming operations in three locations, where the construction of the Proposed Development would affect the day to day farming operations for parts of the overall farming unit to a moderate degree. We have also identified adverse socio-economic effects at Woodstock Lodge Wedding Venue during the construction and operation stages and at Squires Café during the construction stage.
- 5.2.28. Whilst these significant adverse impacts would not be entirely avoided, we are satisfied that, through embedded measures in the project design and additional measures contained in the CoCP, any other socio-economic effects would be appropriately mitigated and minimised. In this sense, we consider that the relevant policy tests set out in NPS EN-1 and NPS EN-5 have been met.
- 5.2.29. The Proposed Development would require a workforce of approximately 103 people and as such would either create new employment or safeguard existing employment as contractors moved onto this project from elsewhere. This would be a minor benefit of the scheme.
- 5.2.30. Overall, the ExA concludes that there would be both positive and negative socio-economic effects arising from the Proposed Development. On balance, having particular regard to the impacts on a number of farming operations and local businesses, we conclude that socio-economic considerations at the local level carry moderate weight against the making of the Order.

## **Land Use**

- 5.2.31. In Section 3.9 of this Recommendation, we have found that the Proposed Development would amount to inappropriate development in the York and Leeds Green Belts. It would result in a moderate adverse impact on openness and would conflict with one of the purposes of Green Belt designation, that being to safeguard the countryside from encroachment. Inappropriate development is, by definition,

harmful to the Green Belt. We attach substantial weight to the harm that would result to the York and Leeds Green Belts. We go on to consider the question of whether very special circumstances exist to clearly outweigh the harm by reason of inappropriateness and any other harm in Section 5.4 of this Chapter.

- 5.2.32. The Proposed Development would result in the permanent loss of approximately 16.6 hectares (ha) of Best and Most Versatile (BMV) agricultural land. We have found that reasonable measures have been taken in the project design to avoid loss of BMV land as far as possible. There would also be temporary loss of approximately 105.1 ha of BMV land, but we are satisfied that provisions are secured to restore this land to at least the same Agricultural Land Classification grade. Appropriate measures to safeguard soil resources and reinstate land required temporarily for the construction of the Proposed Development have been secured.
- 5.2.33. We have found that the policy tests contained in NPS EN-1 and NPS EN-5 in relation to agricultural land and soils have been met. Due primarily to the permanent loss of BMV agricultural land, we conclude that the Proposed Development in relation to agricultural land and soils would carry moderate weight against the Order being made.
- 5.2.34. We are satisfied that the Applicant has had regard to the way in which the Proposed Development would affect green infrastructure (GI) and that appropriate mitigation measures are secured in this regard. The longer-term benefits to be gained from habitat creation and planting and its ongoing management and maintenance would address temporary construction stage fragmentation and improve GI connectivity. The policy tests contained in NPS EN-1 and NPS EN-5 have been met in this regard.
- 5.2.35. Due principally to the benefits which would arise over time, but which lack certainty in how and where that relating to Biodiversity Net Gain and replacement planting would actually deliver improved GI connectivity, we afford matters relating to GI a little weight in favour of the Order being made.

### **Flood Risk, Hydrology and Hydrogeology**

- 5.2.36. In Section 3.10 of this Recommendation, we have found that the Sequential Test and the Exception Test have been passed, regard has been given to the application of the climate change allowances for peak river flow and peak rainfall and the Proposed Development would ensure compliance with the Water Framework Directive. The Applicant has secured measures to mitigate adverse effects in terms of flood risk and hydrology. In all respects, we consider that the relevant policy tests of NPS EN-1 and NPS EN-5 have been met.
- 5.2.37. On the question of additional consents from the Internal Drainage Boards, we have concluded that no substantive changes to the drafting of Article 19 of the final draft Development Consent Order (dDCO) are necessary.
- 5.2.38. Overall, there would be both positive and negative effects of the Proposed Development in terms of flood risk. When taken together, we conclude that matters relating to flood risk, hydrology and hydrogeology do not weigh for or against the Order being made.

## **Air Quality and Human Health**

- 5.2.39. We have found in Section 3.11 of this Recommendation that the Applicant has provided an adequate assessment of air quality and human health impacts, including Electric and Magnetic Fields. Taking account of the secured mitigation, the Proposed Development would not give rise to any significant adverse effects in these regards. Accordingly, we have found that the policy tests of NPS EN-1 and NPS EN-5 have been met in regard to air quality and human health.
- 5.2.40. For these reasons, we conclude that there are no matters relating to air quality and human health effects which would weigh for or against the Order being made.

## **Historic Environment**

- 5.2.41. We have had regard to the desirability of preserving designated heritage assets, including listing buildings and their settings, the character and/or appearance of Conservation Areas, Scheduled Monuments and their settings, Registered Battlefields, registered parks and gardens. We consider that the information provided is sufficiently comprehensive for us to take account of the significance of heritage assets and to understand the impacts of the Proposed Development on that significance.
- 5.2.42. We have not identified any instances, during construction or operation, in which the Proposed Development is likely to result in substantial harm to or loss of any heritage asset. However, we have found in Section 3.12 of this Recommendation that due to effects arising during the construction phase, the Proposed Development would give rise to less than substantial harm to the significance of the following designated heritage assets: Marston Moor Registered Battlefield; the Grade I listed Beningbrough Hall and its registered park and garden; and the Grade II listed Monk Fryston Lodge.
- 5.2.43. In all cases of less than substantial harm, that harm would be at the lower end of the scale. For all of the other designated heritage assets considered in the assessment, we are satisfied that there would be no harm as a result of the Proposed Development.
- 5.2.44. In addition, the Proposed Development would have the potential to disturb archaeological remains associated with the Battle of Towton, due to refurbishment works on the existing overhead line, although this disturbance would be outside of the Registered Battlefield area.
- 5.2.45. NPS EN-1 requires that the harm we have identified should be weighed against the public benefit of the Proposed Development, recognising that the greater the harm to the significance of the heritage asset, the greater the benefits that will be needed to justify approval. We go on to consider this matter in Section 5.3 of this Chapter.

## **Good Design and Climate Change**

- 5.2.46. In relation to good design, we are satisfied that the Applicant has set out the evolution of the project design and prepared the Design Approach to Site Specific Infrastructure (DASSI). In Section 3.13 of this Recommendation, we have found that all of the proposed mitigation is subject to subsequent approvals by the relevant planning authority, and only some elements of the DASSI are secured by the Order. We have included additional elements of the DASSI in Requirement 18 over and above those which the Applicant considers necessary. Nonetheless, there remains a degree of uncertainty over whether the details of the Proposed Development

would fully meet good design policy contained in NPS EN-1 and Horlock Rule 9. For these reasons, we conclude that matters relating to good design carry a little weight against the Order being made.

- 5.2.47. In terms of climate change resilience and adaptation, the Applicant has demonstrated that it has considered the effects of climate change in siting and designing the Proposed Development. We are satisfied that the Applicant's assessment meets all of the requirements of NPS EN-1 and NPS EN-5 in this regard. We have found that the Proposed Development would not result in significant adverse effects in relation to climate change and mitigation is secured appropriately. Consequently, we conclude that there are no matters relating to climate change for the Proposed Development itself which would weigh for or against the making of the Order.

### **Other Planning Issues**

- 5.2.48. In Section 3.14 of this Recommendation, we have considered the effects of the future decommissioning of the Proposed Development. We are content these effects have been adequately assessed and have no reason to disagree with the assessment conclusions. We are satisfied that the written scheme of decommissioning is an appropriate mechanism by which to obtain approval for future decommissioning activities and that it is properly secured by R16 of the Applicant's final dDCO. We have therefore found that the decommissioning effects of the Proposed Development would not weigh for or against the making of the Order.

- 5.2.49. Also, in Section 3.14 of this Recommendation, we have considered the Proposed Development in terms of its effects on: contaminated land, geology and ground conditions; minerals resources; waste management; civil and military aviation and defence interests; and major accidents and disasters. In each case, we are satisfied that there would be general conformity with the relevant provisions of the NPS EN-1 and NPS EN-5 and there are no matters which would weigh for or against the Order being made.

### **Cumulative Effects**

- 5.2.50. We have found in Section 3.15 of this Recommendation that there has been adequate consideration of how the effects of the Proposed Development would combine and interact with the effects of other development. There is also sufficient information about how the accumulation of, and interrelationship between, effects arising from the Proposed Development might affect the environment, economy or community as a whole. The Proposed Development complies with NPS EN-1 in this respect and with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
- 5.2.51. The construction of the Proposed Development would give rise to significant accumulated effects at the Travellers' Site due to the combination of adverse noise, vibration, landscape, visual and biodiversity effects. Due to the combination of adverse visual and socio-economic effects at the Woodstock Lodge Wedding Venue, there would also be significant residual effects in this location during both the construction and operation stages. In both cases, we have found that reasonable steps have been taken to minimise these effects.
- 5.2.52. Considering the Proposed Development together with other projects (existing and planned), significant residual effects would arise in relation to the cumulative loss of agricultural land (including BMV land) and cumulative loss of soil resources,

although we are content that reasonable measures are secured to minimise the contribution of the Proposed Development to the cumulative total of soil loss. These are permanent effects.

- 5.2.53. There would also be significant residual cumulative effects on biodiversity for a temporary period when considering the construction of the Proposed Development together with a proposed mineral extraction project at Lumby Quarry. Significant residual visual effects would arise as a result of the construction of the Proposed Development when considered cumulatively with a proposed battery storage scheme adjacent to the proposed Monk Fryston Substation. In all cases, we have found that reasonable steps have been taken to avoid and minimise these effects.
- 5.2.54. Taking all matters into consideration, we ascribe matters relating to the cumulative effects of the Proposed Development moderate weight against the making of the Order. In assigning this weighting, we have had regard to the extent to which the project alone effects in relation to the relevant matters have been considered and assigned weight under separate planning issues discussed earlier in this Chapter to avoid any double counting of effects.

### **Habitats Regulations Assessment**

- 5.2.55. In Chapter 4 and Annex C of this Recommendation, we have found that the Proposed Development is not likely to have a significant effect on the qualifying features of any European sites, when considered alone or in combination with other plans or projects. While there are relevant mitigation measures secured by the Applicant's final dDCO which would minimise impacts to European sites, none of these have been relied upon in reaching the conclusion of no likely significant effect. We consider that there is sufficient information before the SoS to enable them to conclude that an appropriate assessment is not required.

## **5.3. THE HERITAGE BALANCE**

- 5.3.1. In Section 3.12 of this Recommendation and as summarised above, we have not identified any substantial harm to, or loss of, any designated heritage asset. However, we have found that the Proposed Development would give rise to less than substantial harm to the significance of Marston Moor Registered Battlefield, the Grade I listed Beningbrough Hall and its registered park and garden, and the Grade II listed Monk Fryston Lodge, all of which are designated heritage assets. In all cases, any harm arising would be at the lower end of the scale.
- 5.3.2. The Proposed Development would have the potential to disturb archaeological remains associated with the Battle of Towton, due to refurbishment works on the existing overhead line, although this disturbance would be outside of the Registered Battlefield area. No harm to any undesignated heritage assets has been identified.
- 5.3.3. Para 5.8.15 of NPS EN-1 requires that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of the development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification will be needed for any loss. The same is true for development affecting the setting of a designated heritage asset (NPS EN-1, para 5.8.18).
- 5.3.4. In coming to a view on these matters, we have had regard to the duties under Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010. On balance, we consider that the need for, and very great public benefits of, the



Proposed Development (as outlined in Sections 3.2 and 5.2 of this Recommendation) would outweigh, in each case, the harm that we have identified in relation to the significance of designated heritage assets.

- 5.3.5. Taking into account the significant public benefits of the Proposed Development, we are satisfied that there is a clear and convincing justification for the harm that would arise to designated heritage assets, both individually and collectively. Consequently, we are content that matters concerning the historic environment would accord with the relevant provisions of NPS EN-1.

## **5.4. THE GREEN BELT BALANCE**

- 5.4.1. In Section 3.9 of this Recommendation, we have found that the Proposed Development would be inappropriate development in the York and Leeds Green Belts, which means that it is, by definition, harmful to the Green Belts. The ExA attaches substantial weight to this harm.
- 5.4.2. Inappropriate development should not be approved except in very special circumstances (NPS EN-1 para 5.10.17 and NPPF para 147). Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. We carry out this assessment below.
- 5.4.3. We have recorded where harm is likely to arise in Chapter 3 of this Recommendation with the relevant conclusions set out above. In summary, the non-Green Belt harm that we consider would arise is listed below (this list is provided irrespective of whether each issue would conform with the relevant NPS policy tests notwithstanding the harm resulting):
- landscape and visual harm during construction and operation;
  - permanent harm in terms of loss of agricultural land including BMV land;
  - temporary socio-economic harm to a number of individual farming and hospitality businesses during construction;
  - temporary harm in terms of noise arising during construction;
  - temporary harm in terms of traffic and transport effects during construction;
  - temporary (less than substantial) harm to designated heritage assets during construction;
  - harm in relation to good design considerations; and
  - harm as a result of cumulative effects with other projects during the construction and operational phase.
- 5.4.4. We have set out in Chapter 3 of this Recommendation the need for, and benefits that would be likely to arise from, the Proposed Development. These are other considerations for the purposes of the Green Belt assessment:
- an urgent and compelling need for the Proposed Development, which would have very great public benefits by contributing to improved energy security and net zero aspirations;
  - a moderate benefit to the natural environment as a result of the achievement of a 10% Biodiversity Net Gain from the Proposed Development; and
  - a little benefit in relation to the provision and connectivity of GI.
- 5.4.5. We have given the need for the Proposed Development very great weight in our assessment of merits while the Biodiversity Net Gain benefits attract moderate weight and the GI benefits carry a little weight in favour of the Proposed Development.

- 5.4.6. Drawing together the above assessment, we consider that the potential harm to the Green Belt, and the other harm we have identified, would be clearly outweighed by the other considerations set out above. Consequently, we are satisfied that very special circumstances exist to justify the approval of inappropriate development in the Green Belt. The Proposed Development would therefore accord with the Green Belt policy set out in NPS EN-1 para 5.10.4 to 5.10.18 and the NPPF.
- 5.4.7. In arriving at these conclusions, the ExA has had regard to the views of the three host authorities in relation to the Applicant's Green Belt justification [REP7-034] [REP1-053] and [REP7-028].

## **5.5. THE OVERALL PLANNING BALANCE**

- 5.5.1. This Section weighs the benefits and disbenefits of the Proposed Development to reach a recommendation as to whether or not the case is made for granting development consent.
- 5.5.2. Overall, the Proposed Development would meet relevant Government policy set out in NPS EN-1 and NPS EN-5. As a matter of law (s104(3) of PA2008), applications for energy infrastructure must be decided in accordance with the relevant NPSs, unless a relevant consideration arising from s104(4) to (8) applies.
- 5.5.3. In accordance with our duties under PA2008, the ExA has had regard to the three submitted LIRs (s104(2)(b)), to prescribed matters (s104(2)(c)) and to all other important and relevant policy (including, but not limited to, consultation draft National Policy Statements (March 2023) and Development Plans) and to other important and relevant matters identified in this Recommendation (s104(2)(d)). We have also considered whether the determination of this application in accordance with the relevant NPSs would lead to the UK being in breach of any of its international obligations (s104(4)), be in breach of any statutory duty (s104(5)), be unlawful (s104(6)) or be contrary to regulations about how decisions are to be taken (s104(8)). We are satisfied that in all respects, this would not be the case.
- 5.5.4. We are also obliged to consider whether the adverse impact of the Proposed Development would outweigh its benefits (s104(7)). The Proposed Development would provide significant reinforcement of the electricity transmission infrastructure in Yorkshire which is required to transfer the increasing volume of generation capacity in Scotland and the North of England to major centres of electricity demand in central and southern England. The scheme would also enable the connection of two interconnectors, each of approximately 1.8 gigawatt (GW) capacity, and an offshore wind farm with a generating capacity of approximately 2.6 GW. As a result, the Proposed Development would provide extensive benefits at the national scale in terms of enhancing energy security and resilience, and supporting the decarbonisation of the economy.
- 5.5.5. In light of the scale and urgency of the need for reinforcement of the electricity transmission network, the ExA attributes very great weight to such benefits of the Order being made. In addition to this, the Proposed Development would result in an overall enhancement to the natural environment, committing to a Biodiversity Net Gain of at least 10%. This attracts moderate weight in favour of the Order being made. The longer term benefits to be gained from habitat creation and planting and its ongoing management and maintenance would also improve GI connectivity. This also carries a little weight in favour of the Order being made.

- 5.5.6. On the other hand, the Proposed Development would give rise to a number of adverse local effects, as identified in Chapter 3 of this Recommendation.
- 5.5.7. We ascribe moderate weight to harm which would be caused in relation to landscape and visual effects arising both during the construction and operation of the Proposed Development. We also attribute moderate weight to the permanent loss of BMV agricultural land as a result of the Proposed Development. Due to impacts on a number of farming operations and local businesses, we attach moderate weight to the adverse socio-economic effects of the Proposed Development at the local level. Our findings in relation to adverse cumulative effects when considering the accumulation of the effects of the Proposed Development and the inter-relationships with other projects during construction and operational phases also attract moderate weight against the making of the Order.
- 5.5.8. To a lesser degree, the Proposed Development would also cause harm during the construction period in terms of its noise and traffic effects. Each of these matters attract a little weight against the making of the Order, principally due to the mitigation measures secured within the Recommended Development Consent Order (rDCO), which can be found at Annex E of this Recommendation. There would be temporary adverse effects on designated heritage assets during construction which would represent less than substantial harm. Furthermore, the uncertainty over the degree to which the Proposed Development would fully meet good design policy carries a little weight against the Order being made.
- 5.5.9. All other matters discussed in this Recommendation do not weigh for or against the Order being made. In spite of the adverse effects that we have identified, we consider them overall to be within the scope of the relevant policy provisions of NPS EN-1 and NPS EN-5. We are satisfied that the Proposed Development would be generally in conformity with both NPSs.
- 5.5.10. In terms of Green Belt considerations, we have concluded that harm would result to which we have attached substantial weight. Notwithstanding this, we conclude that the Green Belt harm, and other harm that we have identified, would be clearly outweighed by other considerations, namely the urgent need for and benefits of the Proposed Development.
- 5.5.11. In conclusion, we find that the adverse effects that would arise at the local scale from the construction and operation of the Proposed Development would not outweigh its very great national benefits, particularly in terms of improving energy security and supporting decarbonisation. Notwithstanding the important and relevant draft NPSs (March 2023), we consider that the need case for the Proposed Development is clearly justified on the basis of the designated NPSs EN-1 and EN-5 (2011) alone.

## **5.6. CONCLUSIONS**

- 5.6.1. On the basis of all of the above considerations, we conclude that there is a convincing case for development consent to be granted.
- 5.6.2. We go on to consider land rights matters in Chapter 6 of this Recommendation and matters relating to the drafting of the Development Consent Order in Chapter 7 of this Recommendation.

## **6. LAND RIGHTS AND RELATED MATTERS**

### **6.1. INTRODUCTION**

6.1.1. The case for compulsory acquisition (CA) and temporary possession (TP) is examined in accordance with the tests in the Planning Act 2008 as amended (PA2008). CA, TP and other land or rights considerations were identified as a principal issue in the Rule 6 letter [PD-005]. The Examining Authority (ExA) examined matters relating to:

- the need for the amount of land proposed to be subject to CA and TP;
- alternatives in relation to individual plots;
- whether the intended use for the plots was clear;
- whether funding would be available;
- whether the Applicant's case for the Proposed Development would be in the public interest and justify interference with Human Rights and would accord with the Equality Act 2010; and
- interference with Statutory Undertakers' (SU) land and apparatus.

6.1.2. The full extent of the land which would be subject to powers of CA and required in order to enable the Applicant to construct the Proposed Development, as described in the Statement of Reasons (SoR) [REP7-056] is shown on the Land Plan [AS-005], [AS-008] to [AS-010] and [REP6-008] to [REP6-009] and Works Plan [REP1-004], [REP1-009], [REP6-010] to [REP6-013]. It is further described in the Book of Reference (BoR) [REP7-065], the Explanatory Memorandum (EM) [REP8-006] and in the documents comprising the Environmental Statement (ES). There is no part of a common, open space or fuel or field garden allotment or Crown Land included in or affected by the Order land, but a drawing is included for completeness [REP6-022].

6.1.3. These final documents result from updates made during the Examination. The Applicant's final Navigation Document and Application Guide [REP8-002] charts the submission of these documents and provides a guide to the structure of the application and its principal contents.

6.1.4. This Chapter follows the structure set out below:

- 6.2 Legislative Requirements;
- 6.3 The Request for Compulsory Acquisition and Temporary Possession Powers;
- 6.4 The Applicant's General Case;
- 6.5 Approach to the Examination of the Compulsory Acquisition and Temporary Possession Case;
- 6.6 Individual and Local Authority Objections;
- 6.7 Statutory Undertakers;
- 6.8 The ExA's Consideration of the Case for Compulsory Acquisition and Temporary Possession; and
- 6.9 Conclusions.

## 6.2. LEGISLATIVE REQUIREMENTS

### Planning Act 2008 (PA2008)

- 6.2.1. CA powers can only be granted if the conditions set out in section (s)122 and s123 of PA2008 are met, together with relevant guidance. The relevant guidance is:
- Guidance related to Procedures for the Compulsory Acquisition of Land, DCLG (former Department for Communities and Local Government), September 2013 (the CA Guidance); and
  - Guidance on the pre-application process, DCLG, March 2015 and Infrastructure Planning (Compulsory Acquisition) Regulations 2010 as amended (the CA Regulations).
- 6.2.2. S122(2) requires that the land must be required for the Proposed Development to which the development consent relates or is required to facilitate or is incidental to the development or under s122(2)(c) is for replacement land for the Order land under s131 or s132 (a common, open space or fuel or field garden allotment). In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate, as set out in the CA Guidance.
- 6.2.3. S122(3) requires that there must be a compelling case in the public interest which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right. That does not mean that the CA proposal can be considered in isolation from the wider consideration of the merits of the project. There must be a need for the project to be carried out and there must be consistency and coherency in the decision-making process.
- 6.2.4. S123 requires that one of three conditions is met; namely that:
- the application for the Order includes a request for CA of the land to be authorised;
  - that all persons with an interest in the land consent to the inclusion of the provision; or
  - that the prescribed procedure has been followed in relation to the land.
- 6.2.5. A number of general considerations also have to be addressed either as a result of following applicable guidance or in accordance with legal duties on decision-makers:
- all reasonable alternatives to CA must have been explored;
  - the Applicant must have a clear idea of how it intends to use the land and to demonstrate that funds are available to meet the compensation liabilities which might flow from the exercise of CA powers; and
  - the decision-maker must be satisfied that the purposes stated for the acquisition are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.
- 6.2.6. TP powers are capable of being within the scope of a Development Consent Order (DCO) under PA2008 Part 1 of Schedule 5. PA2008 and the CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to deprive or amend a person's interest in land permanently. However, TP is a interference with human rights of Affected Persons (AP) and so there must be adequate justification of the scope of the powers and the degree of interference for them to be justified.

- 6.2.7. PA2008 requires that if changes are sought to the application, whether material or non-material, then the ExA must consider whether to accept them into the Examination.
- 6.2.8. S115(2) PA2008 provides that, in addition to the development for which consent is required under Part 3 PA2008 (the principal development), consent may also be granted for associated development. PA2008 defines associated development as development which is associated with the principal development.
- 6.2.9. S120(5)(a) PA2008 provides that a DCO may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the DCO and s117(4) PA2008 provides that, if the DCO includes such provisions, it must be in the form of a statutory instrument. Since in certain instances the Applicant's final draft Development Consent Order (dDCO) seeks to apply s120(5)(a), it is in the form of a statutory instrument.

### **Neighbourhood Planning Act 2017**

- 6.2.10. The Neighbourhood Planning Act 2017 (NPA2017) has been enacted and contains provisions which amount to a codification of new TP practice. In recognition of the greater extent to which TP is being sought by scheme promoters and of the extended durations for which TP can be sought, NPA2017 provisions in general terms provide for enhancements to the rights of persons subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice and to relevant compensation to those already available to Affected Persons (APs) subject to CA. However, at the time of submission of this Recommendation to the Secretary of State (SoS), the relevant NPA2017 provisions had not commenced.
- 6.2.11. The ExA has taken all relevant legislation and guidance into account when considering this matter and relevant conclusions are drawn at the end of this Section of this Recommendation.

## **6.3. THE REQUEST FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS**

### **Powers Sought**

- 6.3.1. The powers being sought by the Applicant and how they relate to the principal articles in the dDCO, and colours on the Land Plan are set out in the SoR [REP7-056], para 4.1.5. Explanation of the articles is set out in the EM [REP8-006]. The powers sought are:
- Class 1: Compulsory acquisition of land, Article 22 (Compulsory acquisition of land);
  - Class 2: Compulsory acquisition of rights for the authorised development, Article 25 (Compulsory acquisition of rights);
  - Class 2A: to extinguish private rights of access, Article 25;
  - Class 3: Compulsory acquisition of rights of access, Article 25;
  - Class 4: Temporary use for construction, mitigation, maintenance, dismantling and/ or access, Articles 36, 37 and 38 (Temporary use of land by National Grid, Northern Powergrid (NPG) and Northern Gas Networks (NGN) respectively). (NPG is the abbreviation for Northern Powergrid (Northeast) PLC and Northern Powergrid PLC (Yorkshire) as defined in the dDCO [REP8-004], Part 1);
  - Class 5: Temporary use for dismantling of redundant electrical infrastructure, Articles 36, 37 and 38;

- Class 6: Temporary use for access, Articles 36, 37 and 38; and
- Class 0: No compulsory acquisition or temporary use powers.

6.3.2. The Applicant's final dDCO seeks powers for the Applicant and NPG and NGN, which together are defined as the "*undertaker*" in the dDCO. Powers for NPG and NGN are limited to temporary use under Articles 37 and 38 respectively. The extent of the TP being the same as for the Applicant under Article 36 is explained in the EM [REP8-006].

### **Changes during the Examination**

6.3.3. As mentioned in Chapter 1, on 19 June 2023, the Applicant gave notice to the ExA of its intention to submit a request for up to four proposed changes to the DCO application [AS-020]. On 22 June 2023, the ExA used its discretion to accept the notification letter and responded with advice about the procedural implications of the proposed changes [PD-012]. The ExA subsequently accepted a further letter from the Applicant dated 26 June 2023 [AS-021] and on 13 July 2023 the ExA accepted all three of the proposed changes for examination and the Examination proceeded in consideration of the changed application [PD-013].

6.3.4. The changes are:

- Change 1: Shipton North cable sealing end compound (CSEC) Reduction in Limits of Deviation (within Work No.2);
- Change 2: Skelton Springs Cottages (New Farm Cottage) Access (within Work No. 5); and
- Change 3: Shipton CSECs Access (within Work No.2).

6.3.5. The Change Application confirmed that all of the land required in relation to each change would fall within the existing Order limits and Order land [REP5-091]. Whilst there would be changes to the nature of certain land rights to be compulsorily acquired all of the proposed changes related to land already proposed for CA and there would in some cases be a reduction in the land required. On this basis the ExA was satisfied that the CA Regulations were not engaged.

6.3.6. The Change Application documents of relevance to land rights are as follows:

- Change Application: Cover Letter [REP5-090];
- Change Application: Report on Proposed Changes [REP5-091];
- Change Application: Plans and Drawings [REP5-092];
- Change Application: Book of Reference (Clean) [REP5-093]; and
- Change Application: Book of Reference (Tracked) ([REP5-094].

6.3.7. The Applicant provided a table which described the proposed amendments to the class of rights for each plot of land affected at each of the three change locations. Different tables were provided where changes applied to Class 1, 2, 3 and 4 rights, and where a plot number would be removed it is shown with a strikethrough [REP5-091], Appendix C. The track-changed BoR provided the change information in relation to the persons with rights over the land [REP5-094].

6.3.8. The changes are described in more detail later in this Chapter where they relate to specific areas of land and/ or persons with interest in land, where objections have not been withdrawn.

## **Statutory Undertakers' Land**

- 6.3.9. If a SU makes a representation about the CA of land or a right over land which would be acquired for the purpose of its undertaking, and this is not withdrawn, s127 PA2008 applies. In these circumstances, the Order can only include a provision authorising the CA of that land or right if the SoS is satisfied that the land or right can be purchased without serious detriment to the carrying on of the undertaking, or that any such detriment can be made good by use of alternative land.
- 6.3.10. S138 PA2008 applies where a SU has a relevant right or relevant apparatus in the CA land. In those circumstances, the Order can only authorise the extinguishment of the right or removal of the apparatus if the SoS is satisfied that this is necessary for the purpose of carrying out the development to which the Order relates.
- 6.3.11. The land affected by the Proposed Development includes land, rights or other interests owned by several SUs, set out in the SoR [REP7-056], Section 7.3. A Protective Provisions Progress Schedule sets out the Applicant's final position in terms of negotiations with the SUs [REP8-011]. SU objections which were not withdrawn at the end of the Examination were from:
- National Highways;
  - Network Rail Infrastructure Limited;
  - National Gas Transmission plc; and
  - Northern Gas Networks.

## **Crown Land and Special Category Land**

- 6.3.12. The Applicant states in its SoR that no Crown land or Special category land would be required for any part of the Proposed Development [REP7-056], Section 7.2.

## **The Purposes for which Land is Required and Extent of Powers Sought**

- 6.3.13. The land is required for the Proposed Development which would deliver new electricity infrastructure (substations, cable sealing end compounds (CSECs), pylons, gantries and overhead lines) as well as works to existing overhead lines and substations, and the dismantling of some existing overhead lines. It would also comprise temporary diversions, temporary bridges and culverts to allow for new infrastructure to be installed, and temporary construction compounds. Diversion of several third-party utilities would be needed and in the case of lower voltage overhead lines, they would be placed underground [APP-075], Section 3.6.32 to 3.6.34.
- 6.3.14. The Applicant's case is that the powers sought in its final dDCO as set out in the SoR are reasonable, proportionate (i.e. nothing greater than needed), and necessary to deliver and thereafter maintain the Proposed Development [REP7-056], para 4.5.1.
- 6.3.15. The CA powers sought by the Applicant are set out in Part 5 of the Applicant's final dDCO [REP8-004], Articles 22 to 41. The Applicant states that the CA of land and rights in land is necessary to deliver the Proposed Development, with the extent of the land and rights to be acquired drawn to avoid any unnecessary interference with third-party land. It argues that a proportionate approach to CA is taken, mindful of the impact on affected landowners. It seeks to acquire only such land and rights which would be necessary to ensure securing the long-term placement of electricity transmission apparatus and required maintenance access. Where it is necessary to use and occupy land only during the construction and commissioning of the



Proposed Development, the powers sought would be limited to temporary use only [REP7-056], Section 4.1.

6.3.16. The dDCO would give additional rights to the undertaker that could interfere with property rights and other interests through Article 20 (Protective work to land, buildings, structures, apparatus or equipment), Article 21 (Authority to survey and investigate the land) and Article 46 (Felling or lopping of trees and removal of hedgerows).

6.3.17. The SoR also includes details of the purpose for which CA and TP powers are sought with tables indicating:

- use and class of rights sought for which undertaker (the Applicant/ NPG/ NGN) by plot number; and
- a schedule of negotiations with land interests, showing status of negotiations with APs [REP7-056], Appendix A.

## **6.4. THE APPLICANT'S GENERAL CASE**

6.4.1. The Applicant's case for the grant of CA powers is set out in the final Examination SoR [REP7-056]. The SoR explains that it forms part of a suite of documents accompanying the application and should be read alongside those documents. These include:

- Navigation Document and Application Guide [REP8-002]
- Land Plan [AS-005], [AS-008] to [AS-010] and [REP6-008] to [REP6-009];
- Works Plan [REP1-004], [REP1-009], [REP6-10] to [REP6-13];
- Crown and Special Category Land Plan [REP6-022];
- Draft Development Consent Order [REP8-004]
- Explanatory Memorandum [REP8-006]
- Funding Statement [REP7-069];
- Book of Reference [REP7-065]; and
- Planning Statement [APP-202].

6.4.2. The strategic case is made based on the urgent need to deliver reinforcement to the electricity supply network in the Yorkshire area, which would be achieved through the Proposed Development, to provide capacity to interconnectors from Europe and offshore windfarms so as to ensure increased boundary capability to centres of demand and mitigate high constraint costs associated with managing the boundary capacity shortfall. The Applicant refers to its obligations under its Transmission Licence to provide an efficient, economic and co-ordinated transmission system in England and Wales [REP7-056], Section 2.2. We have reported on the need case in Section 3.2 of this Recommendation.

6.4.3. The Applicant also sets out the alternatives that have been considered in terms of the process it followed comprising the strategic options considered, the corridor and preliminary routing study, key principles of siting infrastructure, non-statutory and statutory consultation and changes made as a result [REP7-056], Section 2.4, which we have reported in Section 3.3 of our Recommendation.

6.4.4. The Applicant stated that the CA of land and rights in land would be necessary to deliver the Proposed Development, that it has drawn the extent of the land and rights to be acquired with regard to avoiding any unnecessary interference with third-party land. It said that it has taken a proportionate approach to the proposed CA, mindful of the impact on APs and seeks to acquire only such land and rights which would be necessary to ensure securing the long-term placement of electricity

transmission apparatus and required maintenance access. Where it is necessary to use and occupy land only during the construction and commissioning of the Project, then the powers sought would be limited to TP only. The CA and TP powers sought by the Applicant are set out in Part 5 of its final dDCO, Articles 22 to 41 [REP8-004].

6.4.5. In the s127 and s138 cases, the Applicant set out the reasons why CA powers are sought in the dDCO over plots as follows:

- notwithstanding diligent enquiry, and agreements concluded, if an AP is identified or comes forward subsequent to the Order having been made, the undertaker would need to rely upon CA powers under the Order in respect of such interest if no voluntary agreement with that AP can be obtained;
- the voluntary agreement may later prove to have granted insufficient rights and the AP may be unwilling to extend the rights as may be required; and
- compulsory powers are more readily enforceable so reducing additional risk, cost and delay [REP5-086] to [REP5-089].

6.4.6. The Applicant also confirmed that any person affected by CA and TP would be entitled to compensation under Article 25 and Schedule 10 of its final dDCO. The accompanying Funding Statement demonstrates that funding would be likely to be available to build the project and to enable the CA within the statutory timescale in accordance with Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (the Regulations) [REP7-069].

6.4.7. The Applicant stated that it is not aware of anything that is likely to prevent the grant of consent. The need for other consents is set out in the Details of Other Consents and Licences, which the SoR states does not present any impediment to the implementation of the Proposed Development [REP7-056], Section 7.4 and [REP7-016]. The SoR also sets out the Applicant's position regarding Human Rights and the Equality Act [REP7-056], Section 8.

## **6.5. APPROACH TO EXAMINATION OF THE COMPULSORY ACQUISITION AND TEMPORARY POSSESSION CASE**

### **Introduction**

6.5.1. CA and TP were both identified by the ExA in the Initial Assessment of Principal Issues prepared under PA2008 s88(1) and set out in Annex C of the ExA's Rule 6 letter dated 22 February 2023 [PD-005]. Examination of CA and TP issues was undertaken through procedural decisions (PD), including written questions, the ExA's dDCO commentary and two Rule 17 Requests, and at an Open Floor Hearing (OFH) and two Compulsory Acquisition Hearings (CAH) and observations of land on accompanied and unaccompanied site inspections (ASI and USI) as follows:

- The ExA's USI in February 2023 during which private land was viewed from public viewpoints [EV-001];
- the ExA's Rule 6 letter included PD requests for Statements of Common Ground from SUs, a request for nomination of sites to be inspected, comments on Relevant Representations (RR) from the Applicant and other Interested Parties (IP) and a Planning Obligations and Commercial Side Agreements tracking list [PD-005], Annex F;
- the Preliminary Meeting (PM) [EV-002a] and [EV-002c];
- an OFH held on 22 March 2023, which heard representations from some APs and their representatives [EV-004b];

- the ExA's first written questions (ExQ1) included questions to the Applicant, SUs, the Councils and a number of affected landowners issued on 29 March 2023 [PD-007], Part 4, to which responses were received at Deadline 2 (D2);
- an ASI on 23 May 2023, which viewed areas of affected private land [EV-001a] and [EV-001b];
- CAH1, held in person on 25 May 2023 [EV-007], [EV-007b] and [EV-007d] and subsequent D4 and D5 submissions in response;
- the ExA's further written questions (ExQ2) included questions to the Applicant, SUs, the Councils and a number of APs, issued on 20 June 2023 [PD-011], Part 4, to which responses were received at D5;
- the ExA's Rule 9 letter, in response to the Applicant's Change Notification Request, [AS-020] and [PD-012] dated 22 June 2023 (See Annex B3);
- the ExA's Rule 8(3) and Rule 9 letter in response to the Applicant's Change Application [REP5-090] to [REP5-096] and [PD-013] dated 13 July 2023 (See Annex B4);
- CAH2, held virtually on 18 July 2023 [EV-008], [EV-008a] to [EV-008i] and subsequent D6 and D7 submissions in response;
- the ExA's Rule 17 request for information from the agent of a number of APs, dated 20 July 2023 [PD-014] and subsequent D6 and D8 responses;
- the ExA's dDCO commentary and questions [PD-015], dated 16 August 2023 and D7 and D8 responses; and
- the ExA's Rule 17 request for further information about the proposed access off the A659 near Tadcaster dated 8 September 2023 [PD-017] and response.

6.5.2. The Applicant complied with requests for updates of standalone documents relating to CA and TP at certain deadlines as set out in the Examination Timetable and submitted PA2008 s127 and s138 cases where objections by SUs had not been withdrawn by D5. The opportunity for SUs to comment on the respective s127 and s138 cases was provided for at D6 and D7.

## **6.6. INDIVIDUAL AND LOCAL AUTHORITY OBJECTIONS**

### **Introduction**

- 6.6.1. Objections were received via RRs and Written Representations (WR). Thirteen objections were withdrawn during the Examination. They are highlighted as such in the Examination Library and are listed in the Applicant's Compulsory Acquisition and Temporary Possession Objections Schedule [REP7-054].
- 6.6.2. The ExA has considered all the objections received and many of the issues raised by objectors have also been considered in earlier parts of this Recommendation when considering the planning issues arising in relation to the Proposed Development. The objections considered here are in the context of the application for the grant of CA and TP powers. Where other objections which have also been received from some APs listed in the BoR refer to concerns not related to CA or TP, they are not reported below.
- 6.6.3. As stated earlier, three changes were accepted into the Examination. Where these have relevance to the objection under consideration, they are reported before that objection is considered.

### **Persons with an Interest in Land/ Affected Persons**

- 6.6.4. This section reports on all the APs who have lodged objections which were not withdrawn by the end of the Examination. The objections below are ordered from north to south along the overhead line route, so that matters which are linked by geography are dealt with sequentially in this Recommendation.
- 6.6.5. The ExA found the well-organised ASI beneficial in aiding the detailed understanding of land in private ownership that was subject to objection on site, helped by pegging out of specific elements of the proposed infrastructure [EV-001b].

### **Change 1: Shipton North CSEC Reduction in Limits of Deviation**

- 6.6.6. Change 1 comprises a reduction in Limits of Deviation (LoD) around the north, east and west sides of the Shipton North CSEC, which in turn results in a reduction of the land over which CA powers are sought. This was amended to land required for temporary acquisition, for construction works only. The changes in class of rights result in a reduction in Class 1 and Class 2 rights, with this being reallocated as Class 4 rights (Figure 6.6.1). Plot changes are listed in the Change [REP5-091], Appendix C.

**Figure 6.6.1 Land Rights Before and After Changes 1 and 3 (source [REP5-091], Section 3 and Section 5)**

Figure 3.1 – Change 1 Shipton North Reduction in LoD – Before Land Plan Amendments - Land Plan Section B (Document 2.5.2(C)) [REP2-004]

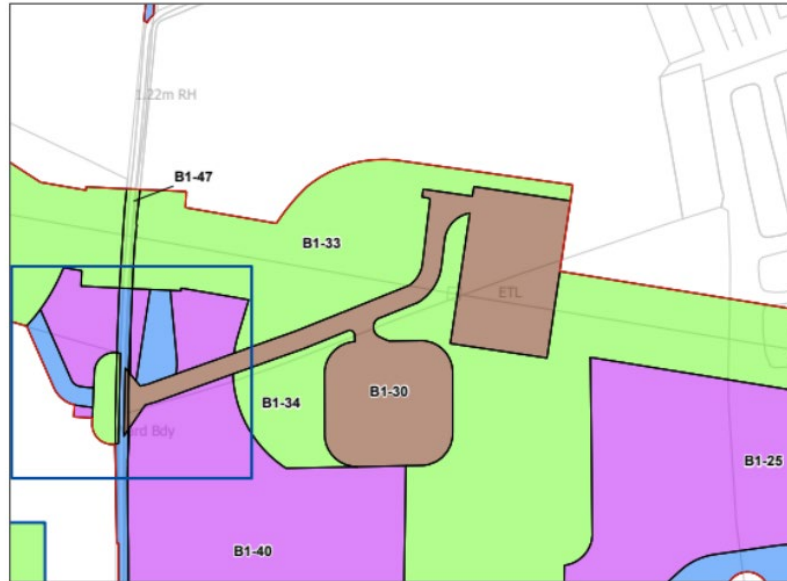
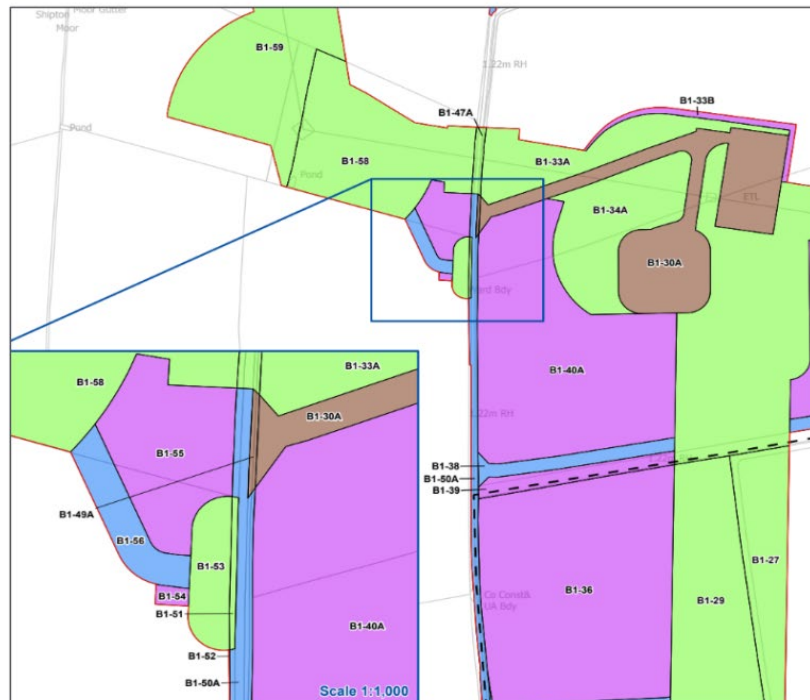


Figure 3.2 – Change 1 Shipton North Reduction in LoD – After Change Application Land Plan Section B Amendments



- 6.6.7. The difference in land rights related to Change 1 can be seen as the additional purple land (Class 4) in Plot B1-33B replacing brown (Class 1) and green (Class 2) land.
- 6.6.8. The difference in land rights related to Change 3 can be seen by the change in angle, location and meeting point with the north-south Newlands Lane of the brown (Class 1) access track to the Shipton North CSEC and the adjoining access track to

Shipton South CSEC (all Plot B1-30A). This affects the distribution of green (Class 2) and purple (Class 4) land.

### **Change 3: Shipton CSECs Access**

- 6.6.9. Change 3 moves the current access AP98 (Access Rights of Way and Public Rights of Navigation Plan Section B (Document 2.7.2) [APP-027]) northwards approximately 50 metres. The access then runs in a straight line to Shipton North CSEC, with an access road connecting to Shipton South CSEC. Overall, the land required for permanent acquisition, that falls within Classes 1 and 2, does not increase. The extent of Class 1 land has increased because the relocated area covered is greater. The increase falls within former Class 2 land. The amount of Class 2 land has reduced as a result. The amount of Class 3 (blue) land has reduced because an area of access has been removed. The area of Class 4 land has increased because the Class 1 land area has been moved northwards.
- 6.6.10. Both Changes 1 and 3 were responses to requests from APs to improve conditions for farming. Change 3 would mean that the access track would avoid the wettest part of the landowner's field. Both changes would be more compatible with the future expansion of the farm business operations [REP5-091] page 5 and 21 to 22.

### **Newlands (York) Limited and Mr BW and Mrs FK Rab**

- 6.6.11. Represented by Stephenson's Rural LLP, Newlands (York) Limited and BW Rab and FK Rab (the Rab family) are persons with an interest in land/ AP (BoR Parts 1, 2 and 3) for land north-east of the settlement of Shipton at Newlands Farm, which is proposed for Class 1, 2, 3 and 4 rights at the location for the Shipton CSECs, including that for low voltage electrical line undergrounding. Hence some rights would benefit NPG as well as the Applicant.
- 6.6.12. The ExA viewed the proposed site on its ASI, at the request of the Rab family and observed the footprints of the proposed CSECs that had been pegged out on the ground by the Applicant [REP2-131] and [EV-001b]. The ASI was attended by members of the Rab family, a representative of Newlands (York) Limited and Mr E Stephenson of Stephenson's Rural LLP, their agent.
- 6.6.13. Objections to the Proposed Development were submitted and discussed at CAH1 [REP2-131] and [EV-007b]. The accepted Changes 1 and 3 described above relate to this land. The APs consented to the changes.
- 6.6.14. The ExA issued a PD to seek further views about these changes because Newlands (York) Limited and the Rab family were not represented at CAH2 [PD-014]. Responses were provided [REP6-078]. A final submission at D8 set out the matters which were still outstanding. It is therefore the ExA's opinion that these are the matters on which we will report because the accepted changes addressed some, but not all, of the objections raised.
- 6.6.15. In its initial objection, Stephenson's Rural LLP made the case for alternative locations for the CSECs [REP2-131]. The Applicant responded that both of these had been considered during the pre-application stage and set out the reasons why they were not taken forward, including being less compliant with Holford Rules and one would require a replacement pylon [REP3-032]. As a matter relating to landscape and visual effects under NPS EN-5, the compliancy with the Holford Rules is also reported in Section 3.4 of this Recommendation.
- 6.6.16. The stated outstanding matters at D8 were:

- the use of Newlands Lane as the access to the CSECs;
- the CA of the land for the two CSECs; and
- the effect the scheme would have on the value of the farm as a whole and on the practical running of the farm [REP8-024].

- 6.6.17. Whilst the use of Newlands Lane is a traffic and transport matter, which would require future approvals from the relevant highways authorities (CYC and NYC), it has also been raised in the context of land rights to access the CSECs. To move matters forward, the Applicant submitted a drawing with illustrative construction stage passing places as a way forward [REP5-082], Appendix A and included the Corban Lane/ Newlands Lane junction in the Construction Traffic Management Plan (CTMP) [REP7-009], Annex 3F.1.C. This is also reported in Section 3.7 of this Recommendation.
- 6.6.18. The main CA objection presented on behalf of Newlands (York) Limited and the Rab family, which is sustained, was that locating the CSECs in the fields proposed would interfere with the farm's business and expansion plans [REP2-131] and [REP4-030]. The Applicant explained that adjustments to the location and type of CSEC had already been undertaken to reduce the landtake in response to details of the farm expansion plans through the pre-application design change process. It had also worked on site with the landowner to enable expansion plans to go ahead which do not affect land that would be required should consent be given [REP3-032], Section 2.9. This was acknowledged by Stephenson's Rural LLP [REP4-030]. The position at the end of the Examination was that the Applicant was waiting for responses to voluntary terms and commercial offer [REP7-055], Objection 18.
- 6.6.19. For the third bullet point, the ExA has reported our views on the effects on the farm business and the practical running of the farm in Section 3.8 of this Recommendation under socio-economic effects.

**ExA's reasoning: Newlands (York) Limited and Mr BW and Mrs FK Rab**

- 6.6.20. Alternative sites for the CSECs were mentioned by Stephenson's Rural LLP on behalf of its clients [REP2-131] and [REP4-030] and these were pointed out on the ASI [EV-001b]. These had been the subject of pre-application consultation. We mention this for completeness, but as the AP has consented to the Change Application and this matter is not raised in the D8 submission, we consider it to no longer be a point of disagreement. In any case, the ExA is persuaded by the Applicant's technical and Holford compliancy case for the land contained in the Applicant's final dDCO [REP3-032], Table 2.10, ref 4.2 (Section 3.4 of this Recommendation covers Holford Rule compliancy).
- 6.6.21. The CA of the land for the CSECs remained an objection. The ExA has reported views on the effects on the farm business and the practical running of the farm in Section 3.8 of this Recommendation under socio-economic effects. To recap, we have concluded that BW Rab and FK Rab have not provided substantive evidence regarding the economic effects on their farming operations to demonstrate that the effects of the Proposed Development would be such as to render the farm business either unviable or significantly adversely affected. The ExA acknowledges that the proposed locations of the Shipton CSECs would affect farming operations, even with the changes effected in response to consultation and through Changes 1 and 3, which the landowner's representative has stated would be an improvement.
- 6.6.22. We are satisfied that the Applicant responded to consultation comments about the Shipton CSEC locations and extent through its design change process and has made further adjustments during the Examination to the extent it found possible. In

this regard, we consider that the Applicant has addressed CA alternatives at a very local level. We are satisfied that the Applicant has justified the locations required and worked with the landowner to enable further development of the business without compromising the land that would be required. The ExA is of the view that this is now a matter for CA and TP compensation, if agreement is not reached over voluntary terms. We are mindful that fair and reasonable compensation would be available under the relevant provisions in the Applicant's final dDCO [REP8-004].

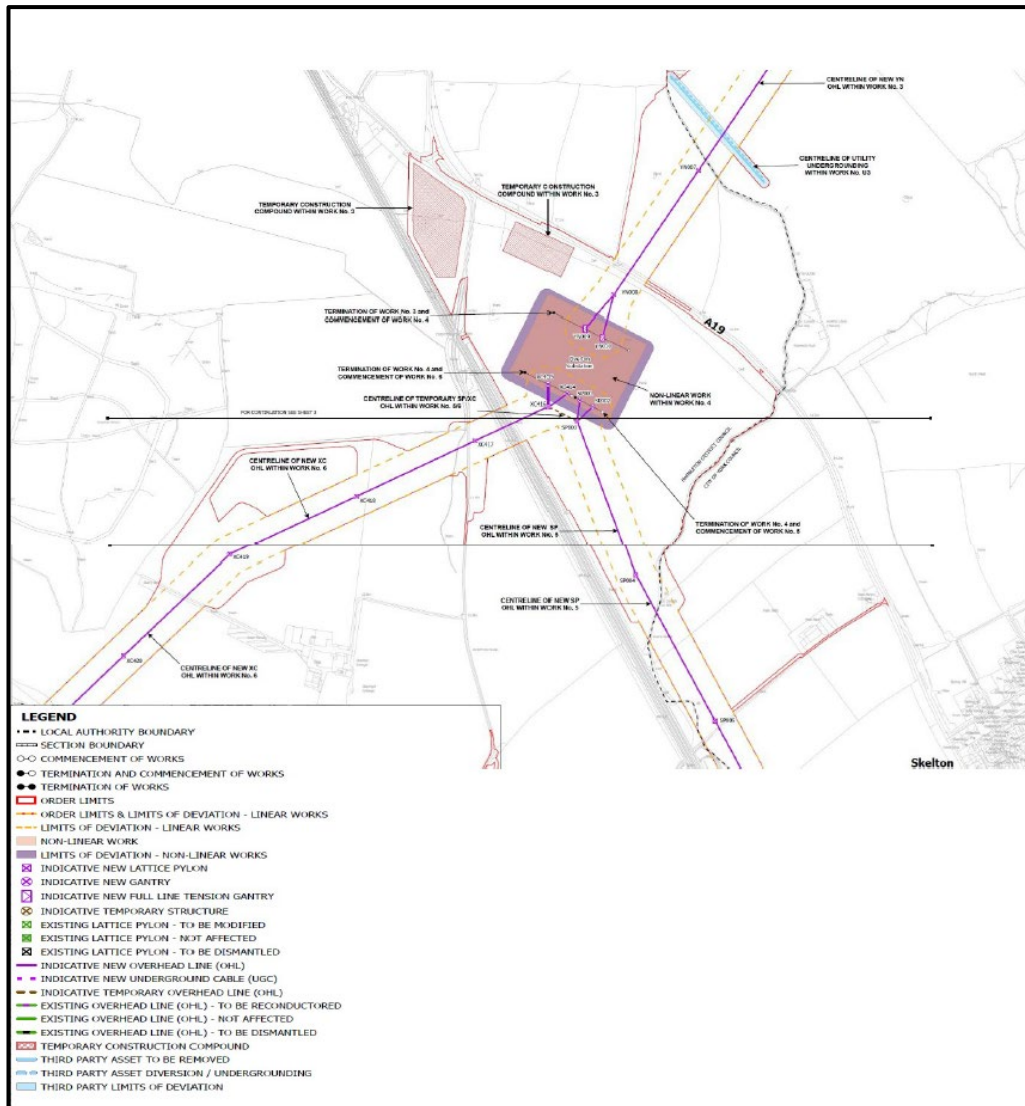
- 6.6.23. Regarding the sustained differences over the construction stage use of Newlands Lane, we recognise this is also a matter also related to the farming business and only necessary for constructing and maintaining the CSECs. However, we are content that this would be capable of resolution during detail design and through approvals from the relevant highways authorities, as reported in Section 3.7.
- 6.6.24. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development.

#### **Mr J Bell**

- 6.6.25. Mr J Bell is a person with interest in land/ AP (BoR Parts 1, 2 and 3) for land south of Overton, which is proposed for Class 1 rights at the Overton Substation site and surroundings (Figure 6.6.2). The ExA was able to view Mr Bell's land from Viewpoint B (VPB), for which there is a visualisation [REP2-045] and see the extent of the proposed substation from the pegging out, on our USI [EV-001] and during the ASI [EV-001b]. The land adjoins that of Mr D Blacker and Ms M Blacker (objections below). Hurns Gutter is the boundary between landholdings, where CA/ TP for a temporary bridge is sought, south of pylon SP004, as a result of the Change Application, Change 2 (see below).



**Figure 6.6.2 Works Plan showing proposed Overton Substation, YN, XC and SP lines south to access track to pylon SP005 (source [REP6-010], Sheets 2 and 3)**



6.6.26. Mr Bell's objections were submitted by Lister Haigh in the RR [RR-023], which was responded to by the Applicant [REP1-015], page 129 to 132. The objections included the AP's need for right of access over some of the land to be acquired; a query regarding the need for land shown as a pond; concerns regarding safety of access points off the A19, and potential for restrictions to farm vehicles along Overton Road, and concern about removal of recent areas of woodland, not shown on plans [RR-023].

6.6.27. The Applicant's response confirmed that there would be a right of access, that the queried land was required for biodiversity mitigation, that the A19 access point was for maintenance only and would be on foot or a small vehicle, that the traffic assessment on Overton Road had found adverse effects were not significant, and that information regarding daily construction activities to minimise disruption to agricultural activities would be managed by the Agricultural Liaison Officer (ALO) (also reported below and in Section 3.8 of this Recommendation) and that the recently planted trees were too small to be shown on the Trees and Hedgerows Affected drawings but that they had been taken into account in the biodiversity assessment [REP1-015], page 129 to 132.

- 6.6.28. At CAH1 Mr Bell was not represented, and we were told by the Applicant that it was in detailed conversations with Mr Bell's land agent, that commercial terms were nearly agreed, and legal input was being provided [EV-007b]. In response to ExQ2, Lister Haigh, on behalf of Mr Bell, indicated that most of the concerns raised in the RR were resolved. However, it also noted that Change 2 raised further matters in terms of increased use of the access over the AP's land, impact on some recently planted woodland and the crossing of Hurns Gutter, the northern landfall of which would be on Mr Bell's land. A statement that Lister Haigh was hopeful that matters could be resolved before the end of the Examination was made, caveated by the fact that negotiations were still underway [REP5-110].
- 6.6.29. These matters were explored further at CAH2, which was held after the Change Application had been accepted [EV-008b] and [EV-008d]. Mr Bell was represented by Lister Haigh. Progress appeared to have stalled, with the Applicant and Lister Haigh having different recollections from each other about crop loss payments and what was needed to finalise permanent agreements.
- 6.6.30. Time was spent discussing the recent woodland planting, which it was explained had been funded and was contributing to carbon credits. The Applicant sought to clarify that compensation would be payable for any losses incurred. The ExA requested the Applicant to provide a sketch plan to give Mr Bell an indication of the extent of effects on woodland and the type of bridge crossing. A sketch plan was not provided, but the Application indicated where information could be found regarding generic temporary bridge crossings and the planting to be removed [REP6-061], action 1. The ExA invited Mr Bell's representative to comment on the revised role description for the ALO [EV-008a], action point 7.
- 6.6.31. At D6, the Applicant reported that a meeting had been held with Mr Bell and his agent where voluntary terms, commercial considerations and voluntary land take had been discussed and that conversations were positive and ongoing with conclusion expected shortly [REP6-058], Table 2.8.
- 6.6.32. There was no further engagement in the Examination from Mr Bell or his representative. The position at the end of the Examination, as stated in the SoR, was that heads of terms are under negotiation [REP7-056], No. 80, page 150. The Applicant stated that it is waiting for the land agent to confirm agreement to the voluntary terms offered, with the landowner's solicitor reviewing legal documents [REP7-054], page 2. The objection has not been withdrawn.

#### **ExA's reasoning: Mr J Bell**

- 6.6.33. The ExA is satisfied from representations made at CAH2 that the Applicant's explanations and negotiations have resolved the objections set out in Mr Bell's RR. Regarding the traffic management on Overton Road and other construction stage matters affecting the land, the ExA is content that the expanded role description for the ALO provides suitable mitigation together with that secured in the CTMP [REP7-009]. This is also reported later under Human Rights and in Section 3.8 of this Recommendation.
- 6.6.34. However, there were outstanding matters in connection with Change 2, which affected Mr Bell's interest in the land required. Regarding the proposed temporary bridge over Hurns Gutter the ExA is satisfied that the detail in the Change Application is adequate, and that further details would be discussed and confirmed post-consent, secured subject to the landowner liaison for micro-siting in LoD, as set out in the Code of Construction Practice (CoCP) [REP7-042], para 2.2.14 and

2.2.15. Regarding the effects on the recently planted woodland, we find the Applicant's explanation about the effects on arboriculture, biodiversity and landscape in the Change Application to be acceptable [REP5-091], Section 4.4.

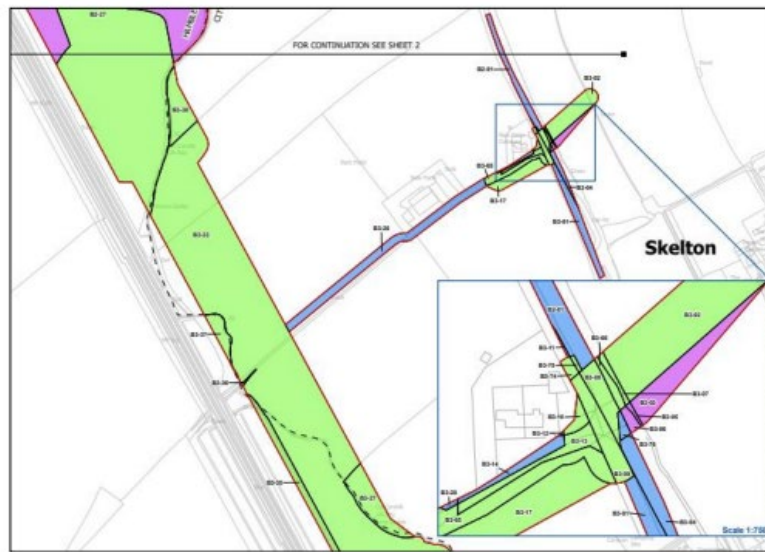
- 6.6.35. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development.

### **Change 2: Skelton Springs Cottages (New Farm Cottage) Access**

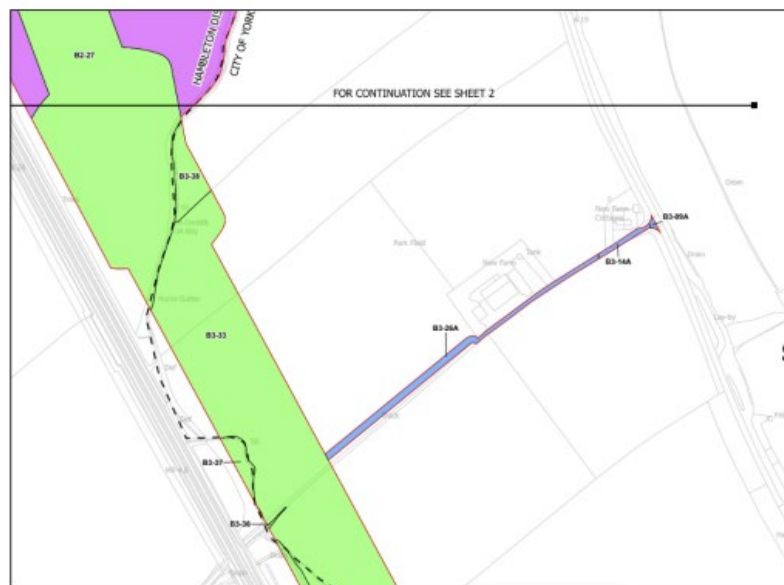
- 6.6.36. Change 2 relates to the construction access to pylon SP005. In the application the access point would have been off the A19 along an existing farm access track which would pass Skelton Springs Cottages (New Farm Cottages) and a number of agricultural buildings. This would have resulted in the need to underground an existing utility (Work No. U4) across the A19, to allow suitable space for construction traffic to access the track. The proposed change would utilise an access haul road arrangement from pylons SP004 to SP005, requiring a temporary bridge over Hurns Gutter for construction only. The existing access off the A19 would remain in the Order limits to construct the bridge over Hurns Gutter and for future maintenance. The change would remove the need to undertake undergrounding Work No. U4, hedgerow removal and the A19 bellmouth visibility splay.
- 6.6.37. The difference in land rights can be seen below on Figure 6.6.3. The Class 2 (green) and Class 4 (purple) rights would be reduced to the width of the existing track, with existing bellmouth and all the track as Class 3 (blue) land. The Order land was reduced because the visibility splays and the land on the other side of the A19 would no longer be required.

**Figure 6.6.3: Land rights before and after Change 2 (source [REP5-091], Section 4**

**Figure 4.1 – Change 2 New Farm Cottage Access – Before Land Plan Section B Amendments (Document 2.5.2(C)) [REP2-004]**



**Figure 4.2 – Change 2 New Farm Cottage Access – After Change Application Land Plan Section B Amendments**



**Mr D Blacker and Ms M Blacker**

6.6.38. Mr D Blacker and Ms M Blacker are persons with an interest in land/ APs (BoR Parts 1, 2 and 3) for land west of the A19 and west of Skelton, which is proposed for Class 2 rights and Class 1 subsoil rights over land required for the new overhead line which would connect the Overton Substation southwards with existing pylon SP007 (Figure 6.6.2 above). The ExA visited the Blackers’ land during the ASI [EV-001b]. The land adjoins that of Mr J Bell to the north (objection above) and is accessed off the A19 by the New Farm access track which runs past Skelton Springs Cottages (also called New Farm Cottages), the subject of an objection from Ms P Husband, Ms G Eves and Mr P Bulmer (reported below), and the subject of Change 2 (described above).

- 6.6.39. Represented by Lister Haigh, objections were submitted in the RRs [RR-022] and [RR-024] which were responded to by the Applicant [REP1-015], Table 2.21 pages 120 to 128 and Table 2.23, pages 133 to 141. There are two separate issues set out in the objections which are:
- the rights sought over the access at New Farm off the A19 because they would conflict with its agricultural use; and
  - the location of proposed new pylon SP006 which would impede agricultural practice in this field.

#### **Alternative access from A19**

- 6.6.40. In their RRs Mr D and Ms M Blacker proposed an alternative access instead of the New Farm access track, which would utilise an existing gateway in a field to the north of New Farm for construction traffic for pylon SP005. Ms Blacker made the point about the need for access to New Farm for agricultural use at the OFH [EV-004b] and [REP1-054]. In response to ExQ1, the Applicant indicated that it was not anticipating changes to access in this area [REP2-038], Q4.6.13d).
- 6.6.41. In the event, this access track would not be required for construction traffic (other than to build the Hurns Gutter temporary bridge in the first place) because Change 2 would install a different access for pylon SP005 (as explained under Change 2 above.) Lister Haigh, on behalf of Mr D and Ms M Blacker confirmed that an alternative access was no longer part of their case in response to ExQ2 [REP5-109], response to ExQ2. 4.4.13a) and b).

#### **Pylon SP006**

- 6.6.42. Following the objection to the location of pylon SP006 in the RRs, it was raised at the OFH by Ms M Blacker [EV-004b] and [REP1-054], examined with the Applicant at CAH1 and with the Applicant and the APs and their representatives at CAH2 and in both ExQ1 and ExQ2.
- 6.6.43. From the outset the Applicant explained that changes to the location of pylon SP006 could not be accommodated for technical and location reasons. These include: the orientation of pylon SP007, which is an existing pylon, and the arrangement of the new span to pylon SP006; not creating an angle on pylon SP005 which would necessitate it becoming a tension pylon; maintaining sufficient working area; the proximity of Hurns Gutter; reducing hazard risk and vegetation loss; avoiding further incursion into the flood zone and maintaining sufficient distance to railway property and safety clearance [REP1-015], Table 2.21 pages 120 to 128 and Table 2.23, pages 133 to 141.
- 6.6.44. The ExA examined these matters further through ExQ1, asking if limiting LoD in the vicinity of pylon SP006 and strengthening pylon SP007 had been considered. The Applicant explained that LoD between pylons SP006 and SP007 would already be narrowed because pylon SP007 would remain *in situ* and the decision to retain pylon SP007 was taken to adhere to the Applicant's principle of using existing infrastructure where possible [REP2-038], Q4.6.13.
- 6.6.45. At CAH1, in response to the ExA asking about tweaking the LoD in respect of pylon SP006, the Applicant confirmed that it would consider whether any minor location or LoD adjustments could be made [REP4-024], page 12.
- 6.6.46. We explored further how and when the decision not to replace pylon SP007 had been taken in ExQ2. The Applicant explained that it was taken prior to going out for

statutory consultation, at which stage the decision to retain pylon SP007 had been made. The Applicant referred us to the Consultation Report which showed that pylon SP005 was moved closer to the hedgerow in response to a landowner request to move pylons SP005 and SP006 to ensure more productive use of land, although there were technical reasons and proximity to the East Coast Mainline (ECML) Railway for not moving pylon SP006 [APP-195], pages 240 to 241 and para 7.5.4.

- 6.6.47. In response to ExQ2, the AP's agent Lister Haigh, confirmed that the locations of pylons SP005 and SP006 were still a point of disagreement but that site meetings had been held and the Applicant had agreed to peg out the proposed locations of the two pylons. Lister Haigh also explained the difficulties of farming round the pylons, which has been reported in Section 3.8 and made further suggestions for pylons SP006 and SP007, querying whether pylon SP007 could be removed entirely and the alignment run between pylons SP006 and SP008 [REP5-109].
- 6.6.48. The Applicant explained that removal of pylon SP007 was not possible for technical reasons, including: the need for temporary diversions, including new accesses complicated by the proximity of the ECML; more outages, where supplies to a substation would need to be maintained; and replacing pylon SP008 would require a new tension pylon and the span would need taller pylons [REP6-058], Table 2.8. The Applicant explained that this information had been given to the landowners.
- 6.6.49. In response to the Blackers' comments about the difficulties for farming the Applicant argued that the adverse effects on farmland have not been assessed as significant in environmental assessment terms, that the land affected at pylon SP006 would be similar to that at pylon SP005, and at worst 0.6% of the farm holding would be affected [REP6-058], Table 2.8] (Section 3.8 of this Recommendation).
- 6.6.50. At CAH2, we explored this matter further [EV-008d]. It was reported that the pegging out of the proposed locations of the two pylons had been undertaken. The Applicant conceded, notwithstanding the constraints in the area, that there would be potential for movement within the LoD to accommodate sprayers etc, better but that no commitment could be made prior to detail design. The Applicant pointed out that micro-siting would take place post-consent, that only land actually required would be taken and any restriction on use of the land would be dealt with by compensation [REP6-059], page 12.
- 6.6.51. Based on this, the ExA invited the Applicant to consider how a commitment to ongoing engagement with the landowner could be secured. The Applicant's view was that securing a further commitment to ongoing engagement with the landowner, if necessary, should lie in the CoCP [REP6-059], page 12 to 13. The Applicant also confirmed that wording that commits to liaison with the affected landowners on the final siting of pylons SP005 and SP006 to establish whether there is the potential to minimise impact on farming practices through micro-siting had been added to the CoCP [REP6-058], Table 2.8 and [REP7-042], para 2.2.17.
- 6.6.52. The position at the end of the Examination, as stated in the SoR, is that heads of terms are in negotiation [REP7-056], No. 93, page 155. The Applicant stated that it is hopeful that voluntary terms would be agreed before the end of the Examination subject to the RR issues being resolved [REP7-054], page 4. The objection has not been withdrawn.

### **ExA's reasoning: Mr D and Ms M Blacker**

- 6.6.53. The ExA is content, that Change 2 resolved the access matters that were the subject of the RRs and that no other alternatives are now required. Coming to the matter of the location of pylon SP006, we note that the potential inconvenience to farming practice through the location of pylon SP006 was determined by the early decision not to replace pylon SP007. We note that the principle of utilising existing infrastructure is an embedded climate change adaptation, on which we report in Section 3.13. Ever since the locations of pylons SP005 and SP006 have been consulted upon, the APs have made representations regarding the impact it would have on farming practice on this land.
- 6.6.54. We are content that the Applicant has justified with technical reasons the limited flexibility that there would be in this location and made some adjustment to pylon SP005's location. The Applicant has also responded with technical justification to the alternatives suggested by the APs. The move that the Applicant has made to ensure that there would be landowner consultation regarding micro-siting of pylons SP005 and SP006 by inclusion of specific wording in the CoCP is welcomed. On that basis, we are content that there would be a way forward to ensure the impact on specific farming practice on that land would be minimised. We have also borne in mind that compensation would be triggered where farming practices are restricted.
- 6.6.55. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development.

### **Ms P Husband, Ms G Eves and Mr P Bulmer**

- 6.6.56. Ms P Husband, Ms G Eves and Mr P Bulmer were persons with interest in land/ APs (BoR Parts 1, 2 and 3) for land which would have formed part of the access from the A19 to pylons SP005 and SP006 and NPG undergrounding works in the application scheme, which was proposed for Class 2, 3 and 4 rights [REP1-010]. Following the ExA's acceptance of Change 2, the Class 2 rights would no longer be required and the BoR was updated [REP5-094] and [REP7-065]. Following Change 2, Ms Eves and Mr Bulmer no longer owned land affected by the Proposed Development [REP7-054], ref 20.
- 6.6.57. Following the initial objections to the CA [REP2-132], and in response to the ExA's Rule 17 letter questioning whether the APs were satisfied with Change 2, Stephenson's Rural LLP confirmed that the APs were satisfied with the change, but were engaging in ongoing discussions regarding the future use of the access road [PD-014], question 6 and [REP6-078], point 6. At D8, there were no outstanding issues regarding the access [REP8-023].
- 6.6.58. There was one outstanding matter in relation to the detail of a landscape enhancement scheme under discussion between the Applicant and Stephenson's Rural LLP on behalf of its clients. This matter is reported under Section 3.4 of this Recommendation and is not a land rights matter.

### **ExA's reasoning: Ms P Husband, Ms G Eves and Mr P Bulmer**

- 6.6.59. The ExA is content that agreement has been reached through negotiation and Change 2 regarding access from the A19 and that this represents an improved

position because the U4 undergrounding is no longer required and construction stage traffic would only be required initially to build the temporary bridge across Hurns Gutter.

- 6.6.60. The ExA is therefore satisfied that the CA of the relevant interests in the AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development.

#### **Mr R Elliott and Ms V Elliott**

- 6.6.61. Mr R Elliott is a person with interest in land/ AP (BoR Parts 1, 2 and 3) for land south-west of Tadcaster, south and east of the A659, which is proposed for Classes 1, 2, 3 and 4 rights over land, including that for low voltage electrical line undergrounding. Hence some rights would benefit NPG as well as the Applicant. Ms V Elliott is a Category 2 Person.

- 6.6.62. Represented by Lister Haigh, objections were submitted in the RR [RR-025] which were responded to by the Applicant [REP1-015], Table 2.24 pages 142 to 143. Mr Elliott's objections were on two grounds:

- concerns about the extent and location of the low voltage electric line undergrounding works No. U7 (renumbered Work No. U6) and Work No. U8 (which was subsequently removed); and
- the access to the works shown from access point AP40 [REP-025] on the A659 through the High Moor Farm.

#### **Undergrounding low voltage electrical lines**

- 6.6.63. Mr Elliott pointed out that Work No. U8 (renumbered U7) had already been undergrounded and his understanding was that Work No. U7 (renumbered U6) would extend further than shown to avoid difficulties in farming operations on that land. The Applicant acknowledged that Work No. U8 had potentially already been undergrounded and said that it would discuss this further with NPG [REP1-015], page 142. This is reported below under s122 because the ExA examined it as a matter relevant to the case for CA powers.

- 6.6.64. Regarding the alignment and extent of Work No. U7, the Applicant explained that the works would be limited to what can be justified in regard to the CA powers, but that there could be a possibility that the extent of the undergrounding could be amended under a voluntary land agreement via NPG [REP1-015], page 142.

#### **Access off the A659 from AP40 towards pylon XC479**

- 6.6.65. Mr Elliott pointed out that the proposed access route to pylon XC479 takes a convoluted two-step route through the High Moor steading. He indicated an alternative route, which would avoid the steps [RR-025]. The Applicant indicated that it would seek to engage with the landowner to reach voluntary agreement on the suggested alternative access route [REP1-015], page 143.

- 6.6.66. This matter was discussed at CAH1 and CAH2. The Applicant explained it is content with re-routeing the access track, but this would be dependent on landlord consent, confirmation for which was awaited [EV-008b] and [REP6-059], page 13. The objection was not withdrawn by the end of the Examination.



### **ExA's reasoning: Mr R Elliott and Ms V Elliott**

- 6.6.67. Regarding extending the Work No. U7 (renumbered U6) undergrounding, the ExA agrees with the Applicant that this would not be justified under CA powers.
- 6.6.68. The ExA was surprised that this objection was not withdrawn because the outstanding matter was stated to be the access, for which there is a solution (albeit it subject to landowner consent) which would, in the ExA's view, solve the access issue raised by Mr Elliott.
- 6.6.69. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. However, it is noted that all parties consider that there is a better access route. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development.

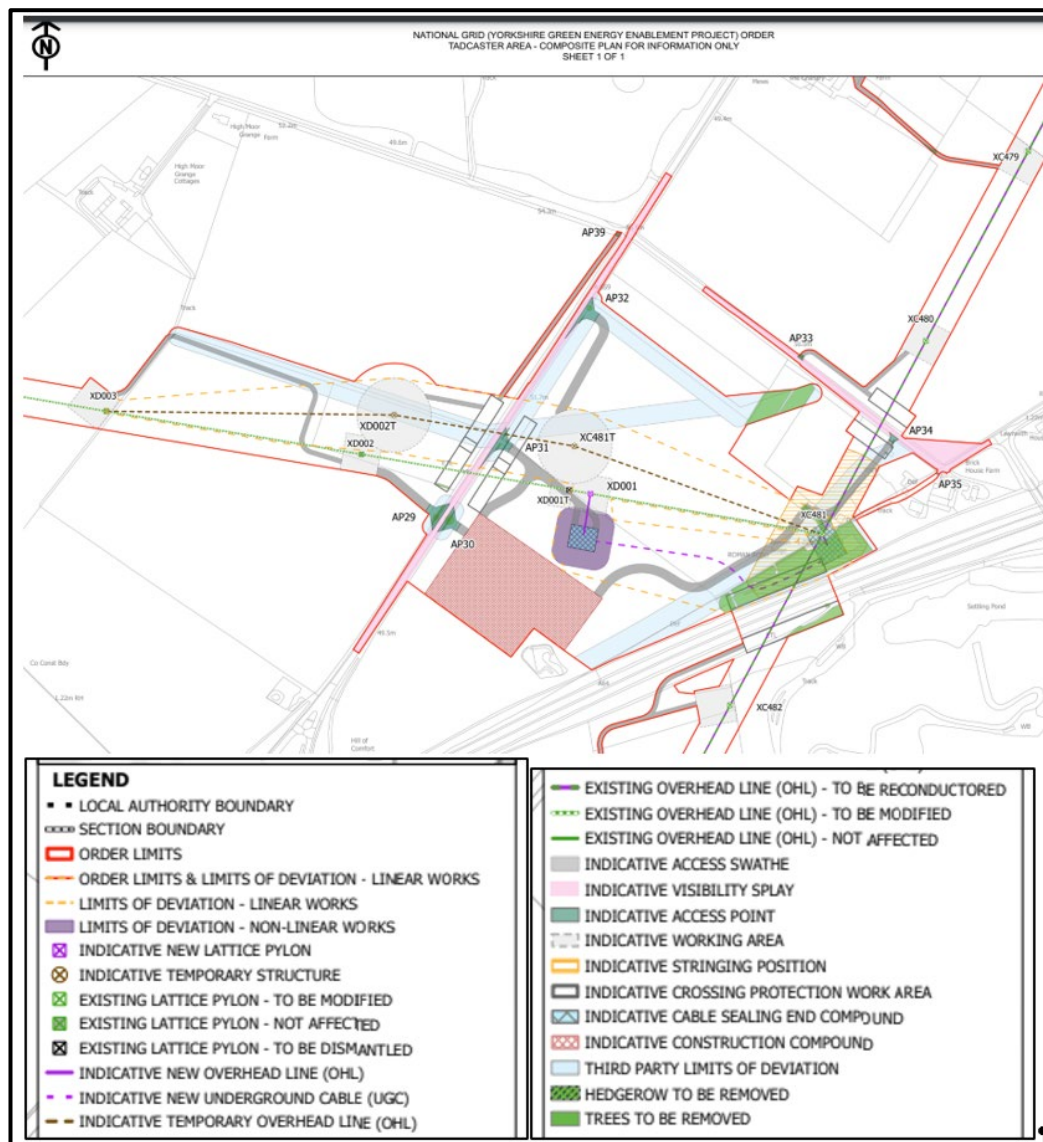
### **Mr P Watson**

- 6.6.70. Mr P Watson is a person with interest in land/ AP (BoR Parts 1,2,and 3) [REP7-065] for land proposed for Classes 1, 2, 2A, 3 and 4 over land proposed for the Tadcaster CSECs and associated infrastructure lying between the A659 and the A64 west of Tadcaster.
- 6.6.71. Mr Watson's objections related in part to the extinguishment of a right of access over land in the ownership of Mr R Ingham (also subject to an objection not withdrawn) which is reported below. The ExA was able to view the land in the ownership of Mr Watson (and Mr Ingham) on its ASI and benefitted greatly from the pegging out of the two CSEC footprints and other elements of the Proposed Development such as the toe of the proposed slope [EV-001b]. We also viewed the land from public viewpoints on our USI [EV-001].
- 6.6.72. Represented by Carter Jonas, Mr Watson's objections were submitted in the RR [RR-006] which were responded to by the Applicant [REP1-015], Table 2.6 pages 22 to 25. A number of these points had also been the subject of pre-application consultation between the Applicant and the AP [APP-195], page 339 to 344. Mr Watson's objections were on a number of grounds, some of which are inter-related. They are:
- alternative positions for the CSECs generally;
  - extinguishment of a right of access over land, which has been the subject of a previous court case, associated with the design and location of the eastern CSEC;
  - extinguishment of a right through Brick House Farm (Brickyard Farm);
  - access off the A659 and the A659 bellmouth;
  - orientation and location of the western CSEC, including a proposed alternative;
  - extent of the land to be acquired including LoD;
  - the need for CA of a 10m strip along the A659 and for access to the hedgerow along the north-east boundary of Mr Watson's land; and
  - previous court case, engagement by the Applicant and compensation.

## The proposed works

- 6.6.73. From the outset, the ExA recognised this area as one of great complexity and requested explanations of the proposed works at ISH1 and a composite plan from the Applicant [REP2-037], Appendix A, an extract of which is shown below. The explanation of the works was provided by the Applicant [REP1-017], Table 2.3 and can be found in the Planning Statement [APP-202], page 31 to 32.
- 6.6.74. In brief, the works would involve the installation of two new CSECs and an underground connection to create two new circuits, needed to help balance power flows on the overhead lines because of the increased rating requirement on the XC overhead line. Also included would be reconductoring of the XC line, strengthening several existing pylons, replacing one pylon, also necessitating putting the XD line onto a temporary alignment. In this location, there are high pressure and medium pressure gas pipelines, the latter would require diversion, and a 33kV overhead line would need undergrounding.

**Figure 6.6.4: Tadcaster Composite Plan, Cable Sealing End Compounds (source [REP2-037], Appendix A)**



### **Alternative positions for CSECs**

- 6.6.75. As well as specific suggested alternatives, proposed by Mr Watson, reported below, he was of the opinion that there would be more suitable positions elsewhere than those proposed for both the eastern and western CSECs [REP5-100]. This was discussed at ISH1 and CAH2, when the Applicant referred the ExA to the work undertaken on site selection which explains why the CSECs are sited in this location [REP1-018], [EV-003b] and [EV-008b].
- 6.6.76. The Applicant drew attention to the Project Need and Alternatives [APP-074], the Applicant's approach to options [APP-093] and the Corridor and Preliminary Routing and Siting Study (CPRSS) [APP-209], Section 5, which includes a full options appraisal for siting in the Tadcaster area, considering environmental, socio-economic, technical, and cost considerations. The CPRSS explains that the location is constrained because of existing infrastructure and influenced by the Applicant's obligations to provide an efficient, economic and coordinated transmission system. A full appraisal of ten sites was included with justification for the preferred CSEC siting areas based on engineering grounds, including re-use of an existing pylon and proximity to the XC and XD lines and to each other which in turn has cost benefits, limited adverse effects on biodiversity and landscape and because it would have good access.

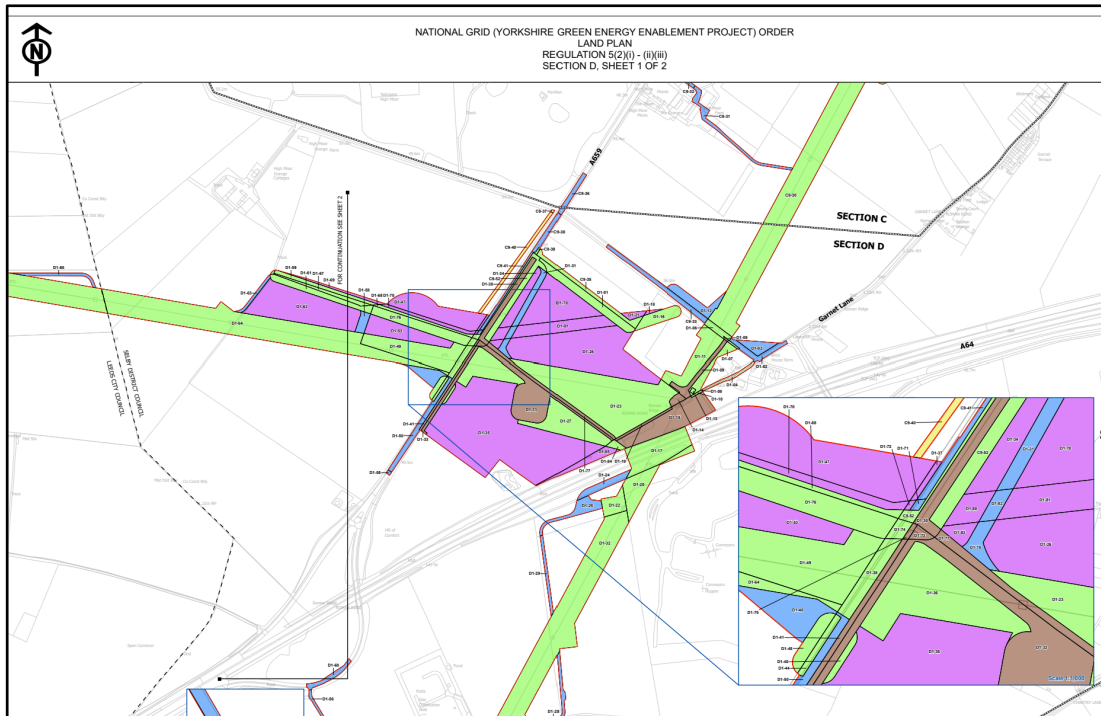
#### *ExA's reasoning: Alternative CSEC positions*

- 6.6.77. The ExA is satisfied with the justifications presented for the selection of the CSEC siting areas in the CPRSS because as clearly shown on the plan showing siting options, the preferred locations are those which are closest to the existing overhead lines and closest to each other [APP-209], Figure 5.1 and 5.2. This was one of the selection criteria used. Additionally, the ExA is content that the appraisal summaries demonstrate that adverse effects could be mitigated and that there would be access benefits to this location over some of the others. The land use element of the appraisal did not identify any significant differences between the options. As explained in Section 3.8 of this Recommendation, socio-economic effects on farming were scoped out of the ES. However, we examined this in relation to the objections received. In terms of the content of the siting area appraisals we are satisfied that socio-economic effects on an individual farm would not be a matter for consideration at the stage of identifying siting areas.
- 6.6.78. The ExA considers the findings, in terms of alternatives assessed, that would locate the CSECs in the Tadcaster area at siting areas XC1 and XD1 are sound.

### **Extinguishment of a right of access associated with the design and location of the eastern CSEC**

- 6.6.79. Mr Watson currently benefits from access rights over Plot D1-04, which the Applicant proposes would be extinguished to enable delivery of the Proposed Development [AS-008], Sheet 1 of 2 and Extinguishment of Easements Servitudes and Other Private Rights Plan [REP6-023], Sheet 1 of 2. The current rights were secured after a court case between Mr Watson and his neighbour, Mr Ingham, following construction of pylon XC481 by National Grid (Figures 6.6.4 and 6.6.5). This had made Mr Watson's former access to his land impassable from Garnet Lane, to the north-east. The proposed eastern CSEC would be located on Plot D1-15, land in the ownership of Mr Ingham. Land owned by Mr Watson, to which he requires access for farming is west of Plot D1-15 extending north-west to the A659, from which Mr Watson has another access to the land he farms (Figure 6.6.5).

**Figure 6.6.5: Tadcaster CSECs, Extract from Land Plan Section D (source [AS-008], Sheet 1 of 2)**



- 6.6.80. Mr Watson disagreed that full extinguishment of the rights would be necessary. Matters raised in this regard by Mr Watson are that:
- his farming activities require two accesses to this land;
  - different, alternative diversions of the current access could allow him access;
  - a retaining wall solution could provide an alternative access;
  - agricultural vehicles could pass over land within the physical constraints anticipated;
  - Mr Ingham would be able use the track to access land;
  - other third parties, such as the undertaker and NGN would need access, and would use the track; and
  - disagreement with the Applicant as to whether any value should be attributed to the right of way.
- 6.6.81. Mr Watson’s and the Applicant’s views on these matters were presented throughout the Examination in response to questions and at hearings.
- 6.6.82. Mr Watson argued that he needs the second access via Plot D1-04 for a number of reasons, including issues associated with accessing land with agricultural vehicles off the A659 (covered below) and because on occasions he grows two crops, one of which would need to be accessed in the lower part of the field via Plot D1-04 [REP5-100] and [EV-008b]. The Applicant stated that it had not observed this [EV-008b]. Mr Watson argued that he has a real need for the second access, otherwise he would not have gone to court previously to establish an access from this direction [REP7-092].
- 6.6.83. The Applicant offered a spur with an access gate along the proposed permanent access road to the western CSEC could be provided which would enable access to the lower part of the field [REP6-059]. Mr Watson felt that this would not enable him to reach the lower part of the field without crossing an existing crop. The Applicant argued that is the case at present, even with the second access. The Applicant

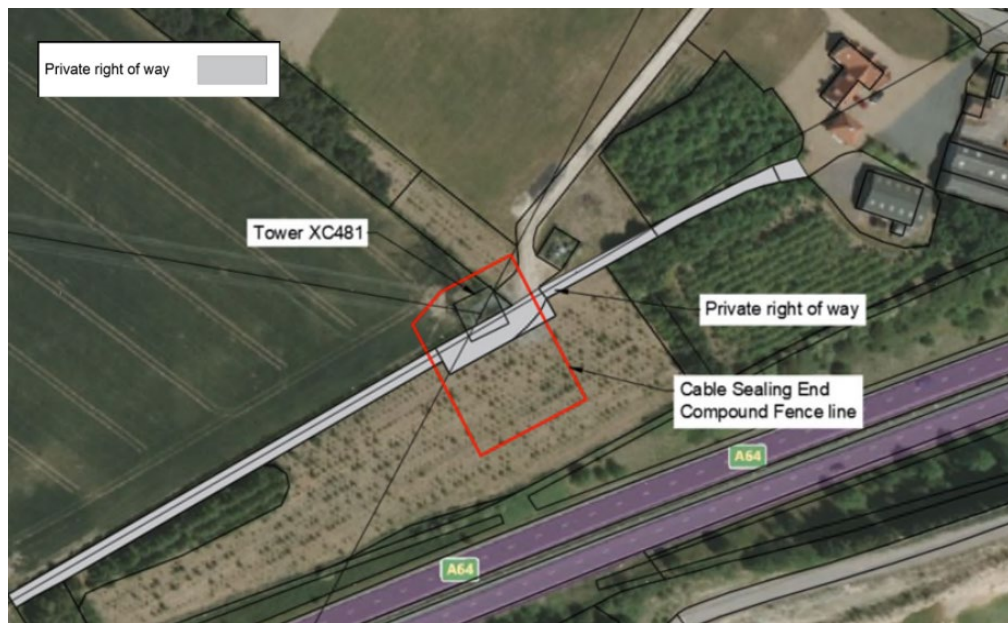
repeated its offer of a spur off the permanent access track approaching the western CSEC which would enable access to the lower part of the field and ensure that Mr Watson could continue to use the field for either a single or double crop preference [REP8-013], page 8 (Figure 6.6.7 below).

6.6.84. From the outset Mr Watson challenged the Applicant's contention that access south of the eastern CSEC would not be physically possible. He thought that there could be other solutions and requested that all possible diversion routes be considered [RR-006]. This matter is recorded as a point of pre-application discussion in the Consultation Report [APP-195], page 339 to 344. During the Examination the ExA explored this in more detail and the Applicant provided further evidence to support its view that:

- there would be no potential routes south of the eastern CSEC that would be technically feasible, with the constraints that exist that could allow Mr Watson to continue to have access from the south-east to land he farms; and
- a potential route north of the eastern CSEC would affect a different landowner and is not justifiable on CA grounds.

6.6.85. The Applicant explained, at ISH1, that there are numerous constraints in this area including the proximity of the A64, sloping topography, a telecommunications mast, and high pressure and medium pressure gas pipelines. These were observed by the ExA on site and/ or by the pegging out on the ASI [EV-001b] (See Figure 6.6.6). Following ISH1, and in response to ExQ1, the Applicant provided a Technical Appendix Technical Note Tadcaster East Cable Sealing End Compound Design [REP2-039], Appendix I. This explained the complex set of parameters that influenced the evolution of the design after more detailed information on levels was available. It was found that use of a retaining wall could be avoided, but that the embankment slope encroached the available space towards the A64 boundary.

**Figure 6.6.6: Tadcaster South CSEC (source [REP5-084], Appendix B, Figure 2)**



6.6.86. At CAH1, the ExA questioned further the justification for not using a retaining wall and requested the Applicant set this out in detail as an action from the Hearing. The Applicant explained that constraints included: existing live overhead conductors, the highway embankment and the medium pressure gas main's diverted routeing. The

retaining wall option was discounted because: foundations would have an interface with the diverted gas main and sheet piling could cause vibrations near the gas main; further interface with the A64 could impose additional surcharge on the crest of the embankment and sheet piling would also add risk to the embankment stability; sheet piling and lifting precast wall sections would pose potential clearance infringements of the existing overhead lines and a retaining wall would need to design in surcharge from additional vehicle loading and consider collision potential. Additionally in support of an embankment solution, the Applicant argued that it would be more suited in terms of meeting local policy on landscape grounds and would result in less adverse visual effects [REP4-027], action point 10.

- 6.6.87. The Applicant also submitted the Tadcaster East CSEC Access Option document [REP2-039], Appendix I, which was updated and included revised swept path analyses showing the constraints with a series of plans [REP5-084], Appendix B. It concluded that it would not be technically feasible to provide an access track that could accommodate all vehicles because it would encroach substantially into the highway embankment, onto NH operational land, and the Telecoms compound. It also concluded that it would also not be possible to restrict the use of the access only for a tractor and trailer and 7.5t rigid vehicle because the existing easement grants a right at all times and for all purposes.
- 6.6.88. There was further discussion about the potential for restricting the use of an access track at CAH2, after Mr Watson had commented that agricultural vehicles can travel on a camber and queried if articulated vehicles could be excluded [REP5-100]. Mr Watson asked for the actual distance between the edge of the CSEC to the boundary, which the Applicant provided at D6 as follows: *“There is 13.5m from the fence line of the cable sealing end compound to the fence line on to the highway. This measurement is from the CSEC fence line, and not from the 2m strip that is required for maintenance of the cable sealing end compound. There is 3.7m from the embankments/ earthworks of the cable sealing end compound to the fence line to the highways.”* [REP6-061], action point 4. (Refer to Figure 6.6.6 above).
- 6.6.89. The Applicant confirmed that it does not think that there would be enough space, with the sloping ground, to be able to construct a suitable access point or track, nor would it be suitable to accommodate agricultural vehicles as there would be a maximum of 3.7 metres between the edge of embankment and fence line, along with other significant constraints, which would present serious safety concerns [EV-008d] and [REP6-058], page 9. There was further detailed disagreement regarding whether there would be space for an access track set out by Mr Watson [REP7-092] and in response by the Applicant [REP8-013], page 8 to 12.
- 6.6.90. At CAH1, the ExA also asked the Applicant to explain if an alternative access could have been taken round to the north of the eastern CSEC which would have given Mr Watson his desired second access from the south-east. The Applicant did not consider this to be an appropriate alternative as this would move the track onto third party land. Whilst in principle the access could go across this land, the Applicant argued that it does not consider this is justifiable or proportionate in CA terms because Mr Watson has an existing access to the field in question, so there is no justification for going on to another third party's land [REP4-027], action point 10.
- 6.6.91. Additionally, in response to the ExA at CAH2, the Applicant stated that interfering with another landholding would be significant procedurally at this stage of the Examination. But, more persuasive an argument, in the Applicant's view, was the fact that it would merely distribute the impact differently rather than reduce the impact on agricultural holdings [EV-008b] and [REP6-058], page 8.

- 6.6.92. Mr Watson queried why it would be possible for Mr Ingham to use the 6m access track, when his own rights would be extinguished [REP5-100], response to Q4.3.22. The Applicant was very clear at CAH2, that Plot D-015, which is land in Mr Ingham's ownership accessed by Plot D1-04 would be inaccessible by vehicles and that it would be up to Mr Ingham in negotiations whether he retained that land, or whether it would be compulsorily acquired, but that CA would be included in the Order because of the restricted access that would arise on completion of the Proposed Development [EV-008d] and [REP6-058].
- 6.6.93. Mr Watson also contended that others would need to use that access, such as the undertaker to carry out hedgerow maintenance and potentially the gas undertaker for gas pipeline maintenance [REP5-100]. At CAH2, the Applicant explained that with the limited space (described above) there would be no other vehicular access. The mitigation planting proposed is a wildflower mix, and as such maintenance visits would be undertaken on foot by the undertaker.
- 6.6.94. The Applicant also explained that the gas pipeline diversion work would take place as an initial work in this area before the embankment was constructed and any future gas pipeline maintenance would require temporary arrangements, outside of the DCO, to enable a safe, effective route in [EV-008b] and [REP6-058]. The Applicant added that NGN had agreed to a reduced easement width at the pinch points in this location, due to the nature of the proposed development and the restrictions in proximity to the highway's boundary and topography [REP8-013], page 9 to 10.

*ExA's reasoning: extinguishment of a right of access to Mr Watson's land*

- 6.6.95. Taking all these matters together, the ExA understands that there would be added inconvenience borne by Mr Watson in undertaking his farming operations with a single access point to this land, when certain circumstances arise, such as the planting of two crops and any blocking of the A659 access (reported on below as another basis for objection). However, it is our view that this is a matter for compensation, and that the extinguishment of the right of access over Plot D1-04 land would be necessary to implement the Proposed Development. This is because we are satisfied that the safety, physical and technical constraints described by the Applicant, in its two technical notes and other submissions, would preclude construction of an appropriate access round the south of the eastern CSEC. Although it would be feasible in places, we agree from the evidence submitted that there are pinch points, where access other than on foot would be insurmountable.
- 6.6.96. The Applicant has also reasoned why it would not be justifiable in CA terms to acquire rights over land to the north of the eastern CSEC, which is in another ownership, to provide a second access. Again, acknowledging that this would inconvenience Mr Watson's farming activities, the ExA is content with the Applicant's case that Mr Watson has a right of access to his land and CA for a second access would not be justified. We make this on the grounds of the safety, technical and physical constraints that would arise as set out, and also because we do not consider that the second access is necessary or proportionate, in accordance with the CA Guidance.
- 6.6.97. The ExA's findings with regards socio-economic effects on farming have been reported in Section 3.8 of this Recommendation. Regarding whether value should be attributed to the right of way; this is not a matter over which the ExA can preside. The ExA is satisfied that fair and reasonable compensation would be available.

### **Extinguishment of a right through Brick House Farm (Brickyard Farm)**

6.6.98. At D7, Mr Watson objected to the extinguishment of the right of way through Brickyard Farm [REP7-092]. This is described in the BoR as Brick House Farm (Plot D1-04) and shown on the Extinguishment of Easements Servitudes and Other Private Rights Plan [REP6-023] Sheet 1 of 2. At D8, the Applicant contended that there would be no basis for the private right of access through Brick House Farm to remain because Mr Watson would not be able to exercise this right beyond Brick House Farm through to the remainder of the land that he owns. The Applicant therefore argued that it would be appropriate to extinguish this right because, at its western end, it would conflict with the Proposed Development [REP8-013,] page 11 to 12.

*ExA's reasoning: Extinguishment of a right of access: Brick House Farm (Brickyard Farm)*

6.6.99. The ExA is satisfied that the case for extinguishment of rights through Brick House Farm, which is part of Plot D1-04 is made by the Applicant for the reasons set out above regarding the extinguishment of the right of access generally.

### **Access off the A659, and the A659 bellmouth**

6.6.100. Mr Watson questioned the Applicant's need to acquire the 10m strip of land for the access off the A659, which would become Mr Watson's only point of access to farm this land. He stated a preference to retain ownership and control his own entrance. He was concerned about situations that he knows can arise which could obstruct his ability to gain access including: fly-tipping, vehicles parking in the access (which would accommodate larger trucks with the proposals shown), overnight parking and tailback on the A659, which he reported occurs if there are traffic issues on the A64 and/ or A1 [REP5-100]. During CAH2, Mr Watson estimated that he would need access to the land about twelve times per crop [EV-008b].

6.6.101. Mr Watson maintained his position that he needed control over this access point throughout the Examination and in his final submission. He pointed out that there would be visibility issues if lorries park at the access, that the bellmouth appears to be 65m in width and that there would be safety issues with the way the layout is shown for vehicles leaving to drive north-east in the Tadcaster direction [REP7-092]. The Applicant argued that rights of access would be required to ensure sufficient visibility for vehicles entering and exiting the site [REP1-015], page 22.

6.6.102. The Applicant pointed out that it too, would be affected by issues such as fly-tipping because the undertaker would need unrestricted access at all times. The Applicant confirmed that it was hoping to engage with Mr Watson over these matters [REP6-059], page 11. There was discussion at CAH2 about the width of the access track to the CSEC and associated land rights. The Applicant confirmed that it needed a 10m strip within which to accommodate the access track and associated drainage. Shown as 7m wide, the Applicant confirmed that the track could be reduced to 4m wide and that this would also reduce the size of the bellmouth [EV-008b] and [REP6-059], page 11.

6.6.103. The ExA requested an update on design options for preventing obstruction to access off the A659 following the Applicant's engagement with Mr Watson on this matter. This was submitted at D7, but included a drawing illustrating a 7m wide track [REP7-046], Appendix A. The ExA issued a Rule 17 letter dated 8 September 2023 which asked the Applicant to clarify its position in this regard at D8, and if a 4m wide access track would be feasible, to submit a drawing showing this [PD-017]. Mr



Watson also pointed this out [REP7-092]. A revised plan was submitted accompanied by an explanation that the Applicant had been unable to meet with Mr Watson to discuss these matters and that the bellmouth was shown based on a 7m wide access track because this would need further consideration at detail design [REP8-014] and [REP8-013], page 15 to 17.

- 6.6.104. Mr Watson suggested that the Applicant create a different, separate access for its own use on land to the north in the ownership of Samuel Smith Old Brewery (Tadcaster) (SSOB) [EV-008d] and [REP7-092]. The Applicant stated that it would not be proposing a change, because it made more sense to use a single point of access and confirmed that it would work together with Mr Watson to ensure that solutions work in practice [EV-008d] and [REP6-059], page12.

*ExA's reasoning: access off the A659 and A659 bellmouth*

- 6.6.105. The ExA acknowledges that this access would become Mr Watson's sole access onto this part of his land and appreciates his concerns about both a shared access and the range of potential access issues that could arise resulting from the size and design of the bellmouth. We did ask North Yorkshire Council (NYC) about the extent of visibility splays early in the Examination and we were assured that NYC, as the highway authority, was content with that proposed, although all would be subject to design considerations post-consent [REP5-117]. Notwithstanding this, Mr Watson obviously knows the area and is alert to potential problems.
- 6.6.106. The ExA notes that the Applicant has tended to restrict its responses to issues of fly-tipping. However, in agreeing to continue its dialogue with Mr Watson, we are satisfied that the Applicant has made a commitment to continue to collaborate with Mr Watson over the design of the bellmouth. Mr Watson has engaged constructively throughout the Examination, and we feel that even though he continued to object to a single access, which he would not own, that this matter is one where the detail could be designed post-consent, if consent is given. Mr Watson's local knowledge and the use to which, and times when, he would need access would form crucial input to the ultimate design of the bellmouth and access arrangements.
- 6.6.107. Should problems arise during construction, then the mitigation offered by the Applicant would be the role of the ALO, which is reported below in Section 6.8 under Human Rights, where the ExA states that it is content with the role as it is now secured.
- 6.6.108. In terms of an alternative access on land in the ownership of another landowner, such as that suggested by Mr Watson, we agree with the Applicant's reasoning based on the explanation that it would necessarily interfere with the rights of another landowner and that providing the entrance is designed in a way that alleviates potential access issues for either party, a single point of access would be acceptable.
- 6.6.109. The ExA is content with the Applicant's CA case for flexibility of a 10m wide strip within which a 7m track is shown, with the potential to reduce this to 4m wide and reduce land take as required during detail design.

### **Orientation and location of the western CSEC, including a proposed alternative**

- 6.6.110. At the start of the Examination, the ExA understood there to be discussions underway between the Applicant and Mr Watson regarding a potential re-orientation of the western CSEC, so that it would lie immediately adjacent to the boundary with SSOB land, with the design intent of maximising the land that Mr Watson could farm and minimise ploughing turns [REP1-015], page 23, [REP1-017], page 8 and [REP4-024], page 12.
- 6.6.111. As mentioned in Chapter 1 of this Recommendation, a change notification (Change 4) was put forward by the Applicant and to Mr Watson, which would have re-oriented the western CSEC. The Applicant notified its intention to submit a request for proposed changes to the DCO application in a letter dated 19 June [AS-020]. In its covering letter to the actual Change Notification, the Applicant confirmed that landowner consent was not obtained for Change 4 (Reorientation of the Tadcaster West CSEC) and so it had not been included [REP5-090], page 1.
- 6.6.112. This matter was explored further at CAH2, when the ExA sought and received confirmation:
- from the Applicant that it would not be progressing Change 4 because Mr Watson had not elected to progress it; and
  - from Mr Watson that he was clear that by electing not to progress Change 4, the Applicant's final dDCO would include the location for the western CSEC shown in the initial application drawings [EV-008b].
- 6.6.113. Prior to CAH2, in response to ExQ2, Carter Jonas on behalf of Mr Watson had submitted an alternative arrangement and location for the western CSEC, which it was argued would ease the inconvenience to Mr Watson's farming operations and share the burden of the Proposed Development between his land and that of SSOB [REP5-100], ExQ2 4.3.21. See Figure 6.6.7. below.

**Figure 6.6.7: Extract from response to ExQ2 for Mr Watson by Carter Jonas (source REP5-100)**



**(The dashed edge rectangle is the Application position for the western CSEC, the pale blue hatched rectangle is the Applicant’s alternative, Change 4 location and the diagonal lined rectangle is Mr Watson’s suggested alternative, which it can be seen crosses the field boundary.)**

- 6.6.114. Mr Watson made the case in his response to ExQ2 and at CAH2, that he considered that the CSEC could be located closer to pylon XD001, which would reduce the length of access road required from the A659 and reduce adverse effects on farming activities and yields. He noted that it would be a similar proximity of CSEC to pylon as proposed for the eastern CSEC [REP5-100] and [EV-008b]. The Applicant explained that Mr Watson’s proposal would result in the CSEC being too close to pylon XD001 to site the landing gantry for the downleads from the pylon, such that an anchor block solution would be required which would result in an increase in land take because pylon XD001 would need to be fenced in with the CSEC to maintain safety clearances [REP6-058], page 7.
- 6.6.115. The Applicant also explained that the eastern CSEC has an anchor block arrangement rather than a gantry because of the space constraints in that location. The Applicant referred to its technical specification set out in the National Grid Approach that anchor block solutions are not the preferred method of use. They are only used in situations where a gantry solution is not possible because of the maintenance issues which arise with anchor blocks and because in this instance the size of the CSEC would need to be increased [EV-008b] and [REP6-059], page 7 to 8. The ExA asked that the technical approach referred to, be submitted into the Examination. In response, the Applicant explained that this was not possible

because it is an internal specification. However, its response set out the principles and explained that there needs to be a specific technical reason as to why a gantry cannot be used to deviate from this specification [REP6-061], action point 5. The Applicant also argued that it could not justify an anchor block, given that the gantry solution would require less land and cost less [REP8-013], page 12.

6.6.116. The Applicant responded to Mr Watson's points regarding land take, yield reduction from compaction and inconvenience to farming operations stating that it recognises there would be an impact and would minimise this as far as possible within the engineering parameters through the final siting of the CSEC. Also, the issues mentioned would all be subject to compensation [EV-008b] and [REP6-059] page 7. This point is reiterated at D8, when the Applicant acknowledged the landowner's comments in relation to loss of farmable land and increased time, costs and risks associated with cultivating the remaining land area around the CSEC. It stated that whilst there may be opportunities to mitigate impact by varying farming practices, the landowner would be entitled to make a claim for compensation for justifiable losses should CA powers need to be exercised [REP8-013], page 12 to 13.

6.6.117. Following CAH2 and D6 submissions, Carter Jonas on behalf of Mr Watson submitted further rebuttals to points made by the Applicant, in which the alternative location for the western CSEC continued to be promoted, arguing that it would reduce wastage of land and improve the timeliness of farming operations [REP7-092]. Mr Watson's submission also refuted the Applicant's statistics used in calculating its case that the land take from Mr Watson would comprise a small proportion of his overall landholding [REP7-092]. (Reported in Section 3.8).

*ExA's reasoning: western CSEC location and orientation and alternative*

6.6.118. The ExA acknowledges that from Mr Watson's point of view, his suggested alternative location for the CSEC would create less interference with his farming activities and would require less CA of his land. However, we are persuaded by the Applicant's case on technical and land take grounds, and with its arguments regarding the justification of CA powers.

6.6.119. We accept the Applicant's explanation that a landing gantry solution for the CSEC would not be physically possible because of proximity to pylon XD001. We accept the Applicant's rejection of an anchor block solution both because it would require more land and because of the additional maintenance issues which would arise which form the basis of the direction given in the Applicant's internal specification. Even though the internal specification is not before us, we consider that we have been given sufficient information about its content and rationale [REP6-061], action point 5.

6.6.120. We agree with the Applicant's point that it could not justify the additional land under CA powers because its proposed arrangement could be accommodated on less land, that is all within one ownership, and without resorting to the need for an anchor block.

6.6.121. We also satisfied ourselves by direct questioning at CAH2 that Mr Watson understood that by not consenting to the Applicant's proposed Change 4, the option to move the western CSEC to align with the boundary and thus improve the situation slightly for farming activities would no longer be extant.

6.6.122. Therefore, the ExA is content that whilst not ideal for farming activities on this part of Mr Watson's land, in the absence of consent for Change 4, the application's

proposed siting for the western CSEC would be an acceptable location contained in the Order, if consented. This is in the knowledge that compensation would be available.

#### **Extent of the land to be acquired including LoD**

- 6.6.123. Mr Watson sought clarification over areas of land that had been contained in correspondence with himself. He wanted to know whether the land acquisition would be that cited for the LoD, or land actually required once the detail design was refined [REP5-100].
- 6.6.124. The Applicant confirmed that it would only acquire the land required for the CSEC and not the entirety of land within the LoD. The permanent acquisition would only be of land required for CSEC, permanent access and mitigation in this area [REP6-059], page 9.

#### **The need for CA of a 10m strip along the A659 and for access to the hedgerow along the north-east boundary of Mr Watson's land**

- 6.6.125. Mr Watson objected to:
- the CA of a 10m strip of land along the A659 (Plot D1-33) [RR-006], which the Applicant argued is necessary for landscape and visual mitigation for hedgerow reinforcement and to enhance green infrastructure [REP1-015], page 22; and
  - the 10m strip between Mr Watson's land and that of SSOB, for hedgerow management and maintenance [REP7-092], page 4.
- 6.6.126. These differences were reiterated at CAH2 and not resolved, Mr Watson continued to challenge the justification for the CA, arguing that:
- hedgerow maintenance along the A659 could be undertaken from the roadside and with a 2m strip from the centre of the hedge; and
  - either the undertaker could cut the hedge along the SSOB boundary by hand, or Mr Watson would be willing to cut the hedge himself [REP7-092].
- 6.6.127. The Applicant argued that the A659 hedgerow would require regular cutting to maximise agricultural production, and that powers to maintain the hedgerow are needed because the hedgerow would form mitigation for adverse landscape and visual and effects. This would include reinforcing the existing hedgerow and allowance to plant another line of hedging material on the inside of the existing hedgeline [REP8-013], page 14 to 15.
- 6.6.128. Regarding the hedgerow that would be planted as part of the Proposed Development along the SSOB boundary, the Applicant stated that it would not leave a permanent track along the hedgerow for maintenance and therefore the impact of having the rights would be minimal for Mr Watson because it is only for maintenance activities not permanent infrastructure. The wider strip of Class 1 land from the A659 to the western CSEC would accommodate the CSEC access track and would allow maintenance [EV-008b] and [REP6-059], page 8. The justification of this 10m strip has been reported above.

#### *ExA's reasoning: 10m strip for A659 hedgerow and access along SSOB boundary*

- 6.6.129. Whilst we appreciate Mr Watson's offer to undertake the hedgerow cutting, the ExA is persuaded by the Applicant's case for the 10m strip along the A659 because the hedgerow reinforcement and additional hedgerow planting forms part of the mitigation, and as such the land would be required both for planting installation and

for ongoing maintenance. We concur that maintenance by hand would only be obligatory where physical access restrictions exist, which is not the case here, and that it would be the Applicant's responsibility to maintain this planting.

- 6.6.130. Regarding the access along the SSOB boundary for hedgerow maintenance, again we are content that the Applicant would not be acquiring rights other than those which are needed for the maintenance of the hedgerow.

**Previous court case, engagement by the Applicant and compensation**

- 6.6.131. Mr Watson considered that it is important that the ExA be aware of an earlier court case which resulted in the right of access he currently enjoys over Mr Ingham's land. This gives the second access from the south to Mr Watson's land, the need for which resulted from the re-locating of pylon XC481, which blocked a previous right of way [REP2-055] (Figures 6.6.5 and 6.6.6 above). The Applicant acknowledged the historic case and explained that it had offered meetings over a period of two years, and to underwrite professional advice in respect of the Proposed Development, as part of the offer of terms to secure a voluntary agreement for land and rights. The Applicant reported that Mr Watson had not taken up these offers and had asked for all correspondence to be in writing. However, a meeting date had been arranged after ISH1 [REP3-032], page 5 to 6.
- 6.6.132. Carter Jonas on behalf of Mr Watson made further points on compensation referring to the time land and soil can take to recover following use such as for the construction compounds, citing in his view it could be up to five years based on previous local experience. The case is made for compensation for loss of crops over that time period [REP6-068]. The Applicant responded that it is its preference to reach agreement on compensation as well as terms to acquire the necessary interests by agreement, but if not, that there would be dispute resolution available [REP7-068], page 7

*ExA's reasoning: previous court case, engagement and compensation*

- 6.6.133. The ExA has read and listened to all the evidence provided by Mr Watson regarding the previous court case. We appreciate from the Applicant's submissions that there is recognition that the rights of access to be extinguished are the outcome of court proceedings. However, whilst acknowledging the history, the ExA has not taken the findings of the judge in that case into consideration because we need to base our recommendation on the facts before us and the case for development consent for the Proposed Development. As reported earlier, based on the evidence presented; for safety, technical and physical constraints, we are content that the CA case for extinguishment of rights has been made satisfactorily by the Applicant.
- 6.6.134. Like other APs, the efficacy and timeliness of the Applicant's willingness to engage over land matters was criticised [REP2-054]. We acknowledge that this may in part relate to the history of legal action over the location of pylon XC481, and that the Applicant indicated it had made attempts to engage with Mr Watson. However, we consider that the great complexity of this area merited, and would merit in the future, special attention in terms of collaboration.
- 6.6.135. The Applicant has, on many occasions, in response to submissions by Mr Watson confirmed that compensation would be paid for land rights acquired, and if there is land not being capable of being farmed, and from any impacts from construction, [REP6-059], page 6 to 11. As we have stated earlier, compensation is not a matter over which the ExA presides, but the provisions which regulate compensation are, with which we are content.

### **Agricultural Liaison Officer**

- 6.6.136. A further matter of relevance is the role of the ALO. At CAH2, we requested Mr Watson (as well as other APs) to consider the revised wording for the role of the ALO contained in the then most recent CoCP [REP5-107] and in the Outline Soil Management Plan [REP2-022], because this is proposed to provide mitigation relating to construction stage and maintenance activities [EV-008a], action point 7. Mr Watson's response suggested the need for a second contact for responses if issues arose [REP6-068].
- 6.6.137. The Applicant explained that the CoCP [REP7-042], Table 2.1 details the structure and roles of both the Land Officer and ALO which together provide a two-tier contact system for landowners, occupiers and agents, and that out of hours contacts would also be provided [REP7-068], page 7.
- 6.6.138. The ExA's exploration of the role the ALO is reported below under Human Rights as we raised this matter in relation to the many APs for whom it was set out as mitigation at CAH1, ISH1 and ISH4 in considering the individual rights that would be interfered with. We are content with the wording as it is now included in the final CoCP.

### **ExA's overall reasoning**

- 6.6.139. Mr Watson raised a number of issues questioning the need for the proposed CA powers to acquire land and to extinguish rights over an existing right of access, and he proposed alternatives for diverting the route round the eastern CSEC, the location of the western CSEC and for another access off the A659. The ExA examined all these points in detail. We considered Mr Watson's individual rights that would be interfered with based on submissions from Mr Watson and the Applicant in writing and at hearings, and from our observations on the ASI.
- 6.6.140. We have concluded point-by-point above. In summary, whilst we acknowledge that Mr Watson's ability to farm parts of his land would be interfered with by the Proposed Development, the ExA does not consider that any of the alternatives put forward by Mr Watson can be justified on CA grounds and we are content with the conclusions of the strategic alternatives considered by the Applicant. We consider the extinguishment of the right of access Mr Watson currently benefits from would be proportionate and necessary for the reasons set out. Regarding the A659 access, we are satisfied with the single access to Mr Watson's land which would be acquired by the undertaker, but we agree that further detail design work on the bellmouth would be necessary and should involve Mr Watson, thus benefitting from his local knowledge. We also agree that the CA of the land for the hedgerow maintenance along two boundaries would be justified because of the role of the hedgerows in mitigation of adverse biodiversity, and landscape and visual effects. We are satisfied that there are suitable provisions for compensation in the dDCO.
- 6.6.141. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable, should the SoS decide to grant the Order for the Proposed Development, but we have noted the need for ongoing special attention to be paid because of the complexities in the area.

## Mr R Ingham

- 6.6.142. Mr R Ingham is a person with interest in land/ AP (BoR Parts 1 and 2) for land south-west of Tadcaster, lying between the A659 and the A64, which is proposed for Classes 1, 2, 2A, and 4 rights over land, including that for low voltage electrical line undergrounding and a medium pressure gas diversion. Hence some rights would benefit NGN and NPG as well as the Applicant. Mr Ingham is the landowner for the plots (D1-04 and D1-08) over which Mr Watson's rights are proposed to be extinguished. Mr Ingham attended the ASI, when the ExA viewed his and Mr Watson's land [EV-001b].
- 6.6.143. Mr Ingham referred to the historic dispute with National Grid regarding apparatus on his land and remarks that he has experienced difficulty in reaching the Applicant's personnel to discuss matters in a timely manner. He also considered that there are inaccuracies on the drawings [RR-013]. The dispute to which Mr Ingham referred is the same one to which Mr Watson cited. Mr Ingham's grounds for objection are:
- the proximity of the Proposed Development to residential properties;
  - potential blight of the property due to the Proposed Development;
  - concerns about the future use to which land to be acquired by the Applicant would be put; and
  - landlocking of some of the land proposed for CA, his preference for some of the land shown for CA not to be taken, versus whether an easement could be granted.
- 6.6.144. Mr Ingham was represented at ISH1, by Charles Waite and Co Ltd, which raised questions about the alternatives that had been considered [EV-003b].
- 6.6.145. The Applicant provided Mr Ingham's agent with a detailed list of where alternatives had been considered [REP1-015], Table 2.13 and [REP2-056]. The Applicant also provided a robust rebuttal to the comment on adverse effects on the property and set out the findings of the environmental impact assessment regarding the relevant residential property, explaining that the land would be put down to species rich grassland and hedge planting and made offers to discuss further the potential for Mr Ingham to retain an area within the Order land that could be subject to restricted access [REP1-015], Table 2.13.
- 6.6.146. In terms of blight, the Applicant indicated that it had considered the potential for blight in relation to Mr Ingham's holding and does not consider that the impact of the Proposed Development would meet the statutory definition of blight, as defined in Chapter II and Schedule 13 of the Town and Country Planning Act 1990. The Applicant added that in any event Mr Ingham had not demonstrated any reasonable attempts to sell the property and been unable to do so at a price substantially less than that which he might be expected to sell as a result of the proposed works (Section 150 of the Town and Country Planning Act 1990) [REP1-015], Table 2.13.
- 6.6.147. At CAH2, the Applicant confirmed that should Mr Ingham wish to retain the plot with restricted access, this would be agreeable. The land would however be retained in the CA schedule because it would be inaccessible for vehicles [EV-008b].
- 6.6.148. Although the Applicant made the statement that negotiations were "very, very advanced" with Mr Ingham [EV-008b], and the final Objections Schedule stated that the objection would be withdrawn and the Applicant was confident that agreement would be reached by the end of the Examination [REP7-054], page 4, the objection was not withdrawn.



### **ExA's reasoning: Mr R Ingham**

- 6.6.149. Mr Ingham and his representative did not engage with the Examination after submission of his WR and attendance at ISH1 and the ASI. From the information provided by the Applicant at CAH2, the ExA understood that negotiations were at an advanced stage then, and that it was likely that agreement would be reached. We are content with the Applicant's inclusion of the land with restricted access, on the basis that it would not be accessible by vehicles, but that if Mr Ingham wished to retain this land, it could be retained by negotiated agreement.
- 6.6.150. There was no further engagement by Mr Ingham or his agent on the matter of adverse environmental effects or blight. The ExA is satisfied with the Applicant's detailed explanation and findings of the environmental effects that would arise at the property, and we are content that the Applicant's case against blight is sound.
- 6.6.151. If agreement is not reached through negotiation, the ExA is satisfied that the CA of the relevant interests in this AP's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development.

### **North Yorkshire Council**

- 6.6.152. NYC has an interest in land and is an AP (BoR Parts 1, 2 and 3) for circa 240 plots of land throughout the council area, proposed for Classes 1, 2, 3, 4, 5 and 6 rights over land.
- 6.6.153. The basis of NYC's objection, as the local highway authority, was aligned with that of NH. NYC considered that further work was needed to clarify the position with regards to plots of land under NH's ownership (but maintained by NYC following de-trunking) to ensure that land rights would be taken under agreement and that the highways rights and responsibilities that go with them would be secured [REP4-041]. The way in which this is linked to NH's objection (reported below) is that NH proposed a Protective Provision (PP) which would protect all NH land, not just that which forms part of the Strategic Road Network (SRN). This is a point with which the Applicant disagrees.
- 6.6.154. NYC set out an agreed position between itself and NH as follows *"This objection extends to National Highways' land interests located within the local highway authority network. The local highway authority share National Highways concerns around uncontrolled powers being granted in, on, over or adjacent to the highway network. It is considered unnecessary for the applicant to permanently acquire the freehold of such land. Discussions are ongoing with the applicant in this regard and it is hoped that agreement can be reached to control the manner in which the applicant can carry out its necessary works in these locations. Without an agreement in place, the proposals are of concern to both National Highways and the local highway authority and as such both parties object."* [REP4-041], page 2.
- 6.6.155. In response, the Applicant acknowledged NYC's concerns relating to NH's land interests located within the local highway authority network, which are owned by NH but now maintained by NYC following de-trunking. The Applicant explained that its preference would be to reach a voluntary agreement with NH which would remove the need to exercise CA powers which if exercised, could extinguish rights held. In engaging with NH, the Applicant reported that it had sought clarity on whether a voluntary agreement basis by way of an easement agreement or by utilising

provisions contained within the New Roads and Street Works Act 1991 (NRSWA) would be preferred [REP5-082], Section 2.4.

- 6.6.156. The Applicant stated that CA of land is a matter of last resort. It would prefer to avoid acquisition and ownership of areas of highway land, which after construction would become non-operational land. It said it remained committed to proactive engagement with NH and NYC to identify a mutually satisfactory outcome for both sides [REP5-082], Section 2.4.
- 6.6.157. The Applicant's update on the position with NYC in the final Objections Schedule stated that discussions were ongoing on the preferred way to document the land agreement, along with discussions with NH, to formalise the land requirements [REP7-054], ref 21.
- 6.6.158. In its closing statement, the Applicant pointed out that the purpose of the PPs would be to protect NH's statutory undertaking and that NYC was content with the street works powers contained in its dDCO [REP7-039], para 4.3.4. This was confirmed in the final SoCG between the Applicant and NYC, which additionally contains an appendix "*Highways Approval Note to the ExA*" with the Applicant's responses. The Appendix set out that the undertaker would engage with NYC prior to works within the highway taking place, providing a table demonstrating how this would be delivered through specific articles and requirements [REP7-083], ID 3.2.1 and 3.2.2 and Appendix. The Applicant's position was that it was not therefore appropriate or necessary to extend the PPs to cover the local road network [REP7-039], pages 12 to 13.
- 6.6.159. At D7, NYC wrote "*The Authority understands that agreement has been reached between the Applicant and Highways England on the issue of compulsory purchase. We have been contacted to continue discussions in the same vein and with update the ExA at deadline 8*" [REP7-085], page 2.
- 6.6.160. At D8, NYC clarified the point above further stating that it understood that the agreement between the Applicant and NH only extended to the PPs for the SRN, but would not extend to those areas of the local network still in NH's ownership. (As far as the ExA is aware agreement was not reached between the Applicant and NH). NYC confirmed that it held its objection to any "*compulsory purchase*" of the highways. However, it also said that it believed that it would not be the Applicant's intention to acquire highway land permanently, but to do works by agreement via the NRSWA. NYC confirmed that would also be its preferred approach, expecting this to be finalised in October 2023 [REP8-031].
- 6.6.161. At D8, NH stated that NYC had instructed NH to maintain this objection because CA of this land "*would result in the land being removed from public ownership which would cause serious detriment to the highway authority's undertaking*". It continued "*These submissions are made to protect NYC's undertaking and there are strong public policy reasons why compulsory acquisition should not be agreed without offering NH and NYC the protections they require. NH's protective provisions have been drafted in such a way to ensure those protections are in place and if accepted would satisfy both NH and NYC on this point.*" It added that whilst NYC hoped to reach agreement with the Applicant with regards to land interests and works, at the time of the D8 submission it had not done so [REP8-027], Section 3.
- 6.6.162. Responding to D7 submissions, at D8, the Applicant argued that granting CA powers over land within the local highway network would not cause a serious detriment to NYC's highway authority undertaking because protections would be

afforded to NYC through approvals under the articles and requirements, supplemented by terms of the agreed s106 Agreement. The Applicant emphasised that there is no disagreement with the local highway authority in respect of the powers sought in the dDCO Part 3 Streets [REP8-013], page 23.

- 6.6.163. The Applicant disagreed that a cause of serious detriment could result from loss of ownership restricting the ability of NYC as highway authority to comply with regulatory responsibilities. It pointed out that land interests were only being sought to the extent that they would be necessary to complete the construction and operation of the Proposed Development. The Applicant considered that this would not be incompatible with the management of the highway network based on its experience country-wide working with highway authorities [REP8-013], page 23.

**ExA's reasoning: North Yorkshire Council**

- 6.6.164. We note that both NYC and NH referred to the likelihood of land agreements being agreed between the Applicant and NYC and that the Applicant was arranging further meetings with NYC. As any further submission from NYC would be after the close of the Examination, this would not be able to be considered as part of our Recommendation; but may be available to the SoS.
- 6.6.165. The position at D8 for NYC was linked with that of NH regarding the wording of Provision 79. (A difference of opinion over whether NH consent would be needed for the undertaker to acquire freehold land or seek to impose or extinguish any restrictive covenants, over any land owned by NH, or just land which is part of the SRN. This is concluded below under the ExA's reasoning for NH in Section 6.7).
- 6.6.166. Should agreement(s) between NYC and the Applicant be submitted to the Inspectorate or the SoS during the Recommendation or Decision period (as parties have suggested they might be) the SoS would be able to rely on these to be satisfied that terms have been negotiated satisfactorily. Certainly, if agreement(s) are accompanied by a withdrawal of objection by NYC, the SoS can be satisfied that the Applicant's stated preference to avoid acquisition and ownership of areas of highway land, which after construction would become non-operational land would have been achieved.
- 6.6.167. In our view such agreement between NYC and the Applicant would obviate the need for the re-wording of Provision 79 proposed by NH. However, the SoS might wish to clarify this position with NH, if NH has not submitted further comment. In any case, the ExA concludes below that NH's preferred wording should not be adopted.
- 6.6.168. If no submissions have been made to the Inspectorate or SoS following the close of the Examination, confirming that agreement has been reached between NYC and the Applicant, the ExA considers that this would not prevent the CA of the relevant interests in the NH owned land. This is because NYC was content with the street works powers contained in the Applicant's final dDCO (the wording being the same as in D6 and D7 versions) and had agreed the way in which engagement would take place for relevant articles and requirements. Additionally, the s106 Agreement would support NYC's responding to post-consent approvals (Chapter 7 of our Recommendation).
- 6.6.169. As reported further below, we agree with the Applicant that the basis on which NH set out the instruction for continued objection on the part of NYC was a s127 test, which is applicable to land that SUs require to carry out their undertaking, but not to a highway authority. For completeness, if no post-Examination submissions have

been made, the SoS might wish to seek clarification on progress with agreements from NYC and the Applicant and views from NH.

6.6.170. In none of these scenarios, do we consider that the SoS would need to undertake consultation any wider than the suggested clarifications with the three parties involved: the Applicant, NYC and NH. We conclude the land rights matters which form the basis of the objection from NYC below under reporting on NH in Section 6.7 of this Recommendation.

## **6.7. STATUTORY UNDERTAKERS**

### **Examination Timetable and Protective Provisions**

6.7.1. In discussion at the PM regarding the Examination timetable and completion in less than six months, the ExA highlighted that early finalisation of PPs could assist this [EV-002a] and [EV-002c]. At ISH1, the Applicant was invited to indicate (following on from discussion at the PM) which deadline it anticipated it could achieve for submission of agreed PPs. The Applicant confirmed that D5 should realistically be achievable [EV-003h].

6.7.2. The progress with PPs was charted with regular submissions of a Protective Provisions Progress Schedule; the final one submitted at D8 [REP8-011]. This sets out the nature of the undertaking, the land rights affected, whether s127 and/ or s138 would be engaged and the status of the discussions with any impediments envisaged.

6.7.3. Agreement was reached with, or no objection was received from, the following SUs:

- BT Openreach Limited: s138 would be engaged, no objection was submitted, PPs for the protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 15, Part 2;
- Canal & River Trust (CRT): s127 and s138 would be engaged, initial concerns, active engagement through attendance at hearings and response to ExQs, full agreement was reached, bespoke PPs for the benefit of the CRT are included in dDCO, Schedule 15, Part 3;
- Cellnex UK Limited: s138 would be engaged, no objection was submitted, PPs for the protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 15, Part 2;
- Hutchinson UK 3G Limited: s138 would be engaged, no objection was submitted, PPs for the protection of Operators of Electronic Communications Code Networks are included in dDCO Schedule 15, Part 2;
- Northern Powergrid (Northeast) PLC and (Yorkshire) PLC: s127 and s138 would be engaged, objection from NPG (Yorkshire), bespoke PPs for the benefit of NPG are fully agreed and included in dDCO, Schedule 15, Part 5;
- Northern Gas Networks (NGN): s138 would be engaged, no RR submitted, but objections raised (which were not withdrawn), bespoke PPs for the benefit of NPG are fully agreed and included in dDCO, Schedule 15, Part 8; and
- Yorkshire Water Services Limited: s138 would be engaged, no objection was submitted, PPs for the benefit of water undertakers (which also include electricity, gas and sewerage undertakers) are fully agreed and included in dDCO, Schedule 15, Part 1 which were agreed with a related side agreement.

6.7.4. For those SUs where the wording of PPs have been fully agreed, the ExA is content with the wording and has made no changes to the ExA's recommended Development Consent Order (rDCO).

6.7.5. For those SUs where bespoke PPs are required, but which were not agreed by the time of CAH2, the ExA requested from both parties a set of the Applicant's PPs marked up with areas of disagreement, including alternative precise wording. These were submitted by the Applicant as follows:

- with National Highways (NH) [REP6-064];
- with Network Rail Infrastructure Limited (NRIL) [REP6-063];
- with National Gas Transmission (NGT) [REP6-065]; and
- with Northern Gas Networks (NGN) [REP6-066].

These four documents do not use the Schedule 15 Protective Provision numbering. Each set of Provisions commences at 1. In reporting therefore, the ExA has used Provision number and para number from these documents, where relevant, to aid readers cross-reference.

6.7.6. The PPs with NGN were agreed before the end of the Examination, but the objection was not withdrawn. In the other three cases, the Applicant's final PP Progress Schedule, indicates the status of discussions and envisioned impediments to reaching agreement, but objections have not been withdrawn [REP8-011]. In some cases, it is stated that the Applicant is open to further discussion or that discussions would be ongoing.

6.7.7. The D6 submissions above highlighted that many significant areas of disagreement were still outstanding. This in turn meant that in order to be able to make recommendations on each to the SoS, the ExA's commentary on the dDCO (scheduled in the Examination Timetable for responses at D7) included over 30, many multi-part, questions [PD-015]. D7 responses show that the areas of disagreement had narrowed significantly.

6.7.8. Having precise alternative wording before the Examination for the outstanding differences means that should agreement be reached between parties during our Recommendation period that takes the other view from the ExA, and the SoS is made aware of that, it would be possible for the SoS to amend the Order from the rDCO to that alternative wording without the need to consult. Likewise, should the SoS disagree with the ExA's reasoning over any of the matters of disagreement, the other party's alternative wording is before the Examination in the documents listed above, which would enable the SoS to amend drafting to rDCO Schedule 15. This applies to all bar NH, which submitted further revised wording at D8. We cover this in recommending on NH PPs below.

6.7.9. The following sub-sections cover each SU, where objections have not been withdrawn and differences remain at the end of the Examination. For each, the s127 and s138 case is reported and the ExA sets out its reasoning for the wording included in the rDCO for Schedule 15 PPs. The Applicant's s127 and s138 PA2008 Examination submissions set out the specifics for each of the SUs' land:

- National Highways [REP5-087]
- Network Rail Infrastructure Limited [REP5-086]; and
- National Gas Transmission [REP5-088] and
- Northern Gas Networks [REP5-089].

## National Highways

- 6.7.10. NH engaged throughout the Examination, responding to questions and action points and attending CAHs and DCO ISHs. It objected from the outset because of the potential for adverse effects on the safe and efficient operation of the SRN [RR-029].
- 6.7.11. The Applicant's position at the end of the Examination was that s127 and s138 are engaged [REP8-011] as set out in its application under s127 and s138 [REP5-087]. Class 1, 2, 3 and 4 rights would be required. The Applicant explained that no land owned by NH used for its SRN undertaking would need to be the subject of outright CA, only rights over land would be required. But permanent acquisition of land owned by NH, but within the verges of the local highway network (where the interest in land has not been transferred following de-trunking or which was surplus land associated with the trunk road, now maintained by NYC) would be required.
- 6.7.12. The Applicant therefore argued that s127(2) and s127(3) would not be engaged. The case it made was that it does not relate to NH's undertaking so as to engage the test that *"the land has been acquired by a statutory undertaker for the purposes of its undertaking"* [REP5-087], page 5. However, because freehold acquisition is being sought over land held by NH within the local highway network, the Applicant stated that it would take a precautionary approach in demonstrating that there is no serious detriment to NH's undertaking. The Applicant's case is that the freehold acquisition sought does not form a serious detriment to NH because PPs are in place to protect NH's undertaking.

### Protective Provisions: dDCO and rDCO Schedule 15, Part 6

- 6.7.13. After the ExA issued its commentary on the dDCO, with questions [PD-015], NH and the Applicant reached common ground on many of the issues on which the ExA had sought each party's views, where differences had existed. However, NH retained its formal objection unless its PPs were included [REP8-027], page 1. There are two outstanding matters not agreed, on which we need to report and recommend wording for rDCO Schedule 15, Part 6. These are:
- i. indemnities; and
  - ii. land rights/ CA for non-SRN land which NH owns.

### Indemnities: rDCO Provision 77 ([REP6-064], para 20

- 6.7.14. The points of difference between parties are whether the indemnities should be:
- capped at £30 million or uncapped (Provision 77(2)), and/ or
  - linked to direct losses or not (Provision 77(1)).
- 6.7.15. The Applicant stated that it cannot agree to an uncapped indemnity, especially in these circumstances where it considers that any works on or over the SRN would be limited, because the absence of an uncapped indemnity covering so-called indirect losses would not contribute to the test of serious detriment. It argued that should there be any damage to NH's apparatus above the capped amount, NH would still have recourse through contractual channels to seek costs for damage attributable to it under the PPs [REP7-037], Section 1.2.
- 6.7.16. The Applicant considered that £30 million is already at the upper end of normal practice and believes that this is reasonable, proportionate and would adequately protect NH throughout the construction period. The Applicant considered that covering indirect losses is also not proportionate or reasonable because indirect

losses attributable to works carried out by the undertaker as part of the authorised development would still be attributable to the undertaker, but would need to be proven by NH. The Applicant considered retaining the reference to direct liabilities to be reasonable in light of its regulatory duty to act in the best interests of the electricity consumer [REP7-037], Section 1.2. and [REP8-013], page 22.

6.7.17. NH maintained that the indemnity should remain uncapped, a matter not agreed in the final Statement of Common Ground (SoCG) [REP7-077], Table 4.1. NH argues against the Applicant's point regarding best interests of the electricity consumer, considering it to be slightly misleading because the Applicant is a private company and therefore could choose to absorb costs in a number of ways, unlike NH which is funded by the taxpayer. NH's further argument is that the Applicant provides no evidence to justify its case that a £30 million indemnity cap is at the upper end of works falling within standard business practice, adding that it considers it would be impossible to quantify such losses. NH disagreed with the Applicant's approach to limit its liability by giving examples of scenarios on the SRN which could result in liabilities well in excess of £30m and disputed the Applicant's rationale for limiting the liability based on its assessment of the works on or over the SRN being limited [REP8-027], Section 2.

6.7.18. The final point made by NH is that the Applicant is seeking to impose something on NH that it is unwilling to accept itself when the parties' roles are reversed in terms of capping indemnities. Furthermore, NH states that it routinely enters into licences, which include a similarly worded indemnity which is uncapped, with the Applicant pursuant to the NRSWA permitting the Applicant to carry out works above protected streets [REP8-027], Section 2.

*ExA's reasoning, Provision 77; Indemnities*

6.7.19. The ExA is not persuaded by the Applicant's justification for capping at £30m, which we find somewhat generic. We agree with NH, that the Applicant has not provided reasoning specific to the works that would be involved in the Proposed Development. Therefore, we do not consider that the proposed capping is reasonable. We do not find the citing by NH of what the Applicant imposes when the roles are reversed to be relevant. Our recommendation is based on the facts before us regarding the Proposed Development. Therefore, the ExA recommends an uncapped indemnity.

6.7.20. The ExA recommends the retention of the word "*directly*" in Provision 77(1) to limit the indemnity to losses arising directly from the specified works in the Proposed Development. Whilst we do not accept the Applicant's reasoning regarding the need to protect the electricity consumer, to which NH objects, we do consider that it is reasonable to limit the losses and liabilities to those which are directly attributable to work carried out by the undertaker. Therefore, we agree with the Applicant's contention that indirect losses, if they occurred, would need to be proven by NH.

*rDCO changes and/ or retention of wording from the Applicant's final dDCO*

6.7.21. The ExA's rDCO has Provision 77(2) removed in its entirety.

6.7.22. The ExA's rDCO has left the word "*directly*" in Provision 77(1).

**Land rights for non-SRN land: rDCO Provision 79 ([REP6-064], para 19 and [REP8-027], Appendix 1, para 19)**

- 6.7.23. The differences over this Provision relate to the NYC objection reported earlier in the final part of Section 6.6 of this Recommendation.
- 6.7.24. The Applicant's firm position was that the PPs for NH should apply only in respect of NH's statutory undertaking, and not for land which is not held for that purpose because the purpose of the PPs would be to protect NH's specific undertaking, not its rights generally as a landowner outside of its statutory undertaking. The Applicant argued that NH's objection to CA over the local road network is not relevant to the test under s127 or s138 PA2008 because it has no maintenance obligation or statutory duties in connection with the local road network [REP7-037], Section 1.3.
- 6.7.25. The Applicant updated its SoR to differentiate between plots owned by NH for its statutory undertaking and plots owned for purposes unconnected to its statutory undertaking (because the land is part of the subsoil of the local highway network, maintained by NYC). This is clear on the track-changed version [REP7-051], page 32 to 33.
- 6.7.26. In response to the ExA's commentary on the dDCO, NH explained that the remaining disputed lands issue relates to the Applicant's case for CA powers in respect of land owned by NH which forms part of the local highway network. These plots were historically part of the SRN and ownership did not automatically transfer to the local authority following de-trunking. Whilst this could not cause serious detriment to NH's undertaking, submissions are made to protect NYC's undertaking on the basis that granting powers of CA to enable a third party to acquire the freehold of a highway would cause "*serious detriment to the highway authority's undertaking*". NH stated that serious detriment would affect the ability of the highway authority to comply with regulatory responsibilities, including maintenance and that there would be potential for the highway authority to trespass onto third party land when carrying out vital and critical works necessary to support its undertaking [REP7-090], DC1 3.3.7.
- 6.7.27. NH is of the opinion that the CA powers that the Applicant seeks in respect of NH land and interests would not be necessary and that the necessary tests for authorising such have not been met. As such it would be wholly inappropriate to grant powers of CA over operational highway land that would result in "*serious detriment*" to the highway authority and have numerous knock-on implications for the future operation of the highway network [REP7-090].
- 6.7.28. NH therefore sought to insert its wording from its PPs in Provision 79(3)(a) which would then read:
- "(3) The undertaker must not under the powers of this Order:*
- (a) acquire freehold land of National Highways; and/or..."* [REP8-027], Appendix 1.
- 6.7.29. As reported earlier under NYC's objection, at D8, NH stated that NYC had instructed NH to maintain this objection because CA of this land "*would result in the land being removed from public ownership which would cause serious detriment to the highway authority's undertaking*". It added that whilst NYC hoped to reach agreement with the Applicant with regards to land interests and works, at the time of writing it has not done so [REP8-027], Section 3.



6.7.30. Also as reported earlier under NYC's objection, the Applicant argued that protections would be afforded to NYC through approvals under the articles and requirements, supplemented by terms of the agreed s106 Agreement and that there was no disagreement with the local highway authority in respect of the powers sought in its dDCO Part 3 Streets (which would have been [REP6-025]) [REP8-013], page 23. Also, the Applicant disagreed that loss of ownership would restrict the ability of NYC to comply with highways regulatory responsibilities and that land interests were only being sought to the extent that they would be necessary to complete the construction and operation of the Proposed Development, which it argued would be compatible with the management of the highway network [REP8-013], page 23.

*ExA's reasoning: Provision 79: Land*

6.7.31. The ExA agrees with the Applicant, that the CA proposed by the Applicant could not cause serious detriment to NH's specific undertaking as an SU, which is the basis of the tests under s127 and s138 of PA2008. Therefore, NH's objection, whilst stated to be on behalf of NYC, is not relevant to the tests because NH has no obligations over the local highway network. Additionally, it is our view that the purpose of the PPs would be to protect land in which NH has an interest for the purpose of carrying out its undertaking, not for land it owns through de-trunking, which is not part of the SRN.

6.7.32. Added to this we also agree with the Applicant that because NYC has no objection to the relevant articles in the D6 dDCO, through which protection would be given that would protect the highway authority's management responsibilities through the rDCO. We give weight to the point made by the Applicant that it has country-wide experience of working with highway authorities in delivering their management responsibilities.

6.7.33. If as reported earlier, agreement has been reached between the Applicant and NYC to adopt the use of the NRSWA, or by another land-related means, and this has been communicated to the SoS, whether or not it includes a withdrawal of the NYC objection, the ExA is satisfied that this would confirm that a way forward has been found that would avoid acquisition of areas of highway land. In this instance we are of the view that the NH wording above, over which there is a difference of opinion, would no longer be required. We have suggested previously that the SoS may wish to ascertain NH's view on this.

6.7.34. However, even without evidence of agreement between the Applicant and NYC before the SoS, the ExA is content that the rDCO would protect the highway authority for its management responsibilities. This is because NYC has indicated in the final SoCG that it agrees with the street works powers contained in the Applicant's final dDCO (the wording of which was the same as in the D6 and D7 dDCO versions available at the time), combined with the additional information contained in the SoCG which sets out how the Applicant would engage with NYC prior to any works within the highway taking place, linked to the relevant rDCO articles and requirements.

6.7.35. The ExA therefore concludes that the Applicant's wording in its final dDCO is adequate, and that NH's proposed amendments are not required, whether or not there has been evidence submitted of agreement over land rights between the Applicant and NYC.

*rDCO changes and/ or retention of wording from the Applicant's final dDCO*

- 6.7.36. The ExA's rDCO retains the wording from the Applicant's final dDCO for Provision 79. Should the SoS disagree with this point and require NH's wording, it is cited above and can be found in NH's D8 submission [REP8-027], Appendix 1, para 19(3)(a).

**ExA's conclusions on s127 and s138 for National Highways**

- 6.7.37. NH's objection to the CA and TP of its land has not been withdrawn, therefore the test of s27 and s138 of PA2008 applies. The ExA is satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138, and that the powers sought could be exercised without serious detriment to the carrying out of NH's undertaking, and are consistent with s127, on the basis of the PPs that are reported above and included in rDCO Schedule 15, Part 6.
- 6.7.38. In concluding these matters for NH, the ExA is also satisfied that although agreement is not reached through negotiation with NYC, the CA of the relevant interests in NH's land would be necessary to implement the Proposed Development and that it would be reasonable and proportionate to do so. We consider the Applicant's approach in relation to the CA powers sought in respect of this land to be acceptable should the SoS decide to grant the Order for the Proposed Development.

**Network Rail Infrastructure Limited**

- 6.7.39. NRIL registered as an IP [RR-001] and submitted an objection [REP2-081]. NRIL responded to written questions, it did not attend hearings.
- 6.7.40. The Applicant's position at the end of the Examination was that s127 and s138 are engaged [REP8-011], page 7 as set out in its Examination submission under s127 and s138 [REP5-086]. The Applicant explained that no land owned by NRIL needs to be compulsorily acquired; only rights over that land, therefore, section 127(2) and (3) PA2008 are not engaged. Class 2, 3, 4, 5 and 6 rights would be required. At D8, the Applicant informed the Examination that NRIL had issued the Technical and Business Clearance Certificates for those works forming part of the authorised development which would affect the railway and that the proposed works would be acceptable in principle. The principle of the Applicant's Application under s127 and s138 PA2008 was not objected to by NRIL, provided that PPs acceptable to it are included on the face of the Order [REP8-013], Table 2.6 and [REP8-030].

**Protective Provisions: dDCO and rDCO Schedule 15, Part 4**

- 6.7.41. After the ExA issued its commentary on the dDCO, with questions [PD-015], NRIL and the Applicant reached common ground on many of the issues, where differences had existed, that the ExA had sought each party's views on. However, NRIL retained its formal objection unless its PPs were included [REP8-029] and [REP8-030]. There are three outstanding matters not agreed, on which we need to report and recommend wording for rDCO Schedule 15, Part 4. These are:
- i. restriction on the use of compulsory powers without NRIL's prior consent;
  - ii. land agreements; and
  - iii. drafting of EMI provisions.

**Consent Provisions: rDCO Provision 29 ([REP6-063], para 4, Table 2.1)**

- 6.7.42. NRIL requested the longstanding principle of CA powers not being granted in respect of railway property without NRIL's prior consent should be maintained in the PPs. It required additional articles (Articles 3, 4, 22, 25, 28, 34, 36 to 40 and 46) to be added to the articles in Provision 29(1), which would require powers under these articles only be exercised with the consent of NRIL [REP8-030].
- 6.7.43. NRIL also wanted Provision 29(2) (which would result in renumbering the remaining sub-paragraphs) to be included as follows [REP8-030], final two pages:
- “(2) Subject to paragraph (3) the undertaker must also not exercise:*
- (a) the powers conferred by section 11(3) (power of entry) of the 1965 Act;*
- (b) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016;*
- (c) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016;*
- in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.”*
- 6.7.44. NRIL accepted that there would be some protection for the railway in the currently proposed PPs, as the undertaker would have to enter into an Asset Protection Agreement and seek NRIL's prior approval of any plans, before any works commence. However, NRIL did not consider that these protections would regulate the exercising of the right by the undertaker and it said that it cannot accept the removal of its control over such regulation of the right [REP8-030].
- 6.7.45. The basis of its objection was that CA of rights would give rise to significant, unacceptable risk which could compromise NRIL's ability to comply with its Network Licence (copy provided) thus compromising the safe and efficient running of trains on the railway. It argued that this is because there would be no limitations and restrictions to facilitate the safe and efficient operation of the railway [REP8-030].
- 6.7.46. The Applicant did not consider that NRIL's proposed inclusions were necessary, proportionate or appropriate and furthermore considered that it could seriously compromise the undertaker's ability to deliver the Proposed Development [REP6-063], para 1.2.1. It considered that this Provision, if included, would have the potential to hinder progress of the Proposed Development and would fetter its rights under the dDCO [REP7-075], Table 4.1.
- 6.7.47. The Applicant made the case that because the Order would require the undertaker to secure NRIL's approval before carrying out any “specified work” (Provisions 28- to 30), NRIL's operational undertaking would not be adversely affected by works forming part of the Proposed Development. It also pointed out that it is not seeking powers for freehold interest in NRIL land [REP7-035].
- 6.7.48. Both parties cited examples of made DCOs in which their preferred PPs had been included. The Applicant acknowledged that there are precedents for the inclusion of the type of consent provision required by NRIL. However, it argued that the nature of the Proposed Development being an overhead line on which a number of offshore interconnectors would be reliant meant that stalling operations to accommodate future requests by NRIL could have far-reaching consequences across the national network and its dependents. The Applicant went on to express

further concerns regarding the potential power the provision would give NRIL to dictate the nature of the land interests and the commercial terms. The Applicant commented that NRIL had not submitted evidence to demonstrate that the Proposed Development would be incompatible with the safe and efficient operation of the railway [REP7-035], Section 1.2.

*ExA's reasoning: Provision 29, Consent provisions*

- 6.7.49. The ExA agrees with the Applicant that each case should be decided on its own merit. We consider that the comfort already provided by the approvals that would be required from NRIL, whilst not going as far as NRIL would wish, does give it a role in assessing risk and taking precautionary measures to prevent any serious detriment to its undertaking. The ExA has not made changes to the Applicant's final dDCO. In reaching this recommendation not to include the NRIL proposed additions, we have been mindful of the specific risks as presented in NRIL's WR [REP2-081].

*rDCO changes and/ or retention of wording from the Applicant's final dDCO*

- 6.7.50. The Applicant's final dDCO wording is retained in the ExA's rDCO.

### **Land agreements**

- 6.7.51. A related matter to the consent provisions is the disagreement between parties about the terms of voluntary land agreements, which were under negotiation. The Applicant set out the issues, which it argued could have the effect of removing the Applicant's rights to operate the Proposed Development [REP7-035], Section 1.4.
- 6.7.52. In the final SoCG, both parties stated that they have progressed matters and have agreed in principle a mechanism which would facilitate agreeing a form of easement by a specified longstop date, which is subject to drafting. Without agreement of the easements or wording of the PPs, they stated that it is not possible to sign up to a Framework Agreement [REP7-075], Table 4.1. This was also explained by NRIL in its response to the ExA's dDCO commentary [REP7-091], DC1 10.1.2 to 10.1.4. At D8 the Applicant confirmed that a side agreement was in preparation but that it has not been possible for the parties to reach agreement by the end of the Examination [REP8-021], Table 2.1.

*ExA's reasoning: Provision 79, Land agreements*

- 6.7.53. Parties may have reached agreement over voluntary land agreements by the time the SoS is considering this Recommendation. In any case, the ExA has found in favour of the Applicant's final dDCO wording (reported above), regarding the prior consents, which would provide a way forward for the powers sought by the Applicant if voluntary land agreements had not been negotiated and agreed.

### **Electromagnetic interference: rDCO Provision 36 ([REP6-063], para 10, Table 2.1)**

- 6.7.54. In relation to electromagnetic interference (EMI), NRIL proposed amendments to Provision 36(6) which would require testing by the undertaker prior to the use of the authorised development. NRIL also wanted amendments and additions to Provision 36(7) which would require the undertaker not to use the Proposed Development in a manner which has caused or would cause EMI until measures have been taken to prevent EMI occurring [REP6-063], para 10, Table 2.1.
- 6.7.55. The Applicant disagreed on both accounts, arguing that it would comprise duplication. It argued that the testing prior to commencement is not necessary

because calculations test the parameters using extreme scenarios and design solutions would ensure that impacts would be mitigated. The Applicant expressed concern about the potential that this would have to delay the programme for delivery of the Proposed Development [REP7-035], Section 1.3. On this point, NRIL stated that it is not duplicative because it would ensure testing would be carried out, without which the safety of the railway could be compromised [REP6-063], para 10, Table 2.1.

- 6.7.56. On the second proposed addition, the Applicant was very concerned that this addition could result in the need to shut down the electric line, whereas it argued that the existence of EMI would not necessarily require shutting down whilst the problem was fixed. It also pointed to Provision 36(3), which would require the undertaker to *“take all measures necessary to prevent EMI”* [REP7-035], Section 1.3.

*ExA’s reasoning: Provision 36, Electromagnetic interference*

- 6.7.57. In the final SoCG, both parties indicated that dialogue was continuing [REP7-075] and that they were working to resolve this point [REP7-075], Section 1.3. It may be that the SoS has an agreed form of wording before them for the decision period. In which case if this has been resolved, agreed wording submitted by both parties should be used. However as this is not agreed, it is for the ExA to recommend.

- 6.7.58. The ExA agrees that NRIL’s amended wording should be added to Provision 36(6). We consider that the Applicant’s arguments regarding delays to delivery of the Proposed Development are non-specific and if parties agree to co-operate, as they indicate they would, the pre-commencement testing could be programmed in so as not to cause delay. We agree with NRIL, that this is not duplicative, and we have taken regard of its points regarding the risk that could arise to the safety of the railway if testing were not carried out.

- 6.7.59. Regarding the proposed addition to Provision 36(7), we have taken a different position. Whilst we agree with NRIL, that Provision 36(3) refers to design and construction and cannot therefore be used in justifying an operational position where EMI has occurred, we give weight to the Applicant’s case that the existence of EMI would not necessarily require the shutting down of the electrical line and that there would be a regulatory duty for the undertaker to address an EMI occurrence as soon as possible.

*rDCO changes and/ or retention of wording from the Applicant’s final dDCO*

- 6.7.60. The ExA’s rDCO contains revised wording for Provision 36(6) as follows:

*(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if notwithstanding.....*

- 6.7.61. The ExA has not made changes to Provision 36(7) in its rDCO, the wording stands as in the Applicant’s final dDCO.

### **ExA’s conclusions on s127 and s138 for Network Rail Infrastructure Limited**

- 6.7.62. NRIL’s objection to the CA and TP of its land has not been withdrawn, therefore the tests of s127 and s138 PA2008 apply. The ExA is satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138, and that the powers sought could be exercised without serious detriment to the carrying out of NRIL’s undertaking, and are consistent with s127 on the basis of

the PPs that are reported above and included in rDCO Schedule 15, Part 4. In concluding this, the ExA is mindful that some of the above points of disagreement at the end of the Examination may have been narrowed further or resolved. If agreement has been reached and the SoS is made aware of this, then we would recommend that the Order is made according to the agreed wording. There would be no need for further consultation, if the two parties agree.

### **National Gas Transmission plc**

- 6.7.63. NGT submitted an objection which was not withdrawn [RR-028]. NGT did not attend hearings, but provided a written submission in lieu of attendance at CAH2, and responded to action points, it did not answer ExQ1 and ExQ2, but provided response to the ExA's dDCO commentary and made submissions at D7 and D8.
- 6.7.64. The Applicant's position at the end of the Examination was that s127 and s138 are engaged [REP8-011], page 11 to 12 as set out in its Examination submission under s127 and s138 [REP5-088]. The Applicant explained that no land owned by NGT needs outright CA; only rights over that land, therefore, s127(2) and (3) PA2008 are not engaged. Class 2 and 3 rights would be required [REP5-088].
- 6.7.65. NGT objected strongly to the Applicant's s127 and s138 Application. NGT refuted the Applicant's suggestion that the Proposed Development would present a low risk to NGT's apparatus. It asserted that the potential consequences of any damage to its apparatus would be so severe that it could result in catastrophic impacts on NGT and hundreds of thousands of gas consumers [REP6-073], para 22.
- 6.7.66. NGT continued to object to the s127 and s138 case in response to the ExA's dDCO commentary, and also set out the areas of difference and reasons regarding the wording of bespoke PPs [REP7-089]. In response to this, the Applicant stated that it has sought to engage with NGT to narrow the issues between the parties throughout the course of the Examination and, following D7 it proposed an all-parties meeting to try and reach agreement. However, it reported that NGT declined to meet [REP8-013], Table 2.4.

### **Protective Provisions and legal side agreement**

- 6.7.67. At the end of the Examination, NGT considered that to ensure that its assets would be satisfactorily protected its PPs and a legal side agreement was required in respect of the Proposed Development. The Applicant considered that its PPs in its final dDCO Schedule 15 Part 7 would be sufficient to protect NGT's assets, but both parties confirmed that they were continuing to negotiate and agree a legal side agreement [REP8-017], Table 4.1. The ExA would not be party to any material submitted after the end of the Examination, but if submitted it may provide the SoS with the means to confirm or amend Schedule 15, Part 7 rDCO drafting, if the Order is to be made. The ExA proceeds on the basis that no legal side agreement is before us.
- 6.7.68. Whilst acknowledging that PA2008 is a written process, hearings give the opportunity for the ExA to hear parties' points together, which can assist in closing down differences. NGT chose not to attend CAH or DCO hearings, so it has not been possible for the ExA to engage with both parties together to understand if there are areas for compromises and potential agreement. There are a number of outstanding matters not agreed, on which we need to report and recommend wording for rDCO Schedule 15, Part 7. These are:

- i. acceptable insurance cover;

- ii. protection of retained apparatus – deemed consent and timescales;
- iii. indemnity; and
- iv. legal side agreement

**Acceptable insurance cover Provision 82 ([REP6-065], para 2, Table 2.1)**

6.7.69. There are two points where differences still lie under this Provision, which are based on Interpretation:

- the limit of minimum “*acceptable insurance*” cover; and
- inclusion or otherwise of the word “*direct*” in relation to costs incurred by NGT.

6.7.70. NGT maintained that £50m represents an acceptable minimum level of third-party liability insurance required to be held by a DCO promoter, that it is the standard figure adopted across the gas industry and is sought by NGT in respect of all DCO schemes [REP7-089], para 4 to 7.

6.7.71. The Applicant stated that £25m cover is also standard practice, citing examples where £25m cover has been agreed, arguing that the impacts and potential risks of at least one of these has significantly greater risk than the seven non-intrusive crossings of the NGT high-pressure major accident hazard pipelines (MAHP) on the Proposed Development. It also stated that as a company with duties to the electricity consumer, it should not be required to obtain insurance above the risk profile of the works, where to do so would incur unnecessarily elevated premium payments [REP8-013], Table 2.4. The Applicant stated that it has frequently asked NGT for justification for the Proposed Development, rather than standards and precedents [REP7-036], Section 1.2.

*ExA’s reasoning Provision 82, Acceptable insurance provision*

6.7.72. We had urged the parties to reach agreement on the figure for inclusion in this Provision in our dDCO commentary [PD-015]. We recommend that the SoS errs on the side of caution and includes the higher figure of £50m. Whilst we acknowledge the Applicant’s point regarding the seven MAHP crossings being non-intrusive, we note that it is only recently that the Applicant has confirmed seven crossings in three locations. In previous submissions such as the s127 and s138 submission and the Applicant’s Position Statement not yet agreed with NGT, the number of MAHP crossings was not indicated [REP5-088] and [REP7-036], Section 1.2.

6.7.73. We agree that NGT has not justified the £50m cover based on the facts of the Proposed Development, although it set out the risks and works [REP6-073]. However, we have included the upper figure firstly because it is not clear if the Applicant’s earlier arguments were based on the now agreed number of MAHP crossings, which has only been shown to be the case, with maps, by NGT at D7 [REP7-089]. Secondly, the ExA has nothing before us to justify in detail either of the figures, so on a precautionary basis, we have included the higher figure in the rDCO.

6.7.74. Regarding the inclusion of the word “*direct*” under the definition of Network Code Claims, this links to the reasoning and conclusion that the ExA reaches on direct losses under the indemnity Provision 91, below, and is reasoned there.

*rDCO changes and/ or retention of wording from the Applicant’s final dDCO*

6.7.75. The ExA’s rDCO includes a revision to the limit of indemnity limit to “*not less than £50,000,000 (fifty million pounds)*” from that of £25 million stated in the Applicant’s final dDCO.

**Protection of retained apparatus – protection, deemed consent and timescales Provision 89 ([REP6-065], para 9, Table 2.1);**

- 6.7.76. The issues not agreed under this Provision affect wording in a number of places but are on the grounds of:
- whether there should be deemed approval for works/ working over NGT apparatus; and
  - timescales for review of plans [REP8-026], para 8.
- 6.7.77. Over its various submissions, NGT argued that the interaction between the Proposed Development and the high-pressure MAHP would be “*low risk, high severity*”. NGT stated that as a fundamental matter of principle it could not agree deeming provisions where health and safety are at issue, citing health and safety of workers and the general public as much as protecting NGT’s apparatus and continuing of gas transmission. So even though risk is perceived as low by the Applicant, NGT argued that the potential consequences would be so severe that deemed approval could simply never be acceptable. In this regard NGT re-iterated the point that concern should be addressed to the potential consequences of damage that might be caused to the MAHP, albeit accidentally [REP8-026], para 3 to 4. NGT argued for the removal of Provision 89(4)(c) in its entirety.
- 6.7.78. The Applicant argued that as with other approvals in the dDCO, deemed consent should be included to ensure that there would not be delays to approvals because of the significant programme constraints demanding prompt approvals. (This is linked to the timescales point below, including that of securing NGT’s ability to request modifications to plans) [REP7-036], Section 1.4.
- 6.7.79. NGT objected to timescales for review as follows:
- Provision 89(1) 28 days should be 56 days before commencement for submission of plans;
  - Provision 89(5) delete reference to within 21 days for NGT to require modifications to plans submitted under Provision 89(1); and
  - Provision 89(9) 28 days should be 56 days before commencement for submission of a new plan.
- 6.7.80. NGT presented arguments regarding the timescales stating that in its view a provision which requires the Applicant to provide NGT with more notice, rather than less would not jeopardise prompt delivery, rather it would ensure prompt delivery of the Proposed Development [REP8-026], para 4.

*ExA’s reasoning Provision 89: Protection of retained apparatus*

- 6.7.81. The ExA acknowledges the potential consequences of damage which NGT has advised. We have balanced this with arguments presented by the Applicant regarding the low risk nature of the works which would affect NGT’s apparatus. We note that the Applicant has said that as much notice would be given as possible of an intended submission for approval – but this is not secured. Therefore, we consider it reasonable to adopt NGT’s preferred timescale for initial submission of plans prior to commencement because of the potential health and safety implications and because NGT may need time to undertake further assessments [REP6-065], para 9, Table 2.1.
- 6.7.82. The ExA recommends removing the deemed consent clause at Provision 89(4)(c). This is for a number of reasons based on the risk as presented by NGT. We have,



in reaching this recommendation, given weight to the wording in Provision 89(4)(b) which states that NGT's approval must not be unreasonably withheld. Therefore, should unreasonableness arise, the undertaker would have the arbitration Provision 95 to rely on. We recognise that the Applicant has made its case strongly for prompt approvals linked to the urgent need for delivery of the project and would wish to rely on deemed consent if approval timescales were not met.

- 6.7.83. However, in weighing the severity of potential interference with NGT's undertaking, as described, with the overall programme for the Proposed Development, we consider, on balance, that a precautionary approach should be adopted. We have taken note, as NGT indicated, that the two undertakers are new to interactions with each other [REP8-026], para 6. This has also led us to take a cautious approach to our Recommendation. We recognise this would give the Applicant less certainty for the timing of receipt of approvals, but consider that with careful advance programming, and collaborative working (as the Applicant has indicated it would do) the approvals for work at the seven MAHP crossings could be accommodated.
- 6.7.84. Finally, the ExA has not amended the timescale in which NGT would need to notify any modifications required, keeping this at 21 days under Provision 89(5), because we consider it would be reasonable for a review of the matters covered by Provision 89(2) to be undertaken in this timescale. We recognise that NGT disagrees with this position.
- 6.7.85. Had these differences been aired in full at an earlier stage in the Examination, or at hearings such as at CAH2, or ISH4, we could have requested parties to consider including wording to cover the pre-application approval process such as/ similar to that found in Schedule 4 Discharge of Requirements. We believe that there is more than one way to include PPs that provide the powers that the Applicant needs without causing serious detriment to NGT's undertaking. We have adopted one that would not require further consultation because the wording and alternative wording is before us and the SoS.
- 6.7.86. Taking the two matters together, the ExA has decided to recommend the timescale for review of plans prior to commencement be amended to 56 days as requested by NGT. We also recommend removal of the deemed consent clause in Provision 89(4)(c), but extending the timescale to 56 days. We recommend leaving the 21-day limit for modifications to be requested by NGT in Provision 89(5). We recommend the timescale for submission of a new plan in lieu of an earlier plan also be 56 days in Provision 89(9) for consistency with Provision 89(1).

*rDCO changes and/ or retention of wording from the Applicant's final dDCO*

- 6.7.87. The ExA's rDCO amends Provision 89(1) from "*Not less than 28 days...*" to "*Not less than 56 days*".
- 6.7.88. The ExA's rDCO has removed Provision 89(4)(c), and amended 89(4)(b) to end with a full stop and added "*and*" to the end of 89(4)(a).
- 6.7.89. The ExA's rDCO retains Provision 89(5) as included in the Applicant's final dDCO.
- 6.7.90. The ExA's rDCO amends Provision 89(9) from "*..in no case less than 28 days...*" to "*in no case less than 56 days*".

**Indemnity Provision 91 ([REP6-065], para 11), Table 2.1**

- 6.7.91. The points of difference between parties are whether the indemnities should be:

- capped at £30 million or uncapped (Provision 91(10)), and/ or
- linked to direct losses or not (Provision 91(1) and 91(2)).

6.7.92. NGT argued that it had asked the Applicant to explain the assumptions or calculations underpinning their £30m proposed indemnity cap figure and considered that the Applicant has merely pointed to its desire to protect itself commercially from being exposed to an uncapped indemnity. It also pointed out that being economic and efficient applies to NGT itself, as well, as an SU. NGT accepted the Applicant's point that it has not quantified the potential risk of damage to its apparatus. NGT concluded that if the Proposed Development would present such a low risk to NGT's apparatus, as argued by the Applicant, providing an uncapped indemnity which would never be called on would be a reasonable position [REP8-026], para 5 to 6.

6.7.93. The Applicant reasoned that the absence of an uncapped indemnity would not contribute to a test of serious detriment because NGT would still have recourse through contractual channels above the capped amount. The Applicant challenged NGT's hypothetical case that an impact from the works in the Proposed Development could cause catastrophic (or even moderate) impact on NGT's apparatus [REP7-036], Section 1.5.

6.7.94. The Applicant argued that £30m would cap the indemnity at the upper end of normal working practice and it should be in line with the nature of the works and risk being near NGT's undertaking [REP6-065], para 11, Table 2.1. The Applicant demonstrated that it was taking a proportionate approach to capping indemnities in respect of its interference with third party apparatus because it has taken a different (uncapped) approach with NRIL. It said that it is open to discussion with NGT [REP7-036], Section 1.5.

6.7.95. NGT sought the deletion of reference to direct consequences and losses resulting directly in a number of places in Provision 91(1). It also sought inclusion of the words "*without limitation*" to describe the works carried out by the undertaker in Provision 91(1). Additionally, it required the deletion of all of Provision 91(2) which limits the application of the indemnity as follows:

*"(2) For the avoidance of doubt, these indemnities shall not apply to penalties; or any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working) arising from any such damage or interruption, which is not reasonably foreseeable."*

6.7.96. The Applicant considered the wording of the Network Code Claims, which it proposed should include use of "*direct*" so that any liability would be directly related to the works undertaken under the Proposed Development [REP7-036], Section 1.3. The Applicant explained that it is not saying that its indemnity wording would remove liability of the undertaker with respect to indirect losses suffered by NGT, just that such losses would need to be proven first and once proven, would still be payable through damages sought in the usual way [REP7-036], para 1.5.2.

*ExA's reasoning, Provision 91, Indemnity*

6.7.97. The ExA recommends an uncapped indemnity. Parties disagree widely on the level of potential risk. Neither party considers that the other is weighing the risks appropriately. We recognise that the Applicant has not taken a blanket £30m indemnity capping approach to all PPs, in comparing the potential interference with NRIL's apparatus. However, faced with such diverging opinions on what the potential impact of interference from the Proposed Development could be on NGT's undertaking, we recommend that the SoS takes a precautionary approach and

removes the Provision 91(10) which would have limited the indemnity to £30m. We agree that it is important to consider the facts of the Proposed Development and not rely on precedents from other Orders. We have taken this approach.

- 6.7.98. The ExA recommends the retention of the words “*direct*” and “*directly*” (in three places) in Provision 91(1) to limit the indemnity to losses arising directly from the specified works in the Proposed Development. We also recommend that the SoS does not include NGT’s proposed additional amendment adding “*without limitation*”. Whilst we do not accept the Applicant’s reasoning regarding the need to protect the electricity consumer, to which NGT objects, as grounds for limiting the indemnity to direct losses, we do consider that it is reasonable to limit the losses and liabilities to those which are directly attributable to work carried out by the undertaker. Therefore, we agree with the Applicant’s contention that indirect losses, if they occurred, would need to be proven by NGT.

*rDCO changes and/ or retention of wording from the Applicant’s final dDCO*

- 6.7.99. The ExA’s rDCO has Provision 91(10) removed in its entirety.
- 6.7.100. The ExA’s rDCO has made no changes to the Applicant’s final dDCO for Provision 91(1).
- 6.7.101. The ExA’s rDCO has made no changes to the Applicant’s final dDCO for Provision 91(2).

**Legal side agreement**

- 6.7.102. At the outset, in the first SoCG parties agreed that a side agreement would be negotiated and agreed [REP1-039], Table 3.1. In the final SoCG, submitted at D8, NGT considered that in order to ensure that its assets would be satisfactorily protected a legal side agreement would be required and was continuing to engage and negotiate one with the Applicant. The Applicant, whilst submitting that its bespoke PPs for the benefit of NGT would be sufficient to protect NGT’s undertaking, said that it is continuing to engage and negotiate a legal side agreement [REP8-017], Table 4.1. In the D7 SoCG, the Applicant indicated that it had hoped this side agreement would be agreed before the end of the Examination [REP7-079], Table 5.1. At D8 the Applicant confirmed that a side agreement is in preparation but that it would not be possible for the parties to reach agreement by the end of the Examination [REP8-021], Table 2.1.

*ExA’s reasoning: Legal side agreement*

- 6.7.103. NGT made no mention of the negotiations over a land side agreement to which the Applicant referred in its final planning obligations and commercial side agreements. In this document the Applicant stated that an agreement is under preparation to secure the protection of NGT’s apparatus in relation to the Proposed Development [REP8-021], Table 2.1. The ExA sees no reason why the PPs as we have included in the rDCO would not be sufficient to protect NGT’s undertaking.

**ExA’s conclusions on s127 and s138 for National Gas Transmission**

- 6.7.104. NGT’s objection to the CA and TP of its land has not been withdrawn, therefore the tests of s127 and s138 PA2008 apply. Indeed, NGT strongly contests the Applicant’s s127 and s138 case. NGT’s position is that the only way to mitigate and manage any serious detriment to its undertaking is if the NGT PPs are included in the Order. However, the ExA is satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138, and that the

powers sought could be exercised without serious detriment to the carrying out of NGT's undertaking, and are consistent with s127 on the basis of the PPs that are reported above and included in rDCO Schedule 15, Part 7.

- 6.7.105. In concluding this, the ExA is mindful that some of the above points of disagreement at the end of the Examination, where parties failed to reach agreement, may have been narrowed further or resolved through negotiation and/ or the legal side agreement. If agreement has been reached and the SoS is made aware of this, then we would recommend that the Order is made on the basis of the agreed wording if that differs from that we have recommended. There would be no need for further consultation, if the two parties agree.

### **Northern Gas Networks Limited**

- 6.7.106. NGN did not withdraw its objection, but did agree PPs with the Applicant, which were submitted in the Applicant's final dDCO at D8 [REP8-004]. This was accompanied by an updated SoCG, which shows that PPs were agreed as was a side agreement. Both parties agreed that a crossing agreement would be necessary. This can be seen easily in the track-changed version of the SoCG [REP8-020], ID3.1.1 to 3.1.3.

### **ExA's conclusions: Northern Gas Networks Limited**

- 6.7.107. The ExA notes that agreement on the wording of PPs has been reached between parties at D8. There is nothing in the SoCG that would lead us to think that agreement would not be reached over a crossing agreement because it is included under matters agreed and a statement is made that discussions are ongoing over precise drafting.
- 6.7.108. As NGN's objection to the CA and TP of its land has not been withdrawn, the tests of s127 and s138 PA2008 apply. However, PPs, which have been agreed by NGN are included in the Order. The ExA is satisfied that the powers sought by the Applicant are necessary for the Proposed Development and consistent with s138, and that the powers sought could be exercised without serious detriment to the carrying out of NGT's undertaking, and are consistent with s127 on the basis of the PPs that have been included in rDCO Schedule 15, Part 8.

### **ExA's Overall Conclusion on Statutory Undertakers**

- 6.7.109. In overall conclusion, with regards to those SUs whose rights and apparatus would be interfered with by delivery of the Proposed Development, but which did not make representations, Schedule 15 of the Applicant's dDCO Part 1 includes provisions for the protection of all electricity, gas, water and sewerage undertakers and Part 2 provides protection for operators of electronic communication code networks. As representations have not been made the provisions of s127 are not engaged. The Canal & River Trust agreed bespoke PPs, set out in Part 3, as did Northern Powergrid, set out in Part 5. Both these SUs withdrew their objections [REP8-025] and [AS-026]. Therefore s127 and s138 are no longer engaged.
- 6.7.110. As different matters formed the basis of the outstanding matters regarding bespoke PPs, for NH, NRIL and NGT, the ExA has provided its reasoning and concluded its recommendations under their relevant headings above. Regarding NGN, the ExA is satisfied that the powers sought are necessary on the basis of agreed PPs.
- 6.7.111. On the basis of the evidence before the ExA, we are satisfied that the relevant PPs contained within Schedule 15 of the rDCO would ensure that an appropriate degree

of protection would be given to the affected SUs, such that there would be no serious detriment to the carrying out of their undertakings. The ExA is satisfied that the interference with apparatus and extinguishment of rights would be necessary and proportionate for the purposes of carrying out the Proposed Development.

- 6.7.112. Notwithstanding the geography and infrastructure in specific SU interfaces with the Proposed Development, the ExA is disappointed that the Applicant and certain SUs could not reach agreement within the statutory timescale for examination, regarding interfaces which must occur in numerous locations throughout the UK. Had the Applicant submitted initial bespoke PP wording in a more timely fashion (ideally in its application) and had the relevant SUs engaged more meaningfully at a much earlier stage of the Examination, then there is no reason why mutually acceptable PPs could not have been agreed before the Examination closed. This would have avoided the need for the ExA and SoS to adjudicate the matters.

## **6.8. THE EXA'S CONSIDERATION OF THE CASE FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION**

- 6.8.1. The ExA's approach to the question of whether and what CA powers it should recommend to the SoS to grant has been to apply the relevant sections of PA2008, notably s122 and s123, the Human Rights Act 1998 and the Equality Act 2010; and, in the light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.
- 6.8.2. A number of general considerations also have been addressed in the light of the CA Guidance, namely, whether all reasonable alternatives to CA have been explored, whether the Applicant has a clear idea how it intends to use the land and has demonstrated funds would be available, whether the proposed interference with the rights of those with an interest in land would be for a legitimate purpose and that it is necessary and proportionate, and whether there would be any impediment to obtaining any operational or other consents.
- 6.8.3. We first report on those other matters, in order that we may conclude on the sections of PA2008 succinctly but comprehensively below.

### **Other Matters**

#### **Whether all reasonable alternatives to Compulsory Acquisition have been explored**

- 6.8.4. Para 8 of the CA Guidance requires that the Applicant should be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA (including modifications to the scheme) have been explored.
- 6.8.5. The Applicant's SoR set out the stages of the project development process, which demonstrated the options, identification and selection process [REP7-056], Sections 2.3 to 2.4. It then explained the consideration of alternatives at the various stages, through strategic options, routeing studies and refers to further details on the alternatives considered and assessed throughout the project development process in ES Chapter 2, Project Need and Alternatives [APP-074] and [APP-163].
- 6.8.6. The ExA has reported on its finding with regard to the alternatives considered in Section 3.3 of this Recommendation. We do not repeat that here, only to report that

we are satisfied that at a strategic level, the Applicant has adequately considered alternatives to the Proposed Development and that there are no matters relating to the consideration of alternatives which would weigh for or against the Order being made.

6.8.7. We now turn to the question of alternatives which arose in the specific context of land rights. At our request, the Applicant provided a summary table setting out account that had been taken of responses in the location, routeing and design of the Proposed Development in considering CA alternatives, together with reasons where changes have not been made [REP2-039], Appendix G.

6.8.8. During the Examination a number of alternatives were proposed by APs, some of which had also been the subject of pre-application consultation. These have been reported above, with reasoning as follows:

- suggested by APs and were found not to be appropriate on grounds of physical constraints, third party diversions, technical and safety matters, and/ or would require more powers than could be justified and than those sought in the Applicant’s final dDCO;
- suggested by APs and subsequently included in the Applicant’s Change Application;
- suggested by APs and resulted in some modifications which could be agreed in more detail post-consent or secured in a commitment to liaise post-consent; and
- suggested by APs and/or the Applicant and subject to further negotiation as they would require land outside the Order limits.

6.8.9. The Applicant stated that it is progressing with acquisition by negotiation as an alternative to CA and TP; it has sought to reach voluntary agreements with all APs. It is the Applicant’s stated preference that all land and rights (CA and TP) should be acquired through negotiation and agreement, therefore CA powers would only be exercised when it appeared that negotiations would be unlikely to be completed, or completed in time [REP7-056], Section 5.8 and 6.3. The Applicant explained that its Land Rights Strategy has recently been revised to increase the prospect of reaching voluntary agreement, so terms have been offered on a new basis, which offers payments over that which would be offered should compulsory powers need to be utilised [REP2-038], Q4.7.5 and [REP7-056], para 5.8.4.

6.8.10. At key points during the Examination and at the end, the Applicant provided an update on those negotiations. At D7, the status of negotiations with objectors was provided [REP7-054] and the SoR contained the status of ongoing negotiations at September 2023. This is shown below (source [REP7-056, para 5.8.6]).

<b>Status of Agreement</b>	<b>Total Number</b>
Heads of Terms in Negotiation	69
Heads of Terms Agreed and with National Grid Lands for authorisation	2
Heads of Terms sent to legal	38
Option Agreement Signed and exchanged	1
<b>Date as at 6 September 2023</b>	

*ExA's reasoning: Alternatives to CA*

- 6.8.11. The ExA is satisfied that the Applicant has been progressing rights by negotiation during the Examination, and from statements given that it would continue to do so, with objectors and also with other landowners, such as for an alternative access to pylon XC520 (as reported in Section 3.7 of this Recommendation). The ExA is surprised that more of the negotiations were not concluded by the end of the Examination where differences over objections had narrowed and updates had indicated near conclusion. We note that a number of the objectors cited difficulty in achieving timely progress with the Applicant.
- 6.8.12. The ExA has taken into account the particular points made by objectors in relation to alternatives, including alternative sites for CSECs, shifting location of CSECs, alternative locations for pylons/ removal of pylons and alternative access provision. However, we are satisfied that the Applicant has explored all reasonable alternatives to CA, including those which have formed the basis of CA objections. The objections raised do not dissuade the ExA from the conclusion that there are no alternatives to the CA powers sought which ought to be preferred.

**Diligent inquiry and clarity on use of the land**

- 6.8.13. Diligent inquiry must be undertaken to identify the categories of persons set out in s44 and s57 as Categories 1, 2 and 3. The Applicant explained that it undertook identification of Category 1, 2 and 3 interests during the initial stages of developing the Proposed Development in order to inform the design, consultation and preparation of the application.
- 6.8.14. All interests within the Order limits were identified, including owners, lessees, tenants and occupiers, as well as persons who have an interest in land or have power to sell and convey, or to release land. Regarding potential Category 3 persons who may have a relevant claim pursuant to s10 of the Compulsory Purchase Act or s152(3) of PA2008, the Applicant carried out desk-based assessments and site visits to adjacent properties. Potential claimants under Part 1 of the Land Compensation Act 1973 were also identified utilising the outcomes of the environmental assessment to identify those properties that may have a claim resulting from physical/ environmental factors [REP7-056], Section 5.5 to 5.6.
- 6.8.15. The Applicant's SoR contains a Land Referencing Diligent Inquiry Methodology [REP7-056] Appendix C. We asked the Applicant what steps it would take to identify unknown rights during the Examination in land where it had not yet been able to identify any persons having an interest in the land, including any rights over unregistered land. The Applicant explained that it undertakes regular reviews to identify updates in Land Registry records and through dialogue with landowners and agents and where information comes to light during the Examination on the holders of unknown interests, or any additional interests, the BoR would be updated [REP2-038], Q4.2.3.

*ExA's reasoning: Diligent inquiry*

- 6.8.16. The ExA is satisfied that the Applicant has undertaken and continues to undertake its land enquiries in a diligent fashion and that the requirements under s44 and s57 regarding categories of APs have been satisfactorily applied.

## **Extent of land and rights for Compulsory Acquisition and Temporary Possession**

### *Land for Compulsory Acquisition*

- 6.8.17. The Applicant set out that land and rights in land would be necessary to deliver the Proposed Development. The rationale for the extent of the required land and rights was set out, whereby the extent of the land and rights to be acquired were drawn with regard to avoiding any unnecessary interference with third-party land. The Applicant stated that it had taken a proportionate approach to the proposed acquisition, mindful of the impact on affected landowners [REP7-056], Section 4. The classes of rights sought are Classes 1, 2, 2A and 3 under Articles 22, 25, 26 and 27 in the Applicant's final dDCO [REP8-004].
- 6.8.18. The Applicant's SoR includes tables which set out its justification for the grant of the acquisition of land and acquisition of rights and imposition of restrictive covenants with the specific use on a plot-by-plot basis with the class of rights sought for which undertaker (the Applicant, NPG or NGN) in the SoR [REP7-056], Section 4.3 and Appendix A, Table A1 and A2.

### *Land for Temporary Possession*

- 6.8.19. In relation to the TP powers sought pursuant to Articles 36 to 39 of the dDCO, the Applicant also set out its justification for the grant of these powers and the specific use on a plot-by-plot basis in the SoR [REP7-056], Section 4.4 and Appendix A, Table A3. The powers sought are required to carry out and thereafter maintain the Proposed Development. The powers would be needed for a limited time period during the construction phase and for occasional maintenance in the operational phase.
- 6.8.20. These TP powers are not CA powers and accordingly the tests under s122 and s123 PA2008 are not applicable. However, the request for the powers in order to enable the Proposed Development to be implemented and maintained must be justified. The inevitable interference with human rights must be justified, and there must be adequate compensation provisions in place for those whose land is affected.
- 6.8.21. In considering the objections raised by APs who would be affected by CA, we have also taken all relevant objections into account in reaching our conclusions on the application for TP and rights in the same way as for permanent acquisition, but set against the appropriate tests.

### *ExA's reasoning: Extent of land and rights for Compulsory Acquisition and Temporary Possession*

- 6.8.22. The ExA is satisfied that the TP powers sought are needed both to facilitate implementation of the Proposed Development and to maintain it, and that adequate compensation provisions are in place in the rDCO. We consider the human rights implications of both the temporary and permanent interests and rights sought later in this Chapter.
- 6.8.23. The ExA is satisfied that the Applicant has demonstrated how it intends to use the land rights which it proposes to acquire and the land for which it seeks CA and TP. We find the SoR comprehensive, with its Appendix A, when read with the BoR and articles and Authorised Development descriptions in the dDCO. We are content that the SoS can be satisfied that there is no doubt as to the particular purposes for



which any land which would be compulsorily acquired. Likewise, there is clarity over use of land for TP.

### **The availability and adequacy of funding**

- 6.8.24. Applicants are required to demonstrate that adequate funding is available. The Applicant set out its justification for availability and adequacy of funding in its Funding Statement [APP-070] (which accompanied the application) and updated at D7 [REP7-069], which it stated should be read alongside the SoR. The Funding Statement explains how the Proposed Development generally would be funded and specifically how the acquisition of land and rights over land which are necessary to deliver the Proposed Development would be funded.
- 6.8.25. The Funding Statement indicates that the cost of implementing the Proposed Development would be £300 to £325 million (which could only be confirmed after tendering). This range is inclusive of a £23.45 million pre-construction project allowance set by the Office of Gas and Electricity Markets (Ofgem), which would be delivered in 2024, if consent is granted. It also includes the total cost of payments for acquiring both freehold land and rights over land estimated at between £5 and £10 million for payments that are only triggered by taking access to the land or by the commencement of construction with a further £2.5 million which would be the full cost of acquiring all the necessary land and rights before access and construction commences, which is part of the pre-construction project allowance set by Ofgem [REP7-069], Sections 5 and 6.
- 6.8.26. The Applicant confirmed that the total cost includes the estimated value of compensation payable in relation to disturbance, severance and injurious affection, third party professional fees, blight and claims arising under both Section 10 of the Compulsory Purchase Act 1965 and Part 1 of the Land Compensation Act 1973 [REP7-069], Section 6. The Applicant demonstrated its Land Rights Strategy calculations and the contingencies allowed and explained that it is based on offering payments over that which would be offered should CA powers need to be used [REP2-038], Q4.7.5 and [REP7-056], para 5.8.4.
- 6.8.27. The Applicant confirmed in response to ExQ1 that it would be responsible for the financial commitments to all respective private and public bodies to undertake the attributable works associated with the Proposed Development, that there is no other third-party funding involved. The works to be undertaken by NPG and NGN would be funded by the Applicant and paid via call-offs under their respective service contract frameworks [REP2-038], Q4.7.3.
- 6.8.28. In terms of certainty of funding in the statutory timescale, the Applicant explained that it is progressing through the Large Onshore Transmission Investment licence process in which the Proposed Development received a positive minded-to position from Ofgem for the Final Needs Case on the 10 March 2023. Determination of the project assessment is programmed for Spring 2024. The Applicant included quotations from Ofgem's minded-to statement, which the ExA finds reassuring in terms of the statements made and the full explanation of the project assessment process for funding [REP2-038], Q4.7.2,3,4 and 5.
- 6.8.29. The Applicant gave an update on the current funding position in its Closing Statement, which is that the Final Needs Case was conditionally determined in June 2023 and is subject to the Applicant obtaining a planning decision. The Applicant concluded that the SoS can be satisfied that all aspects would be fully funded, including that needed for the acquisition of any land and other land interests, for

compensation or blight claims and for the costs of implementing the Project [REP7-039], para 2.4.3.

*ExA's reasoning: Availability and adequacy of funding*

- 6.8.30. The ExA finds the manner in which the Applicant has assessed the funding required for CA, and the likely cost of implementing the project, to be satisfactory and reliable. We note the contingencies and enhanced payments on which the calculations are based. The ExA has no reason to doubt that the Applicant is of sound financial standing, that it has the necessary funding applications in hand, and that the necessary funds would become available to finance the project, including CA. We agree with the Applicant's statements that the SoS can be satisfied that all funding would become available if the Order is made.

**The need to obtain operational and other consents**

- 6.8.31. The ExA's consideration of the other consents and licences required to implement the Proposed Development is set out in Section 7.6 of this Recommendation and is not repeated here. Drawing on our findings in Section 7.6, we are satisfied that the Applicant has demonstrated that there is no impediment to obtaining any operational or other consents which may be necessary to construct and operate the Proposed Development. In this sense, para 19 of the CA Guidance is met.

**Section 122(2) PA2008 the scope and purpose for which CA is sought**

- 6.8.32. The SoR set out the considerations that the SoS will need to take into account in deciding whether the condition in s122(2) has been met. Para 7 of the CA Guidance expands on s122 of the Act, stating that applicants must be prepared to justify their proposals for CA of any land to the satisfaction of the SoS and para 8 to 22 of the CA Guidance provide several general considerations that applicants should demonstrate to the satisfaction of the decision maker, which we cover below [REP7-056], Section 6.
- 6.8.33. For s122(2)(a) to be met, the Applicant should be able to demonstrate that the land in question is needed for the development for which consent is sought or is land required to facilitate or is incidental to that development. The SoS would need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development. Further guidance is also provided in relation to compliance with s122(2)(b).
- 6.8.34. There were a number of areas that the ExA explored in ExQ1 and CAHs to satisfy itself that land shown for CA and TP powers would be needed. Briefly these are:
- the extent of land required for visibility splays at bellmouths, which was justified by Design Manual for Roads and Bridges requirements, with which the highways authorities agreed;
  - the need for three access tracks to one scaffolding location, which was justified because some forms of scaffolding would require three access points, and a decision on scaffolding would only be made by the contractor post-consent;
  - more land shown in the Order limits round some pylons, which was justified because corner-turning tension pylons and in-line tension pylons (needed on long straight runs) require more land for winching;
  - whether LoD could be limited in any direction at pinch points. The Applicant subsequently included this in Change 1, offered it up in Change 4 (which was not taken forward) and agreed to consider micro-siting within LoD at another location;

- whether haul roads between some pylons would obviate the need for use of some land, where objections existed. This was implemented in one location as Change 2;
- amount of land required for temporary construction compounds, which was justified on the grounds of the equipment and laydown areas required; and
- why CA was required on land already in the ownership of the Applicant which was justified on the grounds of the potential emergence of unknown interests in the land.

6.8.35. The ExA is content with the responses and explanations given for these matters and satisfied that the powers included in the Applicant's final dDCO [REP8-004] with regards to land associated with these matters would be necessary. The ExA found the explanations given by the Applicant's lead engineer at hearings particularly helpful in understanding the technical issues that supported the case for some of these CA rights.

6.8.36. S122(2)(c) is not relevant because there is no common land, open space, or fuel or field garden allotment.

#### **Work No. U8 (renumbered Work No. U7)**

6.8.37. One further matter was the case that the ExA was not convinced by the Applicant's reasoning regarding Work No. U8 (renumbered U7). This was included to deliver the removal of the existing distribution overhead, 11kV electric line, and replacement with an underground cable. We questioned the need for the land because we had been informed that this undergrounding had already been completed by NPG. This matter had been discussed at ISH3, CAH1 and was the subject of ExQ2. Until CAH2, the Applicant maintained its position that the land and works should remain in the Order limits and dDCO because there would always be the potential that future network configurations etc could mean that the circuits would have to be put back overhead and so powers would be needed to make any amendments to the undergrounding should it impact on the construction works for the Proposed Development [REP5-083], ExQ2 5.2.1.

6.8.38. At CAH2, the Applicant confirmed that in light of the ExA's ongoing concerns, it would remove the compulsory powers sought for Work No. U8 [EV-008f] and [REP6-059]. We confirmed at CAH2 that this did alleviate our concerns.

#### **Associated development s115(2)**

6.8.39. Section 115(2) PA2008 provides that, in addition to the development for which consent is required under Part 3 PA2008 (the principal development), consent may also be granted for associated development. PA2008 defines associated development as development which is associated with the principal development.

6.8.40. The Applicant did not differentiate between the NSIP as defined under s14 and s16 PA2008, and associated development, and has also included a list of other associated development not listed in the Work Nos in its final dDCO [REP8-004], Schedule 1. This is justified by the Applicant in the final EM on the grounds that there could be overlap between associated development and works which form part of the NSIP, so separating it out in the Order could potentially lead to errors, incorrectly defining it one way or another. The Applicant noted that there is no requirement for an Order to distinguish between these two categories. It explained in the EM that it has adopted this approach such that all elements of the authorised development either constitute part of the NSIP or are associated development within

the meaning of section 115(2) of the Act, and so could properly be authorised by the dDCO [REP8-006], Section 3.2.

- 6.8.41. Initial ExA queries about the way in which the dDCO was drawn with regards to the works included as associated development in the Authorised Development were explained by the Applicant. This is reported in Chapter 7.
- 6.8.42. The ExA is of the view, as set out in the EM that the associated development in Schedule 1 of the rDCO, comprises development for which development consent would be sought. The land required for this associated development can therefore, in principle, be compulsorily acquired pursuant to s122(2) PA2008.

#### **Other land issues**

- 6.8.43. At CAH2 we asked the Applicant if there were any other (non-SU) land issues of which it was aware that were not the subject of the known objections which might be raised. The Applicant confirmed that there were not. The Applicant also confirmed that it would be proceeding with CA for land near Monk Fryston Substation, which was the subject of probate, as probate would not be resolved before the end of the Examination.

#### **ExA's overall reasoning: Section 122(2)**

- 6.8.44. The ExA is satisfied that the CA rights sought in all the plots of land included in the revised BoR and shown on the amended Land Plan would be required for, or to facilitate or incidental to, the Proposed Development to which the development consent relates. Both the principal development, and the associated development, identified by the application would be needed for that purpose. The ExA therefore confirms that in its opinion, the requirements of s122(2)(a) and (b) PA2008 are met.

#### **Section 122(3) PA2008, Whether there is a Compelling Case in the Public Interest**

- 6.8.45. The Applicant explained that there is a national need for the provision of new energy infrastructure, which is set out in its Updated Need Case [APP-205]. It argued that the requirement for CA powers would ensure timely acquisition of the necessary land and rights needed to construct and maintain the Proposed Development and that there is therefore a very clear need for the Proposed Development to be granted development consent and an associated compelling case in the public interest for CA powers [REP7-056], Section 6.2.
- 6.8.46. The Applicant confirmed the factors it had considered in weighing public benefit versus private loss and how that exercise has been undertaken in a table cross-referencing the Updated Needs Case, Planning Statement and SoR. The Applicant also set out further key benefits which would arise from the Proposed Development, including (but not limited to) Biodiversity Net Gain, secured through a s106 Agreement, dismantling of some existing pylons and removal of sections of the existing distribution overhead electric line and its replacement with the installation of underground cables [REP2-039], Appendix H.
- 6.8.47. The Applicant tabulated the private loss that would be consequential on the construction and operation of the Proposed Development by itemising all the APs and summarising the nature of loss that would be caused [REP2-039], Appendix H, Table 1.2.

### **ExA's reasoning: Section 122(3)**

- 6.8.48. The ExA has also had regard to the objections raised by all APs, reported above. Nevertheless, we conclude that the public benefits associated with the Proposed Development would strongly outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation and maintenance of the Proposed Development.
- 6.8.49. We have taken into account the particular points made by objectors in relation to alternatives, including alternative sites, alternative accesses and modifications to pylons. However, we are satisfied that the Applicant has explored all reasonable alternatives to CA, including modifications to the scheme. The objections raised do not dissuade us from the conclusion that there are no alternatives to the CA powers sought which ought to be preferred.
- 6.8.50. The Applicant has demonstrated a clear idea of how it intends to use the land rights which it proposes to acquire. It has shown that there is a reasonable prospect of the requisite funds, both for acquiring the land and implementing the project becoming available.

### **Human Rights**

- 6.8.51. The European Convention on Human Rights was applied within UK domestic law by the Human Rights Act 1998. The CA Guidance, para 10 states that the SoS must be persuaded that the purposes for which an order authorises the CA of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. Therefore, in assessing whether there is a compelling case in the public interest for the land to be acquired compulsorily, it is also necessary to consider the interference with human rights which would occur, if CA and TP powers were granted.
- 6.8.52. The Applicant acknowledged that the dDCO would engage a number of Articles of the Human Rights Act:
- Article 1 of the First Protocol (the right to those whose property would be compulsorily acquired to the peaceful enjoyment of their possessions);
  - Article 6 of the First Protocol (which entitles those affected by the powers sought to a fair and public hearing); and
  - Article 8 of the First Protocol (which seeks to protect private and family life, home and correspondence) [REP7-056], Section 8.1.
- 6.8.53. The Applicant said that it carefully considered the human rights relevant to the Proposed Development prior to making the Application and concluded that proposed interference with those rights would be in accordance with law, proportionate and justified in the public interest because:
- the need for the Proposed Development is well-established and of national importance in respect of meeting net zero targets and energy demands;
  - those affected by CA and/ or TP powers would be entitled to compensation, for which the Applicant has resources;
  - parties were able to make representations during the pre-application stage through the consultations that the Applicant undertook under s44 PA2008;
  - representations have been able to be made via objections in writing and at CAHs;
  - should the Order be made, a person aggrieved can challenge by judicial review in the High Court if they consider that there are grounds for doing so; and

- in relation to compensation disputes, APs have the right to apply to the Upper Tribunal (Lands Chamber), an independent tribunal [REP7-056], Section 8.1.

6.8.54. Therefore, the Applicant reasoned that the inclusion of powers of CA in the Order would not constitute any unlawful interference with Convention Rights and further that it would be appropriate and proportionate to make the Order for the Proposed Development including the grant of powers of CA.

### **Existing land uses and the Agricultural Liaison Officer**

6.8.55. We asked the Applicant what degree of importance had been attributed to the existing uses of the land proposed to be acquired in assessing whether any interference would be justified, and why. It referred us to the development process and site selection as set out in the CPRSS [APP-209]. It explained that the predominant land use is agricultural and that the existing infrastructure has been *in situ* for many years. It considered that impacts upon APs would be minimal, and generally temporary in nature, only during construction. It acknowledged that some disruption to normal agricultural activities would be inevitable.

6.8.56. To address this, the Applicant proposed that the appointment of persons to the roles of Lands Officer and ALO would mitigate as far as possible any such disruption. Also, that any disturbance that resulted in financial loss to the occupier or tenant, including additional time taken to liaise with the undertaker or its contractors as well as additional time taken to undertake normal agricultural activities on the land would be subject to compensation claims, made to the undertaker [REP2-038], ExQ 4.9.1. The Applicant had also mentioned the appointment of the ALO in mitigation to many of the landowner objections received, in its response to RRs [REP1-015].

6.8.57. The ExA was not content with the clarity of the roles of Land Officer and ALO in terms of certainty of appointment, length of appointment, whether this would extend to the maintenance period, how daily input would be guaranteed, whether phasing and linear geography would mean it needed more than one person be employed, whether the roles were sufficiently detailed and whether the Outline Soil and Management Plan was the right place to set this down. This was discussed under the Human Rights agenda at CAH1 and CAH2 because such reliance was being placed on this mitigation to protect interference of APs' land [EV-007d] and [EV-008d].

6.8.58. By CAH2, revised role descriptions had been included in the CoCP. We consulted landowners for their views and revised wording was included in the final CoCP [REP7-042], Table 2.1. The ExA is content with the expanded description, which has greater clarity on the two roles. We note that one objector relied on the role of the ALO during construction, in addressing the objection matters they had raised, when withdrawing their objection [REP7-094].

### **Easements and Wayleaves**

6.8.59. A number of APs in RRs and Stephenson's Rural LLP on behalf of Newlands (York) Limited and the Rab Family at CAH1 queried why easements were being sought rather than wayleaves, which had been used in the past with some of the same landowners. At CAH1, we requested the Applicant to provide a further statement on this. There was an explanation in the Application SoR [APP-069], para 5.8.3 to 4. Following CAH1, the Applicant provided further basis for preferring easements, setting out policy and contractual reasons, but explaining that it is possible to negotiate variations to deeds of easement [REP4-027], Appendix C.

6.8.60. The ExA notes that draft NPS EN-5 (March 2023), Section 2.6 includes a new section on Land Rights and Land Interests, which states that where the CA of rights is sought, permanent arrangements are strongly preferred over voluntary wayleaves because of their greater reliability and economic efficiency and in reflecting the importance of such infrastructure to the nation's net zero goals.

6.8.61. The ExA is content with the Applicant's justification for easements rather than wayleaves and that they would not give rise to greater interference of private rights than would be necessary. Draft NPS EN-5 (March 2023) would provide further support to the ExA's conclusions in this regard. We have therefore given weight to draft NPS EN-5 (March 2023), Section 2.6 as an important and relevant matter in this regard as we see it representing a clear direction of travel toward the benefit of greater certainty over land rights in emerging Government policy.

#### **ExA's reasoning: Human Rights**

6.8.62. In this case, we have attributed substantial weight to the need described in EN-1 for new electricity transmission infrastructure and how the project would assist in meeting this need. We consider that this is a legitimate interest of the wider community. In this context, it is also relevant that those affected would be entitled to compensation. Moreover, the Applicant has taken steps to ensure its approach to land acquisition is proportionate and would not give rise to interference with private rights beyond that which is absolutely necessary. The Applicant has:

- varied the Order limits along the line of the Proposed Development, and reduced LoD in some places to ensure that the land affected has been kept to a minimum;
- secured a commitment in the CoCP to landowner discussions over micro-siting within LoD;
- made changes during the Examination to reduce interference on private land (Changes 1, 2, 3 and removal of Work No. U8);
- fine-tuned its mitigation through the ALO role in the CoCP and the Outline Soil Management Plan;
- placed reliance upon TP, rather than permanent acquisition; and
- sought to reach voluntary agreements with all APs.

6.8.63. Having regard to the relevant provision of the Human Rights Act 1998, the ExA has considered the individual rights that would be interfered with, and the submissions made by APs in this regard:

- For the reasons above we are satisfied that the powers sought are no more than is required to secure the interests of the wider community and are not likely to place an excessive burden on those whose human rights could be affected. We therefore consider that there would be no violation of Articles 1 and 8.
- In relation to Article 6 the ExA is satisfied that all objections which were submitted to the Examination have either been resolved with the AP, and/ or the AP has had the opportunity to present their case to the ExA in writing and/ or at the CAHs. The application and its Examination procedurally accord with PA2008 and related guidance. There is therefore nothing to suggest that parties have not had a reasonable chance to put their case or been put at a substantial disadvantage in relation to other parties.

6.8.64. Finally, in terms of the overarching aims of the Human Rights Act 1998, CA Guidance and the required balancing exercise, we are satisfied that the public benefit from the Proposed Development would clearly outweigh any interference with the human rights of those with an interest in the land affected. We therefore

consider that any interference with human rights would be for legitimate purposes, proportionate and justified in the public interest.

### **Equality Act 2010**

- 6.8.65. S149 of the Equality Act 2010 requires a public authority, in the exercise of its functions to:
- have due regard to the need to eliminate discrimination harassment and victimisation and any other conduct prohibited by or under the Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - foster good relations between persons who do share it.
- 6.8.66. The Applicant is not a public body as listed in s149 Equality Act 2010, nevertheless it stated that it has had regard to the principles of the public sector equality duty (PSED) when exercising its functions as a private organisation, and sets out the steps it has taken [REP2-038], ExQ1 4.9.2. In its updated SoR, the Applicant included explanation as to how it has taken the duties that sit with the decision-maker under s149 of the Equality Act 2010 into account, with specific mention of the traveller community occupying land within the Order limits [REP6-029], Section 8.2.
- 6.8.67. The Equality and Human Rights Commission explains that the purpose of PSED is to ensure that public authorities and organisations carrying out public functions think about how they can improve society and promote equality in every aspect of their day-to-day business, which includes how they are promoting equality in decision-making. It also sets out that having due regard means that an organisation has made itself aware of, and understood, what PSED means and has put this knowledge into practice.
- 6.8.68. The occupants of the Travellers' Site at the junction of the A1(M) and A63 are persons who share a protected characteristic for the purposes of the Equality Act 2010. The ExA has borne in mind the need to eliminate discrimination, advance equality or opportunity between persons who share a relevant protected characteristic and persons who do not share it, and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Mr Carruthers, representing the traveller community, which included those with a legal interest in the land, attended and made submissions at ISH2. We have considered the granting of development consent in the light of any potential equality impacts. The actions taken in regard to PSED by the ExA are listed in Annex D of this Recommendation.
- 6.8.69. The Applicant decided to submit an ES Addendum, subsequently updated, to report the landscape and visual impact assessment (LVIA) of receptors at the Travellers' Site [REP1-013]. This has been reported in Section 3.4 of this Recommendation. The Applicant complied with the ExA's request to submit its Travellers' Site Engagement Schedule, to include all recent activity, updated at each deadline [REP7-052].

### **ExA's reasoning: Equality Act**

- 6.8.70. The ExA considers that the Applicant recognised and has complied with the requirements of the PSED to make reasonable adjustments to processes that would otherwise unfairly disadvantage those with protected characteristics, if such circumstances had the potential to arise. The fact that the ExA disagrees with the way in which the Applicant has assessed the sensitivity of the traveller community in



the ES LVIA Addendum (as described in Section 3.4) does not deflect from our view that the Applicant has given due regard to PSED requirements because of the mitigation which would be in place.

- 6.8.71. In this regard, we consider that the Applicant's new R19 (included in its final dDCO) which would require a site specific mitigation plan to be agreed with NYC post-consent would be an appropriate means of addressing the detail of construction activities in this area, which are assessed to result in significant adverse effects. We particularly welcome the commitment to consult with a representative for the traveller community prior to submitting the site specific mitigation plan for approval as set out in the CoCP [REP7-042] and the wording of R19 which confirms use of accessible means of communication. NYC also confirmed that it is content with the drafting of R19 in light of the Council's PSED [AS-025], point 33.
- 6.8.72. The ExA is satisfied that the Applicant has had due regard to the duties under s149 of the Equality Act 2010. In exercising our functions as the ExA, we have had due regard to the PSED contained in s149 Equality Act 2010. We conclude that there is no evidence that implementation of the Proposed Development would disproportionately affect persons who enjoy a protected characteristic, nor would there be any adverse effect on the relationship between such persons and persons who do not share a protected characteristic, provided that R19 is included in the Order and the wording in the CoCP is maintained.

### **Section 120(5)(A) and Section 126, the Incorporation of Other Statutory Powers**

- 6.8.73. The rDCO seeks, in a number of instances, to apply s120(5)(a) of PA2008 and apply, modify or exclude a statutory provision. Since the rDCO is in the form of a Statutory Instrument, it would comply with s117(4) PA2008. Furthermore, no provision would contravene the provisions of s126 PA2008 which relates to the modification or exclusion of a compensation provision.

### **Section 123, Land to which Authorisation of Compulsory Acquisition can Apply**

- 6.8.74. In terms of s123 the ExA is content that the application for the Order includes a request for CA of the land to be authorised. We are also content that the prescribed procedure has been followed in relation to the land in terms of diligent inquiry and the right for APs to be heard at CAHs and that they had the opportunity to submit representations and evidence in writing. Therefore, the SoS can be satisfied that at least one of the specified conditions have been met.

## **6.9. CONCLUSIONS**

- 6.9.1. The ExA is satisfied that the CA sought in all the plots of land included in the updated BoR and shown on the updated Land Plan would be required for, or to facilitate or be incidental to, the Proposed Development to which the development consent relates. Both the principal development, and the associated development, identified in the application (as amended by Changes 1, 2 and 3) would be needed for that purpose. The requirements of s122(2)(a) and (b) PA2008 are, therefore, met.
- 6.9.2. Turning to s122(3), we have had regard to all objections raised. We are content that the Applicant has endeavoured to minimise the impact that CA would have on those APs affected by the Proposed Development and hence the extent of their private

loss. The private loss to those affected would be mitigated by limiting the use of CA powers to land necessary to deliver the Proposed Development and by the use of TP powers wherever possible to minimise both land take and the extent of rights and interests to be acquired.

- 6.9.3. The ExA is satisfied that the Applicant has explored all reasonable alternatives to CA, including modifications to the Proposed Development and acquisition by negotiation and agreement. The ExA concludes that there are no alternatives to the CA powers sought which ought to be preferred. The ExA is also satisfied that the Applicant has demonstrated a clear idea of how it intends to use the land rights which it proposes to acquire. It has shown that there would be a reasonable prospect of the requisite funds both for acquiring the land and implementing the Proposed Development becoming available within the statutory timescale.
- 6.9.4. The ExA therefore concludes that the public benefits associated with the Proposed Development would strongly outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation, and maintenance of the Proposed Development. Taking these various factors together, there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the Land Plan. The ExA concludes that the Proposed Development would thus comply with s122(3) PA2008.
- 6.9.5. The ExA finds that the TP powers sought would be necessary both to facilitate implementation of the Proposed Development and to maintain it and that adequate compensation provisions are in place in the rDCO.
- 6.9.6. Turning to s123 of PA2008 the ExA confirms that we are content that the application for the Order includes a request for CA of the land to be authorised. Also, we confirm that the SoS can be satisfied that at least one of the prescribed conditions have been met with regards diligent enquiry and the right for an AP to be heard regarding CA matters.
- 6.9.7. Section 127 and s138 PA2008 objections have been made and not withdrawn. These objections have been considered as reported earlier and where differences remain between the Applicant and three of the SUs, the ExA has recommended wording (which has been before parties during the Examination) for the SoS to include in the rDCO Schedule 15 Protective Provisions.
- 6.9.8. In the case of each s127 representation, the ExA concludes that the SoS can be satisfied that there would be no serious detriment caused to the carrying on of the undertaking of the SU in question should the CA powers sought be granted. In the case of s138, the ExA is satisfied that the extinguishment of the relevant rights, or the removal of the relevant apparatus, would be necessary for the purpose of carrying out the development to which the Order relates. The ExA's conclusion for both s127 and s138 matters is based on the wording of the PPs which we have included in the rDCO at Annex E of this Recommendation. In the case of all three sustained SU objections, indication has been given that discussions would continue, and side agreements are under discussion.
- 6.9.9. Should the SoS receive agreed wording between the parties regarding the PPs, which differs from that recommended by the ExA, it would be appropriate for the SoS to give weight to their agreed wording and consider amending the rDCO. Where we consider that the SoS may wish to clarify agreements with relevant parties we have indicated this under the earlier reporting and itemise it in Chapter 8.

- 6.9.10. The rDCO seeks, in a number of instances, to apply s120(5)(a) and apply, modify or exclude a statutory provision. For example, Article 32 in relation to the Compulsory Purchase Act 1965. Since the dDCO is in the form of a statutory instrument, it would comply with s117(4). Furthermore, no provision would contravene the provisions of s126 PA2008 which relates to the modification or exclusion of a compensation provision.
- 6.9.11. The ExA is satisfied that, in relation to the inclusion of CA and TP powers in the rDCO, any interference with human rights would be for legitimate purposes, would be proportionate and would be justified in the public interest. We are also satisfied that there is no evidence that the Proposed Development would not accord with s149 of the Equality Act 2010. In this regard we are content that the SoS can be satisfied that they would comply with the principles of the PSED in decision-making.
- 6.9.12. For completeness, the ExA confirms that we agree with the Applicant's assessment that there would be no Crown land or special category land affected by the Proposed Development. Therefore, s135 PA2008 does not apply.
- 6.9.13. In the event that the SoS is minded to grant development consent for the Proposed Development, the ExA recommends that:
- the CA powers included in the rDCO be granted;
  - the TP powers included in the rDCO be granted;
  - the powers authorising the CA of SUs' land and rights over land included in the rDCO be granted;
  - the powers authorising the extinguishment of rights, and removal of apparatus, of SUs included in the rDCO be granted;
  - the PPs for NH, NRIL and NGT should be included in Schedule 15 in the form set out in the rDCO (unless the SoS is aware of evidence of agreement having been reached that would lead to agreed different wording); and
  - the powers included in the rDCO to apply, modify or exclude a statutory provision be granted.

## **7. THE DEVELOPMENT CONSENT ORDER AND OTHER CONSENTS**

### **7.1. INTRODUCTION**

- 7.1.1. The application for development consent included a draft Development Consent Order (dDCO) [APP-066] and an Explanatory Memorandum (EM) [APP-067]. Both documents were updated throughout the Examination. The final version of the dDCO was submitted at Deadline (D)8 [REP8-004], as was the final version of the EM [REP8-006].
- 7.1.2. The EM explains the purpose and effect of each Article and Schedule of the dDCO. It also identifies and explains departures from the now-repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 (the model provisions). The EM describes how the drafting of the dDCO has drawn on drafting used in other made Orders for energy and transport development under the Planning Act 2008 (PA2008). The submission version of the dDCO [APP-066] and subsequent iterations are in the form of a statutory instrument as required by section (s)117(4) of PA2008.
- 7.1.3. This Chapter provides an overview of the Examination of the dDCO, including the changes made between the submission version dDCO [APP-066] and the final dDCO [REP8-004]. It discusses the main DCO issues arising during the Examination and goes on to consider changes made to the final dDCO in order to arrive at the recommended DCO (rDCO) which can be found at Annex E of this Recommendation. Unless otherwise stated, all references to the dDCO in this Chapter are to the Applicant's final dDCO [REP8-004].

### **7.2. THE ORDER AS APPLIED FOR**

- 7.2.1. The Applicant's final dDCO [REP8-004] is structured as follows:
- Part 1 (Preliminary):
    - Article 1 sets out how the Order may be cited and when it comes into force; and
    - Article 2 defines the meaning of various terms used in the Order.
  - Part 2 (Principal Powers):
    - Articles 3 and 4 provide for the grant of development consent for the Proposed Development and allow it to be constructed, maintained and operated;
    - Article 5 sets out the lateral and vertical limits of deviation that apply in respect of the linear and non-linear works;
    - Articles 6 and 7 set out who has the benefit of the powers of the Order and how those powers can be transferred;
    - Article 8 permits certain development authorised by a planning permission within the Order limits without breaching the Order;
    - Article 9 deals with the application of the Town and Country Planning Act 1990 in respect of temporary construction works; and
    - Article 10 clarifies the position of proposed 'buildings' in relation to the Community Infrastructure Levy Regulations 2010.

- Part 3 (Streets):
  - Articles 11 to 18 provide powers for the undertaker to carry out works to and within streets. These include matters relating to the application of the New Roads and Street Works Act 1991; powers to alter the layout of streets; the temporary stopping up of rights of way; use of private roads for construction; access to works; construction, alteration and maintenance of streets; and agreements with street authorities.
- Part 4 (Supplemental Powers):
  - Article 19 provides supplemental powers in relation to the discharge of water, including amendments to the Land Drainage Act 1991;
  - Article 20 sets out powers to carry out protective works to land, buildings, structures, apparatus or equipment; and
  - Article 21 provides authority to the undertaker to survey and investigate the land.
- Part 5 (Powers of Acquisition):
  - Articles 22 to 41 provide powers in relation to the compulsory acquisition (CA) and temporary possession (TP) of land. This includes the extinguishment and suspension of private rights; power to override easements; modification of the Compulsory Purchase Act 1965; and temporary use of land for the carrying out of works and their maintenance. It also provides for powers in relation to the land and apparatus of Statutory Undertakers (SUs).
- Part 6 (Miscellaneous and General):
  - Articles 42 to 54 provide various general provisions including the application of landlord and tenant law, defence to proceedings in respect of statutory nuisance, maintenance of drainage works, traffic regulation, felling or lopping of trees and removal of hedgerows, protection of interests through protective provisions (PPs), certification of plans, service of notices, procedure regarding certain approvals, removal of human remains, amendment of local legislation, and arbitration. It also sets out powers in respect of the temporary closure of, and works in, the River Ouse.

7.2.2. There are 17 Schedules to the Order:

- Schedule 1, providing for the description of the authorised development pursuant to Articles 2 and 3.
- Schedule 2, specifying the plans, drawings and Environmental Statement (ES) documents to be certified in accordance with Article 48.
- Schedule 3, setting out the nineteen Requirements (R) that control the powers contained in the various Articles.
- Schedule 4, providing the procedure for the discharge of Requirements and consents under any other provision of the Order by relevant authorities.
- Schedule 5, governing the relationship between the undertakers granted the benefit of the Order (the Applicant, Northern Powergrid (Northeast) PLC / Northern Powergrid (Yorkshire) PLC and Northern Gas Networks), as defined in Article 2.
- Schedule 6, listing streets subject to street works, pursuant to Article 11.
- Schedule 7, listing streets subject to alteration of layout, be that permanent (Part 1) or temporary (Part 2), pursuant to Article 13.

- Schedule 8, defining streets, cycle tracks or Public Rights of Way (PRoW) to be temporarily stopped pursuant to Article 14. A diversion is to be provided for those in Part 1, and no diversion is to be provided for those in Part 2.
- Schedule 9, describing points of access to works in each administrative area, pursuant to Article 16.
- Schedule 10, setting out the modifications to the statutory provisions applicable to compensation and compulsory purchase enactments for creation of new rights under the Order, pursuant to Article 25.
- Schedule 11, listing the plots where rights in relation to removed apparatus are to be extinguished under Article 27.
- Schedule 12, setting out the land referred to in Articles 36, 37 and 38 which the undertakers may temporarily occupy and the purpose for which that temporary possession may be taken.
- Schedule 13, specifying the land referred to in Article 25 over which the undertakers may acquire new rights and restrictive covenants.
- Schedule 14, listing the streets subject to traffic regulation measures further to Article 45.
- Schedule 15, providing, in eight Parts, PPs for SUs whose equipment may be affected by the authorised development, pursuant to Article 47.
- Schedule 16, specifying the local legislation (Part 1) and byelaws (Part 2) to be excluded in relation to the authorised development, further to Article 52.
- Schedule 17, listing the hedgerows which may be removed under Article 46 and specifying which are important hedgerows for the purposes of the Hedgerow Regulations 1997.

7.2.3. The Examining Authority (ExA) finds that the structure of the Applicant's final dDCO [REP8-004] is fit for purpose and we do not recommend any changes to it.

## **7.3. EXAMINATION OF THE dDCO**

### **Evolution of the dDCO**

7.3.1. The Applicant updated the dDCO several times during the Examination, responding to matters raised in advice under s51 of PA2008, written questions, written representations of Interested Parties (IPs) and as a consequence of the hearing process. At each revision, the Applicant supplied a clean copy of the updated dDCO, a copy showing changes from the previous version as tracked changes and a schedule of changes made to the dDCO. The versions of the dDCO submitted by the Applicant are summarised in Table 7.1, below.

**Table 7.1: Summary of updates made to the dDCO**

<b>dDCO Revision</b>	<b>Deadline</b>	<b>EL References</b>
A	Submission	dDCO [APP-066] EM [APP-067]
B	Pre-examination 17 February 2023	dDCO (clean) [AS-011] dDCO (tracked) [AS-012] EM (clean) [AS-013] EM (tracked) [AS-014]
C	D3 10 May 2023	dDCO (clean) [REP3-004] dDCO (tracked) [REP3-005] EM (clean) [REP3-006] EM (tracked) [REP3-007]
D	D5 11 July 2023	dDCO (clean) [REP5-004] dDCO (tracked) [REP5-005] EM (clean) [REP5-006] EM (tracked) [REP5-007]
E	D6 28 July 2023	dDCO (clean) [REP6-025] dDCO (tracked) [REP6-026] EM (clean) [REP6-027] EM (tracked) [REP6-028]
F	D7 6 September 2023	dDCO (clean) [REP7-059] dDCO (tracked) [REP7-058] EM (clean) [REP7-050] EM (tracked) [REP7-049]
G	D8 13 September 2023	dDCO (clean) [REP8-004] dDCO (tracked) [REP8-005] EM (clean) [REP8-006] EM (tracked) [REP8-007]

7.3.2. The Applicant’s final Schedule of Changes to the dDCO [REP8-008] sets out all of the changes made to the dDCO between the submission and final versions, together with the rationale for each change.

## **ExA's Examination of the dDCO**

### **Issue Specific Hearing 1 (ISH1)**

- 7.3.3. The ExA held an early Issue Specific Hearing (ISH) on the scope of the Proposed Development and the dDCO on 23 March 2023 [EV-003]. We walked through the main provisions of the Revision B version of the dDCO [AS-011] and asked questions about the Articles and Schedules. City of York Council (CYC) was represented at this hearing but Leeds City Council (LCC) and North Yorkshire Council (NYC) were not. A number of other IPs also participated in ISH1 [EV-003b].

### **ExA's First Written Questions (ExQ1)**

- 7.3.4. On 29 March 2023, the ExA issued ExQ1 [PD-007]. Section 5 covered questions to a range of parties in respect of the Revision B version of the dDCO [AS-011] and EM [AS-013]. Questions relating to PPs with SUs were set out in Section 4.5.

### **ISH2, ISH3 and Compulsory Acquisition Hearing 1 (CAH1)**

- 7.3.5. We held ISH2 on 24 and 25 May 2023 [EV-005]. Whilst the focus was on Green Belt, environmental effects and construction matters, there was some discussion of the Revision C version of the dDCO [REP3-004], for example in respect of securing proposed mitigation.
- 7.3.6. ISH3 was a DCO hearing held on 26 May 2023 [EV-006]. We asked questions and invited submissions about the Articles and Requirements of the Revision C version of the dDCO [REP3-004] and considered the Revision C version of the EM [REP3-006]. ISH3 was attended by a range of IPs and all three host authorities were present [EV-006b].
- 7.3.7. We heard matters relating to PPs within Schedule 15 of the dDCO under item 6 of CAH1 [EV-007] on 25 May 2023.

### **ExA's Further Written Questions (ExQ2)**

- 7.3.8. On 20 June 2023, the ExA issued ExQ2 [PD-011]. Questions relating to the Revision C version of the dDCO [REP3-004] and EM [REP3-006] were contained in Section 5. Questions about PPs with SUs were covered in Section 4.2. This question set covered matters that either were not covered in ISH3 because the relevant parties were not present, or arose further to submissions made up to and including D4.

### **ISH4 and CAH2**

- 7.3.9. We held ISH4, which covered the Revision D version of the dDCO [REP5-004] and EM [REP5-006] together with environmental matters, on 19 and 20 July 2023 [EV-009]. ISH4 was attended by a range of IPs including representatives of LCC and NYC [EV-009a]. Matters relating to PPs (Schedule 15 of the dDCO) were heard under item 6 of CAH2 [EV-008] on 18 July 2023.

### **ExA's DCO Commentary and Questions (DC1)**

- 7.3.10. On 16 August 2023, the ExA issued its commentary and questions on the Revision E version of the dDCO [REP6-025] and EM [REP6-027]. This question set focussed on the outstanding matters in contention between the Applicant and other IPs, including SUs in relation to PPs [PD-015].



## Notable Changes to the dDCO During Examination

7.3.11. Section 1.1 of the Applicant’s final Schedule of Changes to the dDCO [REP8-008] summarises the changes made within each revision of the dDCO. A version of the final dDCO showing all of the amendments made to the dDCO since the point of submission as tracked changes was provided at the final Deadline [REP8-009].

7.3.12. The ExA does not report on every change made to the dDCO during the Examination, as some were minor changes resulting from typographical or grammatical errors or made to improve clarity or consistency. In the interests of conciseness, we focus on the notable changes made to the dDCO in Table 7.2, below. Since only minor changes were made in Revision B (which was responding to s51 advice in the pre-examination period), the summary in Table 7.2 begins with Revision C of the dDCO [REP3-004].

**Table 7.2: Notable changes made to the dDCO during Examination**

dDCO version	Notable changes made
<p>C [REP3-004] (clean) [REP3-005] (tracked)</p>	<ul style="list-style-type: none"> <li>• Amendments to Article 2 (Interpretation) to clarify that ‘NPG’ means Northern Powergrid (Northeast) plc or Northern Powergrid (Yorkshire) plc, as appropriate for the NPG Work to which the relevant provision applies, and to define the specific ‘U’ works for which each NPG entity would have the benefit of powers under the Order.</li> <li>• Amendments to Article 3 (Development Consent granted by the Order), Article 5 (Limits of deviation), and Article 7 (Consent to transfer benefit of the Order).</li> <li>• Articles 13, 14 and 45 amended to require applications to confirm on their face the deeming provisions which apply.</li> <li>• Updates to Article 54 (Temporary closure of, and works in, the River Ouse) to reflect negotiations with the Canal &amp; River Trust (CRT).</li> <li>• Deletion of Article 55 (Trees subject to tree preservation orders) and amendment to Article 46 (Felling or lopping of trees and removal of hedgerows) to incorporate deleted provision.</li> <li>• Clarifications to the description of Work No.8 in Schedule 1 (Authorised development).</li> <li>• Design Drawings added to Schedule 2 (Plans and drawings) and a new Part 5 inserted to reference the Outline Landscape Mitigation Strategy.</li> <li>• Minor amendments to various Requirements to improve precision, clarity and enforceability.</li> <li>• Addition of R18: Design Approach to Site Specific Infrastructure (DASSI) and consequential amendments to Article 2 (Interpretation) and Article 48 (Plans to be certified).</li> <li>• Addition of new Schedule 17 (Hedgerows to be removed) and changes to Article 46.</li> <li>• Various changes to references to Councils in Articles and Schedules to reflect local government reorganisation.</li> </ul>

dDCO version	Notable changes made
<p>D</p> <p>[REP5-004] (clean)</p> <p>[REP5-005] (tracked)</p>	<ul style="list-style-type: none"> <li>• Amendments to Articles 11, 16, 19, 21, 46, to require that any application must include a statement that deemed consent provisions apply.</li> <li>• Addition of Article 19(12) (Discharge of water) in place of Internal Drainage Board (IDB) byelaw disapplication.</li> <li>• Addition of Environmental Statement to Article 48 (Plans to be certified) and consequential changes to Article 2 (Interpretation).</li> <li>• Updates to R8, R9 and R10 on landscaping, retention and protection of existing trees and replacement planting.</li> <li>• Addition of R19 (Site Specific Mitigation Scheme).</li> <li>• Schedule 6 update.</li> <li>• Insertion of updated PPs with CRT and Northern Powergrid at Schedule 15.</li> <li>• Deletion of IDB byelaws from local enactments to be disapplied in Schedule 16.</li> <li>• Updates to footnotes for consistency.</li> </ul>
<p>E</p> <p>[REP6-025] (clean)</p> <p>[REP6-026] (tracked)</p>	<ul style="list-style-type: none"> <li>• Updates to Work Nos. to reflect deletion of Work Nos. U4 and U8 following Change Application.</li> <li>• Amendments to Schedules 12, 13, 14 and 17 as a consequence of the Change Application.</li> <li>• Updates to Schedule 2 (Plans and drawings) following Change Application.</li> <li>• Deletion of tailpiece in R18 (DASSI).</li> <li>• Update to PPs for the protection of National Highways (NH), National Gas Transmission Plc and Northern Gas Networks (NGN) in Schedule 15 to reflect ongoing negotiations (not yet agreed).</li> </ul>
<p>F</p> <p>[REP7-059] (clean)</p> <p>[REP7-058] (tracked)</p>	<ul style="list-style-type: none"> <li>• Addition of Part 8 of Schedule 2 to list Environmental Statement documents to be certified, and consequential amendments.</li> <li>• Further amendment of R8 (Landscaping at Overton, Tadcaster and Monk Fryston).</li> <li>• Further amendment of R18 (DASSI).</li> <li>• Update to PPs for the protection of Network Rail Infrastructure Limited (NRIL) and NH in Schedule 15 (not yet agreed)</li> <li>• Various footnote and typographical corrections.</li> </ul>
<p>G</p> <p>[REP8-004] (clean)</p> <p>[REP8-005] (tracked)</p>	<ul style="list-style-type: none"> <li>• Update to PPs for the protection of NGN in Schedule 15 (agreed).</li> </ul>

## 7.4. MAIN ISSUES ARISING AND EXA RESPONSE

7.4.1. As evidenced in [REP8-008], [REP8-009] and Table 7.2 above, many of the matters raised by the ExA and IPs in relation to the provisions of the dDCO were addressed

through drafting amendments during the Examination. In general, the Applicant was responsive to the matters raised in submissions and questions and sought to revise provisions accordingly. Where changes were not made to the provisions of the dDCO, the Applicant explained the reasons for this and in some cases added wording to the EM or relevant management plans secured by the dDCO to achieve the desired outcome.

7.4.2. This Section considers the main issues arising in the Examination relating to the dDCO [REP8-004], including the provisions which were not agreed between specific IPs and the Applicant by the end of the Examination.

7.4.3. The remainder of this Section covers the following matters:

- Description of the authorised development;
- Clearances over ordinary watercourses (Article 19);
- Documents to be certified (Article 48);
- Temporary closure of, and works in, the River Ouse (Article 54);
- Stages of the authorised development (Schedule 3, R4);
- Construction hours (Schedule 3, R7);
- Landscaping at Overton, Tadcaster and Monk Fryston, Retention and Protection of Existing Trees and Replacement Planting (Schedule 3, R8 to R10);
- Design Approach to Site Specific Infrastructure (Schedule 3, R18);
- Site Specific Mitigation Scheme (Schedule 3, R19);
- Procedure for the discharge of Requirements (Schedule 4);
- Protective Provisions (Schedule 15); and
- Amendment of local legislation (Schedule 16).

## **Description of the Authorised Development**

### **Definition of NSIP and associated development**

7.4.4. The authorised development is described in Schedule 1 to the dDCO [REP8-004]. Some minor changes to the description of the authorised development were made during the Examination to improve clarity and consistency as can be seen in [REP8-009].

7.4.5. Schedule 1 does not distinguish between the works constituting a nationally significant infrastructure project (NSIP) and those which are associated development within the meaning of section (s) 115(2) of PA2008. The Applicant's rationale for this approach is that there may be some overlap between works forming part of the NSIP and associated development, and defining works as either one or the other could result in errors. It contends that all elements of the authorised development either form part of the NSIP or constitute associated development and can therefore be authorised by the dDCO.

7.4.6. The final section of Schedule 1 to the dDCO [REP8-004] comprises a list numbered (a) to (t) of other associated development which includes a wide range of works related to the numbered Works. The ExA probed the Applicant's approach at ISH1 [EV-003] and in ExQ1 5.2.2 [PD-007]. The Applicant made the case that all of the works defined in the list of other associated development are needed to safely construct the project and set out the justification for including each of the works [REP1-018], Appendix D.

7.4.7. CYC confirmed its agreement that the list is proportionate and sufficiently clear [REP2-057], as did LCC [REP2-076]. NYC raised some concerns about the extensive nature of the works and lack of precision in their description [REP2-083].

In response, the Applicant stated that all of the works listed as other associated development would form part of the authorised development, and as such would be subject to the controls within the Requirements, particularly R3, R5 and R6 which require general accord with the design drawings [REP6-024] and compliance with the construction management plans. No objection in relation to this specific matter is recorded in the final Statement of Common Ground (SoCG) with NYC [REP7-083].

- 7.4.8. Some minor amendments to the list were made during the Examination to combine two of the items into a single numbered point and address consistency matters regarding reference to the ES.

*ExA's reasoning*

- 7.4.9. In considering the Applicant's approach, the ExA has had regard to s115 of PA2008 and the relevant Guidance on associated development (former DCLG (2013) 'Planning Act 2008: Guidance on associated development applications for major infrastructure projects'). The works specified in Work Nos and in the list of other associated development at the end of Schedule 1 to the dDCO [REP8-004] all either form part of the principal development or are directly related and subordinate to it. They are also generally consistent with the example types of works and activities provided in Annex A and the relevant part of Annex B to the Guidance on associated development.

- 7.4.10. For these reasons, we are satisfied that all of the proposed works are capable of forming either part of the NSIP or being associated development that would be generally proportionate to the nature and scale of the NSIP. Noting the absence of any explicit requirement to distinguish the NSIP from the associated development, the ExA finds the Applicant's approach to be acceptable.

**Limits of deviation**

- 7.4.11. Article 5 of the final dDCO [REP8-004] specifies lateral and vertical limits within which the authorised development would be permitted to deviate from the lines and situations shown on the works plan and design drawings. The ExA explored the Applicant's approach at ISH1 [EV-003] and in written questions ExQ1 5.1.4 to 5.1.6 [PD-007]. As a result, Article 5 was refined during the Examination to improve clarity and precision, and all drafting amendments can be seen in [REP8-010]. For clarity, the EM was also supplemented with an explanation that the 6 metre limit of vertical deviation in respect of linear works applies only to proposed new pylons, and not existing pylons to be reconducted [REP8-006], Section 4.7. There were no objections to Article 5 by the close of the Examination.

*ExA's reasoning*

- 7.4.12. Having regard to the responses to written and oral questions, the ExA is satisfied that Article 5 of the final dDCO [REP8-004] sets out reasonable and proportionate limits of deviation for the authorised development and the final EM [REP8-006] provides adequate justification for and explanation of the approach taken. As a consequence, we do not recommend any further amendments to this Article.

- 7.4.13. Site-specific changes to limits of deviation made to address submissions from certain landowners are dealt with in Chapter 6 of this Recommendation.

### **Changes to Works Nos.**

- 7.4.14. As reported elsewhere in this Recommendation, two of the works to underground sections of existing distribution overhead electric line were removed from Schedule 1 during the Examination. Former Work No. U4 [APP-066] in the vicinity of Skelton Springs Cottages was deleted because it was no longer required following the acceptance of the Change Application. Former Work No. U8 [APP-066] was removed after it was confirmed during the Examination that the works had already been undertaken by the distribution network operator and were therefore no longer required. There was consequential renumbering of the remaining 'U' number works within Schedule 1.

#### *ExA's reasoning*

- 7.4.15. The ExA is content that the final drafting [REP8-004] reflects the most up to date position in terms of Works Nos.

### **Clearances over Ordinary Watercourses (Article 19)**

- 7.4.16. Section 3.10 of this Recommendation reports the concerns of Ainsty Internal Drainage Board (IDB) in respect of Article 19 (Discharge of water) of the dDCO [REP8-004]. During the Examination, the Applicant inserted provisions at Article 19(12) of the dDCO which make amendments to Section 66 of the Land Drainage Act 1991 for any works executed under the Order. The amendments have the effect of:

- firstly, stipulating that for any application made to an IDB for their consent under a byelaw, that consent must not be unreasonably withheld and if no determination is made within 28 days from receipt of the application, then IDB consent is deemed to have been granted (proposed Section 66(10)); and
- secondly, removing the need for the undertaker to seek consent from the IDB for the oversail of overhead electric lines over ordinary watercourses, provided that the minimum statutory clearances contained in Schedule 2 of the Electricity Safety, Quality and Continuity Regulations 2002 are met (proposed Section 66(11)).

- 7.4.17. No objection to these amendments was raised by Foss IDB [REP7-026] or Kyle and Upper Ouse IDB [REP7-024]. By the end of the Examination, Ainsty IDB raised no specific concerns in relation to the first amendment but maintained an objection to the second amendment [REP7-022] and [REP7-087]. Ainsty IDB contended that for safety reasons, the consent of the IDB should be required for any oversail of overhead lines over IDB-maintained watercourses where there is a clearance of less than 10.5m (measured from the top of the bank of the watercourse). It made the case that the minimum statutory clearances contained in Schedule 2 of the Electricity Safety, Quality and Continuity Regulations 2002 would allow the oversail of an electric line considerably lower than 10.5m without its consent. This, it argued, would conflict with the 10m clearance recommended in Health and Safety Executive (HSE) Guidance Note GS6. This was a position supported by the Association of Drainage Authorities [REP7-088].

- 7.4.18. The Applicant's response to this position acknowledged that references to the HSE Guidance Note GS6 are made within the Energy Networks Association's (ENA) Technical Specification 43-8 [REP8-014], Appendix A but noted that Guidance Note GS6 provides recommendations rather than requirements [REP8-013], Table 2.1. It argued that its approach is consistent with the ENA Technical Specification 43-8 and that by achieving these clearances, it is safe to work under the overhead line.

7.4.19. The Applicant's evidence indicates that a clearance of at least 10.5m would be achieved at all but one of the ordinary watercourse crossings on the XC route [REP6-062]. That crossing would involve the reconductoring of the existing overhead line and the clearance would increase as a result of the Proposed Development from the existing bank clearance heights of approximately 8.2m and 8.0m respectively to approximately 9.5m and 9.3m respectively.

*ExA's reasoning*

7.4.20. In relation to the amendment to Section 66 of the Land Drainage Act to insert para (10), the ExA finds that it is acceptable to require that consent is not unreasonably withheld. This mirrors the approach in Section 23(3) of the Land Drainage Act and is consistent with it. We further note that Section 23(3) includes deemed consent provisions. Whilst the timescale in that Section is two months, we find that given the urgency of the Proposed Development, it is reasonable for a 28 day period to be specified in the insertion to Section 66.

7.4.21. In respect of the amendment to Section 66 of the Land Drainage Act to insert para (11), the ExA has found in Section 3.10 of this Recommendation that the provisions of Article 19(12) contained in the Applicant's final dDCO [REP8-004] would ensure that compliance with the statutory minimum clearances contained in the Electricity Safety, Quality and Continuity Regulations 2002 are met which would allow the watercourses to be safely maintained. Given this and the urgent need for the Proposed Development, we do not consider that there is sufficient justification in this case for requiring that an additional approval is obtained for overhead line crossings with a clearance of less than 10.5m. In arriving at this conclusion, we have had regard to the evidence that a minimum clearance of less than 10.5m is likely to arise in only one instance on the existing XC overhead line. There is no evidence before us to indicate that there are problems maintaining the existing overhead line and the proposed reconductoring of this section of overhead line would result in a greater clearance distance above the watercourse than the current arrangement.

7.4.22. For these reasons, we find that the provisions of Article 19(12) which amend Section 66 of the Land Drainage Act 1991 are acceptable in this case. In considering this matter, we have noted a typographical error in the drafting of Article 19(12) [REP8-004]. In one instance, reference to "*the applicant*" appears to have been erroneously drafted as "*the application*". The ExA therefore recommends the following change to Article 19(12):

*"(12) In relation to any works executed under this Order, Section 66 of the Land Drainage Act 1991(a) is amended after paragraph (9) to insert:*

*"(10) Where an application is made to an internal drainage board for their consent under a byelaw made under this section-*

- (a) the consent is not to be unreasonably withheld; and*
- (b) if the internal drainage board fail within 28 days after receipt of the application to notify the applicant-application in writing of their determination, the internal drainage board are deemed to have consented to the application"*

7.4.23. Consequently, we do not recommend any substantive changes to the drafting of Article 19(12) in the rDCO but we do make a typographical correction to the Article which is incorporated into the rDCO at Annex E of this Recommendation.

## **Documents to be Certified (Article 48)**

- 7.4.24. The submission version of the dDCO [APP-066] did not include the ES as a document to be certified under Article 48. The ExA queried this at ISH1 [EV-003] and ISH3 [EV-006] because a number of the Articles and Requirements of the dDCO limited permitted activities according to the effects assessed in the ES.
- 7.4.25. Following discussion at the hearings, the Applicant added the ES to the list of documents to be certified under Article 48(1)(d). It also amended the definition of the ES in Article 2 ('Interpretation') to include the final ES Errata [REP7-003] and consolidated ES Addendum [REP7-005] documents. At D7, and in response to DC1 2.0.1 [PD-015], the Applicant added a table listing all documents forming part of the ES as Part 8 of Schedule 2 to the dDCO.
- 7.4.26. In response to DC1 1.0.2 [PD-015], the Applicant reviewed all instances within the dDCO of flexibility being limited by the effects identified in the ES and amended drafting where necessary to ensure consistency in terminology in relation to materially new or materially different environmental effects.

### *ExA's reasoning*

- 7.4.27. The ExA welcomes all of the above amendments as improvements to the precision and clarity of the relevant drafting. In particular, the addition of Schedule 2, Part 8 was important to ensure there is sufficient clarity about which are the versions of each ES document to be certified under Article 48, given the number of updates made during the Examination.
- 7.4.28. However, we have identified one inconsistency which requires an additional change to the drafting of the dDCO. The ES document reference numbers in Article 48(1)(d) differ from those specified in the Article 2 definition of 'the ES' and in the list at Part 8 of Schedule 2. The error appears to lie in Article 48. Therefore, the ExA recommends that Article 48(1)(d) is amended to read: "*the environmental statement (Documents 5.1 to 5.4.18, 5.2.19 and 5.2.22)*". For the avoidance of doubt, Documents 5.1 to 5.4.18 are the originally submitted ES including Appendices and Figures, as variously updated during the Examination. Document 5.2.19 is the final ES Errata Document [REP7-003] and Document 5.2.22 is the final consolidated ES Addendum [REP7-005]. The above correction is included in the rDCO provided at Annex E of this Recommendation.

## **Temporary Closure of, and Works in, the River Ouse (Article 54)**

- 7.4.29. Article 54 of the submission draft dDCO [APP-066] provided powers relating to the temporary closure of, and works in, the River Ouse. Work No.6 of the authorised development would involve the dismantling of the existing XCP overhead line which currently crosses the River Ouse to the north-west of Nether Poppleton and the construction of a new XC overhead line which would cross the river in a new alignment a short distance upstream [REP6-010], Sheet 4 of 5.
- 7.4.30. Objections raised in Relevant Representations (RR) from the Canal & River Trust (CRT) [RR-004] led to negotiations with the Applicant throughout the Examination on both the drafting of Article 54 and bespoke PPs in Schedule 15 to the dDCO. As the navigation authority for the whole of the navigable River Ouse, the CRT sought to ensure the safety of navigation on the river, which is used by both leisure and commercial vessels, and to minimise disruption to users and its own maintenance activities on the river as a result of the construction and maintenance of the proposed overhead lines.

7.4.31. The CRT engaged positively with the Examination, attending ISH1 [EV-003], ISH3 [EV-006] and ISH4 [EV-009] and responding to written questions. The Applicant made revisions to Article 54 and agreement was reached on the content of PPs for the protection of the CRT's interests, which can be found in Part 3 of Schedule 15 to the final dDCO [REP8-004]. By the end of the Examination, there was agreement between the Applicant and the CRT on all matters and the CRT withdrew all objections [REP8-025].

*ExA's reasoning*

7.4.32. The ExA is content that the drafting of Article 54 provides appropriate powers in respect of the proposed works affecting the River Ouse, including temporary closures when necessary for health and safety reasons during construction and maintenance activities associated with the Proposed Development. As reported in Chapter 6 of this Recommendation, we are also satisfied that the bespoke PPs afford adequate protection to CRT interests in the carrying out of these powers. The ExA therefore recommends no changes to the Applicant's final dDCO [REP8-004] in relation to these matters.

**Stages of the Authorised Development (Schedule 3, R4)**

7.4.33. R4 of the dDCO [REP8-004] stipulates that the authorised development may not commence until a written scheme setting out the stages of the authorised development has been submitted to the relevant planning authority. The ExA asked questions about the purpose and effect of this Requirement at ISH1 [EV-003] and in written questions ExQ1 5.4.5 [PD-007].

7.4.34. CYC [REP2-057] was broadly content with the drafting of the Requirement but some queries about practical implementation were raised by NYC [REP2-083] and LCC [REP2-076]. All three host authorities felt that there should be a requirement to notify the relevant planning authorities when each stage is commenced and completed, as was the case in the parallel Requirement in the National Grid (Richborough Connection Project) Development Consent Order 2017.

7.4.35. In responding to the queries raised, the Applicant clarified how the written scheme of stages would work in practice [REP1-017], Table 3.9 and submitted a template structure for the written scheme [REP1-018], Appendix E. It also added para (2) of R4 which requires that the undertaker must comply with the written scheme.

7.4.36. The Applicant maintained a position that its experience of implementing a similar Requirement on the Richborough Connection and Hinkley Point C Connector projects led it to take an approach in the current case that does not involve notifying the relevant planning authorities when each stage is commenced and completed because it had proven to be unnecessary given that the parties were in regular contact in any event and because the authorised development must accord with the written scheme [REP3-031]. No specific objection to R4 remained from any IPs at the end of the Examination.

*ExA's reasoning*

7.4.37. Noting that a number of dDCO provisions such as R6, R8 and R9 to R12 provide controls relating to stages of the authorised development, having explored the purposes and effect of R4, the ExA considers that it is necessary to provide the relevant planning authorities with a programme for the main stages of construction. The Applicant has been clear that the intent of the Requirement is to produce a



single written scheme for use by all the relevant planning authorities [REP3-031], Table 2.6 and this is reflected in the final EM [REP8-006].

- 7.4.38. On balance, we consider it appropriate that there is no requirement for the relevant planning authorities to approve the written scheme, since it is for the undertaker to decide how to implement the authorised development. However, it is proportionate and appropriate that the undertaker is required to submit the written scheme to the relevant planning authorities and to notify them should the scheme be amended. This is necessary to provide the authorities with the information about stages that they need in order to discharge several other Requirements within Schedule 3 of the dDCO. No changes are recommended to be made to the drafting of R4.

### **Construction Hours (Schedule 3, R7)**

- 7.4.39. In Section 3.6 of this Recommendation, the ExA reports on the discussions during the Examination in relation to the controls on construction working hours within R7 of Schedule 3 of the dDCO. Despite objections from NYC about the construction hours permitted on Sundays and Bank Holidays remaining at the end of the Examination, no amendments were made to R7 in the final dDCO [REP8-004].

#### *ExA's reasoning*

- 7.4.40. The ExA's exploration of this matter in hearings and written questions and the respective positions of the parties are described in Section 3.6 of this Recommendation and not repeated here. In summary, for the reasons set out in that Chapter, we have concluded that the construction hours specified in R7 are acceptable and therefore that no amendments are required in the rDCO.

### **Landscaping at Overton, Tadcaster and Monk Fryston, Retention and Protection of Existing Trees and Replacement Planting (Schedule 3, R8 to R10)**

- 7.4.41. As reported in Section 3.4 of this Recommendation, considerable amendments were made to R8, R9 and R10 in Schedule 3 to the dDCO in response to matters raised during the Examination. The extent of the amendments made between the submission version dDCO [APP-066] and the final dDCO [REP8-004] can be seen in [REP8-009]. The final dDCO contained the following Requirements for the mitigation and management of landscape and visual effects arising from the Proposed Development:

- R8: Landscaping at Overton, Tadcaster and Monk Fryston;
- R9: Retention and Protection of Existing Trees; and
- R10: Replacement Planting.

#### *ExA's reasoning*

- 7.4.42. The ExA's examination of this matter in hearings and written questions and the respective positions of the parties are set out in Section 3.4 of this Recommendation and are not repeated here. To summarise, we have concluded that no further amendments to R8, R9 or R10 are required in the rDCO, which is contained in Annex E of this Recommendation.

### **Design Approach to Site Specific Infrastructure (Schedule 3, R18)**

- 7.4.43. Section 3.13 of this Recommendation sets out the ExA's reporting on the insertion of Requirement 18 into the dDCO during the Examination. R18 requires that the approval of details by the relevant planning authority for the final design of certain

aspects of the Proposed Development has regard to the Design Approach to Site Specific Infrastructure (DASSI) document [REP5-077]. The DASSI was submitted and revised during the Examination, with the final version (Revision B) being included in the list of documents to be certified under Article 48(1)(r) of the dDCO [REP8-004].

*ExA's reasoning*

- 7.4.44. In its response to DC1 8.0.12 [REP7-084], the Applicant explained why it was appropriate for R18 to stipulate that the approval of details must “*have regard to*” the DASSI, rather than be “*in accordance with*” it. For the reasons set out in Section 3.13 of this Recommendation, the ExA accepts that this is the correct approach.
- 7.4.45. In DC1 8.0.13, the ExA asked the Applicant to provide some additional wording relating to relocated buildings and permanent security fencing at non-linear sites without prejudice to its in-principle position that R18 need not be further amended. This wording was provided in [REP7-084]. In Section 3.13 of this Recommendation, we have found that the additional wording should be inserted into R18, in order to improve its precision and enforceability.
- 7.4.46. In Section 3.13 we also recommend a change to the timing trigger point of approval of details under R18(1) and (2) from “*completion*” to “*commencement*” of the permanent buildings and acoustic enclosures. This is to address an ambiguity in the drafting that could make the Requirement difficult to enforce. This change has not been considered by the parties during the Examination. In light of the robust arguments presented by the Applicant against the need to include permanent security fencing within R18, the SoS may wish to seek the views of the Applicant and NYC in respect of this specific change. Since none of the works subject to R18 would fall within the administrative areas of CYC or LCC, we consider that their views on this change do not need to be sought.
- 7.4.47. Accordingly, the rDCO (which can be found at Annex E of this Recommendation) includes the following amendments:

**“Approval of details having regard to the Design Approach to Site Specific Infrastructure**

**18.(1) Any permanent buildings (including relocated buildings) and the acoustic enclosures at –**

- (a) Overton Substation; and
- (b) Monk Fryston Substation,

*must not be commenced ~~completed~~ until details of the external colour and surface finish of the permanent buildings and the external colour of the acoustic enclosures have been submitted to and approved by the relevant planning authority.*

**(2) Any non-linear site permanent security fencing at –**

**(a) Shipton Tee Cable Sealing End Compounds;**

**(b) Overton Substation;**

**(c) Tadcaster Tee Cable Sealing End Compounds and**

**(d) Monk Fryston Substation,**

**must not be commenced until details of the colour or type of the fencing, which must comply with Technical Specification TS2.10.02 Perimeter Security, has been submitted to and approved by the relevant planning authority.**

**(3)** Any details to be approved under sub-paragraphs (1) and (2) must be produced having regard to the design approach to site specific infrastructure and must be implemented as approved.”

- 7.4.48. Taking account of the above drafting amendments, the ExA considers that R18 is necessary and reasonable to secure the design measures within the DASSI. It is also precise, enforceable and relevant to the Proposed Development.

### **Site Specific Mitigation Scheme (Schedule 3, R19)**

- 7.4.49. Following discussion at ISH3 [EV-006a] action point 1, the Applicant inserted Requirement 19 ('Site specific mitigation scheme') into Schedule 3 of the dDCO. As reported in Section 3.4, 3.6 and 3.15 of this Recommendation, the Requirement provides specific mitigation in relation to the construction effects arising from Work No.10 upon occupiers of the Travellers' Site at the junction of the A1(M) and the A63 near Monk Fryston. The final EM explains the purpose and effect of the new Requirement [REP8-006], para 5.3.20.
- 7.4.50. The ExA explored new R19 at ISH4 [EV-009] and in written questions [PD-015], DC1 8.0.14. No concerns were raised by either NYC or Mr Carruthers, representing the traveller community on the site.

#### *ExA's reasoning*

- 7.4.51. The ExA considers that R19 is necessary to provide a bespoke mitigation scheme to address significant adverse effects upon occupiers of the Travellers' Site during the construction phase. We deem the use of a tailpiece provision in R19(3) to be acceptable in this instance, given the dynamic nature of the Travellers' Site which may necessitate variation from the approved scheme in response to unforeseen changes on site.
- 7.4.52. In all respects R19 meets the tests for Requirements set out at para 4.1.7 of NPS EN-1 and the ExA recommends no amendments to it.

### **Procedure for the Discharge of Requirements (Schedule 4)**

- 7.4.53. Schedule 4 to the dDCO [REP8-004] sets out the procedure for the discharge of Requirements in Schedule 3 where the consent, agreement or approval of a relevant authority is required. The relevant authority may be the relevant planning authority, highway authority, street authority, Environment Agency, relevant drainage authority or owner of a watercourse, sewer or drain. Under the provisions of Article 50(3) of the dDCO, the appeals procedure set out in para 3 to 5 of Schedule 4 also has effect in relation to any other consent, agreement or approval required under the Order where that consent is granted subject to any condition to which the undertaker objects, or is refused or withheld. The provisions of Schedule 4 are based on the made Order for the Richborough Connection Project (2017).
- 7.4.54. The ExA asked questions about the provisions of Schedule 4 in written questions (ExQ1 5.1.33 and 5.5.1 to 5.5.5 [PD-007], ExQ2 5.4.1 [PD-011], DC1 9.0.1 [PD-015]) and in hearings (ISH1 [EV-003], ISH3 [EV-006] and ISH4 [EV-009]). In response to questioning, the Applicant amended para 5 of Schedule 4 to include a definition of the term "*application*" to aid clarity in respect of fees and to acknowledge that Requirements may be discharged in full or in part. It also

amended para 2 of Schedule 4 to reflect the fact that fees are payable to any relevant authority defined in para 5, and not just relevant planning authorities.

7.4.55. The main issue enduring throughout the Examination related to the timescales for the discharge of Requirements specified in para 1 of Schedule 4. Para 1(1) stipulates that the relevant authority must decide any application for the discharge of a Requirement within 35 days of receipt of the application. Where further information is requested, the 35 days would begin from the receipt of that further information. There is provision for a longer period to be agreed in writing between the relevant parties. Additional provisions govern:

- the timescales within which a request for further information can be made (7 business days from receipt of the application);
- the timescales within which any consultee specified on the face of the Requirement must be consulted (3 business days from receipt of the application); and
- the timescales within which the relevant authority must notify the undertaker of any further information requested by the consultee (within 3 business days of receipt of the request and within 21 business days of receipt of the application).

7.4.56. These timescales were the subject of discussion during the Examination between the Applicant and the three host authorities. The Applicant firmly maintained the position [REP2-038] that these timescales are necessary and reasonable in light of the urgent need to deliver the Proposed Development as set out in its Updated Need Case [APP-205]. In recognition of the resource required to deal with the discharge of Requirements, the Applicant proposed the establishment of a mechanism to formalise and fund a pre-application process for all Requirements and other consents under Articles to be discharged, based on its experience on the Hinkley Point C Connection and Richborough Connection projects [REP2-038].

7.4.57. Early in the Examination, this was proposed to be secured via a Planning Performance Agreement, but it was subsequently progressed as a Service Level Agreement (SLA) through a planning obligation under Section 106 (s106) of the Town and Country Planning Act 1990. At Deadline 7, a final s106 Agreement was submitted into the Examination that had been signed by the Applicant, CYC, LCC and NYC [REP7-032]. In summary, the s106 Agreement, Schedule 4 requires the following measures in relation to an SLA:

- **monthly meetings:** to take place between the Applicant and three Councils as part of ongoing discussions on the discharge of Requirements and other consents;
- **draft submissions:** of information designed to achieve the discharge of one or more Requirements to be submitted by the Applicant to the relevant Council(s);
- **review of draft submissions:** by the relevant Council(s) and advice to the Applicant about whether further information would be required in order to determine the relevant Requirement(s);
- **consultation:** by the relevant Council(s) with internal and external consultees as would be required under the relevant Requirement(s);
- **notification letter:** from the Council(s) to the Applicant advising whether or not the draft submission has been discharged in principle, with reasons;
- **further draft submission:** from the Applicant to the Council(s), if required, in response to the notification letter; and
- **reasonable costs reimbursed by the Applicant:** for delivering its obligations, following receipt of an invoice from the relevant Council(s).

- 7.4.58. The ExA notes that Schedule 2 of the s106 Agreement deals with Biodiversity Net Gain and our reporting on that matter is contained in Section 3.5 of this Recommendation.
- 7.4.59. The s106 Agreement was accompanied by a Community Infrastructure Levy (CIL) Compliance Statement [REP7-018] which explains how each main obligation can be demonstrated to meet the tests contained in Regulation 122 of the CIL Regulations 2010 and para 4.1.8 of NPS EN-1, specifically that the obligations are: necessary to make the Proposed Development acceptable in planning terms, directly related to the development, fairly and reasonably related in scale and kind to the Proposed Development and reasonable in all other respects.
- 7.4.60. The Applicant's position is that the SLA secured via the s106 Agreement would front-load and fund the Councils' consideration of Requirements and other consents to be discharged, such that the timescales for formal consideration of applications for discharge of Requirements specified within Schedule 4 would be achievable. Whilst the Applicant describes this "*pre-application*" process as a six-week window [REP6-058], there is no provision in the s106 Agreement specifying that timescale.
- 7.4.61. CYC confirmed that entering into the SLA via a s106 Agreement would address its earlier concerns about the timescales specified in Schedule 4 to the dDCO [REP5-101]. While no submissions were received from CYC after the signing of the final s106 Agreement, the ExA is satisfied that this position, also reported in the final SoCG [REP5-033] (and confirmed by the signing of the s106 Agreement) remained the same at the end of the Examination. The final SoCG with LCC [REP7-028] indicates its agreement with the provisions of Schedule 4, recognising the role of the signed s106 Agreement in securing the 'pre-application' process.
- 7.4.62. Whilst NYC signed the final s106 Agreement, this was not sufficient to resolve all of its concerns in relation to the provisions of Schedule 4 [REP5-117]. NYC's final Examination submissions on this matter [REP7-085] and [REP7-083] continue to object to the timescales contained in Schedule 4 of the dDCO. The areas of difference between the Applicant and NYC in respect of Schedule 4 timescales are summarised in Table 7.3, below. Where available, the timescales set out in Appendix 1 of Planning Inspectorate Advice Note 15 (AN15) ('Drafting DCOs') are also included for reference.

**Table 7.3 Summary of areas of difference regarding Schedule 4 timescales**

<b>Schedule 4 provision</b>	<b>Applicant's final dDCO</b>	<b>AN15 standard wording</b>	<b>NYC preferred timescales</b>
Para 1(1) – relevant authority to decide an application for any consent, agreement or approval within:	35 days	42 days	8 weeks (56 days)
Para 1(3) – relevant authority must notify the undertaker of any request for further information within:	7 business days	10 business days	21 business days
Para 1(4) – where required, relevant authority must issue the consultation to any requirement consultee within:	3 business days	Not specified	5 business days
Para 2(2)(b) – relevant authority must refund any fee where it fails to determine an application within:	35 days	42 days	8 weeks (56 days)

- 7.4.63. In all cases, NYC sought longer timescales for the handling of applications for the discharge of Requirements and other consents than are provided for within Schedule 4 of the dDCO and in the Inspectorate's AN15. Its rationale for this position related principally to the availability of resources, both internally and in instances where advice from external consultants may be required. It also highlighted the time required for it to undertake consultation, as stipulated under a number of Requirements and other consents [REP5-117]. NYC also raised concerns about the risk of information varying between pre-application submissions and formal applications for the discharge of Requirements and other consents [REP7-083].
- 7.4.64. The Applicant's response and further justification is set out in [REP6-058], Table 2.15 and [REP8-013], Table 2.7. In summary, it contended that the SLA secured via the s106 Agreement would allow the Councils sufficient time to prepare the necessary resource for forthcoming applications, because they would have sight of draft submission documents in the pre-application stage and would have undertaken consultation with consultees where relevant. It stated that consultation with external requirement consultees is limited to R6(b) (drainage management plan), R12 (contamination of land or groundwater and controlled waters) and R13 (removal of temporary bridges and culverts), if applicable.
- 7.4.65. The Applicant also highlighted that the written scheme of stages submitted in accordance with R4, together with the monthly meetings committed to within the SLA, would ensure that the Councils had a clear indication of the project

programme and the timing of likely resource requirements. The Applicant further explained that since the project would be broken down into stages, and each Requirement may be discharged in parts, the volume of material submitted with each application would generally not be extensive.

- 7.4.66. In addition to seeking amended timescales, NYC also suggested the insertion of text within para 2(2)(b) to caveat the provision as follows: “*unless a longer period of time for determination has been agreed with the undertaker in accordance with (1)(1)(c)*” [REP5-117] and [REP7-085]. The Applicant did not respond directly to this point.
- 7.4.67. A final matter raised by NYC related to para 1(5) of Schedule 4 which states that in the absence of a request for further information in accordance with para 1(3) and 1(4), the relevant authority is deemed to have sufficient information to make its decision on an application. NYC sought the deletion of this provision [REP7-083]. The Applicant did not respond to this specific point but its general submissions [REP8-013], Table 2.7 emphasise the need for there to be no unreasonable impediments to the delivery of the Proposed Development. It retained the provision in the final dDCO [REP8-004].
- 7.4.68. The disagreement between the Applicant and NYC on these matters remained outstanding at the end of the Examination. No specific concerns were raised by any other bodies who may be in the role of “*relevant authority*” for the purposes of Schedule 4 and the final SoCG with the Environment Agency (EA) records agreement in respect of all matters relating to the dDCO [REP7-030].

#### *ExA’s reasoning*

- 7.4.69. The ExA has given careful consideration to the submissions on both sides in relation to Schedule 4. We note the agreement of CYC and LCC to the timescales specified in Schedule 4, and acknowledge that this agreement is subject to the measures set out within the SLA and secured by the submitted s106 Agreement. NYC has agreed and signed the s106 Agreement but maintained its objection to the timescales specified in Schedule 4. We deal first with the s106 Agreement and then go on to consider the outstanding timescales matters.
- 7.4.70. The ExA has considered the s106 Agreement in the context of the policy and legal tests relevant to planning obligations. The SLA contained in Schedule 4 of the final s106 Agreement [REP7-032] would play an important role in ensuring that Requirements and other consents under Articles of the dDCO can be discharged in a timely and efficient manner, by establishing and funding a pre-application process designed to streamline and expedite the formal discharge process. In this sense, the ExA is satisfied that the s106 Agreement meets the necessity test.
- 7.4.71. The SLA is directly related to the Proposed Development in the sense that it enables and resources the discharge of Requirements that control the implementation of the authorised development. The s106 Agreement would reimburse the “*reasonable costs*” incurred by each Council in complying with its obligations under para 3 of Schedule 4 to the s106 Agreement. We therefore consider that the obligations would be fairly and reasonably related in scale and kind to the Proposed Development.
- 7.4.72. For these reasons, the ExA finds that the s106 Agreement [REP7-032] meets the relevant legal and policy tests for planning obligations. As such, we have regard to

the SLA that it secures in forming our conclusions in relation to the discharge of Requirements.

- 7.4.73. Turning to NYC's outstanding concerns relating to the timescales set out in Schedule 4 (and summarised in Table 7.3, above). We note that the Applicant seeks shorter timescales in all respects than those proposed by NYC. We acknowledge the legitimate concerns of NYC regarding the considerable resourcing implications associated with the discharge of Requirements and other consents under the Articles of the dDCO, particularly given that the NYC administrative area would host a larger proportion of the proposed works than that of CYC and LCC.
- 7.4.74. However, we are also mindful of the emphasis in national policy (most notably NPSs EN-1 and EN-5) on a streamlined consent process for NSIPs that minimises undue delay to the delivery of new energy projects. In this context, NYC's request for an 8 week timescale for the discharge of Requirements, together with the other elongated timescales set out in Table 7.3 (above) would not, in our view, be proportionate.
- 7.4.75. The Applicant's submissions refer to an overall 11 week process, taking into account a 6 week 'pre-application' stage (provided for in the SLA) plus a 5 week formal application stage as set out in Schedule 4 [REP6-058]. Whilst a 6 week pre-application window is referred to in the final SoCGs with the Councils [REP5-033] [REP7-028] and [REP7-083], the ExA notes that no timescales are specified on the face of the s106 Agreement in this regard. Nevertheless, we note the secured commitment to monthly meetings and accept that 6 weeks is a realistic estimate of the typical timeframe involved in undertaking the pre-application commitments within the SLA.
- 7.4.76. We consider that the 'pre-application' process set out in the SLA is sufficiently robust and precise as to be effective in achieving its desired purpose of streamlining the formal application process. We are also satisfied that there is provision within para 1(2) of Schedule 4 for Councils to request further information and that in those circumstances, the decision period would not begin until that further information was received. There is also provision in para 1(1)(c) for a longer decision period to be agreed between the parties which is a mechanism that may be drawn upon for any particularly complex or voluminous applications. The written scheme of stages required under R4 of the dDCO and the monthly meetings stipulated in the SLA would assist the Councils in planning the availability of appropriate resource to deal with applications.
- 7.4.77. In Section 3.2 of this Recommendation, we have found that there is a compelling and urgent need for the delivery of the Proposed Development. Having regard to all of the matters discussed above, we conclude that the particular urgency of the Proposed Development together with the SLA commitments secured in Schedule 4 of the s106 Agreement in this case justifies the timescales specified in Schedule 4, which we recognise are shorter than those contained in the standard drafting in the Inspectorate's AN15.
- 7.4.78. Moving finally to consider the other Schedule 4 objections maintained by NYC at the close of the Examination. The ExA notes the concern underpinning NYC's proposed additions to para 2(2)(b) [REP5-117] and [REP7-085]. As drafted in the Applicant's final dDCO [REP8-004], in the scenario that a longer time period for determination had been agreed under para 1(1)(c), para 2(2)(b) would nonetheless provide that a refund of fees paid would be due to the undertaker if the determination was not made within 35 days. This is an unhelpful inconsistency within Schedule 4 which



could lead to difficulties in implementation. Rather than inserting the wording proposed by NYC to address this matter, we recommend that the form of the standard drafting from Appendix 1 of the Inspectorate's AN15 is substituted for the relevant wording in para 2(2)(b).

7.4.79. Accordingly, the rDCO (which can be found at Annex E of this Recommendation) includes the following amendment within Schedule 4:

***“Fees***

***2. (2) - Any fee paid under this Schedule must be refunded to the undertaker within 35 days of –***

*(a) the application being rejected as invalidly made; or*

*(b) the relevant authority failing to determine the application within **the decision period as determined under paragraph 1**, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant authority and credited in respect of a future application.*

7.4.80. We consider that this would address the specific matter raised by NYC [REP5-117] [REP7-085]. Whilst this amendment has not been subject to specific consultation with the Applicant, it is standard drafting contained in the Inspectorate's AN15 and has the same effect as the existing drafting. By addressing an internal inconsistency within Schedule 4, it improves clarity which should assist in future implementation.

7.4.81. NYC also seeks the deletion of para 1(5) of Schedule 4 which states that in the absence of a request for further information in accordance with para 1(3) and 1(4), the relevant authority is deemed to have sufficient information to make its decision on an application [REP7-083]. The ExA notes that this provision mirrors para 2(3) of the standard drafting contained in the Inspectorate's AN15. For this reason, and since it is reasonable for the undertaker to have some certainty about the timescales within which further information can be requested, we find that the provision should be retained unchanged within Schedule 4 of the rDCO.

7.4.82. In all other respects, and having regard to the advice in the Inspectorate's AN15, the ExA considers that the procedure, fees and appeal process set out in Schedule 4 are sufficiently clear and proportionate to the scale of the Proposed Development and have been adequately justified.

**Protective Provisions (Schedule 15)**

7.4.83. Chapter 6 of this Recommendation sets out the ExA's consideration of the various PPs contained in Schedule 15 of the final dDCO [REP8-004]. In summary, by the end of the Examination, there was no outstanding disagreement in relation to the following Parts of Schedule 15:

- Part 1: Protection for electricity, gas, water and sewerage undertakers;
- Part 2: Protection for operators of electronic communications code networks;
- Part 3: For the protection of the Canal & River Trust;
- Part 5: For the protection of Northern Powergrid; and
- Part 8: For the protection of Northern Gas Network's apparatus.

7.4.84. Three sets of PPs remained unagreed at the end of the Examination:

- Part 4: For the protection of railway interests (Network Rail Infrastructure Limited (NRIL));

- Part 6: For the protection of National Highways Limited (NH); and
- Part 7: For the protection of National Gas Transmission plc (NGT) as gas undertaker.

7.4.85. These matters are reported in detail in Chapter 6 of this Recommendation and are therefore not repeated in this Chapter. However, Table 7.4 of this Chapter summarises all of the changes to Parts 4, 6 and 7 of Schedule 15 recommended by the ExA.

### **Amendment of Local Legislation (Schedule 16)**

7.4.86. Schedule 16 to the dDCO [REP8-004] lists the local enactments and byelaws that are excluded by, and do not apply insofar as they are inconsistent with, a provision of the Order, further to Article 52. The local enactments and byelaws to be excluded are:

- The West Yorkshire Act 1980
  - Section 9 ‘Culverting streams before development’; and
  - Section 44 ‘Dust, etc., from building operations’.
- Byelaws for the good rule and government of the City of Leeds and for the prevention of nuisances made by the Council of the City in pursuance of Section 235 of the Local Government Act 1972
  - Byelaw 5 ‘Noisy conduct at night’;
  - Byelaw 10 ‘Preservation of road margins’;
  - Byelaw 11 ‘Mud, etc, falling from vehicles to the highway’; and
  - Byelaw 17 ‘Noise’.

7.4.87. Responding to ExQ1 5.10.1 [PD-007], the Applicant added a detailed justification for the disapplication of provisions listed within Schedule 16 of the dDCO as Appendix B of the final EM [REP8-006]. The Appendix describes the equivalent provisions provided for with the dDCO and the relevant embedded mitigation measures in respect of the Proposed Development. The ExA notes that Byelaw 5 is not covered explicitly in the Appendix, which appears to be an oversight. However, we are content that the justification for disapplication of Byelaw 5 would be similar to the justification for disapplication of Byelaw 17 since they both relate to noise. No objections to the disapplication of these local enactments and byelaws were received during the Examination.

7.4.88. The submitted version of the dDCO [APP-066] also sought to disapply a number of Ainsty IDB Byelaws 2022 and Kyle and Upper Ouse IDB Byelaws 1996 but these were deleted from Schedule 16 following discussions with the IDBs during the Examination. An alternative approach amending Section 66 of the Land Drainage Act 1991 through Article 19(12) of the dDCO [REP8-004] was instead sought, as discussed in an earlier part of this Section.

#### *ExA’s reasoning*

7.4.89. Having regard to the Applicant’s explanation contained in Appendix B of the final EM [REP8-006], the ExA is satisfied that all of the local enactments and byelaws to be disapplied pursuant to Article 52 of the dDCO [REP8-004] and listed in Schedule 16 to it have been adequately justified. We are content that equivalent protections are provided for on the face of the Order or in the construction management plans secured under Requirements 5 and 6. No changes to the dDCO are recommended.

## 7.5. EXA’S RECOMMENDED CHANGES

7.5.1. For the reasons detailed in Section 7.4, the ExA recommends that the changes set out in Table 7.4 below are made to the Applicant’s final dDCO [REP8-004]. The rDCO, which can be found at Annex E of this Recommendation, incorporates all of these amendments. Recommended insertions, deletions or amendments are shown in red text with yellow highlighting.

**Table 7.4: DCO provisions recommended to be changed**

Provision	Recommended change	ExA’s comment
Article 19 Discharge of water	Article 19(12) is amended as follows: <i>“(12) In relation to any works executed under this Order, Section 66 of the Land Drainage Act 1991(a) is amended after paragraph (9) to insert:</i>  <i>“(10) Where an application is made to an internal drainage board for their consent under a byelaw made under this section-</i>  <i>(a) the consent is not to be unreasonably withheld; and</i> <i>(b) if the internal drainage board fail within 28 days after receipt of the application to notify the applicant application in writing of their determination, the internal drainage board are deemed to have consented to the application”</i>	To correct a typographical error in the final dDCO, see the ExA’s discussion in para 7.4.20 to 7.4.23 of this Recommendation.
Article 48 Certification of plans, etc	Article 48(1)(d) is amended to read: <i>“the environmental statement (Documents 5.1 to 5.4.18, 5.2.19 and 5.2.22)”</i> .	To correct error in the final dDCO, see the ExA’s discussion in para 7.4.27 to 7.4.28 of this Recommendation.
Schedule 3 Requirement 18	<b>Approval of details having regard to the Design Approach to Site Specific Infrastructure</b> <b>18(1)</b> Any permanent buildings (including relocated buildings) and the acoustic enclosures at –  (a) Overton Substation; and (b) Monk Fryston Substation,	See the ExA’s discussion in para 7.4.44 to 7.4.48 above and Section 3.13 of this Recommendation.

Provision	Recommended change	ExA's comment
	<p>must not be <b>commenced completed</b> until details of the external colour and surface finish of the permanent buildings and the external colour of the acoustic enclosures have been submitted to and approved by the relevant planning authority.</p> <p>(2) <b>Any non-linear site permanent security fencing at –</b></p> <p><b>(a) Shipton Tee Cable Sealing End Compounds;</b></p> <p><b>(b) Overton Substation;</b></p> <p><b>(c) Tadcaster Tee Cable Sealing End Compounds; and</b></p> <p><b>(d) Monk Fryston Substation,</b></p> <p><b>must not be commenced until details of the colour or type of the fencing, which must comply with Technical Specification TS2.10.02 Perimeter Security, has been submitted to and approved by the relevant planning authority.</b></p> <p><b>(3) Any details to be approved under sub-paragraphs (1) and (2) must be produced having regard to the design approach to site specific infrastructure and must be implemented as approved.</b></p>	
<p>Schedule 4 Discharge of Requirements</p>	<p><b>Fees</b></p> <p><b>2. (2) - Any fee paid under this Schedule must be refunded to the undertaker within 35 days of –</b></p> <p><b>(a) the application being rejected as invalidly made; or</b></p> <p><b>(b) the relevant authority failing to determine the application within the decision period as determined under paragraph 1, <del>35 days from the date on which it is received</del>, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant authority and credited in respect of a future application.</b></p>	<p>To address an internal inconsistency within Schedule 4, as discussed in para 7.4.78 to 7.4.80 of this Recommendation.</p>

Provision	Recommended change	ExA's comment
<p>Schedule 15, Part 4</p> <p>For the protection of railway interests</p>	<p><b>36. (6)</b> <del>Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if notwithstanding</del></p> <p><del>If at any time prior to the commencement of operation of the authorised development and notwithstanding</del> any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.</p>	<p>See the ExA's reasoning in para 6.7.57 to 6.7.61 of Chapter 6 of this Recommendation.</p>
<p>Schedule 15, Part 6</p> <p>For the protection of National Highways</p>	<p><b>Indemnity</b></p> <p><b>77. (1)</b> The undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways directly arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 30 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways.</p> <p><del>(2) Any indemnity under this part of Schedule 15 shall be limited to a maximum aggregate liability of the undertaker to National Highways for all claims to a sum of £30,000,000 (thirty million pounds sterling).</del></p>	<p>See the ExA's reasoning in para 6.7.19 to 6.7.22 of Chapter 6 of this Recommendation.</p>

Provision	Recommended change	ExA's comment
<p>Schedule 15, Part 7</p> <p>For the protection of National Gas Transmission Plc as gas undertaker</p>	<p><b>Interpretation</b></p> <p><b>82.</b> “acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than <b>£50,000,000 (fifty million pounds)</b> <del>£25,000,000.00 (twenty five million pounds)</del> per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) during the construction period of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation)— (a) a waiver of subrogation and an indemnity to principal clause in favour of NGT (b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than 10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate.</p>	<p>See the ExA's reasoning in para 6.7.72 to 6.7.75 of Chapter 6 of this Recommendation.</p>
<p>Schedule 15, Part 7</p> <p>For the protection of National Gas Transmission Plc as gas undertaker</p>	<p><b>Retained apparatus: protection</b></p> <p><b>89.</b>—(1) Not less than <b>56 28</b> days before the commencement of any specified works the undertaker must submit to NGT a plan and, if reasonably required by NGT, a ground monitoring scheme in respect of those works.</p> <p>(2) In relation to specified works the plan to be submitted to NGT under sub-paragraph (1) must include a method statement and describe— (a) the exact position of the works; (b) the level at which these are proposed to be constructed or renewed; (c) the manner of their construction or renewal including details of excavation, positioning of plant etc; (d) the position of all apparatus; (e) by way of detailed drawings, every alteration</p>	<p>See the ExA's reasoning in para 6.7.81 to 6.7.90 of Chapter 6 of this Recommendation.</p>

Provision	Recommended change	ExA's comment
	<p>proposed to be made to or close to any such apparatus; and (f) any intended maintenance regimes.</p> <p>(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until NGT has given written approval of the plan so submitted.</p> <p>(4) Any approval of NGT required under sub-paragraph (3)— (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (6); and (b) must not be unreasonably withheld; <del>and (c) will be deemed to have been given if no response is provided within 28 days of the submission of a plan by the undertaker under sub-paragraph (1).</del></p> <p>(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, NGT may require, within 21 days of submission of a plan by the undertaker under sub-paragraph (1), such modifications to be made to the plans as is reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.</p> <p>(6) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the undertaker and NGT and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by NGT for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and NGT will be entitled to watch and inspect the execution of those works.</p> <p>(7) Where NGT requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to NGTs' satisfaction prior to</p>	

Provision	Recommended change	ExA's comment
	<p>the commencement of any specified works for which protective works are required and NGT must give notice of its requirement for such works within 21 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).</p> <p>(8) If NGT in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph (2).</p> <p>(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than <b>56</b> <del>28</del> days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.</p> <p>(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to NGT notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub-paragraph (11) at all times;</p> <p>(11) At all times when carrying out any specified works NGT must comply with NGT's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".</p> <p>(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that NGT retains the right to carry out any further necessary protective works for the safeguarding of its</p>	



Provision	Recommended change	ExA's comment
	apparatus and can recover any such costs in line with paragraph 90.	
Schedule 15, Part 7 For the protection of National Gas Transmission Plc as gas undertaker	<b>Indemnity</b> <b>91. (10) any indemnity under this part of Schedule 15 shall be limited to a maximum aggregate liability of the Undertaker to NGT for all claims limited to a sum of £30,000,000 (thirty million pounds sterling).</b>	See the ExA's reasoning in para 6.7.97 to 6.7.101 of Chapter 6 of this Recommendation.

## 7.6. OTHER CONSENTS AND LICENCES

7.6.1. The proposed reconductoring of the XC 275 kV overhead line (Work No. 9) would affect a Scheduled Monument (NHLE List Entry: 1020326 Medieval manorial complex, garden and water management features, St Mary's chapel, and a linear earthwork forming part of the Aberford Dyke system) due to the access required to erect scaffolding to undertake the works. The final EM [REP8-006] explains that, in accordance with s33(1)(f) of PA2008, where development consent is granted, separate consent under s2(3) of the Ancient Monuments and Archaeological Areas Act 1979 is not required. On this basis, the ExA accepts that the Order would provide the required consent for works affecting the Scheduled Monument.

7.6.2. The Applicant's final Details of Consents and Other Licences [REP7-016], Table 2.1 lists the consents and licences which the undertaker would need to obtain, in addition to the Order, to implement the Proposed Development. In summary, the following consents and licences are identified as being required:

- Flood Risk Activity Permits (temporary and permanent, if required) under The Environmental Permitting (England and Wales) Regulations 2016 ('the Environmental Permitting Regulations') from the EA; and
- Land drainage consent for ordinary watercourses under s23 of the Land Drainage Act 1991 from NYC as Lead Local Flood Authority (LLFA) and from the relevant IDBs (Ainsty or Kyle and Upper Ouse districts).

7.6.3. The following consents and licences may be required:

- consent to discharge surface water to watercourses within an IDB district under s66 of the Land Drainage Act 1991 from the relevant IDBs (Ainsty or Kyle and Upper Ouse districts);
- permit to discharge waste water to a watercourse (main river) under s118 of the Water Industry Act and/or the Environmental Permitting Regulations from the EA or relevant IDB;
- storage of waste permit under the Environmental Permitting Regulations from the EA;
- soil contamination (waste) permit under the Environmental Permitting Regulations from the EA; and

- construction noise and vibration (control of pollution) consent under s61 of the Control of Pollution Act 1974 from the relevant local authority.

7.6.4. As discussed in Section 3.5 of this Recommendation, Natural England (NE) has agreed that a district level licensing approach would be taken in relation to great crested newt, avoiding the need for a Protected Species Licence under the Conservation of Habitats and Species Regulations 2017. NE has also agreed that on the basis of the current evidence, no European Protected Species licence would be required for bats, and no Protected Species Licence would be required for otter or water vole. There is also no identified need for a badger licence under the Protection of Badgers Act 1992.

7.6.5. It is evident that the Applicant has discussed the need for the above consents and licences with the relevant responsible authorities [REP7-016]. These discussions are documented in the relevant chapters of the ES and in the final SoCGs with NE [REP5-037], the EA [REP7-030], Ainsty IDB [REP7-022], Kyle and Upper Ouse IDB [REP7-024] and NYC as LLFA [REP7-083]. No submissions have been made to indicate that there is an in-principle reason why any of these consents and licences would not be granted.

7.6.6. The ExA has considered the available information in relation to these other consents and licences. Without prejudice to the exercise of discretion by future decision-makers, we conclude that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant development consent for the application.

## **7.7. CONCLUSIONS**

7.7.1. The ExA has examined all iterations of the dDCO, from the submission version [APP-066] to the final version [REP8-004], as set out in Table 7.1 above. We have considered the degree to which the Applicant's final dDCO has addressed matters arising during the Examination.

7.7.2. The ExA is satisfied that, subject to the amendments recommended in Table 7.4 above, the Requirements set out in the Applicant's final draft DCO provide mitigation for potential adverse effects identified in the ES. In this regard, we consider that the Requirements (as amended) are necessary, reasonable, enforceable and sufficiently precise, as well as being relevant to planning and to the Proposed Development.

7.7.3. A number of matters relating to the provisions of the dDCO are the subject of recommendations in this Chapter (as set out in Table 7.4 above) and are included in the rDCO in Annex E of this Recommendation.

7.7.4. Taking all matters raised in this Chapter and all matters relevant to the DCO raised in the remainder of this Recommendation fully into account, should the SoS for Energy Security and Net Zero be minded to make the DCO, it is recommended to be made in the form set out in Annex E of this Recommendation.

## **8. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS**

### **8.1. INTRODUCTION**

- 8.1.1. This Chapter summarises the Examining Authority's (ExA) conclusions and sets out our recommendation to the Secretary of State (SoS) for Energy Security and Net Zero.

### **8.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS**

- 8.2.1. In respect of s104 of the Planning Act 2008 (PA2008), the ExA concludes that making the recommended Development Consent Order (rDCO) would be in accordance with the Overarching National Policy Statement for Energy (NPS EN-1) and the National Policy Statement for Electricity Networks Infrastructure (NPS EN-5), both designated in 2011.
- 8.2.2. This Recommendation also considers relevant elements of the consultation drafts of the revised NPS EN-1 and NPS EN-5 documents dating from March 2023, which were before the parties during the Examination. Whilst the 2011 versions remain the designated NPSs under transition provisions, the draft NPSs are capable of being important and relevant. We have identified no conflict with these draft NPSs which in some respects lend support to the need case for the Proposed Development.
- 8.2.3. Furthermore, making the rDCO would not substantially conflict with relevant development plan policy or other relevant policy, all of which have been taken into account in this Recommendation. In reaching our conclusions, we have also had regard to the Local Impact Reports (LIR) from City of York Council (CYC), Leeds City Council (LCC) and North Yorkshire Council (NYC).
- 8.2.4. We have found that the Proposed Development is not likely to have a significant effect on the qualifying features of any European sites, when considered alone or in combination with other plans or projects. We consider that there is sufficient information before the SoS to enable them to conclude that an appropriate assessment is not required.
- 8.2.5. We have considered whether the determination of this application in accordance with the relevant NPSs would lead the UK to be in breach of any of its international obligations where relevant. We are satisfied, in all respects, that this would not be the case. Neither would it lead to the SoS being in breach of any duty imposed upon them by or under any enactment or be otherwise unlawful by virtue of any enactment.
- 8.2.6. Taking account of the mitigation secured through the rDCO in Annex E of this Recommendation, there are no adverse impacts arising from the Proposed Development that would outweigh its benefits. For these reasons, we find that the Proposed Development would meet the tests in s104 of PA2008. Moreover, there is nothing to indicate that the application should be decided other than in accordance with the relevant NPSs, EN-1 and EN-5.
- 8.2.7. We have considered the case for Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights in order to implement the Proposed Development. We are satisfied that the legal interests in all plots of land included in the final Book of Reference [REP7-065] and indicated on the final Land Plan [AS-

005], [REP6-008], [REP6-009], [AS-008], [AS-009] and [AS-010] would be required for the Proposed Development with regard to both CA and TP powers. In relation to land subject to CA, we are satisfied that the land to be taken is no more than is reasonably required and the proposed land take is proportionate. The Applicant has a clear idea of how it intends to use the land and funds are available for the implementation of the Proposed Development.

- 8.2.8. We have had regard to the provisions of the Human Rights Act 1998, in particular Article 6 (Acts of public authorities), Article 8 (Judicial remedies) and Article 1 of the First Protocol (Protection of property). We consider that the Examination has ensured a fair and public hearing, that any interference with human rights arising from implementation of the Proposed Development is proportionate and strikes a fair balance between the rights of the individual and the public interest. We are satisfied that compensation would be available in respect of any quantifiable loss. There is no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.
- 8.2.9. Throughout the Examination and in producing this Recommendation, we have also had due regard to the Public Sector Equality Duty (PSED). The PSED is principally considered in Chapter 6 and Annex D of this Recommendation. The Proposed Development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, there would be no breach of the PSED.
- 8.2.10. As required by Regulation 3(1) of the Infrastructure Planning (Decisions) Regulations 2010, we have had regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess. We have also had regard to the desirability of preserving or enhancing the character or appearance of conservation areas and the desirability of preserving a Scheduled Monument or its setting.
- 8.2.11. Where we have found that there would be harm to the significance of designated heritage assets (as set out in Section 3.12 of this Recommendation), we have found that this would be less than substantial in each instance. In Chapter 5 of this Recommendation, we conclude that taking into account the public benefits of the Proposed Development, there is a clear and convincing justification for the harm that would arise to designated heritage assets, both individually and collectively.
- 8.2.12. In respect of all other matters and representations received, the ExA is satisfied that there are no important or relevant matters that would individually or collectively lead to a different recommendation from that set out below. We are satisfied that the Proposed Development meets the tests in s104 of PA2008.

### **Matters for the attention of the Secretary of State**

- 8.2.13. The ExA has been able to make recommendations on all matters relevant to the application and believes that the SoS has all of the information that they need to make a decision. However, we draw the following matters to the attention of the SoS for their consideration.

### **Revised NPS EN-1 and NPS EN-5 (November 2023)**

- 8.2.14. On 22 November 2023, the revised NPS EN-1 and revised NPS EN-5 were published. Since this occurred during the recommendation period for this project, the parties have not had an opportunity to comment on the content of the published

NPSs. At the point of submitting our Recommendation, the revised NPSs had not been formally designated.

8.2.15. The revised NPS EN-1 (November 2023) defines electricity grid infrastructure (including network reinforcement and upgrade works and associated infrastructure such as substations) as “*low carbon infrastructure*” for which there is a critical national priority (CNP). Para 4.2.15 of the revised NPS EN-1 (November 2023) states that in all but the most exceptional circumstances, it is unlikely that consent will be refused on the basis of residual impacts remaining after the mitigation hierarchy has been applied (except where residual Habitats Regulations Assessment (HRA) or Marine Conservation Zone (MCZ) impacts exist).

8.2.16. Whilst the March 2023 revised drafts and November 2023 published versions of NPS EN-1 and EN-5 may strengthen the presumption in favour of new and reinforced electricity transmission Nationally Significant Infrastructure Projects (NSIPs), the ExA is clear that the Proposed Development is justified and consentable on the basis of the relevant designated NPSs (EN-1 and EN-5, 2011). In this sense, the content of revised NPS EN-1 and NPS EN-5 (November 2023) would make no difference to our overall Recommendation in respect of the Proposed Development.

#### **Requirement 18 of the rDCO**

8.2.17. Requirement 18 of the rDCO contains one change that has not been put before the parties during Examination. To improve enforceability, we recommend that the drafting of R18(1) and R18(2) is amended to prevent commencement of the permanent buildings, acoustic enclosures and fencing until approval of details by the relevant planning authority. The Applicant’s final dDCO [REP8-004] had required that this approval was obtained prior to completion of the relevant works.

8.2.18. The SoS may wish to seek the views of the Applicant and NYC in respect of this specific change. For the reasons set out in Section 3.13 and Section 7.4 of this Recommendation, we do not consider that wider consultation on this matter is necessary. See para 3.13.38 to 3.13.51 and para 7.4.43 to 7.4.48 of this Recommendation.

#### **Compulsory acquisition of National Highways land maintained by North Yorkshire Council**

8.2.19. As reported in Chapter 6 of this Recommendation, there are outstanding objections from NYC and National Highways (NH) over its Protective Provisions (PP) regarding compulsory acquisition of land in the ownership of NH, but no longer part of the strategic road network, following de-trunking, which is currently maintained by NYC as highway authority. If the SoS has been notified that agreement has been reached and/ or the objection withdrawn between the Applicant and NYC, the SoS may wish to seek the view of NH as to whether its objection to the Applicant’s wording of Provision 79 would also be withdrawn.

8.2.20. Regarding NH’s objection to Provision 79 wording, the ExA is satisfied that the Applicant’s wording in its final dDCO is adequate, and that NH’s proposed amendments are not required, whether or not there has been evidence submitted of agreement over land rights between the Applicant and NYC. For completeness, however, if the SoS has not been made aware of any such post-Examination submissions, the SoS might wish to seek clarification on progress with agreement on land matters from NYC and the Applicant and seek views from NH. See para 6.6.164 to 6.6.170 and 6.7.31 to 6.7.36 of this Recommendation.

### **Guidance for the assessment of traffic effects**

- 8.2.21. In July 2023, the assessment guidance contained in the Guidance for the Environmental Assessment of Road Traffic (GEART) was replaced by new guidance from the Institute of Environmental Management and Assessment known as the '*Environmental Assessment of Traffic and Movement*' (EATM). During the Examination, the Applicant carried out an exercise of assessing the findings of ES Chapter 12 [APP-084] against the new EATM criteria and concluded that there would be no significant differences using the new EATM methodology [REP7-084], Table 2.15.
- 8.2.22. Since this arose late in the Examination, the ExA did not have the opportunity to specifically seek the views of IPs on this matter, particularly NYC, CYC, LCC and NH. However, we note that there was a general opportunity at Deadline 8 for parties to respond to Deadline 7 submissions and no responses to the Applicant's exercise were received. In light of the evidence before us, the ExA has no reason to disagree with the Applicant's conclusions in this regard and is satisfied that the transport assessment is robust. See para 3.7.15 to 3.7.16 of this Recommendation.

### **Electricity Networks Commissioner's Report**

- 8.2.23. On 4 August 2023, the UK's Electricity Networks Commissioner, Nick Winser, published a report and recommendations on the topic of accelerating the delivery of UK electricity transmission infrastructure. The Government did not publish any response to the report before the Examination closed and the views of IPs about the report were not explicitly sought during the Examination. The ExA is clear that its conclusions in relation to the need for the Proposed Development would not be altered by the Electricity Networks Commissioner's report. See para 3.2.19 of this Recommendation.

### **Post-Examination agreements**

- 8.2.24. Additionally, we note that if agreement has been reached during the recommendation period on any matters left unresolved at the end of the Examination (including in relation to PPs for the benefit of NH, Network Rail Infrastructure Ltd and National Gas Transmission plc as reported in Chapter 6 of this Recommendation), then the SoS may reach different findings on those matters from those of the ExA. Nonetheless, we do not anticipate that any such matters would alter our overall recommendation as set out below.

## **8.3. RECOMMENDATION**

- 8.3.1. For all of the above reasons, and in light of the ExA's findings and conclusions on important and relevant matters set out in this Recommendation, the ExA recommends that the SoS makes the National Grid (Yorkshire Green Energy Enablement Project) DCO in the form recommended at Annex E of this Recommendation.

## LIST OF ANNEXES

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## ANNEX A: LIST OF ABBREVIATIONS

<b>Abbreviation</b>	<b>Definition</b>
<b>AA</b>	Appropriate Assessment
<b>AEP</b>	Annual Exceedance Probability
<b>AIA</b>	Arboricultural Impact Assessment
<b>ALC</b>	Agricultural Land Classification
<b>ALO</b>	Agricultural Liaison Officer
<b>AN15</b>	Advice Note 15: Drafting Development Consent Order
<b>ANCB</b>	Appropriate Nature Conservation Body
<b>AOD</b>	Above Ordnance Datum
<b>AP</b>	Affected Person
<b>ASI</b>	Accompanied Site Inspection
<b>BESS</b>	British Energy Security Strategy
<b>BMV</b>	Best and most versatile
<b>BNG</b>	Biodiversity Net Gain
<b>BoR</b>	Book of Reference
<b>BS</b>	British Standard
<b>CA</b>	Compulsory Acquisition
<b>CAH</b>	Compulsory Acquisition Hearing
<b>CIL</b>	Community Infrastructure Levy
<b>CL:AIRE</b>	Contaminated Land: Applications in Real Environments
<b>CNP</b>	Critical National Priority
<b>CoCP</b>	Code of Construction Practice
<b>CPRSS</b>	Corridor and Preliminary Routeing and Siting Study
<b>CRT</b>	Canal & River Trust
<b>CSEC</b>	Cable Sealing End Compound
<b>CTMP</b>	Construction Traffic Management Plan
<b>CWTP</b>	Construction Workers Travel Plan
<b>CYC</b>	City of York Council
<b>D</b>	Deadline

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<b>Abbreviation</b>	<b>Definition</b>
<b>DAS</b>	Design and Access Statement
<b>DASSI</b>	Design Approach for Site Specific Infrastructure
<b>dB</b>	Decibels
<b>DC1</b>	Examining Authority's Commentary and Questions on the dDCO [PD-015]
<b>DCO</b>	Development Consent Order
<b>dDCO</b>	Draft Development Consent Order
<b>EA</b>	Environment Agency
<b>EATM</b>	Environmental Assessment of Traffic and Movement
<b>EC</b>	European Commission
<b>ECML</b>	East Coast Mainline
<b>EIA</b>	Environmental Impact Assessment
<b>EIA Regulations</b>	Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (SI 2017/572)
<b>EL</b>	Examination Library
<b>EM</b>	Explanatory Memorandum
<b>EMF</b>	Electromagnetic Field or Electric and Magnetic Field
<b>EMI</b>	Electromagnetic interference
<b>ENA</b>	Energy Networks Association
<b>ES</b>	Environmental Statement
<b>EU</b>	European Union
<b>ExA</b>	Examining Authority
<b>ExQ1</b>	First Written Questions [PD-007]
<b>ExQ2</b>	Further Written Questions [PD-011]
<b>FLL</b>	Functionally linked land
<b>FRA</b>	Flood Risk Assessment
<b>GEART</b>	Guidance for the Environmental Assessment of Road Traffic
<b>GHG</b>	Greenhouse gas
<b>GI</b>	Green Infrastructure
<b>GLVIA3</b>	Guidelines for Landscape and Visual Impact Assessment
<b>GW</b>	Gigawatt

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<b>Abbreviation</b>	<b>Definition</b>
<b>ha</b>	Hectare
<b>Habitats Regulations</b>	Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017
<b>HGV</b>	Heavy Goods Vehicle
<b>HPI</b>	Habitats of Principal Importance
<b>HRA</b>	Habitats Regulations Assessment
<b>HSE</b>	Health and Safety Executive
<b>IAP</b>	Initial Assessment of Principal Issues
<b>IAQM</b>	Institute of Air Quality Management
<b>ICNIRP</b>	International Commission on Non Ionizing Radiation Protection
<b>IDB</b>	Internal Drainage Board
<b>IP</b>	Interested Party
<b>IPC</b>	Infrastructure Planning Commission
<b>ISH</b>	Issue Specific Hearing
<b>km</b>	Kilometre(s)
<b>kV</b>	Kilovolt(s)
<b>LCC</b>	Leeds City Council
<b>LIR</b>	Local Impact Report
<b>LLFA</b>	Lead Local Flood Authority
<b>LoD</b>	Limits of Deviation
<b>LPA</b>	Local Planning Authority
<b>LSE</b>	Likely Significant Effects
<b>LVIA</b>	Landscape and Visual Impact Assessment
<b>m</b>	Metre(s)
<b>MAHP</b>	Major Accident Hazard Pipeline
<b>MOD</b>	Ministry of Defence
<b>NATS</b>	National Air Traffic Services Limited
<b>NCN</b>	National Cycle Network
<b>NE</b>	Natural England
<b>NGESO</b>	National Grid Electricity System Operator

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<b>Abbreviation</b>	<b>Definition</b>
<b>NGN</b>	Northern Gas Networks
<b>NGT</b>	National Gas Transmission plc
<b>NH</b>	National Highways
<b>NOA</b>	Network Options Assessment
<b>NPA2017</b>	The Neighbourhood Planning Act 2017
<b>NPG</b>	Northern Powergrid (Northeast) plc and Northern Powergrid (Yorkshire) plc
<b>NPPF</b>	National Planning Policy Framework
<b>NPPG</b>	National Planning Practice Guidance
<b>NPS</b>	National Policy Statement
<b>NPS EN-1</b>	Overarching National Policy Statement for Energy (EN-1)
<b>NPS EN-3</b>	National Policy Statement for Renewable Energy Infrastructure (EN-3)
<b>NPS EN-5</b>	National Policy Statement for Electricity Networks Infrastructure (EN-5)
<b>NPSE</b>	Noise Policy Statement for England
<b>NRIL</b>	Network Rail Infrastructure Limited
<b>NRSA</b>	New Roads and Street Works Act 1991
<b>NSER</b>	No Significant Effects Report
<b>NSIP</b>	Nationally Significant Infrastructure Project
<b>NVMP</b>	Noise and Vibration Management Plan
<b>NYC</b>	North Yorkshire Council
<b>Ofgem</b>	Office of Gas and Electricity Markets
<b>OFH</b>	Open Floor Hearing
<b>OFW</b>	Offshore Wind Farm
<b>PA2008</b>	Planning Act 2008
<b>PD</b>	Procedural Decision
<b>PM</b>	Preliminary Meeting
<b>PP</b>	Protective Provision
<b>PRoW</b>	Public Right of Way
<b>PSED</b>	Public Sector Equality Duty

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<b>Abbreviation</b>	<b>Definition</b>
<b>R</b>	Requirement
<b>rDCO</b>	Recommended Development Consent Order
<b>RIES</b>	Report on the Implications for European Sites
<b>RIESQ</b>	ExA's Questions on the Report on the Implications for European Sites [PD-016]
<b>RR</b>	Relevant Representation
<b>Rule 17</b>	Request for further information under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
<b>s</b>	Section
<b>SAC</b>	Special Area of Conservation
<b>SF<sub>6</sub></b>	Sulphur Hexafluoride
<b>SI</b>	Statutory Instrument
<b>SINC</b>	Site of Importance for Nature Conservation
<b>SLA</b>	Service Level Agreement
<b>SNS</b>	Statutory Nuisance Statement
<b>SOAEL</b>	Significant Observed Adverse Effect Level
<b>SoCG</b>	Statement of Common Ground
<b>SoR</b>	Statement of Reasons
<b>SoS</b>	Secretary of State for Energy Security and Net Zero
<b>SPA</b>	Special Protection Area
<b>SPD</b>	Supplementary Planning Document
<b>SPI</b>	Species of Principal Importance
<b>SRN</b>	Strategic Road Network
<b>SSOB</b>	Samuel Smith Old Brewery (Tadcaster)
<b>SU</b>	Statutory Undertaker
<b>SWDS</b>	Surface Water Drainage System
<b>TCO</b>	Traffic Coordination Officer
<b>TGN 06/ 19</b>	Landscape Institute Technical Guidance Note TGN 06/19 - Visual representations of development proposals, September 2019
<b>THPS</b>	Tree and Hedgerow Protection Strategy
<b>TP</b>	Temporary Possession

<b>Abbreviation</b>	<b>Definition</b>
<b>UDP</b>	Unitary Development Plan
<b>UK</b>	United Kingdom
<b>UKCP18</b>	UK Climate Projection data 2018
<b>UKHSA</b>	UK Health Security Agency
<b>USI</b>	Unaccompanied Site Inspection
<b>VP</b>	Viewpoint
<b>WFD</b>	Water Framework Directive
<b>WR</b>	Written Representation
<b>WSI</b>	Written Scheme of Investigation
<b>YOC</b>	Yorkshire Ornithological Club
<b>YWT</b>	Yorkshire Wildlife Trust
<b>ZoI</b>	Zone of Influence
<b>ZTV</b>	Zone of Theoretical Visibility

## **ANNEX B: SUPPORTING REFERENCE MATERIAL**

### **Contents**

- B1 Geographic Sections and Work No. Descriptions
- B2 Statements of Common Ground
- B3 Change Application Documents
- B4 Summary of Changes
- B5 Summary of Legislation Relevant to the Proposed Development
- B6 Summary of Other National Policies Relevant to the Proposed Development
- B7 Made Orders
- B8 Relevant Local Plan and Neighbourhood Plan Policies
- B9 Local Plan Policy Relevant to Specific Planning Matters Considered in this Recommendation

## Annex B1: Geographic Sections and Work No. Descriptions

### The Geographic Sections

The following table presents the six geographic sections [APP-075], para 3.2.3 and the final versions of relevant sections of the Land Plan and Works Plan.

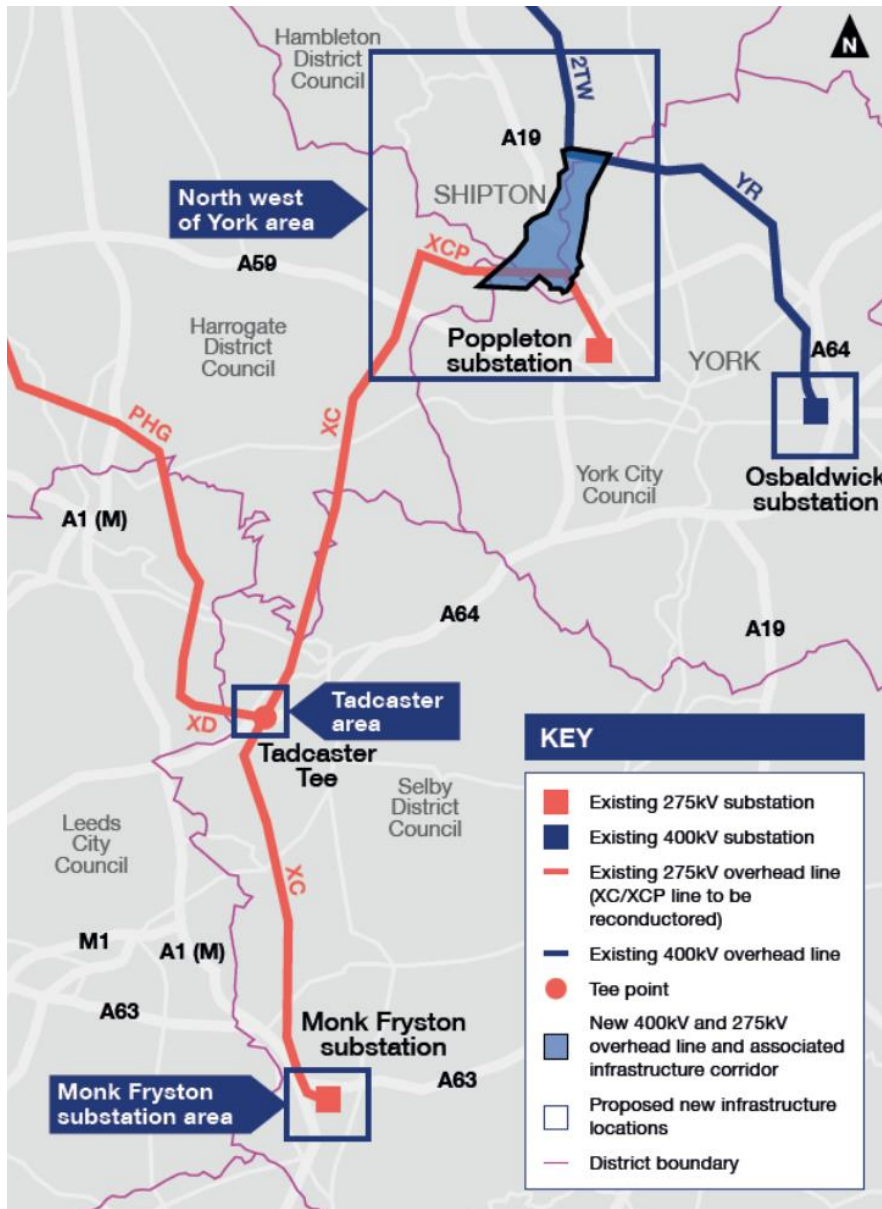
<b>Section</b>	<b>Geographic description</b>	<b>Final Land Plan</b>	<b>Final Works Plan</b>
Section A	Osbalwick Substation	AS-005	REP1-004
Section B	The North West of York Area	REP6-008	REP6-010
Section C	Moor Monkton to Tadcaster	REP6-009	REP6-011
Section D	The Tadcaster Area	AS-008	REP6-012
Section E	Tadcaster to Monk Fryston	AS-009	REP6-013
Section F	Monk Fryston Substation Area	AS-010	REP1-009



## Description of Proposed Works and Works Nos

The following map provides an overview of the Proposed Development and indicates the names of the existing and proposed overhead lines.

**Figure B1.1 Extract from Consultation Strategy Appendix A: Non-statutory Consultation Strategy (source [APP-196])**



Note: the local authority areas are those prior to re-organisation.

The following table sets out a description of the Proposed Development included in Schedule 1 of the Applicant's final draft DCO [REP8-004].

<b>Work No.</b>	<b>Section</b>	<b>Description of works</b>
Work No.1	Section A	Works at the existing Osbaldwick Substation to reconfigure the existing layout and YR overhead electric line.
Work No. 2	Section B	Works to reconfigure the YR overhead electric line and installation of the YN overhead electric line, including construction and installation of two cable sealing end compounds (CSEC) at Shipton North and Shipton South and two temporary construction compounds.
Work No. U1	Section B	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No.3	Section B	Works to construct the overhead electric line, including two temporary construction compounds.
Work No. U2	Section B	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. U3	Section B	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No.4	Section B	Works to construct and install a new substation at Overton, to facilitate connections to YN, SP and XC overhead lines.
Work No. 5	Section B	Works to construct and install the SP overhead electric line and dismantle the XCP overhead electric line.
Former Work No. U4 (removed)	Section B	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. 6	Section B	Works to reconfigure the XC overhead electric line, through reconductoring and installation of new sections of overhead electric lines, and dismantling of the XCP overhead line and sections of the XC overhead electric line.
Work No. U4 (formerly U5)	Section B	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. U5 (formerly U6)	Section B	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. 7	Section C	Works to upgrade, modify and reconductor the existing XC overhead electric line.
Work No. U6 (formerly U7)	Section C	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Former Work No. U8 (removed)	Section C	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.

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Work No. 8	Section D	Works to upgrade, modify and reconductor the existing XC overhead electric line and modify the XD overhead electric line, including construction and installation of two CSECs at Tadcaster Tee East and Tadcaster Tee West and the installation of one temporary construction compound.
Work No. U7 (formerly U9)	Section D	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. U8 (formerly U10)	Section D	Diversion of an underground gas pipeline and removal of redundant section of gas pipeline.
Work No. 9	Section D	Works to upgrade, modify and reconductor the existing XC overhead electric line.
Work No. U9 (formerly U11)	Section E	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. U10 (formerly U12)	Section E	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. U11 (formerly U13)	Section E	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. U12 (formerly U14)	Section E	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. U13 (formerly U15)	Section E	Removal of a section of existing distribution overhead electric line and replacement with an underground cable.
Work No. 10	Section E and Section F	Works to reconfigure the XC overhead electric line through construction and installation of new sections and dismantling existing sections, including the installation of one temporary construction compound.
Work No. 11	Section F	Works to construct and install a new substation at Monk Fryston, including modifications to the existing Monk Fryston Substation, XC overhead electric line and 4YS overhead electric line (existing overhead line from south-east of Monk Fryston Substation) connections, including the installation of one temporary construction compound.

## Annex B2: Statements of Common Ground

The table below is an alphabetical list of final Statements of Common Ground between the Applicant and Interested Parties at the end of the Examination with Examination Library references.

<b>Interested Party</b>	<b>Examination Library Reference</b>
Ainsty Internal Drainage Board	REP7-022
Canal & River Trust	REP5-057
Cellnex UK Limited	REP5-061
City of York Council	REP5-033
EE Limited and Hutchison 3G Limited	REP5-063
Environment Agency	REP7-030
Foss Internal Drainage Board	REP7-026
Historic England	REP5-043
Kyle and Upper Ouse Internal Drainage Board	REP7-024
Leeds City Council	REP7-028
National Gas Transmission plc	REP8-017
National Highways	REP7-077
National Trust	REP5-045
Natural England	REP5-037
Network Rail Infrastructure Limited	REP7-075
North Yorkshire Council	REP7-083
Northern Gas Networks Limited	REP8-019
Northern Powergrid (Yorkshire) plc and Northern Powergrid (Northeast) plc	REP5-047
Yorkshire Water	REP5-069
Yorkshire Wildlife Trust	REP5-039

## **Annex B3: Change Application Documents**

The core Change Application documents are as follows:

- Applicant's Notification of Request for Proposed Changes [AS-020];
- Applicant's Clarification on Change Application Approach letter [AS-021];
- Cover letter for Change Application [REP5-090];
- Change Application: Report on Proposed Changes [REP5-091];
- Change Application: Plans and Drawings [REP5-092];
- Change Application: Book of Reference (Clean) [REP5-093];
- Change Application: Book of Reference (Tracked) [REP5-094];
- Change Application: Flood Risk Assessment (Clean) [REP5-095];
- Change Application: Flood Risk Assessment (Tracked) [REP5-096]; and
- Environmental Statement Consolidated Errata (Clean) [REP7-003].

## **Annex B4: Summary of Changes**

### **Change 1: Shipton North CSEC reduction in Limits of Deviation (within Work No.2)**

This change:

- sought to respond to submissions from those with an interest in the land about potential negative effects on expansion plans for the farm business;
- reduced the Limits of Deviation (LoD) for the Shipton North Cable Sealing End Compound (CSEC);
- required no additional land; all alterations fell within the Order limits;
- resulted in an overall reduction in land required for permanent acquisition, with some land instead being required for temporary possession;
- would, according to the Applicant's assessment, result in no change to the environmental effects described in the Environmental Statement (ES), and no change to the conclusions of the Arboricultural Impact Assessment (AIA);
- had been subject to engagement with relevant Affected Persons (AP) prior to the Applicant submitting the Change Application; and
- was notified to other relevant stakeholders in advance of its submission.

### **Change 2: New Farm/ Skelton Springs Cottages access (within Work No.5)**

The location of this change is referred to by the Applicant as New Farm Cottage access and by those with an interest in the land as Skelton Springs Cottages access and New Farm access.

This change:

- sought to respond to representations from landowners and residents in the immediate area about potential negative effects during the construction period;
- altered the construction access route to proposed Pylon SP005, via a haul road from proposed Pylon SP004, rather than using the existing farm track off the A19. It also involved a new crossing over Hurns Gutter;
- removed the need for former Work No. U4, which had comprised the removal of a section of existing distribution overhead electric line and replacement with an underground cable and electric line;
- required no additional land; all alterations fell within the Order limits;
- reduced the Order limits and the number of APs, in part due to the deletion of Work No .U4;
- would, according to the Applicant's assessment, necessitate minor changes to some chapters of the ES (biodiversity, hydrology, landscape and visual and transport) to take

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account of the altered construction access arrangements, but would not change the ES conclusions regarding significance of effects;

- was supported by an updated Flood Risk Assessment;
- had been subject to engagement with relevant APs prior to the Applicant submitting the Change Application; and
- was notified to other relevant stakeholders in advance of its submission.

### **Change 3: Shipton CSEC access (within Work No.2)**

This change:

- sought to respond to site-specific representations from those with an interest in the land about avoiding the wettest part of the field and improving compatibility with the future expansion of the farming operations in this location;
- comprised amendments to the access road to the Shipton CSECs, moving the access point from the public highway northwards;
- required no additional land - all alterations fell within the Order limits - but required revisions to the land powers sought, including an increase in the extent of Class 1 land (some of which was formerly Class 2 land), a decrease in the extent of Class 2 and 3 land, and an increase in Class 4 land;
- would, according to the Applicant's assessment, result in some change in the environmental effects reported in the ES (biodiversity and landscape and visual), but would not change the ES conclusions regarding significance of effects;
- had been subject to engagement with relevant APs prior to the Applicant submitting the Change Application;
- was notified to other relevant stakeholders in advance of its submission.

## **Annex B5: Summary of Legislation Relevant to the Proposed Development**

Below is a summary list of other legislation relevant to the Proposed Development:

- Ambient Air Quality Directive (2008/50/EC)
- Environmental Impact Assess (EIA) Directive (2011/92/EU) (as amended by EIA Directive 2014/52/EU)
- Habitats Directive (92/43/EEC)
- Priority Substances Directive (2008/105/EC) Revision of the Priority Substances Directive (2013/39/EU)
- The Agriculture Act 2020
- The Air Quality (Amendment) (England) Regulations 2002
- The Air Quality (England) Regulations 2000
- The Air Quality Standards (Amendment) Regulations 2016
- The Air Quality Standards (England) Regulations 2010
- The Ancient Monuments and Archaeological Areas Act 1979
- The Birds Directive (2009/147/EC)
- The Burial Act 1857
- The Climate Change Act 2008
- The Climate Change Act 2008 (2050 Target Amendment) Order 2019
- The Commons Act 2006
- The Conservation of Habitats and Species Regulations 2017
- The Construction Design and Management (CDM) Regulations 2015
- The Control of Pollution Act 1974 (COPA) (as amended)
- The Countryside and Rights of Way Act 2000
- The Electricity Act 1989
- The Energy Act 2016
- The Environment Act 1995
- The Environment Act 2021
- The Environmental Protection Act 1990 (as amended)
- The Equality Act 2010
- The EU Floods Directive (2007/60/EC)
- The Flood and Water Management Act 2010
- The Flood Risk Regulations 2009
- The Hedgerow Regulations 1997
- The Highways Act 1980
- The Human Rights Act 1998
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (EIA Regulations)
- The Land Drainage Act 1991
- The Land Drainage Act 1994
- The Natural Environmental and Rural Communities Act 2006 (NERC) (as amended)
- New Roads and Street Works Act 1991
- The Noise and Statutory Nuisance Act 1993 c.40
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- The Planning Act 2008
- The Protection of Badgers Act 1992
- The Protection of Military Remains Act 1986
- The Reservoirs Act 1975
- The Traffic Management Act 2004
- The Treasure Act 1996
- The Water Act 2003
- The Water Act 2014

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- The Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2015
- The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
- The Water Resources Act 1991
- The Wildlife and Countryside Act 1981 (as amended)
- Water Framework Directive (2000/60/EC)



## **Annex B6: Summary of Other National Policies Relevant to the Proposed Development**

### **National Planning Policy Framework**

The National Planning Policy Framework (NPPF), September 2023, and the accompanying Planning Practice Guidance contain the Government's planning policies and guidance for England. The NPPF sets out how these policies are expected to be applied for the purposes of making Development Plans and determining applications for planning permission under the Town and Country Planning Act 1990 (as amended).

### **Net Zero: The UK's Contribution to Stopping Global Warming, May 2019**

The Committee on Climate Change produced Net Zero: The UK's contribution to Stopping Global Warming. This recommended a new emissions target for the UK of net-zero greenhouse gases by the year 2050.

### **Energy White Paper, 2020**

The Energy White Paper, 'Powering our Net Zero Future', December 2020 stated that: "*The UK has set a world-leading net zero target, the first major economy to do so, but simply setting the target is not enough – we need to achieve it. Failing to act will result in natural catastrophes and changing weather patterns as well as significant economic damage, supply chain disruption and displacement of populations.*"

Figure 3.2 of the Energy White paper contained a Department for Business, Energy and Industrial Strategy analysis of potential future energy demand. This predicted that electricity demand could double from 2020 to 2050.

### **Net Zero Strategy: Build Back Greener, 2021**

The Net Zero Strategy sets out the Government's plans for reducing emissions from each sector of the economy. The Strategy states that a clean reliable, power system would be the foundation of a productive net zero economy and it references the intention of fully decarbonising the UK's power system by 2035.

### **British Energy Security Strategy, 2022**

The British Energy Security Strategy (BESS) was published by the Government in April 2022. BESS states that: "*Accelerating our domestic supply of clean and affordable electricity also requires accelerating the connecting network infrastructure to support it.*" It went on to contend that "*Networks are a complex system that have been slow in their transformation. We aim to halve the time it takes to get this infrastructure built so we can double the pace.*"

### **Powering Up Britain - The Net Zero Growth Plan, March 2023**

Powering Up Britain – The Net Zero Growth Plan reinforces the Government's commitment to the United Kingdom becoming a net zero economy by 2050 and responds to the expert recommendations made in the Independent Review of Net Zero report which was the independent review into net zero.

## Annex B7: Made Orders

The following made Development Consent Orders have been referred to by the Applicant and other Interested Parties in relation to the dDCO:

- The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 (SI 2016/547)
- The A19 Downhill Lane Junction Development Consent Order (SI 2020/746)
- The A19/A184 Testo's Junction Alteration Development Consent Order 2018 (SI 2018/994)
- The A30 Chiverton to Carland Cross Development Consent Order (SI 2020/121)
- The A303 (Amesbury to Berwick Down) Development Consent Order 2023 (SI 2023/834)
- The A428 Black Cat to Caxton Gibbert Development Consent Order (SI 2022/934)
- The A47 North Tuddenham to Easton Development Consent Order 2022 (SI 2022/911)
- The A47 Wansford to Sutton Development Consent Order 2023 (SI 2023/218)
- The A47/A11 Thickthorn Junction Development Consent Order 2022 (SI 2022/1070)
- The Drax Power (Generating Stations) Order 2019 (SI 2019/1315)
- The East Northamptonshire Resource Management Facility Order 2023 (SI 2023/110)
- The Eggborough Gas Fired Generating Station Order 2018 (SI 2018/1020)
- The Hornsea Four Offshore Wind Farm Order 2023 (SI 2023/800)
- The Hornsea Three Offshore Wind Farm Order 2020 (SI 2020/1656)
- The Immingham Open Cycle Gas Turbine Order 2020 (SI 2020/847)
- The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 (SI 2022/1396)
- The Lake Lothing (Lowestoft) Third Crossing Order 2020 (SI 2020/474)
- The Longfield Solar Farm Order 2023 (SI 2023/734)
- The M25 Junction 28 Development Consent Order 2022 (SI 2022/573)
- The M42 Junction 6 Development Consent Order 2020 (SI 2020/528)
- The National Grid (Hinkley Point C Connection Project) Development Consent Order 2016 (SI 2016/49)
- The National Grid (King's Lynn B Power Station Connection) Order 2013 (SI 2013/3200)
- The National Grid (Richborough Connection Project) Development Consent Order 2017 (SI 2017/817).
- The Norfolk Vanguard Offshore Wind Farm Order 2022 (SI 2022/138)
- The North London Heat and Power Generating Station Order 2017 (SI 2017/215)
- The North Wales Wind Farms Connection Order 2016 (SI 2016/818)
- The River Humber Gas Pipeline Replacement Order 2016 (SI 2016/853)
- The Silvertown Tunnel Order 2018 (SI 2018/574)
- The Sizewell C (Nuclear Generating Station) Order 2022 (SI 2022/853)
- The South Humber Bank Energy Centre Order 2021 (SI 2021/1259)
- The Southampton to London Pipeline Development Consent Order 2020 (SI 2020/1099)
- The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (SI 2014/2384)
- The Thurrock Flexible Generation Plant Development Consent Order 2022 (SI 2022/157)

In addition, reference has been made to the following made Orders under the Transport and Works Act 1992:

- The London Underground (Northern Line Extension) Order 2014 (SI 2014/3102)
- The Midland Metro (Wolverhampton City Centre Extension) Order 2016 (SI 2016/684)

## Annex B8: Relevant Local Plan and Neighbourhood Plan Policies

### Adopted Local Plan Policies

The Local Impact Reports identify the following adopted Local Plan policies as being of relevance to the decision in respect of the Proposed Development:

Plan Title	Relevant Policies
Hambleton Local Plan (adopted February 2022)	<ul style="list-style-type: none"> <li>▪ S1: Sustainable Development Principles</li> <li>▪ S5: Development in the Countryside</li> <li>▪ S6: York Green Belt</li> <li>▪ S7: The Historic Environment</li> <li>▪ E1: Design</li> <li>▪ E2: Amenity</li> <li>▪ E3: The Natural Environment</li> <li>▪ E4: Green Infrastructure</li> <li>▪ E5: Development Affecting Heritage Assets</li> <li>▪ E6: Nationally Protected Landscapes</li> <li>▪ E7: Hambleton's Landscapes</li> <li>▪ CI2: Transport and Accessibility</li> <li>▪ RM2: Flood Risk</li> <li>▪ RM3: Surface Water and Drainage Management</li> <li>▪ RM4: Air Quality</li> <li>▪ RM5: Ground Contamination and Ground Water Pollution</li> <li>▪ RM6 Minerals and Waste</li> </ul>
Harrogate District Local Plan 2014-2035 (adopted 9 December 2020)	<ul style="list-style-type: none"> <li>▪ Policy CC1: Flood risk and Sustainable Drainage</li> <li>▪ Policy CC2: Rivers</li> <li>▪ Policy CC3: Renewable and Low Carbon Energy</li> <li>▪ Policy CC4: Sustainable Design</li> <li>▪ Policy EC2: Expansion of Existing businesses in Open Countryside and Outside Established Employment Areas.</li> <li>▪ Policy GS3: Development Limit</li> <li>▪ Policy HP2: Heritage Asset</li> <li>▪ Policy HP3: Local Distinctiveness</li> <li>▪ Policy HP4: Protecting Amenity</li> <li>▪ Policy HP5: Public Rights of Way</li> <li>▪ Policy HS10: Providing for the Needs of Gypsies and Travellers</li> <li>▪ Policy NE1: Air Quality</li> <li>▪ Policy NE3: Protecting the Natural Environment</li> <li>▪ Policy NE4: Landscape Character</li> <li>▪ Policy NE5: Green and Blue Infrastructure</li> <li>▪ Policy NE7: Trees and Woodland</li> <li>▪ Policy NE9: Unstable and Contaminated Land</li> <li>▪ Policy TI1: Sustainable Transport</li> <li>▪ Policy TI3: Parking Provision</li> <li>▪ Policy TI4: Delivery of New Infrastructure</li> </ul>
Leeds Core Strategy (adopted November 2014)	<ul style="list-style-type: none"> <li>▪ P10: Design</li> <li>▪ P11: Conservation</li> <li>▪ P12: Landscape</li> <li>▪ T2: Accessibility requirements and new development</li> </ul>

	<ul style="list-style-type: none"> <li>▪ G2: Creation of new tree cover</li> <li>▪ G8: Protection of important species and habitat</li> <li>▪ G9: Biodiversity Improvements</li> <li>▪ EN1: Climate change - Carbon Dioxide reduction</li> <li>▪ EN2: Sustainable design and construction</li> <li>▪ EN3: Low carbon energy EN5: Managing flood risk</li> <li>▪ ID2: Planning obligations and developer contributions.</li> </ul>
Leeds Natural Resources and Waste Local Plan (adopted 2013)	<ul style="list-style-type: none"> <li>▪ Air 1: Air Quality</li> <li>▪ Water 1: Water efficiency</li> <li>▪ Water 2: Protection of water quality</li> <li>▪ Water 6: Flood Risk Assessments</li> <li>▪ Water 7: Surface water runoff</li> <li>▪ Land 1: Contaminated land</li> <li>▪ Land 2: Development and Trees</li> </ul>
Saved policies of the Leeds Unitary Development Plan (adopted 2001)	<ul style="list-style-type: none"> <li>▪ GP5: Detailed planning considerations</li> <li>▪ N29: Archaeology</li> <li>▪ N32: Green Belt and the Proposals Map</li> <li>▪ N33: Development in the Green Belt</li> <li>▪ N35: Agricultural Land (B&amp;MV)</li> </ul>
North Yorkshire County Council Minerals and Waste Joint Plan (adopted 16 February 2022)	<ul style="list-style-type: none"> <li>▪ Policy S01: Safeguarding minerals resources</li> <li>▪ Policy S02: Developments proposed within Minerals Safeguarding Areas</li> <li>▪ Policy S07: Consideration of applications in Consultation Areas</li> <li>▪ Policy W01: Moving waste up the waste hierarchy</li> <li>▪ Policy W05: Meeting waste management capacity requirements – Construction, Demolition and Excavation waste (including hazardous CD&amp;E waste).</li> </ul>
Selby District Core Strategy Local Plan (adopted 22 October 2013)	<ul style="list-style-type: none"> <li>▪ Policy SP1: Presumption in Favour of Sustainable Development.</li> <li>▪ Policy SP2: Spatial Development Strategy</li> <li>▪ SP3 – Green Belt</li> <li>▪ Policy SP12: Access to Services, Community Facilities and Infrastructure</li> <li>▪ Policy SP13: Scale and Distribution of Economic Growth</li> <li>▪ Policy SP15: Sustainable Development and Climate Change</li> <li>▪ Policy SP16: Improving Resource Efficiency</li> <li>▪ Policy SP17: Low-Carbon and Renewable Energy</li> <li>▪ Policy SP18: Protecting and Enhancing the Environment</li> <li>▪ Policy SP19: Design Quality</li> </ul>
Selby District Local Plan (adopted 8 February 2005)	<ul style="list-style-type: none"> <li>▪ Policy ENV1: Control of Development</li> <li>▪ Policy ENV2: Environmental Pollution and Contaminated Land</li> <li>▪ Policy ENV3: Light Pollution</li> <li>▪ Policy ENV4: Hazardous Substances</li> <li>▪ Policy ENV9: Sites of Importance for Nature Conservation</li> <li>▪ Policy ENV12: River and Stream Corridors</li> <li>▪ Policy ENV13: Development Affecting Ponds</li> <li>▪ Policy ENV16: Development Affecting Historic Parks and Gardens</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Policy ENV17: Historic Battlefields</li> <li>▪ Policy ENV27: Scheduled Monuments and Important Archaeological Sites</li> <li>▪ Policy ENV28: Other Archaeological Remains</li> <li>▪ Policy T1: Development in Relation to the Highway Network</li> <li>▪ Policy T2: Access to Roads</li> <li>▪ Policy T8: Public Rights of Way</li> <li>▪ Policy CS6: Development Contributions to Infrastructure and Community Facilities</li> </ul>
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## Emerging Local Plan Policies

In addition, the Local Impact Reports identify the following emerging Local Plans as of relevance to the Proposed Development:

<b>Plan Title</b>	<b>Relevant Policies</b>
City of York Local Plan, Publication Draft 2018	<ul style="list-style-type: none"> <li>▪ DP2: Sustainable Development</li> <li>▪ DP3: Sustainable Communities</li> <li>▪ DP4: Approach to Development Management</li> <li>▪ SS1: Delivering Sustainable Growth for York</li> <li>▪ SS2: The Role of York's Green Belt.</li> <li>▪ D1: Placemaking</li> <li>▪ D2: Landscape and Setting</li> <li>▪ D4: Conservation Areas</li> <li>▪ D5: Listed Buildings</li> <li>▪ D6: Archaeology –</li> <li>▪ D7: The Significance of Non-Designated Heritage Assets</li> <li>▪ D9: City of York Historic Environment Record</li> <li>▪ GI2: Biodiversity and Access to Nature</li> <li>▪ GI4: Trees and Hedgerows</li> <li>▪ GB1: Development in the Green Belt</li> <li>▪ ENV1 – Air Quality</li> <li>▪ ENV2: Managing Environmental Quality</li> <li>▪ ENV4: Flood Risk</li> <li>▪ T1: Sustainable Access</li> </ul>
Selby Pre-Submission Publication Local Plan (consultation ending 28 October 2022)	<ul style="list-style-type: none"> <li>▪ No specific policies highlighted in Local Impact Report.</li> </ul>

## Neighbourhood Plan Policies

The Local Impact Reports also identify the following policies of adopted Neighbourhood Plans as being of relevance to the Proposed Development:

<b>Plan Title</b>	<b>Relevant Policies</b>
Bramham cum Oglethorpe Neighbourhood Plan 2018 – 2033 (adopted 2019)	<ul style="list-style-type: none"><li>▪ H2: Bramham Moor Battlefield</li></ul>
Upper and Nether Poppleton Neighbourhood Plan (adopted 19 October 2017)	<ul style="list-style-type: none"><li>▪ PNP3: Conservation Areas</li><li>▪ NP10: Protection of Wooded Areas and Hedgerows</li></ul>

## Annex B9: Local Plan Policy Relevant to Specific Planning Matters Considered in this Recommendation

Planning Issue	Local planning policies identified in the CYC LIR <sup>1</sup>	Local planning policies identified in the LCC LIR <sup>2</sup>	Local planning policies identified in the NYC LIR <sup>3</sup>
<p>Landscape and visual Section 3.4</p>	<p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy D1: Placemaking;</li> <li>▪ Policy D2: Landscape and Setting;</li> <li>▪ Policy G12: Biodiversity and Access to Nature; and</li> <li>▪ Policy G14: Trees and Hedgerows.</li> </ul> <p>The Applicant also cites:</p> <ul style="list-style-type: none"> <li>▪ Policy D8: Historic Parks and Gardens;</li> <li>▪ Policy G11: Green Infrastructure; and</li> <li>▪ Policy G13: Green Infrastructure Network.</li> </ul>	<p><i>Leeds Core Strategy 2014</i></p> <ul style="list-style-type: none"> <li>▪ Policy P10: Design;</li> <li>▪ Policy P12: Landscape;</li> <li>▪ Policy G2: Creation of new tree cover;</li> <li>▪ Policy G9: Biodiversity Improvements; and</li> <li>▪ Policy ID2: Planning obligations and developer contributions.</li> </ul>	<p><i>Hambleton District Local Plan (2022)</i></p> <ul style="list-style-type: none"> <li>▪ Policy S5: Development in the Countryside;</li> <li>▪ Policy E4: Green Infrastructure; and</li> <li>▪ Policy E7: Hambleton’s Landscapes.</li> </ul> <p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy HP3: Local Distinctiveness;</li> <li>▪ Policy HP5: Public Rights of Way;</li> <li>▪ Policy NE4: Landscape Character;</li> <li>▪ Policy NE5: Green and Blue Infrastructure; and</li> <li>▪ Policy NE7: Trees and Woodland.</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP18: Protecting and Enhancing the Environment; and</li> <li>▪ Policy SP19: Design Quality.</li> </ul> <p><i>Selby District Local Plan 2005 (saved policies)</i></p> <ul style="list-style-type: none"> <li>▪ Policy ENV1: Development proposals;</li> <li>▪ Policy ENV3: Proposals for outdoor lighting; and</li> <li>▪ Policy ENV15: Locally important landscape areas.</li> </ul>

<sup>1</sup> [REP1-047]

<sup>2</sup> [REP1-053]

<sup>3</sup> [REP1-056]

<p>Biodiversity and natural environment</p> <p>Section 3.5</p>	<p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy GI2: Biodiversity and access to nature.</li> <li>▪ Policy GI4: Trees and hedgerows</li> </ul> <p><i>Upper and Nether Poppleton Neighbourhood Plan, 2016-2036</i></p> <ul style="list-style-type: none"> <li>▪ PNP10: Protection of wooded areas and hedgerows.</li> </ul>	<p><i>Leeds Core Strategy 2014</i></p> <ul style="list-style-type: none"> <li>▪ G2 – Creation of new tree cover.</li> <li>▪ G8 – Protection of important species and habitat.</li> <li>▪ G9 – Biodiversity improvements.</li> <li>▪ ID2 – Planning obligations and developer contributions.</li> </ul> <p><i>Leeds Natural Resources and Waste Local Plan 2015</i></p> <ul style="list-style-type: none"> <li>▪ Land 2 – Development and trees.</li> </ul>	<p><i>Hambleton District Local Plan 2022</i></p> <ul style="list-style-type: none"> <li>▪ Policy E3 – The natural environment.</li> <li>▪ Policy RM1 – Water quality, supply and foul drainage.</li> <li>▪ Policy RM2 – Flood risk.</li> <li>▪ Policy RM3 – Surface water and drainage management.</li> </ul> <p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy NE3 – Protecting the natural environment.</li> <li>▪ Policy CC1 – Flood risk and sustainable drainage.</li> <li>▪ Policy CC2 – Rivers.</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP18 – Protecting and enhancing the environment.</li> </ul> <p><i>Selby District Local Plan 2005 (saved policies)</i></p> <ul style="list-style-type: none"> <li>▪ Policy ENV1 – Control of development.</li> <li>▪ Policy ENV9 – Sites of importance for nature conservation.</li> <li>▪ Policy ENV11 – Ancient woodland.</li> <li>▪ Policy ENV12 – River and stream corridors.</li> <li>▪ Policy ENV13 – Development affecting ponds.</li> </ul> <p>Providing Net Gain for Biodiversity Supplementary Planning Document 2021 (former Harrogate District Council)</p>
<p>Noise and vibration</p> <p>Section 3.6</p>	<p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy ENV32:</li> </ul>	<p>None</p>	<p><i>Hambleton District Local Plan 2022</i></p> <ul style="list-style-type: none"> <li>▪ Policy E2: Amenity</li> </ul> <p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy HP4: Protecting Amenity</li> </ul>



			<p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP13: Scale and Distribution of Economic Growth</li> <li>▪ Policy SP17: Low-Carbon and Renewable Energy</li> <li>▪ Policy SP19: Design Quality</li> </ul> <p><i>Selby District Local Plan 2005 (saved policies)</i></p> <ul style="list-style-type: none"> <li>▪ Policy ENV1: Control of development.</li> <li>▪ Policy ENV2: Environmental Pollution and Contaminated Land</li> </ul>
<p>Traffic and transport Section 3.7</p>	<p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy T1: Sustainable Access</li> </ul>	<p><i>Leeds Core Strategy 2014</i></p> <ul style="list-style-type: none"> <li>▪ Policy T2: Accessibility requirements and new development</li> </ul>	<p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy TI1: Sustainable Transport</li> <li>▪ Policy TI3: Parking Provision</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP18: Protecting and Enhancing the Environment</li> <li>▪ Policy SP19: Design Quality</li> </ul> <p><i>Selby District Local Plan 2005 (saved policies)</i></p> <ul style="list-style-type: none"> <li>▪ Policy T1: Development in Relation to the Highway Network</li> <li>▪ Policy T2: Access to Roads</li> <li>▪ Policy T7: Provision for Cyclists</li> <li>▪ Policy T8 Public Rights of Way</li> </ul>
<p>Socio-economic Section 3.8</p>	<p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy DP3: Sustainable Communities</li> </ul>	<p>None</p>	<p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy EC2: Expansion of Existing Businesses in Open Countryside and Outside Established Employment Areas</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p>

			<ul style="list-style-type: none"> <li>▪ Policy SP12: Access to Services, Community Facilities and Infrastructure</li> <li>▪ Policy SP13: Scale and Distribution of Economic Growth</li> </ul> <p><i>Selby District Local Plan 2005 (saved policies)</i></p> <ul style="list-style-type: none"> <li>▪ Policy CS6: Development Contributions to Infrastructure and Community Facilities</li> </ul>
<p>Land use – Green Belt</p> <p>Section 3.9</p>	<p><i>Yorkshire and Humber Regional Spatial Strategy 2008 (saved policy)</i></p> <ul style="list-style-type: none"> <li>▪ Policy Y1: York sub area policy</li> <li>▪ Policy YH9C: Green Belts</li> </ul> <p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy SS2: The role of York’s Green Belt</li> <li>▪ Policy GB1: Development in the Green Belt</li> </ul>	<p><i>Leeds Unitary Development Plan (UDP) Review 2006 (saved policies)</i></p> <ul style="list-style-type: none"> <li>▪ Policy N32: Green Belt and the proposals map</li> <li>▪ Policy N33: Development in the Green Belt</li> </ul> <p><i>Leeds Core Strategy 2014</i></p> <ul style="list-style-type: none"> <li>▪ Spatial Policy 10: Green Belt (amended in 2019)</li> </ul> <p><i>Leeds Site Allocations Plan 2019 (amended in 2020)</i></p> <ul style="list-style-type: none"> <li>▪ Outer North East Housing Market Characteristic Area: land defined as Green Belt</li> </ul>	<p><i>Hambleton District Local Plan 2022</i></p> <ul style="list-style-type: none"> <li>▪ Policy S6: York Green Belt.</li> </ul> <p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy GS4: Green Belt</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP2 A(d): Spatial development strategy</li> <li>▪ Policy SP3: Green Belt</li> </ul>
<p>Land use – agricultural land and soil resources</p> <p>Section 3.9</p>	<p>None</p>	<p><i>Leeds Unitary Development Plan Review 2006 (saved policy)</i></p> <ul style="list-style-type: none"> <li>▪ Policy N35: Agricultural Land (BMV)</li> </ul>	<p><i>Hambleton District Local Plan 2022</i></p> <ul style="list-style-type: none"> <li>▪ Policy S5: Development in the Countryside</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP2: Spatial Development Strategy</li> </ul>

<p>Land use – green infrastructure Section 3.9</p>	<p>The CYC LIR does not make reference to GI. Policies which may be important and relevant were submitted at D2 by CYC.</p> <p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy GI1: Green Infrastructure;</li> <li>▪ Policy GI3: Green Infrastructure Network; and</li> <li>▪ Policy GI4: Trees and Hedgerows.</li> </ul> <p>The Applicant highlights GI Policies in the <i>Upper Poppleton and Nether Poppleton Neighbourhood Plan (2017)</i>:</p> <ul style="list-style-type: none"> <li>▪ Green Infrastructure Policy PNP 2A;</li> <li>▪ Green Infrastructure Policy PNP 2B; and</li> <li>▪ Environmental Policy PNP 10B.</li> </ul>	<p>The LCC LIR does not highlight specific local policies relating to GI. The Applicant sets out policy which may be important and relevant [APP-202]:</p> <p><i>Leeds Core Strategy 2014</i></p> <ul style="list-style-type: none"> <li>▪ Policy G1: Enhancing and Extending Green infrastructure.</li> </ul>	<p><i>Hambleton District Local Plan 2022</i></p> <ul style="list-style-type: none"> <li>▪ Policy E4: Green Infrastructure.</li> </ul> <p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy NE5: Green and Blue Infrastructure: Proposals should protect existing Green Infrastructure; and</li> <li>▪ Green Infrastructure Supplementary Planning Document (adopted 6 November 2014).</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP18: Protecting and Enhancing the Environment.</li> </ul>
<p>Flood risk, hydrology and hydrogeology Section 3.10</p>	<p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy ENV 4: Flood Risk</li> <li>▪ Policy SS1: Delivering Sustainable Growth for York</li> <li>▪ Policy DP3: Sustainable Communities</li> </ul>	<p><i>Leeds Core Strategy 2014</i></p> <ul style="list-style-type: none"> <li>▪ Policy EN5: Managing Flood Risk</li> </ul> <p><i>Leeds Natural Resources and Waste Local Plan 2015</i></p> <ul style="list-style-type: none"> <li>▪ Water 1: Water efficiency</li> </ul>	<p><i>Hambleton District Local Plan 2022</i></p> <ul style="list-style-type: none"> <li>▪ Policy RM2: Flood Risk</li> <li>▪ Policy RM3: Surface Water and Drainage Management</li> <li>▪ Policy RM5: Ground Contamination and Ground Water Pollution</li> </ul> <p><i>Harrogate District Local Plan 2014-2035</i></p>

		<ul style="list-style-type: none"> <li>▪ Water 6: Flood Risk Assessments</li> <li>▪ Water 7: Surface water runoff</li> </ul>	<ul style="list-style-type: none"> <li>▪ Policy CC1: Flood Risk and Sustainable Drainage</li> <li>▪ Policy CC2: Rivers</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP15: Sustainable Development and Climate Change</li> </ul> <p><i>Selby District Local Plan 2005 (saved policies)</i></p> <ul style="list-style-type: none"> <li>▪ Policy ENV12: River and Stream Corridors</li> </ul>
<p>Air quality and human health</p> <p>Section 3.11</p>	<p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy ENV1: Air Quality</li> <li>▪ Policy ENV2: Managing Environmental Quality</li> </ul>	<p><i>Leeds Core Strategy 2014</i></p> <ul style="list-style-type: none"> <li>▪ Policy EN3: Low carbon energy flood risk</li> </ul> <p><i>Leeds Natural Resources and Waste Local Plan 2015</i></p> <ul style="list-style-type: none"> <li>▪ Air 1: Air Quality</li> </ul>	<p><i>Hambleton District Local Plan 2022</i></p> <ul style="list-style-type: none"> <li>▪ Policy: RM4: Air Quality</li> </ul> <p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy NE1: Air Quality</li> </ul> <p><i>Harrogate Supplementary Planning Guidance 2014</i></p> <ul style="list-style-type: none"> <li>▪ Air Quality</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP15: Sustainable Development and Climate Change</li> </ul> <p><i>Selby District Local Plan 2005 (saved policies)</i></p> <ul style="list-style-type: none"> <li>▪ Policy ENV2: Environmental Pollution and Contaminated Land</li> </ul>
<p>Historic environment</p> <p>Section 3.12</p>	<p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy D4: Conservation Areas</li> </ul>	<p><i>Leeds Core Strategy 2014</i></p> <ul style="list-style-type: none"> <li>▪ Policy P11: Conservation</li> </ul> <p><i>Leeds Unitary Development Plan Review 2006 (saved policy)</i></p>	<p><i>Hambleton District Local Plan 2022</i></p> <ul style="list-style-type: none"> <li>▪ Policy S7: The Historic Environment</li> <li>▪ Policy E5: Development Affecting Heritage Assets</li> </ul> <p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy HP2: Heritage Assets</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Policy D7: The Significance of Non-Designated Heritage Assets</li> <li>▪ Policy D8: Historic Parks and Gardens</li> </ul>	<ul style="list-style-type: none"> <li>▪ Policy N29: Archaeology <i>Bramham Cum Oglethorpe Neighbourhood Plan 2018-2022</i></li> <li>▪ Policy H2: Bramham Moor Battlefield is nominated by LCC as a potential Non-Designated Heritage Asset</li> </ul>	<p><i>Harrogate Supplementary Planning Guidance, 2014</i></p> <ul style="list-style-type: none"> <li>▪ Heritage management guidance</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP</li> </ul> <p><i>Selby District Local Plan 2005 (saved policies)</i></p> <ul style="list-style-type: none"> <li>▪ Policy ENV16: Development Affecting Historic Parks and Gardens</li> <li>▪ Policy ENV17: Historic Battlefields</li> <li>▪ Policy ENV27: Scheduled Monuments and Important Archaeological Sites</li> </ul>
Good design Section 3.13	<i>See Section 3.13 of this Recommendation.</i>		
Climate change Section 3.13	<p><i>Publication Draft City of York Plan 2018</i></p> <ul style="list-style-type: none"> <li>▪ Policy CC2: Sustainable Design and Construction of New Development; and</li> <li>▪ Policy ENV4: Flood Risk and Policy ENV5: Sustainable Drainage.</li> </ul> <p>The Applicant also identifies:</p> <ul style="list-style-type: none"> <li>▪ Policy CC1: Renewable and Low Energy Generation and Storage; and</li> </ul>	<p><i>Leeds Core Strategy 2014</i></p> <ul style="list-style-type: none"> <li>▪ Policy EN1: Climate change - Carbon Dioxide reduction;</li> <li>▪ Policy EN2: Sustainable design and construction;</li> <li>▪ Policy EN3: Low carbon energy; and</li> <li>▪ Policy EN5: Managing flood risk.</li> </ul>	<p><i>Hambleton District Local Plan 2022</i></p> <ul style="list-style-type: none"> <li>▪ Policy S1: Sustainable Development Principles.</li> </ul> <p><i>Harrogate District Local Plan 2014-2035</i></p> <ul style="list-style-type: none"> <li>▪ Policy CC1: Flood risk and Sustainable Drainage;</li> <li>▪ Policy CC3: Renewable and Low Carbon Energy; and</li> <li>▪ Policy CC4: Sustainable Design.</li> </ul> <p><i>Selby District Core Strategy Local Plan 2013</i></p> <ul style="list-style-type: none"> <li>▪ Policy SP1: Presumption in Favour of Sustainable Development;</li> <li>▪ Policy SP15: Sustainable Development and Climate Change;</li> <li>▪ Policy SP16: Improving Resource Efficiency; and</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Policy DP2: Sustainable Development.</li> </ul>		<ul style="list-style-type: none"> <li>▪ Policy SP17: Low-Carbon and Renewable Energy.</li> </ul>
Other planning issues Section 3.14	<i>See Section 3.14 of this Recommendation.</i>		
Cumulative effects Section 3.15	<i>See Section 3.15 of this Recommendation.</i>		

# ANNEX C

## C. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

### C.1. INTRODUCTION

C.1.1. This Annex sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security and Net Zero (SoS), as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').

C.1.2. This Annex is structured as follows:

- Section C.2: Findings in relation to Likely Significant Effects on the UK National Site Network and other European sites;
- Section C.3: Conservation Objectives for sites and features; and
- Section C.4: HRA conclusions.

C.1.3. In accordance with the precautionary principle embedded in the Habitats Regulations, consent for the Proposed Development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s)<sup>1</sup> and no reasonable scientific doubt remains.<sup>2</sup>

C.1.4. Policy considerations and the legal obligations are described in Chapter 2 and Annex B5 to B7 of this Recommendation.

C.1.5. The Overarching National Policy Statement for Energy Infrastructure (NPS EN-1) confirms that prior to granting development consent, the SoS must, under the Habitats Regulations, consider whether the Proposed Development may have a significant effect on a European site, or any site to which the same protection is applied as a matter of policy, either alone or in combination with other plans and projects. NPS EN-1 continues that the Applicant should seek the advice of Natural England (NE) and provide the SoS with such information as may be reasonably required to determine whether an appropriate assessment (AA) is required. If an AA is required, the Applicant must provide such information as may be reasonably required to enable the SoS to conduct the AA. This should include any information on any mitigation measures that are proposed to minimise or avoid likely effects.

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<sup>1</sup>The term 'European sites' includes Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), proposed SACs, potential SPAs, Ramsar, proposed Ramsar, and any sites identified as compensatory measures for adverse effects on any of the above.

<sup>2</sup> CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij

- C.1.6. The Proposed Development is one that has been identified as giving rise to the potential for likely significant effects (LSE) on European sites and is therefore subject to an HRA.
- C.1.7. The ExA has been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out their duties as the Competent Authority. We have sought evidence from the Applicant and the relevant Interested Parties (IPs), including NE as the Appropriate Nature Conservation Body (ANCB), through written questions and Issue Specific Hearings (ISH), specifically ISH2 [EV-005] and ISH4 [EV-009].

### **Report on the Implications for European Sites (RIES) and Consultation**

- C.1.8. The ExA produced a Report on the Implications for European Sites (RIES) [PD-016] which compiled, documented, and signposted HRA-relevant information provided in the Development Consent Order (DCO) application and Examination representations up to Deadline (D) 6 (28 July 2023<sup>3</sup>). The RIES was issued to set out our understanding on HRA-related information and the position of the IPs in relation to the effects of the Proposed Development on European sites at that point in time. Consultation on the RIES took place between 16 August 2023 and 6 September 2023. Comments were received from the Applicant [REP7-021] at D7 (6 September 2023). Comments were received from NE [REP8-028] at D8 (13 September 2023). These comments have been taken into account in the drafting of this Annex. No other IPs provided comments on the RIES.
- C.1.9. The ExA's recommendation is that the RIES, and consultation on it, may be relied upon as an appropriate body of information to enable the Secretary of State to fulfil their duties of consultation under Regulation 63(3) of the Habitats Regulations should the SoS wish to do so.

### **Proposed Development Description and HRA Implications**

- C.1.10. The Proposed Development is described in Chapter 1 of this Recommendation. The spatial relationship between the Order Limits of the Proposed Development and European sites is shown in [AS-018], Figure 5.1.
- C.1.11. The Proposed Development is not directly connected with, or necessary to, the management of a European site [AS-018]. Therefore, when making an AA of the implications of the Proposed Development on potentially affected European sites, the SoS must do so in light of their Conservation Objectives.
- C.1.12. The Applicant's assessment of effects is presented in a report titled Yorkshire GREEN No Significant Effects Report (HRA) Screening (the 'NSER'). The application version of the NSER [APP-200] was replaced by [AS-018] to address advice issued under s51 of the Planning Act 2008 (PA2008) at Acceptance, relating to footnotes and formatting. The remainder of this Annex will refer to the latest version of the NSER [AS-018].

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<sup>3</sup> Inclusive of a late submission submitted by NE on 3 August 2023, which was accepted by the ExA as an additional submission on 3 August 2023 (as [AS-024]).



- C.1.13. During the Examination, the Applicant made one Change Application at D5 incorporating three change requests [REP5-091] as described in Chapter 1 of this Recommendation. The ExA accepted these changes as described in Chapter 1 of this Recommendation. No relevant HRA matters arose from these changes.
- C.1.14. The Applicant did not identify likely significant effects (LSE) on non-UK European sites in European Economic Area States in its NSER [AS-018]. No such impacts were raised for discussion by any IPs during the Examination. Accordingly, only UK European sites are addressed in this Recommendation.

## **C.2. FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS (LSE)**

- C.2.1. Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an AA and the activities, sites or plans and projects to be included for further consideration in the AA.

### **European sites within the UK National Site Network**

- C.2.2. The NSER [AS-018] considered European sites within 2km of the Proposed Development, or European sites within 20km that are designated for ornithological or bat interest due to the mobile nature of these species (as described in [AS-018], Section 5.1). The NSER [AS-018] also considered whether there was functionally linked land (FLL) used by ornithological features of the European sites within the 20km search area.
- C.2.3. The European sites and qualifying features that were considered in the Applicant's assessment of LSE are set out in Table C2.1 below. These are discussed in the NSER [AS-018], Section 5, Table 5.2 and Appendix C (Table C.1).

**Table C2.1: European sites considered in the Applicant's No Significant Effects Report**

<b>European site</b>	<b>Distance from the application site (nearest point)</b>	<b>Qualifying features</b>
Lower Derwent Valley Ramsar site	6.22km south	<p>Criterion 1: species rich alluvial flood meadow habitat which plays a substantial role in the hydrological and ecological functioning of the Humber Basin.</p> <p>Criterion 2: Assemblage of wetland invertebrates including 16 species of dragonfly and damselfly, 15 British Red Data Book wetland invertebrates and a leafhopper, for which the Lower Derwent Valley is the only known site in Great Britain.</p> <p>Criterion 4: the site qualifies as a staging post for passage birds in spring, with</p>

European site	Distance from the application site (nearest point)	Qualifying features
		nationally important number of ruff and whimbrel. Criterion 5: winter waterfowl assemblage of international importance. Criterion 6: Species with peak counts in winter - wigeon (2% of Great Britain population) and teal (1% of population).
Lower Derwent Valley Special Protection Area (SPA)	6.19km east	Bewick's swan (non-breeding). Ruff (non-breeding). Golden plover (non-breeding). Teal (non-breeding). Wigeon (non-breeding). Shoveler (breeding). Waterfowl assemblage.
Lower Derwent Valley Special Area of Conservation (SAC)	6.22km south	All qualifying features
River Derwent SAC	5.7km east	All qualifying features

C.2.4. NE's Relevant Representation (RR) [RR-031] identified the Lower Derwent Valley SAC, SPA and Ramsar site as the European sites that are relevant to the DCO application.

#### **Lower Derwent Valley SAC and River Derwent SAC**

C.2.5. The NSER [AS-018], paragraph 5.1.16 stated that the River Derwent is designated as a SAC. The Applicant concluded that it did not need to be considered further in the HRA screening assessment as it lies outside of the 2km zone of influence (Zol) (where no ornithological or bat qualifying features are present) and that the Order Limits are located outside of the River Derwent catchment.

C.2.6. The NSER [AS-018], Appendix C, Table C.1 stated that otter is a qualifying feature of the SAC and identified a possible impact pathway to otter arising from risk of pollution of the River Ouse, which would be crossed by the Proposed Development three times. The NSER concluded that there was negligible potential for effects to otter because of the proposed embedded mitigation to protect surface water, as set out in the Embedded Measures Schedule [REP6-035] and Code of Construction Practice (CoCP) [REP7-042], secured by Requirement (R) 5 of the draft DCO (dDCO) [REP8-004].

- C.2.7. The ExA was unclear from the NSER [AS-018] as to whether the Applicant was referring to the Lower Derwent Valley SAC or the River Derwent SAC or both in terms of the conclusion to screen out from further assessment and sought clarification from the Applicant in [PD-016].
- C.2.8. The Applicant (RIESQ 2.3.1 in [REP7-021]) confirmed that both the Lower Derwent Valley SAC and River Derwent SAC are located outside of the Zol and as such there is no potential for effects from the Proposed Development. The Applicant clarified that it had referred to the River Derwent SAC in the NSER [AS-018] following a request by North Yorkshire County Council in its consultation response in the Scoping Opinion [APP-105]. The Applicant [REP7-021] also explained that the site has mobile aquatic qualifying features (river and sea lamprey, bullhead, and otter), and it was necessary to explain why these would not be affected by the Proposed Development. The Applicant [REP7-021] confirmed that no IPs requested Lower Derwent Valley SAC to be considered in the HRA screening.
- C.2.9. NE confirmed [REP1-025] that it agreed with the conclusions of the NSER [AS-018] but its comments were made only in reference to the Lower Derwent Valley SAC and it did not comment on the River Derwent SAC.
- C.2.10. We (RIESQ 2.3.2 [PD-016]) therefore also sought confirmation from NE regarding the River Derwent SAC and NE [REP8-028] confirmed that it was content with the Applicant's decision not to consider the River Derwent SAC further in the screening assessment on the basis described in the NSER [AS-018].
- C.2.11. The ExA is content that the Lower Derwent Valley SAC and River Derwent SAC did not need to be considered in the HRA screening for the reasons set out in the NSER [AS-018] and summarised above.

**Additional European sites and qualifying features identified by IPs during Examination**

- C.2.12. During the Examination, Yorkshire Wildlife Trust (YWT) [REP4-043] identified six additional UK European sites that it considered could potentially be affected during the operation of the Proposed Development from an increased strike risk on bird migration routes. The sites and qualifying features are listed in Table C2.2 below.

**Table C2.2: Additional European sites/feature identified by Yorkshire Wildlife Trust during Examination**

European site	Qualifying features
North Norfolk Coast SPA	Pink-footed goose
North Norfolk Coast Ramsar site	Ramsar criterion 6 Species/populations occurring at levels of international importance: pink-footed goose (wintering)
Ouse Washes SPA	Whooper swan
Ouse Washes Ramsar site	Ramsar criterion 6 Species/populations occurring at levels of international importance: Whooper swan (wintering)
The Wash SPA	Pink-footed goose

The Wash Ramsar site	Ramsar criterion 6 Species/populations occurring at levels of international importance: pink-footed goose (wintering)
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- C.2.13. YWT [REP4-043] stated that it considered that whooper swan of the Nene Washes SPA and Ramsar site could also be affected. Whooper swan is not a qualifying feature of these European sites; it is part of the wintering waterfowl assemblage of the SPA, which is described as notable on the SPA citation but not listed as a qualifying feature and it is listed as noteworthy fauna of the Ramsar site. Therefore, the ExA did not pursue YWT's comments about the Nene Washes SPA and Ramsar site further.
- C.2.14. We (RIESQ 2.2.1 [PD-016]) asked NE and all IPs whether there were any additional sites or qualifying features, other than those listed in Tables C2.1 and C2.2 above, that had been identified for inclusion in the HRA.
- C.2.15. NE [REP8-028] confirmed that it does "...not hold any evidence that any additional European sites should be included in the Applicant's HRA", other than those listed in Table 2.1 of [PD-016] (i.e. those listed in Table C2.1 above and not those raised by YWT in Table C2.2 above). No other IPs responded to this question.
- C.2.16. YWT's position remained unchanged in the final signed Statement of Common Ground (SoCG) submitted at D5 [REP5-039].
- C.2.17. We have considered the potential for LSE to the European sites and qualifying features listed at Table C2.2 above from increased strike risk on bird migration routes. This is reported below.

### **Likely significant effects from the Proposed Development alone**

- C.2.18. The Applicant identified impacts of the Proposed Development considered to have the potential to result in LSE alone on the Lower Derwent Valley SPA and Ramsar site in the NSER [AS-018], Section 5.3.
- C.2.19. The impacts considered by the Applicant to have the potential to result in LSE are:
- Permanent or temporary land take/ land use change (resulting in habitat loss or degradation and/ or loss of fauna).
  - Fragmentation of habitats (resulting in a reduction in connectivity).
  - Increased noise, vibration, light and movement levels (resulting in disturbance/ displacement).
  - Changes in hydrology (resulting in the effects of habitat loss or degradation and/ or loss of fauna).
  - Changes in air quality (eg dust or vehicle emissions resulting in habitat degradation).
  - Pollution events (including the liberation of sediments and chemicals resulting in habitat loss or degradation and/ or loss of fauna).
- C.2.20. NE [RR-031] confirmed that it agreed with the impact pathways identified by the Applicant.
- C.2.21. The NSER [AS-018], Table 6.1 concluded that the Proposed Development would have no LSE on the qualifying features of the Lower Derwent Valley SPA and

Ramsar site, as neither the SPA, Ramsar site nor any FLL lies within any Zol of the Proposed Development. The Report [AS-018] stated that two species (golden plover and teal) that are qualifying features of the SPA, and teal of the Ramsar site, were recorded in the Order Limits during surveys [APP-130] to [APP-132], but that it was unlikely that these birds originated from the European sites due to the distance being greater than their maximum 3km foraging range.

C.2.22. The Applicant's conclusions in relation to both the Lower Derwent Valley SPA and Ramsar site and their qualifying features were not disputed by NE [RR-031] [REP1-025] [REP5-037] or YWT [REP1-026] [REP5-039] during the Examination.

C.2.23. Based on the information presented in [AS-018] and the submissions referred to above, the ExA is satisfied that there would be no LSE from the Proposed Development alone to the Lower Derwent Valley SPA and Ramsar site.

#### **Strike risk to bird migration routes during operation**

C.2.24. The potential for increased strike risk on bird migration routes was not considered as an impact pathway in the NSER [AS-018]. The ExA (ExQ1 3.5.1 in [PD-007]) requested confirmation from NE that it agreed with the Applicant's decision not to assess this impact pathway for LSE.

C.2.25. NE [REP2-080] confirmed that it was satisfied with the Applicant's approach. It stated that the potential for increased strike risk on bird migration is low and it would *"only consider it on a case by case basis if the proposal was crossing a wetland, or other site designated for species such as swans or geese that may be more susceptible to this risk."* NE confirmed that this was not the case for the Proposed Development.

C.2.26. YWT [REP4-043] disputed the Applicant's approach. YWT [REP1-026] [AS-023] [REP4-043] [REP5-039] considered that there is potential for increased strike risk on bird migration routes during operation of the Proposed Development and that bird diverters should be fitted as embedded mitigation at the River Ouse and River Wharfe crossings.

C.2.27. We sought clarification from YWT at ISH2 about its concerns and potential implications for the Applicant's HRA. YWT responded at ISH2 [EV-005j] and subsequently submitted a written summary of its comments in [REP4-043], which confirmed that its concerns were related to potential for bird strike in the vicinity of the River Ouse crossing by overhead line. YWT considered that there could be population effects at a designated site level for the qualifying features of the European sites listed in Table C2.2 above. YWT stated that these *"species are known to short-stop in the Lower Derwent Valley and in the lower Ouse in considerable, although varying, numbers during their spring migration"* and that they will also *"fly at lower levels along this river corridor during conditions of poor visibility or darkness, increasing the risk of collisions."*

C.2.28. YWT [REP4-043] confirmed that the River Wharfe crossing was less of a concern albeit there was possibility of bird strikes to local populations. YWT [REP4-043] (ExQ2 3.0.5 [AS-023]) did not consider that infrastructure in this location could result in an impact pathway to features of a European site.

- C.2.29. At ISH2 [EV-005j], we sought clarification from the Applicant as to its position on the use of bird diverters and its response to YWT's concerns. The Applicant [REP4-023] stated that it installs and maintains bird diverters where there is evidence of an identified risk or historic evidence of collisions. The Applicant noted that YWT's concerns related to replacement of existing overhead line at the River Ouse, albeit in a slightly different location. The Applicant reiterated that there was no evidence base for installing diverters in this location and effects on European sites have been screened out in [AS-018].
- C.2.30. The Applicant [REP4-023] stated that a 20km Zol was used in the HRA screening, which it considered to be standard for a project of this nature based on the maximum distance relevant bird species will travel from roost/ nest sites to foraging areas. It noted that the European sites identified by YWT were located between 130km to 180km south east of the Proposed Development at the closest point.
- C.2.31. The Applicant [REP4-023] acknowledged YWT's concern about migrating birds stopping in the Lower Derwent and Lower Ouse but stated that geese and swan generally fly at heights of 150m or more above ground level during migration, i.e. above the maximum height of the proposed pylons. The Applicant also stated that *"...flight activity may be influenced by changing weather... [but] it is generally acknowledged that birds will begin their migration in good weather conditions...it is extremely unlikely that significant numbers would migrate at low levels in bad weather along the River Ouse at the exact point of the overhead lines."*
- C.2.32. At D5, in response to YWT's comments at D4 and our ExQ2 [PD-011], the Applicant [REP5-082] [REP5-083] provided clarification and further information to support its position, as follows:
- The Applicant's winter transect surveys (as summarised in [APP-200]) did not record whooper swan and recorded three instances of pink-footed goose (peak count of 85 individuals) flying very high.
  - In response to ExQ2 3.0.1, the Applicant confirmed population numbers for the relevant bird features:
    - Ouse Washes SPA: wintering population of 963 individual whooper swan at time of designation, increased with the latest five-year British Trust for Ornithology (BTO) Wetland Bird Survey (WeBS) to 8,167 individuals.
    - The Wash SPA: wintering population of 33,265 pink-footed goose on the citation (2015), with the latest BTO WeBS peak mean recording 30,525 individuals.
    - North Norfolk Coast SPA: wintering population of 23,802 pink-footed goose on the citation (2015), with the latest BTO WeBS peak mean recording 46,984 individuals.
  - Current population trends are 104%/ 52% increase for pink-footed goose and 244%/ 27% increase for whooper swan nationally over 25 year/ 10 year periods up to 2020/21.
  - WeBS count data for whooper swan and pink-footed goose at the Lower Derwent lngs recording area, recording a five-year peak mean of 160 birds and 1,735 birds respectively.
  - Cited evidence to support its comments about the flight heights of geese and swans during migration, noting a study that found the average height ranged from 119.8m to 1,135.6m, with birds at inland sites flying higher and a further

study concluding that favourable local weather conditions were key in triggering migration.

- In response to ExQ2 3.0.3, the Applicant confirmed that it is not aware of any records of bird strike at existing overhead lines on the River Ouse or River Wharfe.
- In response to ExQ2 3.0.8, the Applicant confirmed that it had requested records of bird strike from Yorkshire Ornithological Club (YOC) and YOC confirmed on 30 June 2023 that it did not hold any for the overhead line crossing along the River Ouse.

- C.2.33. The Applicant [REP5-082] stated that based on available evidence and consultation with NE, it concluded that there is a negligible risk of population effects at designated site level from the Proposed Development and that fitting of bird diverters would constitute a disproportionate level of mitigation.
- C.2.34. We (ExQ2 3.0.7 and 3.0.8 [PD-011]) sought clarification from the Applicant as to any evidence it held about the effectiveness of bird diverters and any mechanism proposed for securing installation should evidence of collision be recorded once the Proposed Development is operational.
- C.2.35. The Applicant [REP5-083] stated it has not set a trigger threshold for retrospective installation but where evidence of a sustained pattern of collisions is brought to its attention, it would take advice from professional ornithologists and the relevant statutory nature conservation organisation. It would seek to install diverters where evidence suggests they would significantly reduce collision risks that affect statutory interests. The Applicant [REP5-084] submitted a copy of its approach to bird diverters.
- C.2.36. The Applicant [REP5-083] confirmed that there is no provision within the dDCO [REP8-004] for post-construction monitoring of bird strike and that based on evidence provided it does not consider that it is required.
- C.2.37. We (ExQ2 3.0.5 [PD-011]) also sought further evidence from YWT in support of its position. YWT [AS-023] indicated that YOC maintains records of whooper swans and pink-footed goose and stated that *“it is widely understood that whoopers are wintering on the Ouse and Nene Washes and the pink footed geese are from North Norfolk.”*
- C.2.38. YWT [AS-023] stated that without daily inspections beneath the overhead line during migration season it was not possible to conclude that they are not causing strikes, as foxes and other predators remove carcasses quickly, and that without evidence of current strike level a precautionary approach must be taken to avoid impacts in the first instance.
- C.2.39. YWT [AS-023] referenced studies that indicated reduction in mortality of mute swans due to overhead line collision following installation of bird diverters, and a 93.5% reduction in bird fatalities observed compared to the period before installation.
- C.2.40. YWT [AS-023] clarified that the River Wharfe does not seem to be a major migration corridor for bird features of European designated sites although it remained concerned about strikes in this area at certain times.

- C.2.41. At D6, the Applicant [REP6-058] commented on YWT's responses and reiterated that there is no evidence to indicate that the proposed overhead line crossing over the River Ouse would pose a significant risk of collision to species, which would lead to population effects at a designated site level.
- C.2.42. The Applicant [REP6-058] confirmed that as part of a desk study carried out in 2020, it had obtained data from the North and East Yorkshire Ecological Data Centre and extracted data from the Yorkshire Naturalist Union's Yorkshire Bird Report 2015 and YOC Report 2019. It stated that records relating to whooper swan were limited to the YOC 2019 report, with all records being more than 2km from the proposed River Ouse crossing.
- C.2.43. The Applicant [REP6-058] acknowledged that predators are likely to quickly remove evidence of bird strike for smaller species but stated that given the presence of regularly used public footpaths it would be expected that any evidence of collision-related deaths for larger more conspicuous species such as whooper swan and pink-footed goose would have been reported, which is not the case.
- C.2.44. At D5, NE [REP5-115] reiterated its previous HRA advice but did not respond to our request to comment on YWT's concerns about whooper swan and pink-footed goose in respect of the additional six European sites listed in Table C2.2 above. We [EV-009i], Action Point 3, therefore requested further comment from NE on this matter following ISH4.
- C.2.45. NE [AS-024] confirmed that it *"has assessed the development in line with our Impact Risk Zones (IRZs) for impact pathways on designated sites. Natural England does not hold evidence to support that bird populations from the Ouse Washes, Nene Washes, The Wash and North Norfolk Coast designated sites would be impacted by the proposed scheme."*
- C.2.46. The final signed SoCG with YWT [REP5-039] indicates that the respective positions of the Applicant and YWT on this matter are unchanged.
- C.2.47. The Applicant [REP7-039] summarised its position in its closing statement, maintaining that there is no requirement to install bird diverters due to the negligible risk of collisions arising from the Proposed Development and no evidence to suggest any risk of population level effects on European sites.
- C.2.48. The Applicant has stated that there is no evidence of bird collisions arising from the presence of the existing overhead line crossing the Rivers Ouse and Wharfe, and we have not been provided within any firm evidence to the contrary. We note that the Proposed Development would result in minimal change from the existing overhead line crossings, with one replacement crossing circa 360m upstream on the River Ouse and reconductoring of existing overhead line at the River Wharfe. We are satisfied that the Applicant's survey data indicates that there is no evidence of significant numbers of whooper swan or pink-footed goose using the area around the rivers. No firm evidence has been provided that would indicate any whooper swan or pink-footed goose in the area originate from the European sites listed in Table C2.2, and we note that the European sites are more than 130km distant from the location of the replacement crossing at the River Ouse.
- C.2.49. We have been provided with study evidence suggesting that flight heights of geese and swans during migration range from 119.8m to 1,135.6m and we have no reason



to dispute this information. We note that the maximum proposed pylon height is shown as 54m on the Design Drawings [REP6-024], which could increase to up to 60m allowing for the limits of deviation proposed in Article 5 of the dDCO [REP8-004]), which is secured through R3 of the dDCO [REP8-004]. This would be between circa 59.8m and 1,075.6m below the likely flight height.

- C.2.50. Considering the information provided, and the view of NE as the ANCB, the ExA is content that the installation of the proposed overhead line crossing the River Ouse and reconductoring of overhead line at the River Wharfe would not result in LSE to the European sites and qualifying features listed in Table C2.2 above and that embedded mitigation in the form of bird diverters is not required.

### **LSE from the Proposed Development In Combination**

- C.2.51. The Applicant addressed potential in-combination effects arising from the Proposed Development in [AS-018], paragraph 7.1.4, which stated that as there are no pathways for LSE from the Proposed Development alone, there is no potential for any in-combination effects. As such, no plans or projects were identified for consideration.
- C.2.52. NE [RR-031] and YWT [REP1-026] [REP5-039] did not dispute the Applicant's approach to in-combination assessment. The final signed SoCG with NE [REP5-037] states that NE agrees with the conclusion of the NSER [AS-018].
- C.2.53. The ExA is satisfied with the Applicant's approach to assessment of in-combination effects and agrees with the conclusion that there would be no LSE from in-combination effects arising from the Proposed Development and other plans and projects on the basis described in [AS-018].

## **C.3. CONSERVATION OBJECTIVES**

- C.3.1. The NSER [AS-018] did not set out the Conservation Objectives for the European sites assessed as it concluded that LSE from the Proposed Development alone and in combination with other plans and projects could be excluded, and therefore that an AA would not be required. The ExA is content with this approach.

## **C.4. HRA CONCLUSIONS**

- C.4.1. Four European Sites and their qualifying features were considered in the Applicant's assessment of LSE in [AS-018]: Lower Derwent Valley SPA, SAC and Ramsar site, and the River Derwent SAC. NE's RR [RR-031] and D8 response [REP8-028] confirmed that the European sites are those relevant to the DCO application.
- C.4.2. YWT [REP1-026] [AS-023] [REP4-043] [REP5-039] considered that there was potential for population effects at a designated site level for the qualifying features of six additional European sites listed at Table C2.2 above, from an increased strike risk on bird migration routes. The Applicant [REP4-023] [REP5-039] [REP5-082] [REP5-083] did not agree with YWT and provided evidence that the six additional European sites would not be affected by the Proposed Development. NE [AS-024] [REP5-037] [REP8-028] agreed with the Applicant. For the reasons set out in Section C.2 above, we are content that there would be no LSE to the six additional European sites and that these did not need to be considered in the Applicant's HRA screening.

- C.4.3. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment in [AS-018], and that all potential impacts which could give rise to significant effects have been identified.
- C.4.4. The ExA is satisfied, on the basis of the information provided, that the correct impact pathways on each site have been assessed. The ExA is also satisfied with the approach to assessment of LSE, alone and in-combination.
- C.4.5. The NSER [AS-018] concluded no LSE from the Proposed Development alone or in-combination with other plans or projects, on any of the qualifying features of the European sites as listed in Table C2.1.
- C.4.6. NE [RR-031] [REP5-037] [REP8-028] agreed with the conclusion of no LSE, alone or in-combination.
- C.4.7. For the reasons outlined in Section C.2 above, the ExA is satisfied that there would be no LSE on the qualifying features of the European sites listed in Table C2.1 for the impact pathways identified in [AS-018].
- C.4.8. The ExA is also satisfied that there are other relevant measures secured by the dDCO [REP8-004], and summarised in the Embedded Measures Schedule [REP6-035], which would minimise impacts to the European sites, but which have not been relied upon in reaching the conclusion of no LSE.
- C.4.9. Overall, the ExA's findings are that the Proposed Development is not likely to have a significant effect on the qualifying features of the European sites listed in Tables C2.1 and C2.2 of this Annex, when considered alone, or in combination with other plans or projects.
- C.4.10. The ExA considers that there is sufficient information before the SoS to enable them to conclude that an AA is not required.

## ANNEX D: LAND RIGHTS SUPPORTING INFORMATION

### Summary of steps taken by the Examining Authority (ExA) to engage occupiers of the Travellers' Site in the Examination

The following table sets out, in chronological order, the main actions taken by the ExA to engage with occupiers (and their representative) of the Travellers' Site at the junction of the A1(M) and A63 near Monk Fryston, to demonstrate having taken due regard to the Public Sector Equality Duty (PSED) under the Equality Act 2010.

Date	Examination Library Ref.	Action taken
23/03/2023 (event date)	[EV-003]	Agenda for Issue Specific Hearing (ISH) 1 included request for Applicant to explain the scope of works including alternatives considered in this area – referred to as 'Work No. 10 south-west of Lumby'.
29/03/2023	[PD-007]	The ExA's written questions (ExQ1) included questions to the Applicant and Selby District Council (now North Yorkshire Council (NYC)) about the Travellers' Site.
23/05/2023 (event date)	[EV-001b]	The ExA visited the Travellers' Site on the Accompanied Site Inspection (ASI), with local authority officers in attendance.
24/05/2023 and 25/05/2023 (event dates)	[EV-005]	Agenda for ISH2 specifically invited occupiers of the Travellers' Site at the junction of the A1(M) and A63, or their representative.  (Mr Carruthers, representative for the traveller community, attended and participated in ISH2).
24/05/2023 and 25/05/2023 (event dates)	[EV-005d] [REP4-023]	At ISH2 the ExA questioned the Applicant in connection with its Environmental Statement (ES) Addendum, which provided a landscape and visual impact assessment (LVIA) of the Travellers' Site. In particular, the way in which the traveller community's sensitivity had been attributed by the Applicant in the assessment.
24/05/2023 to 26/05/2023 (event dates)	[EV-005b] [EV-005d] [EV-006b] [REP4-023] [REP4-025]	At ISH2 and ISH3 the ExA explored potential for a new Requirement for future post-consent submission of a site-specific mitigation plan at the Travellers' Site to be included in the draft Development Consent Order (dDCO) with the Applicant.  (New Requirement (R19) was included in the next dDCO).
25/05/2023 (event date)	[EV-007]	Agenda for Compulsory Acquisition Hearing (CAH) 1 specifically invited those with an interest in plots E7-34 and/ or E7-40: the Travellers' Site at the junction of the A1(M) and A63, or their representative and included 'Consideration of duties under the Equality Act 2010' on the agenda and 'Travellers' Site at the junction of the A1(M) with A63' as a site-specific topic.

(D:1)

		(Mr Carruthers, representative for the traveller community, including those with a legal interest in the land attended CAH1)
25/05/2023 (event date)	[EV-007a]	Action point from CAH1 for the Applicant to update the Travellers' Site Engagement Schedule, to include all recent activity at each deadline. (Submitted – final version [REP7-052])
20/06/2023	[PD-011], Section 4.5	The ExA's further written questions (ExQ2) requested the Applicant to signpost the traveller community representative to information about the site-specific mitigation plan for the site and invited comments from the traveller community representative on the new Requirement.
18/07/2023 (event date)	[EV-008]	Agenda for CAH2 specifically invited those with an interest in plots E7-34 and/ or E7-40: the Travellers' Site at the junction of the A1(M) and A63, or their representative and included an item to hear updates from the traveller community representative and the Applicant.
18/07/2023 (event date)	[EV-008h] [REP6-059] [REP7-042]	At CAH2 the ExA questioned under PSED whether R19 wording should specifically mention communication means being accessible and whether the traveller community should be consulted on the site-specific mitigation plan.  (These matters were taken on board by the Applicant, in part in R19 and also in the Code of Construction Practice (CoCP)).
19/07/2023	[EV-009]	ISH4 agenda invited the traveller community representative and included an agenda item 'Construction effects on the Travellers' Site between the A1(M) and A63'.
19/07/2023	[EV-009e] [REP6-060] [REP6-077]	At ISH4 the ExA explored more detail of new R19 and an appropriate place to include consultation on the site-specific mitigation plan. The ExA also sought confirmation from NYC that it is content with the drafting of R19 in light of the Council's PSED. (NYC confirmed that it is).
16/08/2023	[PD-015]	The ExA's commentary and questions on the dDCO invited the representative of the traveller community to comment on R19 and the wording in the CoCP regarding consultation prior to submission of the site-specific mitigation plan [REP6-037], para 2.2.12.

(D:2)

## **ANNEX E: THE RECOMMENDED DCO**

**202[\*] No. \*\*\*\***

**INFRASTRUCTURE PLANNING**

**National Grid (Yorkshire Green Energy Enablement Project)  
Development Consent Order [202[\*]]**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* \*\*\*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order granting development consent.

The application was examined by a panel appointed as an examining authority (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74 of the 2008 Act has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report and recommendation of the panel, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122 and 123 of, and paragraphs 1 to 3, 6, 10 to 15, 17, 26, 33, 36 and 37 of Part 1 Schedule 5 to, the 2008 Act, makes the following Order—

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(a) 2008 c.29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of and Schedule 13 to the Localism Act 2011 (c.20).

(b) S.I. 2009/2264.

(c) S.I. 2010/103, amended by regulation 5 of S.I. 2012/635.

# PART 1

## PRELIMINARY

### Citation and commencement

1. This Order may be cited as the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order [XX] and comes into force on [XX].

### Interpretation

2.—(1) In this Order except where provided or context requires otherwise—

“the 1961 Act” means the Land Compensation Act 1961(a);

“the 1965 Act” means the Compulsory Purchase Act 1965(b);

“the 1980 Act” means the Highways Act 1980(c);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);

“the 1984 Act” means the Road Traffic Regulation Act 1984(e);

“the 1989 Act” means the Electricity Act 1989(f);

“the 1990 Act” means the Town and Country Planning Act 1990(g);

“the 1991 Act” means the New Roads and Street Works Act 1991(h);

“the 2003 Act” means the Communications Act 2003(i);

“the 2008 Act” means the Planning Act 2008(j);

“the 2016 Act” means the Housing and Planning Act 2016(k);

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016(l);

“access, rights of way and public rights of navigation plan” means the document of that description listed in Part 1 of Schedule 2 (plans, drawings and environmental statement) and certified by the Secretary of State as the access, rights of way and public rights of navigation plan for the purposes of this Order under article 48 (certification of plans, etc.);

“arboricultural impact assessment” means the document of that description certified by the Secretary of State as the arboricultural impact assessment under article 48 (certification of plans, etc.);

“archaeological written scheme of investigation” means the document of that description certified by the Secretary of State as the archaeological written scheme of investigation for the purposes of this Order under article 48 (certification of plans, etc.);

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of “development”) of the 2008 Act;

- 
- (a) 1961 c.33.  
(b) 1965 c.56.  
(c) 1980 c.66.  
(d) 1981 c.66.  
(e) 1984 c.27.  
(f) 1989 c.29.  
(g) 1990 c.8.  
(h) 1991 c.22.  
(i) 2003 c.21.  
(j) 2008 c.29.  
(k) 2016 c.22.  
(l) S.I. 2016/1154.

“biodiversity mitigation strategy” means the document of that description certified by the Secretary of State as the biodiversity mitigation strategy for the purposes of this Order under article 48 (certification of plans, etc.);

“book of reference” means the document of that description certified by the Secretary of State as the book of reference for the purposes of this Order under article 48 (certification of plans, etc.);

“building” includes any structure or erection or any part of a building, structure or erection;

“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(a);

“carriageway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“code of construction practice” means the document of that description certified by the Secretary of State as the code of construction practice for the purposes of this Order under article 48 (certification of plans, etc.);

“compulsory acquisition notice” means a notice served in accordance with section 134 (notice of authorisation of compulsory acquisition) of the 2008 Act;

“construction management plans” means the plans listed at Requirement 5(2) of Schedule 3 (Requirements);

“construction traffic management plan” means the document of that description certified by the Secretary of State as the construction traffic management plan for the purposes of this Order under article 48 (certification of plans, etc.);

“cycle track” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act and for the purposes of this Order includes a right of way on foot;

“design approach to site specific infrastructure” means the document of that description certified by the Secretary of State as the design approach to site specific infrastructure for the purposes of this Order under article 48 (certification of plans, etc.);

“design drawings” means the document of that description listed in Part 2 of Schedule 2 (plans, drawings and environmental statement) and certified by the Secretary of State as the design drawings for the purposes of this Order under article 48 (certification of plans, etc.);

“electric line” has the same meaning as in section 64 (interpretation etc. of Part 1) of the 1989 Act;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“elevation plans” means the elevation plans included within the design drawings referenced within Schedule 2 (plans, drawings and environmental statement), Part 2 with Drawing Numbers DCO\_DE/PS/14\_03, DCO\_DE/PS/15\_03, DCO\_DE/PS/16\_03, DCO\_DE/PS/17\_03, DCO\_DE/PS/18\_03, DCO\_DE/PS/19\_03, DCO\_DE/PS/20\_03;

“environmental statement” means the environmental statement (Documents 5.1 to 5.4.18), environmental statement addendum (Document 5.2.22) and the documents contained in or named in the consolidated errata and changes (Document 5.2.19 and certified as the environmental statement by the Secretary of State for the purposes of this Order under article 48 (certification of plans, etc.) as listed in Part 8 of Schedule 2 (plans, drawings and environmental statement);

“extinguishment of easements, servitudes and other private rights plan” means the document of that description listed in Schedule 2 (plans, drawings and environmental statement) and certified by the Secretary of State as the extinguishment of easements, servitudes and other private rights plan under article 48 (certification of plans, etc.);

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(a) 1971 c.80.

“foundations” means a foundation placed in land to support pylons and electric lines constructed upon those foundations;

“highway” has the same meaning as in section 328(1) (meaning of “highway”) of the 1980 Act;

“highway authority” means the relevant highway authority for the area of land to which the relevant provision of this Order relates and any successor in function;

“land plan” means the document of that description listed in Part 3 of Schedule 2 (plans, drawings and environmental statement) and certified as the land plan by the Secretary of State for the purposes of this Order under article 48 (certification of plans, etc.);

“limits of deviation” means the limits of deviation referred to in article 5 (limits of deviation) and shown on the works plan and design drawings;

“linear works” means those works shown on the works plan with a centreline;

“local authority” means the relevant local authority for the area of land to which the relevant provision of this Order relates and any successor in function;

“main river” has the same meaning as is in Part 4 of the Water Resources Act 1991(a);

“maintain” includes inspect, repair, adjust, alter, dismantle, remove, clear, refurbish, re-tension, paint, surface treat, decommission, improve, reconstruct or replace any or all of the authorised development including through the use of robots, drones, gadgets or similar devices either remote controlled or autonomous, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement, and any derivative of “maintain” must be construed accordingly;

“National Grid” means National Grid Electricity Transmission plc (registered company number 02366977);

“NGN” means Northern Gas Networks Limited (Company Number 05167070);

“NGN Works” means those works to NGN assets or equipment forming part of the authorised development, including Work No. U8;

“noise and vibration management plan” means the document of that description certified by the Secretary of State as the noise and vibration management plan for the purposes of this Order under article 48 (certification of plans, etc.);

“non-linear works” means those works identified on the works plan as non-linear works comprising substations and cable sealing end compounds;

“NPG” means Northern Powergrid (Northeast) PLC (registered company number 02906593) or Northern Powergrid (Yorkshire) PLC (registered company number 04112320) as appropriate for the NPG Work to which the relevant provision of this Order applies;

“NPG Works” means those works to NPG assets or equipment forming part of the authorised development, comprising—

(a) in respect of Northern Powergrid (Northeast) PLC (registered company number 02906593), Work Nos. U1, U2, U3, U4, U5; and

(b) in respect of Northern Powergrid (Yorkshire) PLC (registered company number 04112320), U6, U7, U9, U10, U11, U12 and U13;

“Order land” means the land shown on the land plan which is within the limits of land to be acquired and described in the book of reference;

“the Order limits” means the limits shown on the land plan and on the works plan within which the authorised development may be carried out;

“outline landscape mitigation strategy” means the document of that description certified by the Secretary of State as the outline landscape mitigation strategy for the purposes of this Order under article 48 (certification of plans, etc.);

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(a) “main river” is defined in section 113 of the Water Resources Act 1991 (c.57), as amended by Water Act 2014 (c. 21), Part 2, section 59(3).

“outline soil management plan” means the document of that description certified by the Secretary of State as the outline soil management plan for the purposes of this Order under article 48 (certification of plans, etc.);

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(a);

“parameter plans” means the parameter plans included within the design drawings referenced within Schedule 2 (plans, drawings and environmental statement), Part 2 with Drawing Numbers DCO\_DE/PS/14\_01, DCO\_DE/PS/15\_01, DCO\_DE/PS/16\_01, DCO\_DE/PS/17\_01, DCO\_DE/PS/18\_01, DCO\_DE/PS/19\_01, DCO\_DE/PS/20\_01;

“permit scheme” means any scheme made under Part 3 of the Traffic Management Act 2004(b) as in force at the date on which this Order is made;

“public rights of way management plan” means the document of that description and certified by the Secretary of State as the public rights of way management plan for the purposes of this Order under article 48 (certification of plans, etc.);

“relevant drainage authorities” means the drainage board for the area of land to which the relevant provision of this Order applies within the meaning of section 23 (prohibition on obstructions etc, in watercourses) of the Land Drainage Act 1991(c);

“relevant planning authority” means the district planning authority for the area of land to which the relevant provision of this Order applies and any successor in function;

“requirements” means, or a reference to a numbered requirement is to, those matters set out in Schedule 3 (requirements) to this Order;

“sewerage undertaker” means a company appointed under the Water Industry Act 1991(d) to provide sewerage services in respect of a geographical area of England and Wales;

“statutory undertaker” means any person falling within section 127(8) (statutory undertakers’ land) of the 2008 Act and a public communications provider as defined in section 151 (interpretation of chapter 1) of the 2003 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act(e), together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act(f);

“temporary construction works” means the temporary construction works described in Schedule 1 (authorised development) to the Order;

“traffic” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act;

“traffic authority” has the same meaning as in section 121A (traffic authorities) of the 1984 Act(g);

“traffic regulation order plan” means the document of that description certified as the traffic regulation order plan by the Secretary of State for the purposes of this Order under article 498 (certification of plans, etc.);

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(a) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

(b) 2004 c.18.

(c) 1991 c.59. Section 23 was amended by the Environment Act 1995 (c. 29), Schedule 22, paragraph 192 and the Flood and Water Management Act 2010 (c. 29), Schedule 2, paragraph 32 and the Natural Resources Body for Wales (Functions) Order 2013/755 Schedule 2(1), paragraph 322(2).

(d) 1991 c. 56, as amended by S.I. 2009/3104.

(e) Section 48 was amended by section 124 of the Local Transport Act 2008 (c.26).

(f) “street authority” is defined in section 49, which was amended by paragraph 117 of Schedule 1 to the Infrastructure Act 2015 (c.7).

(g) Section 121A was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the 1991 Act and amended by paragraphs 70 and 95 of Schedule 1 to the Infrastructure Act 2015 (c. 7). There are other amendments to section 121A which are not relevant to this Order.

“tribunal” means the Lands Chamber of the Upper Tribunal;

“the undertaker”—

- (a) in relation to the authorised development, means National Grid;
- (b) in relation to the NPG Works and subject to Schedule 5 (benefit of the Order rules), includes NPG; and
- (c) in relation to the NGN Works and subject to Schedule 5 (benefit of the Order rules), includes NGN;

“watercourse” includes all rivers, streams, creeks, ditches, drains, canals, cuts, culverts, dykes, sluices, rhynes, sewers and passages through which water flows except a public sewer or drain;

“works plan” means the document of that description certified as the works plan by the Secretary of State for the purposes of this Order under article 48 (certification of plans, etc.).

(2) References in this Order to rights over land include references to rights to do or restrain or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work. All distances for scheduled linear works referred to in this Order are measured along the centre line of the limits of deviation for that work. All pylon identification numbers set out in this Order are identified by reference to the centreline of such works, and are subject to the limits of deviation for that work, such that the pylon numbering and location of pylons may adjust in accordance with the limits of deviation identified in article 5 (limits of deviation). Unless otherwise specified in Schedule 1 (authorised development), depths in this Order or on the works plan are measured from the proposed final ground level.

(4) All areas described in square metres in the book of reference are approximate.

(5) Any reference in this Order to a work identified by the number of the work is to be construed as a reference to the work of that number authorised by this Order.

(6) Unless otherwise stated, references in this Order to points identified by letters are to be construed as references to the points so lettered on the relevant plans.

(7) The expression “includes” is to be construed without limitation unless the contrary intention appears.

(8) References in this Order to “document” followed by a number or numbers are references to documents submitted by the undertaker in support of the application for development consent that resulted in the making of this Order.

(9) For the purposes of this Order, “operational use” in relation to any part of the authorised development occurs when that part first transmits electricity at 275 kilovolts or above.

(10) References in this Order to any statute, order, regulation or similar instrument are to be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

## PART 2

### PRINCIPAL POWERS

#### **Development consent etc. granted by the Order**

**3.—**(1) Subject to the provisions of this Order and to Schedule 3 (requirements)—

- (a) National Grid is granted development consent for the authorised development set out in Schedule 1 (authorised development) to be carried out within the Order limits;
  - (b) subject to article 6 (benefit of the Order), NPG is granted development consent for the NPG Works; and
  - (c) subject to article 6 (benefit of the Order) NGN is granted development consent for the NGN Works.
- (2) National Grid may—
- (a) install and keep installed the authorised development; and
  - (b) remove or replace any electric line including pylons that may require removal as part of the authorised development.
- (3) NPG may—
- (a) subject to Schedule 5 (benefit of the Order rules), install the NPG Works;
  - (b) keep installed the underground cables and telemetry included in the NPG Works; and
  - (c) remove or replace any electric line including pylons or poles that may require removal in relation to the NPG Works.
- (4) NGN may—
- (a) subject to Schedule 5 (benefit of the Order rules), install the NGN Works;
  - (b) keep installed the underground gas pipelines included in the NGN Works; and
  - (c) remove or replace any pipeline that may require removal in relation to the NGN Works.
- (5) National Grid may operate and use the electric lines and any other elements of the authorised development (excluding the NPG Works and the NGN Works) as part of the high-voltage electricity transmission system in England and Wales.
- (6) NPG may operate and use the electric line and any other elements of the NPG Works as part of the electricity distribution network.
- (7) NGN may operate and use the gas pipeline and any other elements of the NGN Works as part of the gas distribution network.
- (8) The authorised development must be constructed and installed in the lines and situations shown on the works plan, subject to article 5 (limits of deviation) and to Schedule 3 (requirements).
- (9) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.
- (10) Schedule 2 (plans, drawings and environmental statement) has effect.

### **Maintenance of authorised development**

- 4.**—(1) National Grid may at any time maintain the authorised development (excluding the NPG Works and the NGN Works), except to the extent that this Order or an agreement made under this Order provides otherwise.
- (2) NPG may at any time maintain the NPG Works, except to the extent that this Order, or an agreement made under this Order, provides otherwise.
- (3) NGN may at any time maintain the NGN Works, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

### **Limits of deviation**

- 5.**—(1) In carrying out, maintaining or diverting the authorised development for which it is granted development consent by article 3 (development consent etc. granted by the Order) the undertaker may—

- (a) deviate laterally from the centreline for the linear works forming part of the authorised development shown on the works plan within the limits of deviation relating to that work shown on those plans;
- (b) deviate laterally from the situations for the non-linear works forming part of the authorised development shown on the works plan and design drawings within the limits of deviation relating to that work shown on the design drawings;
- (c) in respect of the overhead lines and any pylon and temporary structures deviate vertically from the levels of the authorised development shown on the design drawings to any extent upwards not exceeding 6 metres;
- (d) deviate vertically for the linear works to such extent downwards as the undertaker considers necessary or convenient; and
- (e) carry out construction activities for the purposes of the authorised development anywhere within the Order limits.

(2) Without prejudice to paragraphs (5) and (6) of article 3 (development consent etc. granted by the Order) the removal, clearance, decommissioning and demolition of any existing electric line may take place within the Order limits.

(3) In respect of the non-linear works forming part of the authorised development:

- (a) the undertaker may deviate to any extent upwards not exceeding the maximum height shown on the relevant parameter plans measured from the finished site levels shown on the corresponding elevation plans; and
- (b) the authorised development is to be carried out within any parameters shown on the parameter plans within the design drawings.

(4) The maximum limits of deviation specified in sub-paragraph (1)(a) to (c) and paragraph (3) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority and any other person the Secretary of State considers appropriate having regard to the proposed deviation in question and the statutory roles and responsibilities of such person, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects to those identified in the environmental statement.

### **Benefit of the Order**

**6.**—(1) Subject to article 7 (consent to transfer benefit of the Order) the provisions of this Order are to have effect solely for the benefit of—

- (a) National Grid in respect of the authorised development;
- (b) subject to Schedule 5 (benefit of the Order rules), NPG in respect of the NPG Works; and
- (c) subject to Schedule 5 (benefit of the Order rules), NGN in respect of the NGN Works.

(2) Paragraph (1) does not apply where the consent granted by this Order is expressed to be for the benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

(3) Schedule 5 (benefit of the Order rules) has effect.

### **Consent to transfer benefit of the Order**

**7.**—(1) National Grid in relation to the authorised development, NPG in relation to the NPG Works and NGN in relation to the NGN Works, may, with the consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between National Grid, NPG or NGN and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between National Grid, NPG or NGN and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.



(2) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to National Grid, NPG or NGN (as the case may be), except in paragraphs (4) and (5), is to include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) are subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker, save where those benefits or rights are exercised by a statutory undertaker (which for the purposes of this article includes any entity listed in paragraph (7)), or by an owner or occupier of land pursuant to paragraph (2) of article 25 (compulsory acquisition of rights) of this Order, in which case liability for the payment of compensation remains with National Grid.

(4) Any rights or benefits in relation to the NPG Works that are transferred or granted by NPG under paragraph (1) are subject to Schedule 5 (benefit of the Order rules) as if they had remained exercisable by NPG.

(5) Any rights or benefits in relation to the NGN Works that are transferred or granted by NGN under paragraph (1) are subject to Schedule 5 (benefit of the Order rules) as if they had remained exercisable by NGN.

(6) The consent of the Secretary of State under this article is not required where the powers of article 25(1) (compulsory acquisition of rights) are, with the consent of the undertaker given under article 25(2) (compulsory acquisition of rights), proposed to be exercised by a statutory undertaker rather than by National Grid.

(7) The consent of the Secretary of State is not required under this article, where the transfer or grant is made, for the purpose of diverting or replacing their owned or managed structures, apparatus or equipment which forms part of the authorised development described in Schedule 1 and contained within the Order limits, to—

- (a) Openreach Limited (Company Number 10690039) whose registered office is at Kelvin House 123 Judd Street London WC1H 9NP;
- (b) EE Limited (Company Number 02382161) whose registered office is at 1 Braham Street, London, United Kingdom, E1 8EE;
- (c) Hutchison 3G UK Limited (Company Number 03885486) whose registered office is at 450 Longwater Avenue, Green Park, Reading, Berkshire, England, RG2 6GF;
- (d) Vodafone Limited (Company Number 01471587), whose registered office is at Vodafone House, The Connection, Newbury, Berkshire RG14 2FN; and
- (e) Yorkshire Water Services Limited (Company Number 02366682) whose registered office is at Western House, Halifax Road, Bradford, West Yorkshire, BD6 2SZ.

### **Planning Permission**

**8.** If planning permission is issued or granted pursuant to the 1990 Act for development any part of which is within the Order limits that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and
- (b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

### **Application of the 1990 Act**

**9.—(1)** Where land within the Order limits is used for temporary construction works, section 57(2) (planning permission required for development) of the 1990 Act applies as if the development consent granted by this Order were planning permission granted for a limited period.

(2) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land for the purposes of that Act) of the 1990 Act.

(3) In the exercise of the power under paragraphs (1) and (2) of article 11 (street works) the undertaker is to be deemed to be the highway authority for the purposes of section 55(2)(b) (meaning of “development” and “new development”) of the 1990 Act.

(4) If any proceedings are begun to challenge the validity of this Order, the period specified in—

- (a) paragraph (1) of article 24 (time limit for exercise of authority to acquire land and rights compulsorily); and
- (b) requirement 2 (time limits) of Schedule 3 (requirements)

is extended for the period specified in paragraph (5).

(5) Under paragraph (4) the period is taken to be extended by—

- (a) a period equivalent to the period beginning with the day the proceedings are filed and ending on the day they are withdrawn or finally determined, or
- (b) if shorter, one year.

(6) Proceedings are not finally determined for the purposes of sub-paragraph (5)(a) if any appeal—

- (a) could be brought (ignoring any possibility of an appeal out of time with permission), or
- (b) has been made and not withdrawn or finally determined.

### **Application of the Community Infrastructure Levy Regulations 2010**

**10.**—(1) Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010(a) any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

## **PART 3**

### **STREETS**

#### **Street works**

**11.**—(1) The undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter upon so much of any of the streets specified in column (2) of Schedule 6 (streets subject to street works) as is within the Order limits and may without the consent of the street authority—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street, or carry out any works to strengthen or repair the street;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in the street (including signage);
- (e) maintain, renew or alter apparatus in or on the street or change its position;
- (f) execute any works to provide or improve sight lines required by the highway authority;
- (g) execute and maintain any works to provide hard and soft landscaping;

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(a) S.I. 2010/948.

- (h) carry out re-lining and placement of new temporary markings; and
- (i) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (h).

(2) Without limiting the scope of the powers conferred by paragraph 1 but subject to the consent of the street authority, which consent must not be unreasonably withheld or delayed, the undertaker may, for the purposes of the authorised development, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes set out at sub-paragraph 1(a) to (i) and paragraph 3 of article 12 (application of the 1991 Act) applies.

(3) If a street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 28 days beginning with the date on which the application was received, that authority will be deemed to have granted consent.

(4) The authority given by paragraph (1) or (2) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(5) The powers conferred in paragraphs (1) and (2) are without limitation of the powers of the undertaker under the 1989 Act<sup>(a)</sup>.

(6) In this article “apparatus” has the meaning given in Part 3 of the 1991 Act.

(7) Any application for consent under paragraph (2) must include a statement that the provisions of paragraph (3) apply to that application.

### **Application of the 1991 Act**

**12.—**(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway must be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (highway authorities, highways and related matters) of the 1991 Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts) or section 184 (vehicle crossings over footways and verges) of the 1980 Act.

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act (including any equivalent or modified provisions in any permit scheme) do not apply in relation to any works executed under the powers of this Order—

- (a) section 53<sup>(b)</sup> (the street works register);
- (b) section 56<sup>(c)</sup> (power to give directions as to timing of street works);
- (c) section 56A<sup>(d)</sup> (power to give directions as to placing of apparatus);
- (d) section 58<sup>(e)</sup> (restrictions on works following substantial road works);
- (e) section 58A<sup>(f)</sup> (restriction on works following substantial street works);
- (f) section 73A<sup>(g)</sup> (power to require undertaker to re-surface street);
- (g) section 73B<sup>(a)</sup> (power to specify timing etc. of re-surfacing);

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(a) 1989 c. 29.

(b) Section 53 was added by section 45 of the Traffic Management Act 2004.

(c) Section 56 was amended by sections 40 and 43 of, and Schedule 1 to, the Traffic Management Act 2004.

(d) Section 56A was inserted by section 44 of the Traffic Management Act 2004.

(e) Section 58 was amended by sections 40 and 51 of, and Schedule 1 to, the Traffic Management Act 2004.

(f) Section 58A was inserted by section 52 of the Traffic Management Act 2004.

(g) Section 73A was inserted by section 55 of the Traffic Management Act 2004.

- (h) section 73C**(b)** (materials, workmanship and standard of re-surfacing);
- (i) section 78A**(c)** (contributions to costs of re-surfacing by undertaker); and
- (j) Schedule 3A**(d)** (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary stopping up of streets, cycle tracks and public rights of way) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act referred to in paragraph (4) are—

- (a) section 54**(e)** (advance notice of certain works), subject to paragraph (6);
- (b) section 55**(f)** (notice of starting date of works), subject to paragraph (6);
- (c) section 57**(g)** (notice of emergency works);
- (d) section 59**(h)** (general duty of street authority to co-ordinate works);
- (e) section 60**(i)** (general duty of undertakers to co-operate);
- (f) section 68**(j)** (facilities to be afforded to street authority);
- (g) section 69**(k)** (works likely to affect other apparatus in the street);
- (h) section 71**(l)** (materials, workmanship and standard of reinstatement);
- (i) section 76**(m)** (liability for cost of temporary traffic regulation); and
- (j) section 77**(n)** (liability for cost of use of alternative route);

and all such other provisions as apply for the purposes of the provisions mentioned in subparagraphs (a) to (j).

(6) Sections 54 (advance notice of certain works) and 55 (notice of starting date of works) of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 (notice of emergency works) of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

### **Power to alter layout, etc. of streets**

**13.—**(1) The undertaker may, for the purposes of carrying out the authorised development:

- (a) permanently alter the layout of, or carry out any works in, a street specified in column (1) Part 1 of Schedule 7 (streets subject to permanent alteration of layout) in the manner specified in relation to that street in column (2); and
- (b) temporarily alter the layout of, or carry out any works in, a street specified in column (1) Part 2 of Schedule 7 (streets subject to temporary alteration of layout) in the manner specified in relation to that street in column (2).

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- (a) Section 73B was inserted by section 55 of the Traffic Management Act 2004.
  - (b) Section 73C was inserted by section 55 of the Traffic Management Act 2004.
  - (c) Section 78A was inserted by section 57 of the Traffic Management Act 2004.
  - (d) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.
  - (e) Section 54 was amended by section 49(1) of the Traffic Management Act 2004
  - (f) Section 55 was amended by sections 49, 51 of, and schedule 1 to, the Traffic Management Act 2004 (c. 18).
  - (g) Section 57 was amended by section 52 of, and Schedule 1 to, the Traffic Management Act 2004.
  - (h) Section 59 was amended by section 42 of the Traffic Management Act 2004.
  - (i) Section 60 was amended by Schedule 1 to the Traffic Management Act 2004.
  - (j) Section 68 was amended by Schedule 1 to the Traffic Management Act 2004.
  - (k) Section 69 was amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).
  - (l) Section 71 was amended by Schedule 1 to the Traffic Management Act 2004.
  - (m) 1991 c.18.
  - (n) 1991 c.18.

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised development, permanently or temporarily alter the layout of any street within or adjacent to the Order limits and the layout of any street having a junction with such a street; and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track, central reservation or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track, central reservation or verge;
- (c) reduce the width of the carriageway of the street;
- (d) execute any works to widen or alter the alignment of pavements;
- (e) make and maintain crossovers and passing places;
- (f) execute any works of surfacing or resurfacing of the highway;
- (g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;
- (h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians; and
- (i) execute any works to provide or improve sight lines required by the highway authority.

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority (such consent not to be unreasonably withheld or delayed).

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was received, it is deemed to have granted consent.

(6) Any application for consent under paragraph (4) must include a statement that the provisions of paragraph (5) apply to that application.

### **Temporary stopping up of streets, cycle tracks and public rights of way**

**14.**—(1) During and for the purposes of carrying out the authorised development, the undertaker may temporarily stop up, alter or divert any street, cycle track or public right of way shown on the access, rights of way and public rights of navigation plans or within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street, cycle track or public right of way.

(2) Without limitation on the scope of paragraph (1), the undertaker may use as a temporary working site any street, cycle track or public right of way which has been temporarily stopped up, altered or diverted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street, cycle track or public right of way affected by the temporary stopping up, alteration or diversion under this article if there would otherwise be no such reasonable access.

(4) Without limitation on the scope of paragraph (1), the undertaker may temporarily stop up, alter or divert the streets, cycle tracks or public rights of way specified in column (2) of Parts 1 and 2 of Schedule 8 (streets, cycle tracks or public rights of way to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the access, rights of way and public rights of navigation plan, in column (3) of that Schedule, and, if it does so in respect of a street, cycle track or public right of way specified in Part 1 of Schedule 8, must provide the temporary diversion as specified in column (4) of that Part.

(5) The undertaker must not temporarily stop up, alter or divert—

- (a) any street, cycle track or public right of way specified as mentioned in paragraph (4) without first consulting the street authority; and
- (b) any other street, cycle track or public right of way without the consent of the street authority which may attach reasonable conditions to any consent.

(6) Where the undertaker provides a temporary diversion under paragraph (4), the temporary alternative route is not required to be of a higher standard than the temporarily closed street, cycle track or public right of way in column (2) of Part 1 of Schedule 8 (streets, cycle tracks or public rights of way to be temporarily stopped up).

(7) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(8) If a street authority which receives an application for consent under paragraph (5)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was received, it is deemed to have granted consent.

(9) Any application for consent under paragraph (5)(b) must include a statement that the provisions of paragraph (8) apply to that application.

### **Use of private roads for construction**

**15.—**(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of, or in connection with, the construction of the authorised development.

(2) The undertaker must compensate the person liable for the repair of a road to which paragraph (1) applies for any loss or damage which that person may suffer by reason of the exercise of the power conferred by paragraph (1).

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of such compensation, is to be determined under Part 1 of the 1961 Act.

### **Access to works**

**16.—**(1) The undertaker may, for the purposes of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the location specified in column (2) of Schedule 9 (access to works); and
- (b) with the consent of the relevant planning authority (such consent not to be unreasonably withheld or delayed), after consultation with the relevant highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) If a relevant planning authority which receives an application for consent under paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was received, it is deemed to have granted consent.

(3) Any application for consent under paragraph (1)(b) must include a statement that the provisions of paragraph (2) apply to that application.

### **Construction, alteration and maintenance of streets**

**17.—**(1) Any street (other than any private streets) to be constructed under this Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by the street authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and must, unless otherwise

agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by the street authority.

(3) Where new land not previously part of the public highway is to form part of the public highway further to the provisions of this Order it must, unless otherwise agreed with the street authority, be deemed as dedicated as part of the public highway on the expiry of the period of 12 months from its completion.

(4) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(5) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed.

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(6) In determining who is the street authority in relation to a street for the purposes of Part III of the 1991 Act, any obligation of the undertaker to maintain the street under paragraph (1) or (2) must be disregarded.

### **Agreements with street authorities**

**18.—**(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street including any structure carrying the street over or under an electric line authorised by this Order;
- (b) the maintenance of the structure of any bridge or tunnel carrying a street over or under an electric line authorised by this Order;
- (c) any stopping up, alteration or diversion of a street authorised by this Order; or
- (d) the carrying out in the street of any of the works referred to in article 11 (street works); or
- (e) such other matters as the parties may agree.

(2) Such an agreement may, without limitation on the scope of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works;
- (c) contain such terms as to payment and other matters as the parties consider appropriate; and
- (d) such other matters as the parties may agree.

## PART 4

### SUPPLEMENTAL POWERS

#### **Discharge of water**

**19.**—(1) Subject to paragraphs (3) and (4) the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld or delayed.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld or delayed; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the 2016 Regulations.

(8) This article does not permit any activity listed in paragraph 3(1) of Schedule 21 (water discharge activities) to the 2016 Regulations.

(9) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person will be deemed to have granted consent or given approval as the case may be.

(10) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, a harbour authority within the meaning of section 57 (interpretation) of the Harbours Act 1964(b), an internal drainage board, a joint planning board, a local authority, the highway authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

(b) other expressions, excluding watercourse, used both in this article and in the 2016 Regulations have the same meaning as in those Regulations.

(11) Any application for consent under paragraph (3) or approval under paragraph (4)(a) must include a statement that the provisions of paragraph (9) apply to that application.

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(a) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and section 49 of, and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c.29).

(b) 1964 c. 40. Paragraph 9B was inserted into Schedule 2 by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9(1) and (2), subject to transitional provisions specified in S.I. 1992/1347 art. 3.



(12) In relation to any works executed under this Order, Section 66 of the Land Drainage Act 1991(a) is amended after paragraph (9) to insert:

“(10) Where an application is made to an internal drainage board for their consent under a byelaw made under this section—

- (a) the consent is not to be unreasonably withheld; and
- (b) if the internal drainage board fail within 28 days after receipt of the application to notify the applicant in writing of their determination, the internal drainage board are deemed to have consented to the application.

(11) No consent is required under any byelaw made by an internal drainage board under this section if it relates solely to the oversail of an overhead electric line which meets the minimum statutory clearances contained in Schedule 2 of the Electricity Safety, Quality and Continuity Regulations 2002(b) when measured from the top of the bank of any watercourse maintained by an internal drainage board.”

### **Protective work to land, buildings, structures, apparatus or equipment**

**20.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any land, building, structure, apparatus or equipment lying within the Order limits or which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the land, building, structure, apparatus or equipment of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the land, building, structure, apparatus or equipment at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first brought into operational use.

(3) For the purpose of determining how the functions under this article are to be exercised, the undertaker may enter and survey—

- (a) any land, building, structure, apparatus or equipment, falling within paragraph (1) and any land within its curtilage; and
- (b) where reasonably necessary, any land which is adjacent to the land, building, structure, apparatus or equipment, whether or not within Order limits,

and place on, leave on and remove from the building, structure, apparatus or equipment any apparatus and equipment for use in connection with the survey.

(4) For the purpose of carrying out protective works under this article to land, building, structure, apparatus or equipment the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the land, building, structure, apparatus or equipment and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to land, building, structure, apparatus or equipment;

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(a) c. 23. Section 66 was amended by the Flood and Water Management Act 2010 c. 29 Schedule 2 para 38, the Local Government Byelaws (Wales) Act 2012 anaw, 2 Schedule 2 para 14(2), the Water Act 2014 c. 21 Pt 5 s.86(3) (July 14, 2014), and by the Local Government Byelaws (Wales) Act 2012 anaw, 2 Schedule 2 para 14(3) (March 31, 2015 subject to transitional provisions and savings specified in SI 2015/1025 art.3).

(b) SI: 2002/2665. There are amendments to the Electricity Safety, Quality and Continuity Regulations 2002 which are not relevant to this section.

- (b) a right under paragraph (2) to enter land, building, structure, apparatus or equipment and land within its curtilage;
- (c) a right under paragraph (3)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (3)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (5)(c) or (5)(d), the owner or occupier of the land, building, structure, apparatus, equipment or curtilage land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the land, building, structure, apparatus, equipment or curtilage land to be referred to arbitration under article 53 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any of the land, building, structure, apparatus, equipment or curtilage land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to the land, building, structure, apparatus or equipment; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development constructed in the vicinity of the land, building, structure, apparatus or equipment is first brought into operational use it appears that the protective works are inadequate to protect the building against damage caused by the construction or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the land, building, structure, apparatus or equipment for any loss or damage sustained by them.

(9) Without affecting article 31 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) Section 13(b) (refusal to give possession to acquiring authority) of the 1965 Act applies to entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125(c) (application of compulsory acquisition provisions) of the 2008 Act.

(12) In this article “protective works” in relation to land, building, structure, apparatus or equipment means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the land, building, structure, apparatus or equipment by the construction, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the land, building, structure, apparatus or equipment by the construction, maintenance or use of the authorised development.

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(a) As amended by Schedule 1, paragraph 293 of S.I. 2009/1307.

(b) As amended by sections 62(3) and 139(4)-(9) of, paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(c) As amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

## **Authority to survey and investigate the land**

**21.**—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey, monitor or investigate the land; (including any watercourses, groundwater, static water bodies or vegetation on the land);
- (b) without prejudice to the generality of sub-paragraph (a), survey, monitor or investigate the land and any buildings on that land for the purpose of investigating the potential effects of the authorised development on that land or buildings on that land or for enabling the construction, use and maintenance of the authorised development;
- (c) without limitation on the scope of sub-paragraph (a), make trial holes, boreholes, excavations or take horizontal cores in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil, groundwater and other materials below ground level or remove soil, rock, water or other material samples and discharge water from sampling operations on to the land;
- (d) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations and monitoring on the land, including making any excavations or trial holes on the land for such purposes; and
- (e) place on, leave on and remove from the land apparatus (including but not limited to welfare facilities and security facilities) for use in connection with the survey, monitoring or investigation of land, making of trial holes, boreholes, excavations, cores, or the carrying out of ecological or archaeological investigations or monitoring.

(2) The power conferred by paragraph (1) includes without prejudice to the generality of that paragraph the power to take, and process, samples of or from any of the following found on, in or over the land—

- (a) water;
- (b) air;
- (c) soil or rock;
- (d) flora;
- (e) bodily excretions, or dead bodies of non-human creatures; or
- (f) any non-living thing present as a result of human action.

(3) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 14 days' notice has been served on every owner and occupier of the land.

(4) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so;
- (b) must, before entering the land, provide in the notice details of the purpose specified in paragraph (1) to survey and investigate the land; and
- (c) may take onto the land such vehicles and equipment as are necessary to carry out the survey, monitoring or investigation or to make the trial holes.

(5) No trial holes, boreholes, excavations or horizontal cores may be made under this article—

- (a) on land located within the highway boundary without the consent of the relevant highway authority; or
- (b) in a private street without the consent of the street authority;
- (c) but such consent must not be unreasonably withheld or delayed.

(6) As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove any apparatus and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(8) If a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under sub-paragraph (5)(a) in the case of a highway authority; or

(b) under sub-paragraph (5)(b) in the case of a street authority,

that authority is deemed to have granted consent.

(9) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(10) Any application for consent under paragraph (5) must include a statement that the provisions of paragraph (8) apply to that application.

## PART 5

### POWERS OF ACQUISITION

#### **Compulsory acquisition of land**

**22.**—(1) National Grid may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it.

(2) This article is subject to article 23 (compulsory acquisition of land – incorporation of the mineral code), article 24 (time limit for exercise of authority to acquire land and rights compulsorily), paragraph (3) of article 25 (compulsory acquisition of rights), articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG) and 38 (temporary use of land by NGN).

#### **Compulsory acquisition of land – incorporation of the mineral code**

**23.** Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(a) are incorporated into this Order subject to the following modifications—

(a) paragraph 8(3) is not incorporated;

(b) for “the acquiring authority” substitute “the undertaker”; and

(c) for “undertaking” substitute “authorised development”.

#### **Time limit for exercise of authority to acquire land and rights compulsorily**

**24.**—(1) After the end of the period of 5 years beginning on the day on which this Order is made (and subject to article 32 (Modification of Part 1 of the 1965 Act) and article 33 (Application of the 1981 Act))—

(a) no notice to treat may be served under Part 1 of the 1965 Act (which makes provision for compulsory purchase under the Acquisition of Land Act 1981); and

(b) no declaration may be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 33 (application of the 1981 Act).

(2) The authority conferred by articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG) and 38 (temporary use of land by NGN) ceases at the end of the

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(a) 1981 c.67. Words substituted by the Coal Industry Act 1994 c.21 Schedule 9 para 27 (3).

period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker, NPG or NGN from remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

### **Compulsory acquisition of rights**

**25.**—(1) Subject to the provisions of this article the undertaker may acquire compulsorily the rights, and impose the restrictions, over the Order land, described in the book of reference and detailed in Schedule 13 (land in which only new rights and restrictive covenants etc, may be acquired), by creating them as well as by acquiring rights and the benefits of restrictions already in existence.

(2) This article is subject to articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG) and 38 (temporary use of land by NGN).

(3) Subject to section 8 of the 1965 Act (other provisions as to divided land) as substituted by paragraph 5 of Schedule 10 to this Order (modification of compensation and compulsory purchase enactments for creation of new rights), where the undertaker acquires a right over land or imposes a restriction under paragraph (1) the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 10 to this Order has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restriction.

(5) In any case where the acquisition of rights or the imposition of a restriction under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights or impose such restrictions to the relevant statutory undertaker other than in respect of the NGN Works or the NPG Works where no such consent is required.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) Nothing in this article authorises the acquisition of rights over, or the imposition of restrictions affecting, an interest which is for the time being held by or on behalf of the Crown.

### **Extinguishment and suspension of private rights**

**26.**—(1) Subject to the provisions of this article, all private rights or restrictive covenants over land subject to compulsory acquisition or the compulsory acquisition of rights or the imposition of restrictions under the Order (including those shown on the extinguishment of easements, servitudes and other private rights plan) shall be extinguished or suspended in so far as their continuance would be inconsistent with the exercise of the right acquired or the burden of the restriction imposed—

- (a) as from the date of the acquisition of the land or of the right or the benefit of the restriction by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) of the 1965 Act in pursuance of the right; or
- (c) on the carrying out of any activity authorised by the Order which interferes with or breaches those rights,

whichever is the earliest.

(2) Subject to the provisions of this article, all private rights and restrictive covenants over land owned by the undertaker which, being within the Order limits, is required for the purposes of this Order, are extinguished on the carrying out of any activity authorised by this Order which interferes with or breaches such rights or such restrictive covenants.

(3) Subject to the provisions of this article and article 27 (Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession), all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land and in so far as their continuation would be inconsistent with the exercise of the powers under this Order or a breach of a restriction as to the user of land arising by virtue of a contract.

(4) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) to be determined, in case of dispute, as if it were a dispute, under Part 1 of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 40 (statutory undertakers) applies.

(6) Paragraphs (1) to (4) have effect subject to—

(a) any notice given by the undertaker before—

- (i) the completion of the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
- (ii) the undertaker's appropriation of it;
- (iii) the undertaker's entry onto it; or
- (iv) the undertaker's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made, in so far as it relates to the authorised development, at any time between the undertaker and the person in or to whom the right or restrictive covenant in question is vested, belongs or benefits.

(7) If any such agreement as is referred to in paragraph (6)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person, it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) A reference in this article to private rights and restrictive covenants over land includes any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support and including restrictions as to the user of land arising by virtue of a contract.

### **Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession**

**27.**—(1) This article applies to any Order land specified in Part 1 (National Grid), Part 2 (NPG) and Part 3 (NGN) of Schedule 11 (extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession) and any other Order land of which National Grid takes temporary possession under article 36 (temporary use of land by National Grid) or NPG takes temporary possession under article 37 (temporary use of land by NPG) or NGN takes temporary possession under article 38 (temporary use of land by NGN).

(2) All private rights or restrictive covenants in relation to apparatus belonging to National Grid, NPG or NGN removed from any land to which this article applies are extinguished from the date on which National Grid, NPG or NGN give up temporary possession of that land under articles 36(5) and 36(6), or 37(5) and 37(6), or 38(5) and 38(6), as the case may be.

(3) The extinguishment of rights by paragraph (2) does not give rise to any cause of action relating to the presence on or in the land of any foundations (save for those which lie less than 1.5 metres underground) referred to in articles 36(5)(c) and 36(6)(c), or 37(5)(c) and 37(6)(c), or

38(5)(c) and 38(6)(c) (National Grid, NPG and NGN not required to remove foundations when giving up temporary possession).

(4) Schedule 11 (extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession) has effect.

### **Power to override easements and other rights**

**28.**—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land).

(3) The interests and rights to which this article applies include any easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support including restrictions as to the user of land arising by the virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

- (a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
  - (i) the compensation is to be estimated in connection with a purchase under that Act; or
  - (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person deriving title under the undertaker by whom the land in question was acquired—

- (a) is liable to pay compensation by virtue of paragraph (5); and
- (b) fails to discharge that liability,
- (c) the liability is enforceable against the undertaker in accordance with section 204(3) of the 2016 Act.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

(7) In this article “authorised activity” means—

- (a) the erection, construction or maintenance of any part of the authorised development;
- (b) the exercise of any power authorised by this Order; or
- (c) the use of any land (including the temporary use of land).

### **Disregard of certain interests and improvements**

**29.**—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or

- (b) any enhancement of the value of any interest in land by reason of any building erected, works carried out or improvement or alteration made on the relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the carrying out of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works constructed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

### **Set-off for enhancement in value of retained land**

**30.**—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 25 (compulsory acquisition of rights), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and  
(b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2) as if this Order were a local enactment for the purposes of that Act.

### **No double recovery**

**31.** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more different provisions of this Order.

### **Modification of Part 1 of the 1965 Act**

**32.**—(1) —Part 1 of the 1965 Act, as applied to this Order by section 125(a)(application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1)(b) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)(c), the five year period mentioned in article 24 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order [XX]”.

(3) In section 11A(d) (powers of entry: further notice of entry)—

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- (a) Section 125 was amended by section 190 of, and paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).  
(b) Section 4A(1) was inserted by Part 7, section 202(1) of the Housing and Planning Act 2016 (c. 22), subject to the transitional provisions specified in S.I. 2016/733 regulation 9.  
(c) Section 118 was amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25 to, the Localism Act 2011 (c. 20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c. 2).  
(d) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22) subject to the transitional provisions specified in S.I. 2017/75 regulation 3.



(a) in subsection (1)(a), after “land” insert “under that provision”;

(b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 24 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order [XX]”.

(5) In Schedule 2A(a) (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 34 (acquisition of subsoil or airspace only) on the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order [XX], which excludes the acquisition of subsoil or airspace only from this schedule”; and

(b) after paragraph 29, end insert—

## “PART 4

### INTERPRETATION

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under articles 20 (protective works to buildings), articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG) and 38 (temporary use of land by NGN) or 39 (temporary use of land for maintaining the authorised development) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order [XX].”

### **Application of the 1981 Act**

**33.—**(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, has effect with the following modifications.

(3) In section 1 (application of Act) for subsection (2) substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”

(4) In section 5 (earliest date for execution of declaration), subsection (2) is omitted.

(5) Section 5A is omitted(b).

(6) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 of the 2008 Act (application of compulsory acquisition provisions) to the compulsory acquisition of land under this Order.

(7) In section 5B(1)(c) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118(f) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 24 (time limit for exercise of authority to acquire land and rights compulsorily) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order [XX]”.

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(a) Schedule 2A was inserted by section 216(3) of, and paragraph 3 of Schedule 17 to, the Housing and Planning Act 2016 (c. 22), subject to the transitional provisions specified in S.I. 2017/75 regulation 5.

(b) Section 5A to the 1981 Act was inserted by section 182(2) of the Housing and Planning Act 2016 (c.22).

(c) Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

(8) In section 6(a) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(9) In section (7)(b) (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(10) In Schedule A1(c) (counter-notice requiring purchase of land not in general vesting declaration) for paragraph 1(2) substitute—

“(2) But see article 34(3) (acquisition of subsoil or airspace only) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order [202[X]], which excludes the acquisition of subsoil or airspace only from this Schedule.”

(11) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125(d) (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 32 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil or airspace only**

**34.**—(1) The undertaker may compulsorily acquire so much of, or such rights, and impose such restrictions, in the subsoil of, or the air-space of, the land referred to in article 25 (compulsory acquisition of rights) and article 22 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired or for which rights over or under the land may be acquired under those provisions instead of acquiring the rights or imposing restrictions over the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, or imposes any restriction in the subsoil of, or the air-space over, land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 32 (modification of Part 1 of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A)(c) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

### **Use of subsoil under or airspace over streets**

**35.**—(1) The undertaker may enter on and use so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development or for any other purpose ancillary to the authorised development and may use the subsoil or airspace for those purposes.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or

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(a) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).

(b) Section 7(1) was substituted by paragraphs 1 and 3 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(c) Schedule A1 was inserted by paragraphs 1 and 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(d) Section 125 was amended by section 216(3) of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act<sup>(a)</sup>.

(5) Compensation is not payable under paragraph (3) to any person who is a statutory undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act<sup>(b)</sup> applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land by National Grid**

**36.**—(1) National Grid may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
  - (i) so much of the land specified in column (1) of Part 1 of Schedule 12 (land of which temporary possession may be taken) to exercise the powers described in the book of reference and for the purpose specified in relation to that land in column (2) of Part 1 of that Schedule relating to the part of the authorised development specified in column (3) of Part 1 of that Schedule; and
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any electric line, electrical plant, buildings, archaeological artefact, structures, pylons, apparatus and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any works specified in relation to that land in column (2) of Part 1 of Schedule 12, or any other mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, National Grid must serve notice of the intended entry on the owners and occupiers of the land.

(3) National Grid must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land referred to in paragraph 1(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Part 1 of Schedule 12, or
- (b) in the case of land referred to in paragraph 1(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless National Grid has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) National Grid must provide the owner of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(i), unless otherwise agreed with the owners of the land, National Grid must

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(a) Part 1 was amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 9).

(b) There are no amendments relevant to section 85 of the act.

remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but National Grid is not required to—

- (a) replace a building, structure, apparatus, equipment, archaeological artefact, electric line, electrical plant or pylon removed under this article;
- (b) restore the land on which any works have been carried out under paragraph (1)(d) insofar as the element of works shown in column (4) of Part 1 of Schedule 12 is concerned;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level which had been placed in that land to support pylons and electric lines constructed upon those foundations; or
- (d) remove any pylons or electric lines or underground cables constructed or installed on, over, under, or in that land as part of the authorised development.

(6) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, National Grid must either acquire the land or interest on, over, or in the land in accordance with the provisions of paragraph (3)(b) or remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but National Grid is not required to—

- (a) replace a building, structure, apparatus, equipment, archaeological artefact, electric line, electrical plant or pylon removed under this article;
- (b) restore the land on which any works have been carried out under paragraph (1)(d) insofar as the element of works shown in column (4) of Part 1 of Schedule 12 is concerned;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level which had been placed in that land to support pylons and electric lines constructed upon those foundations; or
- (d) remove any pylons or electric lines or underground cables constructed or installed on, over, under, or in that land as part of the authorised development.

(7) National Grid must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where National Grid takes possession of land under this article, National Grid is not required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) Nothing in this article prevents National Grid from taking temporary possession more than once in relation to any land specified in Part 1 of Schedule 12.

(13) The provisions of the Neighbourhood Planning Act 2017(a) insofar as they relate to temporary possession of land under this article 36, article 37 (temporary use of land by NPG), 38 (temporary use of land by NGN) and article 39 (temporary use of land for maintaining the authorised development) of this Order do not apply in relation to the construction, operation and maintenance of the authorised development.

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(a) 2017 (c.20).

## Temporary use of land by NPG

37.—(1) NPG may, in connection with the carrying out of the NPG works—

- (a) enter on and take temporary possession of—
  - (i) so much of the land specified in column (1) of Part 2 of Schedule 12 (land of which temporary possession may be taken) to exercise the powers described in the book of reference and for the purpose specified in relation to that land in column (2) of Part 2 of that Schedule relating to the part of the authorised development specified in column (3) of Part 2 of that Schedule; and
  - (ii) any other Order land in respect of the NPG works in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any electric lines, electrical plant, buildings, archaeological artefact, structures, pylons, apparatus and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any works specified in relation to that land in column (2) of Part 2 of Schedule 12, or any other mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, NPG must serve notice of the intended entry on the owners and occupiers of the land.

(3) NPG must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land referred to in paragraph 1(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Part 2 of Schedule 12, or
- (b) in the case of land referred to in paragraph 1(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) NPG must provide the owner of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(i), NPG must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but NPG is not required to—

- (a) replace a building, structure, archaeological artefact, electric line, electrical plant or pylon removed under this article;
- (b) remove any pylons, electric lines or underground cables constructed or installed on, over, under or in that land as part of the NPG works;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level which had been placed in that land to support pylons and electric lines constructed upon those foundations;
- (d) remove any pylons or electric lines or underground cables constructed or installed on, over, under or in that land as part of the NPG Works or
- (e) restore the land on which any works have been carried out under paragraph 1(d) insofar as the element of works shown in column (4) of Part 2 of Schedule 12 is concerned.

(6) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, NPG must either acquire the interest on, over, or in the land in accordance with the provisions of paragraph (3)(b) or

remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but NPG is not required to—

- (a) replace a building, structure, archaeological artefact, electric line, electrical plant or pylon removed under this article;
- (b) remove any pylons, electric lines or underground cables constructed or installed on, over, under or in that land as part of the NPG works;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level which had been placed in that land to support pylons and electric lines constructed upon those foundations; or
- (d) restore the land on which any works have been carried out under paragraph 1(d) insofar as the element of works shown in column (4) of Part 2 of Schedule 12 is concerned.

(7) NPG must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where NPG takes possession of land under this article, NPG is not required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) Nothing in this article prevents—

- (a) NPG from taking temporary possession more than once in relation to any land specified in Part 2 of Schedule 12; or
- (b) National Grid from taking temporary possession more than once in relation to any land specified in Schedule 12.

### **Temporary use of land by NGN**

**38.**—(1) NGN may, in connection with the carrying out of the NGN works—

- (a) enter on and take temporary possession of—
  - (i) so much of the land specified in column (1) of Schedule 12 (land of which temporary possession may be taken) to exercise the powers described in the book of reference and for the purpose specified in relation to that land in column (2) of Part 2 of that Schedule relating to the part of the authorised development specified in column (3) of Part 2 of that Schedule; and
  - (ii) any other Order land in respect of the NGN works in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any electric lines, plant, buildings, structures, pylons, archaeological artefact, apparatus, equipment and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any works specified in relation to that land in column (2) of Part 2 of Schedule 12, or any other mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, NGN must serve notice of the intended entry on the owners and occupiers of the land.

(3) NGN must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land referred to in paragraph 1(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Part 2 of Schedule 12, or
- (b) in the case of land referred to in paragraph 1(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) NGN must provide the owner of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(i), NGN must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but NGN is not required to—

- (a) replace a building, structure, archaeological artefact, electric line, apparatus, equipment, plant or pylon removed under this article;
- (b) remove any pylons, electric lines or underground cables constructed or installed on, over, under or in that land as part of the NGN works;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level; or
- (d) restore the land on which any works have been carried out under paragraph 1(d) insofar as the element of works shown in column (4) of Part 2 of Schedule 12 is concerned.

(6) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, NGN must either acquire the interest on, over, or in the land in accordance with the provisions of paragraph (3)(b) or remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but NGN is not required to—

- (a) replace a building, structure, archaeological artefact, electric line, apparatus, equipment, plant or pylon removed under this article;
- (b) remove any pylons, electric lines or underground cables constructed or installed on, over, under or in that land as part of the NGN works;
- (c) remove any foundations to a depth greater than 1.5 metres below adjoining ground level; or
- (d) restore the land on which any works have been carried out under paragraph 1(d) insofar as the element of works shown in column (4) of Part 2 of Schedule 12 is concerned.

(7) NGN must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where NGN takes possession of land under this article, NGN is not required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) Nothing in this article prevents NGN from taking temporary possession more than once in relation to any land specified in Part 3 of Schedule 12; or

(13) National Grid from taking temporary possession more than once in relation to any land specified in Schedule 12.

### **Temporary use of land for maintaining the authorised development**

**39.**—(1) Subject to paragraph (2), at any time during the maintenance periods relating to any part of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose; and
- (c) enter on any land within the Order limits for the purpose of gaining access as is reasonably required for the purpose of maintaining the authorised development.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may remain in possession of land under this article only for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the maintenance of the authorised development, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) In this article “the maintenance periods” in relation to any part of the authorised development means the period of five years beginning with the date on which that part of the authorised development is brought into operational use, except where the authorised development is mitigation planting where “the maintenance periods” means the period of five years beginning with the date on which that part of the mitigation planting is completed.



### **Statutory undertakers**

**40.**—(1) Subject to the provisions of article 25 (compulsory acquisition of rights), Schedule 15 (protective provisions) and paragraph (2), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers; and
- (b) extinguish the rights of, or remove or reposition the apparatus belonging to, statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which Part 3 (street works in England and Wales) of the 1991 Act(a) applies.

### **Recovery of costs of new connections**

**41.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 40 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 39 (temporary use of land for maintaining the authorised development), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

(3) is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(b); and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

## **PART 6**

### **MISCELLANEOUS AND GENERAL**

#### **Application of landlord and tenant law**

**42.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

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(a) 1991 c.22. Part 3 was amended by 2004 (c. 18) perspective changes to Part 3 are still to come into force, S.I. 2007/1952, S.I. 2008/102 (w. 55) and 2003 (c. 21).

(b) Section 151 was implemented by Article 1, Section 2 and Schedule 1 of S.I. 2003/1900, Article 3 of S.I. 2003/3142; as amended by Schedule 1 of S.I. 2011/1210. There are other amendments to section 151 which are not relevant to this Order.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

### **Defence to proceedings in respect of statutory nuisance**

**43.**—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990(a) in relation to a nuisance falling within paragraphs (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) and (ga) (noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order must be made, and no fine may be imposed, under section 82(2) (summary proceedings by persons aggrieved by statutory nuisances) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(b); or
  - (ii) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with the controls and measures relating to noise as described in the code of construction practice or the construction management plans or in accordance with the noise levels set out in an environmental permit relating to the construction, maintenance or operation of the authorised development; or
  - (iii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
  - (iv) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the nuisance is attributable to the use of the authorised development which is being used in accordance with the noise and vibration management plan prepared under requirement 5 of Schedule 3 (requirements) to this Order; or
  - (ii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

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(a) 1990 c. 43. There are amendments to this sub-section which are not relevant to this Order.

(b) 1974 c. 40. Section 61 was amended by section 162(1) of, and paragraph 15(3) of Schedule 15 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to section 61 but none are relevant to this Order.

(2) For the purposes of paragraph (1) above, compliance with the controls and measures relating to noise described in the code of construction practice and the noise and vibration management plan will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) (control of noise on construction sites) and section 61(4) (prior consent for work on construction sites) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to noise referred to in the code of construction practice and the construction management plans.

(4) Section 61(9) (prior consent for work on construction sites) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

### **Maintenance of drainage works**

**44.**—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(a).

### **Traffic regulation**

**45.**—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may at any time, for the purposes of the construction of the authorised development or for purposes ancillary to it prohibit vehicular access and prohibit waiting of vehicles in the manner specified in Part 1 of Schedule 14 (traffic regulation) on those roads specified in column 1 and along the lengths and between the points specified in column 2 in the manner specified in column 3 of that Part of that Schedule.

(2) Without limiting the scope of the specific power conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld or delayed, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised development, or for purposes ancillary to it, at any time prior to when the authorised development is first brought into operational use—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the maximum speed, direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road, either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The undertaker must not exercise the powers in paragraphs (1) and (2) unless it has—

- (a) given not less than 28 days’ notice in writing of its intention to do so to the chief officer of police and to the traffic authority in whose area the road is situated; and

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(a) 1991 c. 59, definition substituted by Part V, section 100(2) of the Environment Act 1995 (c. 25).

- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention as provided for in subparagraph (a).
- (4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2)—
  - (a) has effect as if duly made by—
    - (i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
    - (ii) the local authority in whose area the road is situated as an order under section 32 (power of local authorities to provide parking places) of the 1984 Act, and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 14 (traffic regulation)) to which the prohibition, restriction or other provision is subject; and
  - (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(a).
- (5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraphs (1) and (2) at any time prior to the part of the authorised development to which it relates being brought into operational use.
- (6) Before complying with the provisions of paragraph (3) the undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated.
- (7) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.
- (8) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraphs (1) and (2) the traffic authority is deemed to have granted consent.
- (9) Any application for consent under paragraphs (1) and (2) must include a statement that the provisions of paragraph (8) apply to that application.

### **Felling or lopping of trees and removal of hedgerows**

**46.**—(1) The undertaker may fell, lop, prune, coppice, pollard, or reduce in height or width any tree, shrub, shrubbery, hedgerow, or important hedgerow under or within or overhanging or near any part of the authorised development, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, shrub, shrubbery, hedgerow or important hedgerow—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using, constructing, maintaining, or operating the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause any unnecessary damage to any tree, shrub, shrubbery or hedgerow, or important hedgerow and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) Development consent granted by this Order is to be treated as planning permission pursuant to Part 3 of the 1990 Act for the purposes of regulation 14 (exceptions) of the Town and Country

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(a) 2004 c. 18.

Planning (Tree Preservation) (England) Regulations 2012<sup>(a)</sup> and the duty contained in section 206(1) (replacement of trees) of the 1990 Act does not apply.

(5) The undertaker may not pursuant to paragraph (1) fell or lop a tree within or overhanging the extent of the public highway without the consent of the relevant highway authority.

(6) If the relevant highway authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (5) the relevant highway authority is deemed to have granted consent.

(7) The power conferred by paragraph (1) removes any obligation upon the undertaker to secure any consent to remove—

- (a) the hedgerows listed in Schedule 17 (hedgerows which may be removed); or
- (b) subject to consultation with the relevant planning authority, any hedgerow within the Order limits that may be identified and that is not otherwise described in Schedule 17 (hedgerows which may be removed)  
under the Hedgerows Regulations 1997<sup>(b)</sup>.

(8) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerow Regulations 1997.

(9) Any application for consent under paragraph (5) must include a statement that the provisions of paragraph (6) apply to that application.

### **Protection of interests**

47. Schedule 15 (protective provisions) has effect.

### **Certification of plans, etc.**

48.—(1) National Grid must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the access, rights of way and public rights of navigation plan (Document 2.7.1 – 2.7.6);
- (b) the arboricultural impact assessment (Document 5.3.3I);
- (c) the book of reference (Document 4.3);
- (d) the environmental statement (Documents 5.1 to 5.4.18, 5.2.19 and 5.2.22);
- (e) the code of construction practice (Document 5.3.3B);
- (f) the archaeological written scheme of investigation (Document 5.3.3C);
- (g) the biodiversity mitigation strategy (Document 5.3.3D);
- (h) the construction traffic management plan (Document 5.3.3F);
- (i) the public rights of way management plan (Document 5.3.3G);
- (j) the noise and vibration management plan (Document 5.3.3H);
- (k) the outline landscape mitigation strategy (Figure 3.10 – 3.12, Document 5.4.3);
- (l) the outline soil management plan (Document 5.3.3E);
- (m) the design drawings (Document 2.15);
- (n) the land plan (Document 2.5.1–2.5.6);
- (o) the extinguishment of easements, servitudes and other private rights plan (Document 2.14);
- (p) the traffic regulation order plan (Document 2.12.1–2.12.6);
- (q) the works plan (Document 2.6.1–2.6.6);

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(a) S.I. 2012/605.

(b) S.I. 1997/1160.

(r) the design approach to site specific infrastructure (Document 8.18)

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### **Service of notices**

**49.**—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the written consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978<sup>(a)</sup> as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

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(a) 1978 c. 30.

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects”, in relation to a notice or document, means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

**Procedure regarding certain approvals, etc.**

**50.**—(1) Where an application or request is submitted to a relevant planning authority, the highway authority, a street authority or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of the Order such consent, agreement or approval, if given, must be given in writing, such agreement not to be unreasonably withheld.

(2) Schedule 4 (discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld under Schedule 3 (requirements), and any document referred to in Schedule 3 (requirements).

(3) The procedure set out in paragraphs (3) to (5) of Schedule 4 (discharge of requirements) has effect in relation to any other consent, agreement or approval required under this Order where such consent, agreement or approval is granted subject to any condition to which the undertaker objects, or is refused or is withheld.

**Removal of human remains**

**51.**—(1) In this article, “the specified land” means any land within the Order limits.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Subject to paragraph (12), before any such remains are removed the undertaker must give notice of the intended removal describing the specified land and stating the general effect of the following provisions of this article by—

- (a) publishing a notice for two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (2) the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person is to, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question must be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified

subject to paragraph (10) the undertaker must remove the remains and cause them to be reinterred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be reinterred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation is to be sent to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority.

(12) No notice is required under paragraph (3) before the removal of any human remains where the undertaker is satisfied—

- (a) that the remains were interred more than 100 years ago; and
- (b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.

(13) In the case of remains in relation to which paragraph (12) applies, the undertaker—

- (a) may remove the remains;
- (b) must apply for direction from the Secretary of State under paragraph (14) as to their subsequent treatment; and
- (c) must deal with the remains in such manner, and subject to such conditions, as the Secretary of State directs.

(14) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State for Justice.

(15) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.



(16) Section 25 (offence of removal of body from burial ground) of the Burial Act 1857<sup>(a)</sup> does not apply to a removal carried out in accordance with this article.

(17) Section 239 (use and development of burial grounds) of the 1990 Act applies—

- (a) in relation to land, other than a right over land, acquired for the purposes of the authorised development (whether or not by agreement), so as to permit use by the undertaker in accordance with the provisions of this Order;
- (b) in relation to a right over land so acquired (whether or not by agreement), or the temporary use of land pursuant to articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG) and 38 (temporary use of land by NGN) or 39 (temporary use of land for maintaining the authorised development), so as to permit the exercise of that right or the temporary use by the undertaker in accordance with the provisions of this Order;
- (c) and in section 240(1) (provisions supplemental to sections 238 and 239) of the 1990 Act reference to “regulations made for the purposes of sections 238(3) and (4) and 239(2)” means, so far as applicable to land or a right over land acquired under this Order, paragraphs (2) to (15) of this article and in section 240(3) (provisions supplemental to sections 238 and 239) of the 1990 Act reference to a “statutory undertaker” includes the undertaker and reference to “any other enactment” includes this Order.

(18) The Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations 1950<sup>(b)</sup> do not apply to the authorised development.

### **Amendment of local legislation**

**52.**—(1) The local enactments specified in Part 1 of Schedule 16 (amendment of local legislation), and any byelaws or other provisions made under any of those enactments, and the local byelaws specified in Part 2 of that Schedule are hereby excluded and do not apply insofar as inconsistent with a provision of, or a power conferred by, this Order.

(2) For the purpose of paragraph (1) a provision is inconsistent with the exercise of a power conferred by this Order if and insofar as (in particular)—

- (a) it would make it an offence to take action, or not to take action, in pursuance of a power conferred by this Order;
- (b) action taken in pursuance of a power conferred by this Order would cause the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken;

action taken in pursuance of a power or duty under the provisions would or might interfere with the exercise of any work authorised by this Order.

(3) Where any person notifies the undertaker in writing that anything done or proposed to be done by the undertaker or by virtue of this Order would amount to a contravention of a statutory provision of local application, the undertaker must as soon as reasonably practicable, and at any rate within 14 days of receipt of the notice, respond in writing setting out—

- (a) whether the undertaker agrees that the action taken or proposed does or would contravene the provision of local application;
- (b) if the undertaker does agree, the grounds (if any) on which the undertaker believes that the provision is excluded by this article; and
- (c) the extent of that exclusion.

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(a) 1857 c. 81. Section 25 was substituted by section 2 of the Church of England (Miscellaneous Provisions) Measure 2014 (No. 1) and amended by Schedule 3 of Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (No. 3).

(b) S.I. 1950/792.

## Arbitration

53. Subject to article 50 (procedure regarding certain approvals, etc.) and except where otherwise expressly provided for in this Order or unless otherwise agreed between the parties, any difference under any provision of this Order must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

## Temporary closure of, and works in, the river Ouse

54.—(1) The undertaker may, subject to Part 3 of Schedule 15 (protective provisions), in connection with the construction and maintenance of the authorised development, temporarily interfere with the relevant part of the river for the purposes of the removal, installation and maintenance of the overhead electric lines comprised in Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it.

(2) Without limitation on the powers conferred by paragraph (1) but subject to paragraphs (3) and (4) the undertaker may, in connection with the construction and maintenance of the authorised development on grounds of health and safety only, temporarily close to navigation the relevant part of the river.

(3) The power conferred by paragraphs (1) and (2) must be exercised in such a way which secures—

- (a) that no more of the relevant part of the river is closed to navigation at any time than is necessary in the circumstances; and
- (b) that, if complete closure to navigation of the relevant part of the river becomes necessary, all reasonable steps are taken to secure that the period of closure is kept to a minimum and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part so closed.

(4) During the period of any closure referred to in paragraph (2) all rights of navigation and other rights relating to and any obligations of the Trust to manage the relevant part of the river so closed are to be suspended and unenforceable against the Trust.

(5) Any person who as a result of the exercise of powers conferred by this article, suffers loss by reason of the interference with any private rights of navigation is entitled to be paid compensation for such loss by the undertaker, to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) In this article, “the relevant part of the river” means so much of the River Ouse as is within the Order limits and the “Trust” means the Canal & River Trust.

Signed by authority of the Secretary of State for Energy Security and Net Zero

Date

*Name*  
Head of Energy Infrastructure Planning  
Department for Energy Security and Net Zero

# SCHEDULES

## SCHEDULE 1

Articles 2 and 3

### AUTHORISED DEVELOPMENT

A nationally significant infrastructure project as defined in sections 14 and 16 of the 2008 Act and associated development within the meaning of section 115(2) of the 2008 Act comprising—

#### *OSBALDWICK SUBSTATION*

##### **Work No. 1 – Osbaldwick Substation and YR overhead electric line**

###### In the city of York

Works at the existing Osbaldwick Substation to reconfigure the existing layout and YR overhead electric line shown on section A, sheet 1 of the works plan, comprising:

- (a) the installation of conductors, insulators and fittings from YR001A to YR001C;
- (b) the dismantling and removal of existing conductors, insulators and fittings on and between YR001A and YR001-T;
- (c) the installation of gantry YR001C, support structures, switchgear and equipment, underground cables and cable terminations; and
- (d) the dismantling and removal of gantry YR001-T, associated support structures, switchgear and equipment.

#### *OVERHEAD ELECTRIC LINES AND OVERTON SUBSTATION (NORTH WEST OF YORK)*

##### **Work No. 2 – YR/2TW overhead electric line and YN overhead electric line**

###### In North Yorkshire and the city of York

Works to reconfigure the YR overhead electric line and construction and installation of the YN overhead electric line as shown on section B, sheet 1 of the works plan, comprising:

- (a) the reconductoring of the YR/2TW overhead electric line from YR036 to 2TW169, replacement of conductors, fittings, insulators, and fibre optic earthwires, including modifications to existing pylons;
- (b) the construction and installation of a temporary diversion of the YR overhead electric line from YR038 to 2TW169, including conductors, fibre optic earthwires, insulators, fittings and two temporary structures;
- (c) the construction and installation of an overhead electric line from YR040 to YN004 including five pylons, conductors, fibre optic earthwires, insulators, fittings and connections into the new Shipton North and Shipton South cable sealing end compounds referred to at paragraph (f) below.

###### In North Yorkshire

- (d) the installation of an underground cable to facilitate a connection between Shipton North and Shipton South cable sealing end compounds referred to at paragraph (f) below;
- (e) the dismantling and removal of existing pylon YR040T, including foundations;
- (f) the construction and installation of two cable sealing end compounds, Shipton North and Shipton South, containing sealing end equipment, including anchor blocks at Shipton North and a gantry at Shipton South, switchgear, earthing and protection control systems, and connections to the overhead electric line;
- (g) the installation of one temporary construction compound; and

In the city of York

- (h) the installation of one temporary construction compound.

**Work No. U1 – Utility Undergrounding**

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheet 1 of the works plan.

**Work No. 3 – YN overhead electric line**

In North Yorkshire and the city of York

Works to construct and install the YN overhead electric line shown on section B, sheets 1 and 2 of the works plan, comprising:

- (a) the construction and installation of an overhead electric line from YN004 to YN008, YN008 to YN009, and YN008 to YN010, including four pylons, conductors, fibre optic earthwires, insulators, fittings and connections into the Overton Substation referred to within Work No. 4 below; and
- (b) the installation of two temporary construction compounds.

**Work No. U2**

In the city of York

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheets 1 and 2 of the works plan.

**Work No. U3**

In the city of York

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheet 2 of the works plan.

**Work No. 4 – Overton Substation**

In North Yorkshire

Works to construct and install a new substation at Overton, to facilitate connections to the YN, SP and XC overhead electric lines shown, on section B, sheet 2 of the works plan, comprising the construction and installation of Overton. Substation including six gantries for termination of the new overhead electric lines, four supergrid transformers, noise enclosures, switchgear, plant and equipment, operational and ancillary buildings and permanent landscaping works, the construction of gates and fencing, hardstanding and drainage for Overton Substation.

**Work No. 5 – SP and XCP overhead electric lines**

In North Yorkshire and the city of York

Works to construct and install the SP overhead electric line and dismantle the XCP overhead electric line shown on section B, sheets 2 and 3 of the works plan, comprising:

- (a) the construction and installation of an overhead electric line from SP001 to SP003, SP002 to SP003, and SP003 to SP007, including four pylons, conductors, fibre optic earthwires, insulators, fittings, modifications to existing pylons and connections into Overton Substation referred to at Work No. 4 above; and

In North Yorkshire

- (b) the dismantling and removal of existing pylon XCP013, including removal of conductors, insulators, fittings, fibre optic earthwires, and foundations.

**Work No. 6 – XC and XCP overhead electric lines, and XC overhead electric line**

In the city of York and in North Yorkshire

Works to reconfigure the XC overhead electric line, through reconductoring and installation of new sections of overhead electric lines, and dismantling of the XCP overhead electric line and sections of the XC overhead electric line shown on section B, sheets 2 to 5 of the works plan, comprising:

In North Yorkshire

- (a) the construction and installation of a temporary overhead electric line span from XC416 to SP003, including insulators and fittings;

In the city of York and in North Yorkshire

- (b) the construction and installation of an electric overhead line from XC414 to XC416, XC415 to XC416, and XC416 to XC429 including 14 pylons, conductors, fibre optic earthwires, insulators, fittings and connections into Overton Substation referred to at Work No. 4 above;
- (c) the dismantling and removal of existing pylons XCP012 to XC429T including removal of 14 pylons, conductors, insulators, fittings, fibre optic earthwires and foundations;
- (d) the construction and installation of a temporary diversion of the existing XCP overhead electric line from XC421 to XCP003, including conductors, insulators, fittings and four temporary structures;

In North Yorkshire

- (e) the reconductoring of the XC overhead electric line from XC429 to XC430, including modifications to existing pylons and foundations, and the replacement of conductors, fittings, insulators and fibre optic earthwires; and
- (f) the construction and installation of a temporary diversion of the XC overhead electric line from XC428T to XC430, including conductors, insulators, fittings and one temporary structure.

**Work No. U4**

In the city of York

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheet 3 and 4 of the works plan.

**Work No. U5**

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section B, sheet 5 of the works plan.

*OVERHEAD ELECTRIC LINES (MOOR MONKTON TO TADCASTER)*

**Work No. 7 – XC overhead electric line**

In North Yorkshire

Works to upgrade, modify and reconnector the existing XC overhead electric line shown on section C, sheet 1 to section D, sheet 1 of the works plan comprising the reconductoring of the XC

overhead electric line from XC430 to XC480, including modifications to existing pylons and foundations, replacement of conductors, fibre optic earthwires, fittings, and insulators.

#### **Work No. U6**

##### In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section C, sheet 9 of the works plan.

##### *OVERHEAD ELECTRIC LINES (TADCASTER)*

#### **Work No. 8 – XC and XD overhead electric lines**

##### In the city of Leeds and in North Yorkshire

Works to upgrade, modify and reconductor the XC overhead electric line, and modify the XD overhead electric line shown on section D, sheets 1 and 2 of the works plan, comprising:

##### In North Yorkshire

- (a) the reconductoring of the XC overhead electric line from XC480 to XC482, including modifications to existing pylons and foundations, replacement of conductors, fibre optic earthwires, fittings, and insulators;
- (b) the construction and installation of a temporary diversion of the existing XD overhead electric line from XC481 to XD003, including conductors, insulators, fibre optic earthwires, fittings and two temporary structures;
- (c) the construction and installation of an overhead electric line from XC481 to the Tadcaster Tee East cable sealing end compound referred to at paragraph (f) and from XD001 into the Tadcaster Tee West cable sealing end compound referred to at paragraph (f) below, including conductors, fibre optic earthwires, insulators and fittings;
- (d) the construction and installation of underground cables to connect the Tadcaster Tee East cable sealing end compound referred to at paragraph (f) below with the Tadcaster Tee West cable sealing end compound also referred to at paragraph (f) below;
- (e) the dismantling and removal of existing pylon XD001T and its associated foundations, and the removal of a single circuit of redundant conductors between XD001 and XC481;
- (f) the construction and installation of two cable sealing end compounds, Tadcaster Tee East and Tadcaster Tee West, containing sealing end equipment, including anchor blocks in Tadcaster Tee East and a gantry in Tadcaster Tee West, switchgear, earthing and protection control systems, connections to the overhead electric line, and permanent landscaping works;
- (g) the installation of one temporary construction compound; and

##### In the city of Leeds and in North Yorkshire

- (h) modifications to conductors, insulators and fittings between XC481 and XD007.

#### **Work No. U7**

##### In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section D, sheets 1 and 2 of the works plan.

#### **Work No. U8**

##### In North Yorkshire

The diversion of an underground gas pipeline and removal of redundant section of gas pipeline shown on section D, sheet 1 of the works plan.

*OVERHEAD ELECTRIC LINES (TADCASTER TO MONK FRYSTON)*

**Work No. 9 – XC overhead electric line**

In North Yorkshire

Works to upgrade, modify and reconnector the XC overhead electric line shown on section D, sheet 1 to section E, sheet 7 of the works plan, comprising the reconnectoring of the XC overhead electric line from XC482 to XC521, including modifications to existing pylons and foundations, replacement of conductors, fibre optic earthwire, fittings and insulators.

**Work No. U9**

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 2 of the works plan.

**Work No. U10**

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 3 of the works plan.

**Work No. U11**

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 3 of the works plan.

**Work No. U12**

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 5 of the works plan.

**Work No. U13**

In North Yorkshire

The removal of a section of the existing distribution overhead electric line and its replacement with the installation of an underground cable shown on section E, sheet 6 of the works plan.

*OVERHEAD ELECTRIC LINES AND MONK FRYSTON SUBSTATION*

**Work No. 10 – XC overhead electric line**

In North Yorkshire

Works to reconfigure the XC overhead electric line through construction and installation of new sections and dismantling of existing sections shown on section E, sheet 7 and section F, sheet 1 of the works plan, comprising:

- (a) the construction and installation of an overhead electric line from XC521 to XC526 and from XC526 to XC527, and from XC526 to XC528, including the construction and

- installation of five pylons, conductors, fibre optic earthwires, insulators, fittings, and connections into the Monk Fryston Substation referred to at Work No. 11 below;
- (b) the dismantling and removal of an overhead electric line from XC521 to XC525T, including removal of four pylons, conductors, insulators, fittings, fibre optic earthwires and foundations;
- (c) the construction and installation of a temporary diversion of the existing XC overhead electric line from XC522T to XC525T, including conductors, insulators, fittings and two temporary structures; and
- (d) the installation of one temporary construction compound.

### **Work No. 11 – Monk Fryston Substation**

#### In North Yorkshire

Works to construct and install a new substation at Monk Fryston, including modifications to the existing Monk Fryston Substation, XC overhead electric line and 4YS overhead electric line connections shown on Section F, sheet 1 of the works plan, comprising:

- (a) the dismantling and removal of four gantries MF L, MF R, MF L-T and MF R-T, comprising the removal of conductors, insulators, fittings, and fibre optic earthwires, including between 4YS029 and 4ZZ001A;
- (b) the construction and installation of an overhead electric line from 4YS029 to 4YS030 and from 4YS029 to 4YS031, including two gantries, the installation of conductors, fibre optic earthwires, insulators, fittings, and connections into the new Monk Fryston Substation referred to at paragraph (d) below;
- (c) the installation of one temporary construction compound;
- (d) the construction and installation of the new Monk Fryston Substation including four gantries for termination of new overhead electric line entries, four supergrid transformers, noise enclosures, switchgear, plant and equipment, operational and ancillary buildings and permanent landscaping works; and
- (e) modifications to the existing Monk Fryston Substation including structures, plant and equipment, perimeter fencing, drainage systems, lighting and site furniture.

Such associated development not listed above, within the Order limits, as may be necessary or expedient for the purposes of or in connection with the construction or maintenance of the above Work Nos. or any of them, which may include—

- (a) ramps, means of access, footpaths, cycleways, bridleways and trackways;
- (b) embankments, bridges, aprons, abutments, foundations, retaining walls, drainage, wing walls, headwalls, culverts and fencing including stock-proof fencing;
- (c) works to alter the course of, or otherwise interfere with a watercourse, drainage works, attenuation ponds, and culverts;
- (d) landscaping and other works to mitigate any adverse effects of construction, maintenance, operation or use, together with means of access;
- (e) tree, hedgerow and vegetation planting and maintenance works;
- (f) works for the benefit or protection of the environment;
- (g) works for the benefit or protection of land, structures, apparatus or equipment affected by the authorised development (including earthing and works for monitoring);
- (h) works required for the strengthening, improvement, maintenance, or reconstruction of any streets;
- (i) works to streets and any alteration, removal or installation of street furniture, traffic signage and signals, and road lining, including where required to facilitate the construction of temporary accesses;



- (j) site preparation works, site clearance (including scaffolding, fencing, vegetation removal, demolition of existing buildings or structures and the creation of alternative footpaths, cycleways, bridleways and trackways);
- (k) earthworks (including soil stripping and storage, site levelling, ground improvement, berms and bunding);
- (l) works within temporary construction compounds, comprising temporary laydown, assembly and storage areas, temporary offices, security cabins, temporary vehicle parking, construction fencing, gates and hoarding, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction and security lighting and haulage roads, provision of services, generators, lighting, waste management facilities, drainage works, attenuation ponds, access roads, wheel cleaning facilities, biosecurity measures, fencing and hoarding;
- (m) works within cable sealing end compounds and substations, comprising the installation of switchgear, above and below ground services, troughs and cables, perimeter fencing, gates and hoarding, drainage systems, attenuation ponds, pollution control, generators, earthing and protection control systems, supervisory control and data acquisition communications, lighting, waste management facilities, drainage works, attenuation ponds, access roads, wheel cleaning facilities, biosecurity measures, parking areas;
- (n) works to allow for the provision of services, including power supplies, electric vehicle charging points and communication equipment;
- (o) installation of wires, cables, ducts, pipes and conductors including establishment of winching points;
- (p) the changing of name plates;
- (q) such other works, including scaffolding and crossing protection, working areas, and works of demolition (which includes but is not limited to demolition of residential properties), as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development and which do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement;
- (r) the construction and installation of permanent vehicle access roads, gates and fencing, hardstanding, and drainage;
- (s) works to place, alter, divert, relocate, protect, remove or maintain the position of apparatus (including statutory undertakers' apparatus), services, plant and other equipment in, under or above a street, or in other land, including mains, sewers, drains, pipes, lights, conductors, cables, fencing and other boundary treatments; and
- (t) such other works as may be necessary or expedient for the purposes of or in connection with the construction, installation, operation or maintenance of the authorised development and which do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

## SCHEDULE 2

Articles 2, 3

### PLANS, DRAWINGS AND ENVIRONMENTAL STATEMENT

#### PART 1

#### ACCESS, RIGHTS OF WAY AND PUBLIC RIGHTS OF NAVIGATION PLAN

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_A/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Plan	DCO_A/AC/PS/01	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_B/AC/KP/01	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_B/AC/KPD/01	C
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/01	C
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/02	C
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/03	C
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/04	C
Access, Rights of Way and Public Rights of Navigation Plan	DCO_B/AC/PS/05	C
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_C/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_C/AC/KPD/01	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/01	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/02	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/03	B
Access, Rights of Way and	DCO_C/AC/PS/04	B

Public Rights of Navigation Plan		
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/05	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/06	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/07	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/08	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_C/AC/PS/09	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_D/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Plan	DCO_D/AC/PS/01	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_D/AC/PS/02	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_E/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/01	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/02	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/03	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/04	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/05	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/06	B
Access, Rights of Way and Public Rights of Navigation Plan	DCO_E/AC/PS/07	B
Access, Rights of Way and Public Rights of Navigation Key Plan	DCO_F/AC/KP/01	A
Access, Rights of Way and Public Rights of Navigation Plan	DCO_F/AC/PS/01	B

Plan		
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**PART 2**  
**DESIGN DRAWINGS**

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
List Of Design Drawings	DCO_DE/KP/01_01	C
List Of Design Drawings	DCO_DE/KP/01_02	C
Design Drawing: Explanatory Overhead Line Profile	DCO_DE/PS/01_01	A
Design Drawing: Indicative Overhead Line Profiles 2TW/YR	DCO_DE/PS/03_01	A
Design Drawing: Indicative Overhead Line Profiles YN	DCO_DE/PS/04_01	A
Design Drawing: Indicative Overhead Line Profiles YN	DCO_DE/PS/04_02	A
Design Drawing: Indicative Overhead Line Profiles SP	DCO_DE/PS/05_01	A
Design Drawing: Indicative Overhead Line Profiles SP	DCO_DE/PS/05_02	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_01	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_02	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_03	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_04	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_05	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_06	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_07	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_08	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_09	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_10	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_11	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_12	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_13	A
Design Drawing: Indicative Overhead Line Profiles XC	DCO_DE/PS/06_14	A
Design Drawing: Indicative Overhead Line Profiles XD	DCO_DE/PS/07_01	A
Design Drawing: Indicative	DCO_DE/PS/07_02	A

Overhead Line Profiles XD		
Design Drawing: Indicative Overhead Line Profiles 4YS	DCO_DE/PS/08_01	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment XCP	DCO_DE/PS/09_01	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment XC	DCO_DE/PS/10_01	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment XC	DCO_DE/PS/10_02	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment XD	DCO_DE/PS/11_01	A
Design Drawing: Indicative Overhead Line Profiles Temporary Alignment YR	DCO_DE/PS/12_01	A
Design Drawing: Indicative Maximum And Minimum Lattice Pylon Heights	DCO_DE/PS/13_01	A
Design Drawing: Substation Parameter Plan - Overton	DCO_DE/PS/14_01	B
Design Drawing: Indicative Substation Layout - Overton	DCO_DE/PS/14_02	B
Design Drawing: Indicative Substation Elevation - Overton	DCO_DE/PS/14_03	B
Design Drawing: Substation Parameter Plan - Monk Fryston	DCO_DE/PS/15_01	B
Design Drawing: Indicative Substation Layout - Monk Fryston	DCO_DE/PS/15_02	B
Design Drawing: Indicative Substation Elevation - Monk Fryston	DCO_DE/PS/15_03	B
Design Drawing: Substation Parameter Plan - Osbaldwick	DCO_DE/PS/16_01	B
Design Drawing: Indicative Substation Layout - Osbaldwick	DCO_DE/PS/16_02	B
Design Drawing: Indicative Substation Elevation - Osbaldwick	DCO_DE/PS/16_03	B
Design Drawing: Parameter Plan For Shipton North 400kv Cable Sealing End Compound	DCO_DE/PS/17_01	C
Design Drawing: Indicative Cable Sealing End Compound Layout - Shipton North 400kv Cable Sealing End Compound	DCO_DE/PS/17_02	C
Design Drawing: Indicative Cable Sealing End Compound Elevation - Shipton North	DCO_DE/PS/17_03	C

400kv Cable Sealing End Compound		
Design Drawing: Parameter Plan For Shipton South 400kv Cable Sealing End Compound	DCO_DE/PS/18_01	C
Design Drawing: Indicative Cable Sealing End Compound Layout - Shipton South 400kv Cable Sealing End Compound	DCO_DE/PS/18_02	C
Design Drawing: Indicative Cable Sealing End Compound Elevation - Shipton South 400kv Cable Sealing End Compound	DCO_DE/PS/18_03	C
Design Drawing: Parameter Plan For Tadcaster West 275kv Cable Sealing End Compound	DCO_DE/PS/19_01	B
Design Drawing: Indicative Cable Sealing End Compound Layout - Tadcaster West 275kv Cable Sealing End Compound	DCO_DE/PS/19_02	B
Design Drawing: Indicative Cable Sealing End Compound Elevation - Tadcaster West 275kv Cable Sealing End Compound	DCO_DE/PS/19_03	B
Design Drawing: Parameter Plan For Tadcaster East 275kv Cable Sealing End Compound	DCO_DE/PS/20_01	B
Design Drawing: Indicative Cable Sealing End Compound Layout - Tadcaster East 275kv Cable Sealing End Compound	DCO_DE/PS/20_02	B
Design Drawing: Indicative Cable Sealing End Compound Elevation - Tadcaster East 275kv Cable Sealing End Compound	DCO_DE/PS/20_03	B
Design Drawing: Indicative Earthworks Layout - Overton	DCO_DE/PS/21_01	A
Design Drawing: Indicative Earthworks Long Sections - Overton	DCO_DE/PS/21_02	A
Design Drawings: Indicative Earthworks Layout - Monk Fryston	DCO_DE/PS/22_01	A
Design Drawings: Indicative Earthworks Long Sections - Monk Fryston	DCO_DE/PS/22_02	A

### PART 3

#### EXTINGUISHMENT OF EASEMENTS, SERVITUDES AND OTHER PRIVATE RIGHTS PLANS

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Master key to section identification plan for extinguishment of easements, servitudes and other private rights plan	DCO_MKP/EX/01	B
Extinguishment of easements, servitudes and other private rights key plan	DCO_D/EX/KP/01	A
Extinguishment of easements, servitudes and other private rights plan	DCO_D/EX/PS/01	A
Extinguishment of easements, servitudes and other private rights plan	DCO_D/EX/PS/02	A

### PART 4

#### LAND PLAN

<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
Land Key Plan	DCO_A/LP/KP/01	A
Land Plan	DCO_A/LP/PS/01	B
Land Key Plan	DCO_B/LP/KP/01	B
Land Plan	DCO_B/LP/PS/01	D
Land Plan	DCO_B/LP/PS/02	D
Land Plan	DCO_B/LP/PS/03	D
Land Plan	DCO_B/LP/PS/04	D
Land Plan	DCO_B/LP/PS/05	D
Land Key Plan	DCO_C/LP/KP/01	A
Land Plan	DCO_C/LP/PS/01	C
Land Plan	DCO_C/LP/PS/02	C
Land Plan	DCO_C/LP/PS/03	C
Land Plan	DCO_C/LP/PS/04	C
Land Plan	DCO_C/LP/PS/05	C
Land Plan	DCO_C/LP/PS/06	C
Land Plan	DCO_C/LP/PS/07	C
Land Plan	DCO_C/LP/PS/08	C
Land Plan	DCO_C/LP/PS/09	C
Land Key Plan	DCO_D/LP/KP/01	A
Land Plan	DCO_D/LP/PS/01	B
Land Plan	DCO_D/LP/PS/02	B
Land Key Plan	DCO_E/LP/KP/01	A
Land Plan	DCO_E/LP/PS/01	B
Land Plan	DCO_E/LP/PS/02	B
Land Plan	DCO_E/LP/PS/03	B
Land Plan	DCO_E/LP/PS/04	B

Land Plan	DCO_E/LP/PS/05	B
Land Plan	DCO_E/LP/PS/06	B
Land Plan	DCO_E/LP/PS/07	B
Land Key Plan	DCO_F/LP/KP/01	A
Land Plan	DCO_F/LP/PS/01	B

## PART 5

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
5.4.3 ES Chapter 3: Description of the Project Figure 3.10 Outline Landscape Mitigation Strategy (Overton)	DCO/OLMP/3.10	C
5.4.3 ES Chapter 3: Description of the Project Figure 3.11 Outline Landscape Mitigation Strategy (Tadcaster)	DCO/OLMP/3.11	C
5.4.3 ES Chapter 3: Description of the Project Figure 3.12 Outline Landscape Mitigation Strategy (Monk Fryston)	DCO/OLMP/3.12	C

## PART 6

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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
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Traffic Regulations Order Plan	DCO_A/TRO/PS/01	A
Traffic Regulations Order Key Plan	DCO_B/TRO/KP/01	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/01	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/02	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/03	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/04	B
Traffic Regulations Order Plan	DCO_B/TRO/PS/05	B
Traffic Regulations Order Key Plan	DCO_C/TRO/KP/01	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/01	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/02	A



Traffic Regulations Order Plan	DCO_C/TRO/PS/03	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/04	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/05	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/06	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/07	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/08	A
Traffic Regulations Order Plan	DCO_C/TRO/PS/09	A
Traffic Regulations Order Key Plan	DCO_D/TRO/KP/01	A
Traffic Regulations Order Plan	DCO_D/TRO/PS/01	A
Traffic Regulations Order Plan	DCO_D/TRO/PS/02	A
Traffic Regulations Order Key Plan	DCO_E/TRO/KP/01	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/01	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/02	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/03	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/04	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/05	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/06	A
Traffic Regulations Order Plan	DCO_E/TRO/PS/07	A
Traffic Regulations Order Key Plan	DCO_F/TRO/KP/01	A
Traffic Regulations Order Plan	DCO_F/TRO/PS/01	A

**PART 7  
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<i>Drawing Title</i>	<i>Drawing Number</i>	<i>Revision</i>
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Works Plan	DCO_A/WO/PS/01	B
Works Key Plan	DCO_B/WO/KP/01	B
Works Plan	DCO_B/WO/PS/01	C
Works Plan	DCO_B/WO/PS/02	C
Works Plan	DCO_B/WO/PS/03	C
Works Plan	DCO_B/WO/PS/04	C

Works Plan	DCO_B/WO/PS/05	C
Works Key Plan	DCO_C/WO/KP/01	A
Works Plan	DCO_C/WO/PS/01	C
Works Plan	DCO_C/WO/PS/02	C
Works Plan	DCO_C/WO/PS/03	C
Works Plan	DCO_C/WO/PS/04	C
Works Plan	DCO_C/WO/PS/05	C
Works Plan	DCO_C/WO/PS/06	C
Works Plan	DCO_C/WO/PS/07	C
Works Plan	DCO_C/WO/PS/08	C
Works Plan	DCO_C/WO/PS/09	C
Works Key Plan	DCO_D/WO/KP/01	A
Works Plan	DCO_D/WO/PS/01	C
Works Plan	DCO_D/WO/PS/02	C
Works Key Plan	DCO_E/WO/KP/01	A
Works Plan	DCO_E/WO/PS/01	C
Works Plan	DCO_E/WO/PS/02	C
Works Plan	DCO_E/WO/PS/03	C
Works Plan	DCO_E/WO/PS/04	C
Works Plan	DCO_E/WO/PS/05	C
Works Plan	DCO_E/WO/PS/06	C
Works Plan	DCO_E/WO/PS/07	C
Works Key Plan	DCO_F/WO/KP/01	A
Works Plan	DCO_F/WO/PS/01	B

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ES Chapter 3 Description of the Project	5.2.3	A
ES Chapter 4 Approach to preparing the ES	5.2.4	A
ES Chapter 5 Legislative and Policy Overview	5.2.5	A
ES Chapter 6 Landscape and Visual	5.2.6	A
ES Chapter 7 Historic Environment	5.2.7	A
ES Chapter 8 Biodiversity	5.2.8	A
ES Chapter 9 Hydrology	5.2.9	A
ES Chapter 10 Geology and Hydrogeology	5.2.10	A
ES Chapter 11 Agriculture and Soils	5.2.11	A
ES Chapter 12 Traffic and Transport	5.2.12	A
ES Chapter 13 Air Quality	5.2.13	A
ES Chapter 14 Noise and Vibration	5.2.14	A
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ES Chapter 16 Socio economics	5.2.16	A
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## SCHEDULE 3 REQUIREMENTS

Articles 2, 3, 9, 43, 50

### Interpretation

1.—(1) In this Schedule unless the context requires otherwise—

“commence” means the carrying out of a material operation, as defined in section 155 (when development begins) of the 2008 Act, comprised in or carried out for the purposes of the authorised development, but does not include any pre-commencement works;

“the core working hours” means the core hours within which construction works may be undertaken as described in paragraphs (1) and (2) of requirement 7 (construction hours).

“mean high water level” means the average height of the high water level over a period of time;

“pre-commencement works” means

- (a) archaeological investigations and mitigation works;
- (b) environmental surveys and monitoring;
- (c) environmental mitigation works;
- (d) investigations for the purpose of assessing and monitoring ground conditions and levels;
- (e) remedial work in respect of any contamination or other adverse ground conditions;
- (f) erection of any temporary means of enclosure;
- (g) temporary hard standing;
- (h) receipt and erection of construction plant and equipment;
- (i) diversion and laying of underground apparatus and utilities;
- (j) protection works comprising utilities protection works or fencing and protection slabs;
- (k) site clearance;
- (l) temporary construction compound set-up; and
- (m) the temporary display of site notices or advertisements;

“relevant drainage authority” means the drainage authority or the Lead Local Flood Authority for the area to which the relevant works relate;

“stage” means a defined stage of the authorised development, as described in a scheme submitted to the relevant planning authority pursuant to requirement 4 (stages of authorised development);

“start up and close down activities” means general works that will not create an audible disturbance to local residents, including but not restricted to—

- (a) arrival and departure of workforce and staff at site and movement to and from places of work;
- (b) general refuelling of plant;
- (c) site inspections and safety checks;
- (d) site meetings (daily briefings and quiet inspections/walkovers);
- (e) site clean-up (site housekeeping that does not require the use of plant);
- (f) general site maintenance; and
- (g) low key maintenance and safety checking of plant and machinery; and

“Travellers’ Encampment” means plots E7-34 and E7-40 as shown on the land plan to the extent and for the duration that these plots are occupied as a travellers’ encampment.

(2) Where under Schedule 3 (requirements) the approval or agreement of the highway authority or the relevant planning authority is required, that approval must be given in writing.

(3) Where an approval is required under Schedule 3 (requirements) or a document referred to in a Requirement, or any Requirement specifies “unless otherwise approved”, “unless otherwise agreed” or “that may subsequently be approved” by the highway authority or the relevant planning authority such approval or agreement may only be given where it has been demonstrated to the satisfaction of the highway authority or the relevant planning authority that the subject matter of the approval or agreement sought is unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

(4) Where Schedule 3 (requirements) requires the authorised development to be carried out in accordance or general accordance with the details approved by the highway authority or by the relevant planning authority, the approved details are to be taken to include any amendments that may subsequently be approved in writing by the highway authority or by the relevant planning authority.

### **Time limits**

2. The authorised development must be commenced within 5 years of the date of this Order.

### **Design drawings**

3.—(1) The authorised development must be carried out in general accordance with the design drawings.

(2) The authorised development will not be in general accordance with the design drawings to the extent that any departure from the design drawings gives rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

### **Stages of authorised development**

4.—(1) The authorised development may not commence until a written scheme setting out the stages of the authorised development has been submitted to the relevant planning authority, which scheme may subsequently be amended from time to time as notified to the relevant planning authority.

(2) The authorised development must be constructed in accordance with the written scheme setting out the stages of the authorised development submitted under paragraph (1).

### **Construction management plans**

5.—(1) All construction works for the authorised development must be carried out in accordance with the construction management plans referred to in paragraph (2), unless otherwise agreed with the relevant planning authority or the highway authority, as may be appropriate to the relevant plan, scheme or strategy concerned.

(2) The construction management plans, which specify the measures to be used to minimise the impacts of construction works, are the following plans, schemes and strategies—

- (a) the code of construction practice;
- (b) the archaeological written scheme of investigation;
- (c) the biodiversity mitigation strategy;
- (d) the construction traffic management plan;
- (e) the public rights of way management plan; and
- (f) the noise and vibration management plan.

(3) For the avoidance of doubt, all pre-commencement works must be carried out in accordance with the construction management plans and the outline soil management plan.

## **Construction management plans to be approved**

6.—(1) No stage of the authorised development may commence until, for that stage, the following plans, schemes and strategies as relevant to that stage to minimise the impacts of construction works have been submitted to and approved by the relevant planning authority—

- (a) soil and aftercare management plan;
- (b) drainage management plan;
- (c) pollution incident control plan;
- (d) lighting scheme;
- (e) emergency response plan for flood events;
- (f) site waste management plan; and
- (g) tree and hedgerow protection strategy.

(2) The plans, schemes and strategies referred to in paragraph (1) to be submitted for approval must accord with the relevant plans, schemes and strategies referred to in requirement 5 (construction management plans) and in the case of the soil and aftercare management plan must be substantially in accordance with the outline soil management plan.

(3) The construction works for each stage of the authorised development and mitigation works to minimise the impact of construction must be carried out in accordance with the approved plans, schemes and strategies referred to in paragraph (1) or with any amended plans, schemes or strategies that may subsequently be approved by the relevant planning authority.

(4) The drainage management plan referred to in paragraph (1)(b) must contain written details of the surface and foul water drainage system (including means of pollution control and details of maintenance arrangements where required) for both permanent and temporary works, and any surface or foul water drainage system must be constructed and maintained in accordance with the details approved by the relevant planning authority under paragraph (1), following consultation with the relevant drainage authority.

(5) The lighting scheme referred to in paragraph 1(d) must contain written details of the temporary and permanent external lighting to be installed, and any external lighting must be installed in accordance with the details approved by the relevant planning authority under paragraph (1).

## **Construction hours**

7.—(1) Subject to paragraphs (2) and (3) construction works may only take place between 0700 and 1900 Mondays to Fridays and between 0800 and 1700 on Saturdays, Sundays and Bank Holidays.

(2) Piling operations must take place only between 0800 and 1700 on Mondays to Fridays and 0900 to 1400 on Saturdays.

(3) The following operations may take place outside the core working hours referred to in paragraph (1) and (2)—

- (a) the jointing of underground cables, with the exception of cable cutting which must take place only during core working hours;
- (b) installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses;
- (c) the completion of operations commenced during the core working hours which cannot safely be stopped;
- (d) any highway works requested by the relevant highway authority to be undertaken on a Saturday or a Sunday or outside the core working hours;
- (e) oil processing of transformers or reactors in substation sites;
- (f) the testing or commissioning of any electrical plant installed as part of the authorised development;



- (g) the completion of works delayed or held up by severe weather conditions which disrupted or interrupted normal construction activities;
- (h) start up and close down activities, which may take place one hour immediately prior to or one hour immediately after the core working hours; and
- (i) security monitoring.

### **Landscaping at Overton, Tadcaster and Monk Fryston**

**8.**—(1) Unless otherwise agreed with the relevant planning authority, no stage of the authorised development in connection with the non-linear works at Overton, Tadcaster and Monk Fryston may commence until, where relevant for that stage, a landscape strategy that accords with the outline landscape mitigation strategy has been submitted to and approved by the relevant planning authority.

(2) The landscape strategy submitted under paragraph (1) must include details appropriate for the relevant stage, including—

- (a) the location of planting and a schedule of plants noting quantities, species, size and planting density of any proposed planting or seeding;
- (b) cultivation, importing of materials and other operations to ensure plant and seed establishment;
- (c) details of the five year maintenance regime, including monitoring and management, and the management regime for any woodland planting in years six to fifteen; and
- (d) details of the design of the proposed levels and slope profiles of any permanent earthworks.

(3) The landscape strategy referred to in paragraph (1) must be implemented as approved, by no later than the first available planting season after the authorised development is first brought into operational use and carried out to a reasonable standard in accordance with the relevant recommendations of the appropriate British Standard or other recognised codes of good practice.

(4) Any landscape planting, including trees or shrubs planted as part of a landscape strategy that, within a period of five years after planting, is removed, dies or becomes in the opinion of the relevant planning authority seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

### **Retention and protection of existing trees**

**9.**—(1) No stage of the authorised development may commence until, for that stage, a tree and hedgerow protection strategy (THPS) as referred to in requirement 6 (construction management plans to be approved) and prepared in accordance with the Arboricultural Impact Assessment report (Document 5.3.3I) and BS 5837:2012 (Trees in relation to design, demolition and construction) identifying the trees and groups of trees to be retained during that stage has been submitted to and approved by the relevant planning authority.

(2) The THPS referred to in paragraph (1) must include—

- (a) tree protection plans detailing the alignment of temporary physical tree protection measures according to BS 5837:2012;
- (b) a schedule of all proposed tree and hedgerow removal and management;
- (c) specifications for temporary physical protection for trees; and
- (d) details of an auditable system of compliance with the approved protection measures.

(3) The relevant stage of the authorised development must not commence until the approved protection measures referred to in paragraph (1) are in place, and they must thereafter be maintained during the construction of the relevant stage of the authorised development unless otherwise agreed in writing with the relevant planning authority.

## **Replacement planting**

**10.**—(1) Subject to paragraph (2), unless otherwise agreed with the relevant planning authority, no stage of the authorised development may commence until, where relevant for that stage, a replacement planting scheme in accordance with the principles contained in the code of construction practice which replaces the trees and hedgerows identified to be removed in the tree and hedgerow protection strategy approved under Requirement 9, has been submitted to and approved by the relevant planning authority.

(2) Paragraph (1) does not apply in connection with the non-linear works at Overton, Tadcaster and Monk Fryston to the extent that replacement planting is included in the landscape strategy under Requirement 8.

(3) The scheme for replacement planting submitted under paragraph (1) must include details appropriate for the relevant stage, including—

- (a) the location of planting and a schedule of plants noting quantities, species, size and planting density of any proposed planting or seeding;
- (b) cultivation, importing of materials and other operations to ensure plant and seed establishment; and
- (c) details of the five year maintenance regime including monitoring and management.

(4) The scheme for replacement planting referred to in paragraph (1) must be implemented as approved, by no later than the first available planting season after the authorised development is first brought into operation use and carried out to a reasonable standard in accordance with the relevant recommendations of the appropriate British Standard or other recognised codes of good practice.

(5) Any replacement planting, including trees and hedgerows planted as part of an approved replacement planting scheme that, within a period of five years after planting, is removed, dies or becomes in the opinion of the relevant planning authority seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

## **Reinstatement schemes**

**11.**—(1) Subject to paragraph (2), any land within the Order limits which is used temporarily for construction is to be reinstated to its former condition, or such condition as the relevant planning authority may approve, within twelve months of completion of construction of the stage of authorised development for which it was required, or such further time as may be approved by the relevant planning authority.

(2) The requirement to reinstate the land to its former condition is subject to the provisions of articles 36 (temporary use of land by National Grid), 37 (temporary use of land by NPG), 38 (temporary use of land by NGN) and article 39 (temporary use of land for maintaining the authorised development).

## **Contamination of land or groundwater and controlled waters**

**12.**—(1) If during any stage of the authorised development, contamination within the Order limits is identified as a result of the confirmatory ground investigations or unexpected contamination discovery procedures described in chapter 10, Geology and Hydrogeology, of the environmental statement (Document 5.4.10) and the code of construction practice, and this contamination is considered to present a significant possibility of significant harm to persons or pollution of controlled waters or the environment then, except in the case of emergency, no further development in the vicinity of the contamination may be carried out until a written scheme to identify the extent of the contamination and any mitigation or remedial measures to be taken to render the land fit for its intended purpose has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency.

(2) Should mitigation or remedial measures be required then they must be carried out in accordance with the approved scheme referred to in paragraph (1) and, if remedial measures are

required, their implementation and validation documented in a verification report submitted to the planning authority.

(3) In this requirement (contamination of land or groundwater and controlled waters), “controlled waters” has the same meaning as in Part 2A of the Environmental Protection Act 1990(a).

### **Removal of temporary bridges and culverts**

**13.** Any temporary bridge or culvert required in connection with any stage of the authorised development must be removed within twelve months of completion of the construction of that stage of authorised development for which it was required, or such further time that may subsequently be approved by the relevant planning authority, after consultation with the Environment Agency or the relevant drainage authority as appropriate.

### **Highway works**

**14.—(1)** No work to construct or temporarily alter any new or existing means of access to a highway to be used by vehicular traffic may commence until written details of the design and layout of that means of access has been submitted to and approved by the relevant highway authority.

(2) The highway accesses must be constructed in accordance with the details approved under paragraph (1) unless otherwise agreed in writing with the relevant highway authority.

### **Removal of existing overhead line**

**15.** All sections of existing overhead line to be dismantled must be removed no later than 12 months after the authorised development is first brought into operational use unless otherwise agreed in writing with the relevant planning authority.

### **Decommissioning**

**16.—(1)** In the event that, at some future date, the authorised development, or any part of it, is to be decommissioned, a written scheme of decommissioning must be submitted for approval by the relevant planning authority at least six months prior to any decommissioning works.

(2) The approved scheme must be implemented as approved following the decommissioning of the authorised development or relevant part of it.

(3) This requirement (decommissioning) does not apply to the authorised development and associated development described in Schedule 1 (authorised development) for the dismantling and removal of existing infrastructure or apparatus.

### **Clearance over the River Ouse**

**17.** No part of any overhead electric line shall be installed or maintained directly above the River Ouse at a height of less than 10 metres above the mean high water level of that river.

### **Approval of details having regard to the Design Approach to Site Specific Infrastructure**

**18.—(1)** Any permanent buildings (including relocated buildings) and the acoustic enclosures at—

- (a) Overton Substation; and
- (b) Monk Fryston Substation,

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(a) 1990 c. 43.

must not be commenced until details of the external colour and surface finish of the permanent buildings and the external colour of the acoustic enclosures have been submitted to and approved by the relevant planning authority.

(2) Any non-linear site permanent security fencing at—

- (a) Shipton Tee Cable Sealing End Compounds;
- (b) Overton Substation;
- (c) Tadcaster Tee Cable Sealing End Compounds; and
- (d) Monk Fryston Substation,

must not be commenced until details of the colour or type of the fencing, which must comply with Technical Specification TS2.10.02 Perimeter Security, has been submitted to and approved by the relevant planning authority.

(3) Any details to be approved under sub-paragraphs (1) and (2) must be produced having regard to the design approach to site specific infrastructure and must be implemented as approved.

### **Site specific mitigation scheme**

**19.**—(1) No part of Work No. 10 that affects the Travellers' Encampment may commence until a scheme to mitigate the impacts of construction activities arising from those works, including noise, dust, vibration, and visual effects (including from lighting), has been submitted to and approved in writing by the relevant planning authority.

(2) The scheme referred to in sub-paragraph (1) must include the approach to liaison for the Travellers' Encampment during the construction period.

(3) The construction works for that part of Work No. 10 which affects the Travellers' Encampment must be carried out in accordance with the approved scheme referred to in sub-paragraph (1) above, unless otherwise agreed with the relevant planning authority.

## DISCHARGE OF REQUIREMENTS

**Applications made under requirements**

1.—(1) Where an application has been made to a relevant authority for any consent, agreement or approval required under Schedule 3 (requirements), the relevant authority must give notice to the undertaker of its decision on the application within a period of 35 days beginning with—

- (a) where no further information is requested under paragraph 1(2), the day immediately following that on which the application is received by the authority;
- (b) where further information is requested under paragraph 1(2), the day immediately following that on which further information has been supplied by the undertaker; or
- (c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) Where an application has been made under paragraph 1(1) the relevant authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(3) If the relevant authority considers further information is necessary and the Requirement does not specify that consultation with a requirement consultee is required, the relevant authority must, within 7 business days of receipt of the application, notify the undertaker in writing specifying the further information required.

(4) If the Requirement specifies that consultation with a requirement consultee is required, the relevant authority must issue the consultation to the requirement consultee within 3 business days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 3 business days of receipt of such a request and in any event within 21 business days of receipt of the application.

(5) If the relevant authority does not give the notification mentioned in sub-paragraph (3) or (4) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

**Fees**

2.—(1) Where an application is made to a relevant authority for any consent, agreement or approval required under Schedule 3 (requirements), a fee must be paid to the relevant authority as follows—

- (a) a fee of £116 per request; or
- (b) such other fee as may be prescribed (under sections 303 (fees for planning applications etc.) and 333(2A) (regulations and orders) of the 1990 Act for the discharge of conditions attached to a planning permission).

(2) Any fee paid under this Schedule must be refunded to the undertaker within 35 days of—

- (a) the application being rejected as invalidly made; or
- (b) the relevant authority failing to determine the application within the decision period as determined under paragraph 1, unless within that period the undertaker agrees in writing that the fee may be retained by the relevant authority and credited in respect of a future application.

**Appeals**

3.—(1) The undertaker may appeal if—

- (a) the relevant authority refuses an application for any consent, agreement or approval required by—
    - (i) a Requirement and any document referred to in any Requirement; or
    - (ii) any other consent, agreement or approval required under this Order, or grants it subject to conditions to which the undertaker objects;
  - (b) the relevant authority does not give notice of its decision to the undertaker within the period specified in paragraph 1(1) (applications made under requirements);
  - (c) having received a request for further information under paragraph 1(3) (applications made under requirements) the undertaker considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or
  - (d) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.
- (2) The procedure for appeals is as follows—
- (a) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide (“the appeal documents”);
  - (b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the requirement consultee (if applicable);
  - (c) as soon as is practicable after receiving the appeals documents the Secretary of State must appoint a person to determine the appeal (“the appointed person”) and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;
  - (d) the relevant authority and the requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 10 business days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
  - (e) the appeal parties may make any counter-submissions to the appointed person within 10 business days beginning with the first day immediately following the date of receipt of written representations pursuant to paragraph (d) above; and
  - (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.
- (3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.
- (4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.
- (5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.
- (6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 10 business days of the date mentioned in sub-paragraph (3).

**Outcome of appeals**

- 4.—(1) On an appeal under paragraph 3 (appeals), the appointed person may—
- (a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed or set by the appointed person under this Schedule.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(5) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Schedule 3 (requirements) as if it had been given by the relevant authority.

(6) The relevant authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(7) Except where a direction is given pursuant to sub-paragraph (8) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(8) On application by the relevant authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid.

(9) In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance or any guidance which may from time to time replace it.

#### **Interpretation of Schedule 4**

**5.** In this Schedule—

“application” includes an application made in part or in full as the context so requires;

“the appeal parties” means the relevant authority, the requirement consultee and the undertaker;

“relevant authority” means the relevant planning authority, highway authority, street authority, Environment Agency, relevant drainage authority or relevant owner of a watercourse, sewer or drain as may be appropriate to the consent or approval sought; and

“requirement consultee” means any body named in a Requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that Requirement.

## SCHEDULE 5

Article 3, 6 and 7

### BENEFIT OF THE ORDER RULES

#### *NPG Works*

**1.** NPG may not carry out the NPG Works under sub-paragraph (3)(a) of article 3 (development consent etc. granted by the Order) except in accordance with the written consent of National Grid, which may be granted subject to reasonable conditions.

**2.** If NPG fails to carry out any of the NPG Works in accordance with National Grid's consent, National Grid may give NPG and the Secretary of State notice that National Grid intends to carry out the NPG Works.

**3.** On the date specified in any notice under paragraph (2) of this schedule—

- (a) NPG is to cease to have the benefit of sub-paragraph (1) of article 3 (development consent etc. granted by the Order) and sub-paragraph (1) of article 6 (benefit of the Order);
- (b) NPG is to cease to be an undertaker for the installation of the NPG Works but remains an undertaker for the purposes of keeping installed and maintaining the electric lines included in the NPG Works; and
- (c) references to NPG in article 39 (temporary use of land for maintaining the authorised development) are to be read as including National Grid.

**4.** Where a notice is issued under paragraph (2), paragraph (3) does not affect the following insofar as they apply to NPG—

- (a) the operation of the following articles of this Order—
  - (i) article 3(3)(b), (5) and (6);
  - (ii) article 4(2);
  - (iii) article 5;
  - (iv) article 6; and
- (b) works done and actions undertaken prior to the date specified in that notice.

#### *NGN Works*

**5.** NGN may not carry out the NGN Works under sub-paragraph (4)(a) of article 3 (development consent etc. granted by the Order) except in accordance with the written consent of National Grid, which may be granted subject to reasonable conditions.

**6.** If NGN fails to carry out any of the NGN Works in accordance with National Grid's consent, National Grid may give NGN and the Secretary of State notice that National Grid intends to carry out the NGN Works.

**7.** On the date specified in any notice under paragraph (6) of this schedule—

- (a) NGN is to cease to have the benefit of sub-paragraph (1) of article 3 (development consent etc. granted by the Order) and sub-paragraph (1) of article 6 (benefit of the Order);
- (b) NGN is to cease to be an undertaker for the installation of the NGN Works but remains an undertaker for the purposes of keeping installed the underground gas pipelines included in the NGN Works; and
- (c) references to NGN in article 39 (temporary use of land for maintaining the authorised development) are to be read as including National Grid.



**8.** Where a notice is issued under paragraph (6), paragraph (7) does not affect the following insofar as they apply to NGN—

- (a) the operation of the following articles of this Order—
  - (i) article 3(4)(b), (5) and (7);
  - (ii) article 4(2);
  - (iii) article 5;
  - (iv) article 6; and
- (b) works done and actions undertaken prior to the date specified in that notice.

*General*

**9.** The exercise by NPG or NGN of any benefits or rights conferred on it by this Order is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by National Grid.

**10.** Article 53 (arbitration) has effect in relation to any dispute under the terms of this schedule.

## SCHEDULE 6

Article 11

### STREETS SUBJECT TO STREET WORKS

<i>(1) Authority</i>	<i>(2) Street subject to street works</i>
City of York Council	Planville Lane
North Yorkshire Council/City of York Council	C92 (Corban Lane)
North Yorkshire Council	U1720 (ORPA)
North Yorkshire Council/City of York Council	A19 (Main Street)
North Yorkshire Council	U1724 (Overton Road)
North Yorkshire Council/City of York Council	U1724 (Stripe Lane)
City of York Council	Common Croft Lane
North Yorkshire Council	U3396 (Church Lane)
North Yorkshire Council	U3397 (Red House Lane)
North Yorkshire Council	A59 (Roman Road)
North Yorkshire Council	C283 (Marston Lane)
North Yorkshire Council	C283 (Atterwith Lane)
North Yorkshire Council	C273 (Tockwith Road)
North Yorkshire Council	B1224 (Weatherby Road)
North Yorkshire Council	U737 (Healough Lane)
North Yorkshire Council	C268 (Wighill Lane)
North Yorkshire Council	C288 (Wighill Lane)
North Yorkshire Council	A659 (Kelcbar Hill)
North Yorkshire Council	A659 (Roman Road)
North Yorkshire Council	C305 (Garnet Lane)
North Yorkshire Council	B1217
North Yorkshire Council	U785 (Coldhill Lane)
North Yorkshire Council	C311 (Coldhill Lane)
North Yorkshire Council	U1092 (Laith Staid Lane)
North Yorkshire Council	B1222
North Yorkshire Council	C320 (Whitecote Lane)
North Yorkshire Council	U1288 (Westfield Lane)
North Yorkshire Council	A63
North Yorkshire Council	U1038 (Rawfield Lane)

## SCHEDULE 7

Article 13

### STREETS SUBJECT TO ALTERATION OF LAYOUT

#### PART 1

#### STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT

*North Yorkshire Council*

<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
Overton Road	Provision of carriageway widening to aid heavy goods vehicle manoeuvres and access/egress to the proposed Overton Substation. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required as shown as JW02 Section B, Sheet 2.
U1720 (ORPA)	At bellmouth AP98 as shown on Section B, Sheet 1 the creation of an access point of sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements of the site. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.
A659	At bellmouth AP31 as shown on Section D Sheet 1 the creation of an access point of sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.
Garnet Lane	At bellmouth AP34 as shown on Section D Sheet 1 the creation of an access point of sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.
Rawfield Lane	At bellmouth AP3 as shown on Section F Sheet 1 the creation of an access point of sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.
Overton Road	At bellmouth AP89 as shown on Section B Sheet 2 the creation of an access point of

	sufficient size to accommodate access and egress of vehicles for operation and maintenance requirements. Works comprising site clearance, construction of new road surface, white lining, kerbing and a suitable drainage system as required.
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## PART 2

### STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT

*City of York Council*

<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
Planville Lane	At AP101 as shown on Section B, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
At the Junction of Corban Lane/U1720 (ORPA)	At JW01 (adjacent to AP95) as shown on Section B, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Corban Lane	At AP94 as shown on Section B, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Common Croft Lane	At AP78 as shown on Section B, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.

*North Yorkshire Council*

<i>(1) Street subject to alteration of layout</i>	<i>(2) Description of alteration of layout as shown on the access, rights of way and public rights of navigation plan</i>
U1720 (ORPA)	Between AP95 and AP98 on Section B, Sheet 1 the provision of passing places to allow for safe two way passage of traffic.
U1720 (ORPA)	At AP96 as shown on Section B, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
U1720 (ORPA)	At AP97 as shown on Section B, Sheet 1 the

	creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A19	At AP93 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A19	At AP91 as shown on Section B, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP86 as shown on Section B, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP87 as shown on Section B, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP90 as shown on Section B, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP82 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP84 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Overton Road	At AP85 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Stripe Lane	At AP80 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to

	accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Stripe Lane	At AP81 as shown on Section B, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Church Lane	At AP77 as shown on Section C, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Church Lane	At AP74 as shown on Section C, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A59	At AP72 as shown on Section C, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Marston Lane	At AP68 as shown on Section C, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Marston Lane	At AP69 as shown on Section C, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Marston Lane	At AP70 as shown on Section C, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Marston Lane	At AP71 as shown on Section C, Sheet 2 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Atterwith Lane	At AP65 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a

	suitable drainage system.
Atterwith Lane	At AP66 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Tockwith Road	At AP62 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Tockwith Road	At AP63 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Tockwith Road	At AP64 as shown on Section C, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
B1224 Weatherby Road	At AP61 as shown on Section C, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Healaugh Lane	At AP59 as shown on Section C, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP56 as shown on Section C, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP55 as shown on Section C, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP54 as shown on Section C, Sheet 7 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP53 as shown on Section C, Sheet 7 the

	creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP52 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP50 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Wighill Lane	At AP49 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP45 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP47 as shown on Section C, Sheet 8 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP44 as shown on Section C, Sheet 9 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP41 as shown on Section C, Sheet 9 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Garnet Lane	At AP33 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP29 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to



	accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP30 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659	At AP32 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A659/A64 Onslip Road	At AP28 as shown on Section D, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
B1217 Wakefield Road	At AP26 as shown on Section E, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Coldhill Lane	At AP22 as shown on Section E, Sheet 3 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Coldhill Lane	At AP21 as shown on Section E, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Coldhill Lane	At AP20 as shown on Section E, Sheet 4 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Laith Staid Lane	At AP18 as shown on Section E, Sheet 5 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Laith Staid Lane	At AP19 as shown on Section E, Sheet 5 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a

	suitable drainage system.
B1222	At AP17 as shown on Section E, Sheet 5 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
B1222	At AP16 as shown on Section E, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
B1222	At AP14 as shown on Section E, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Whitecote Lane	At AP11 as shown on Section E, Sheet 6 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Westfield Lane	At AP10 as shown on Section E, Sheet 7 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Westfield Lane	At AP9 as shown on Section E, Sheet 7 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A63	At AP7 as shown on Section E, Sheet 7 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
A63	At AP6 as shown on Section F, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Rawfield Lane	At AP5 as shown on Section F, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Rawfield Lane	At AP4 as shown on Section F, Sheet 1 the

	creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.
Rawfield Lane	At AP2 as shown on Section F, Sheet 1 the creation of temporary bellmouth to enable access/egress with sufficient size to accommodate a HGV vehicle. Comprising the installation of a new road surface and a suitable drainage system.

SCHEDULE 8

Article 14

STREETS, CYCLE TRACKS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP

PART 1

STREETS, CYCLE TRACKS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP FOR WHICH A DIVERSION IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Street, cycle track or public right of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up as shown on the access, rights of way and public rights of navigation plan</i>	<i>(4) Temporary diversion as shown on the access, rights of way and public rights of navigation plan</i>
City of York Council and North Yorkshire Council	U1720 (ORPA)	Between points RWS01 and RWS02 as shown on Section B, Sheet 1	Between points RWD01 and RWD02 as shown on Section B, Sheet 1.
North Yorkshire Council	35.55/5/1	Between points RWS03 and RWS04 as shown on Section E, Sheet 3	Between points RWD03 and RWD04 as shown on Section E, Sheet 3.

PART 2

STREETS, CYCLE TRACKS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY STOPPED UP FOR WHICH NO DIVERSION IS TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Street, cycle track or public right of way to be temporarily stopped up</i>	<i>(3) Extent of temporary stopping up as shown on the access, rights of way and public rights of navigation plan</i>
North Yorkshire Council	10.129/U1720/50	Between points RW01 to RW02 as shown on Section B, Sheet 1
City of York Council	11/8/40; 11/8/30 and 11/8/20	Between points RW03 to RW04 as shown on Section B, Sheet 1
North Yorkshire Council	10.115/2/3 and 10.115/4/1	Between points RW05 to RW06 as shown on Section B, Sheet 3
City of York Council	10/3/2020	Between points RW07 to RW08 as shown on Section B, Sheet 3
City of York Council	10/1/10 and 10/2/10	Between points RW09 to RW10 as shown on Section B, Sheet 4
North Yorkshire Council	15.95/5/2 and 15.95/3	Between points RW11 to RW12 as shown on Section B, Sheet 5
North Yorkshire Council	15.95/2/3 and 15.95/6/1	Between points RW13 to RW14 as shown on Section B, Sheet 5
North Yorkshire Council	15.95/7/1	Between points RW15 to RW16 as shown on Section C, Sheet 2

North Yorkshire Council	15.83/1/1	Between points RW17 to RW18 as shown on Section C, Sheet 3
North Yorkshire Council	35.33/1/1; 35.33/1/2; and 15.10/4/1	Between points RW19 to RW20 as shown on Section C, Sheet 5
North Yorkshire Council	35.33/6/7	Between points RW21 to RW22 as shown on Section C, Sheet 8
North Yorkshire Council	35.64/1/1; 35.64/17/1; and 35.50/3/1	Between points RW23 to RW24 as shown on Section C, Sheet 8
North Yorkshire Council	35.64/13/2 and 35.64/13/3	Between points RW25 to RW26 as shown on Section C, Sheet 9
North Yorkshire Council	35.63/6/3	Between points RW27 to RW28 as shown on Section E, Sheet 1
North Yorkshire Council	35.44/4/1; 35.44/1/2; 35.63/3/1; and 35.55/6/1	Between points RW29 to RW30 as shown on Section E, Sheets 1 and 2
North Yorkshire Council	35.44/1/1	Between points RW31 to RW32 as shown on Section E, Sheet 3 of the Access and Rights of Way Plan
North Yorkshire Council	35.55/5/1	Between points RW33 to RW34 as shown on Section E, Sheet 3
North Yorkshire Council	35.4/1/1	Between points RW35 to RW36 as shown on Section E, Sheet 4
North Yorkshire Council	35.59/U1315/30	Between points RW37 to RW38 as shown on Section E, Sheet 7 of the Access and Rights of Way Plan
North Yorkshire Council	35.59/26/1	Between points RW39 to RW40 as shown on Section E, Sheet 7
North Yorkshire Council	35.59/U1289/70 and 35.59/13/1	Between points RW41 to RW42 as shown on Section E, Sheet 7

**SCHEDULE 9**  
**ACCESS TO WORKS**

Article 16

**PART 1**  
**CITY OF YORK COUNCIL**

<i>(1) Street name</i>	<i>(2) Access reference as shown on the access, rights of way and public rights of navigation plan</i>	<i>(3) Plan Reference for the access, rights of way and public rights of navigation plan</i>
Common Croft Lane	AP78	Section B, Sheet 4
A19	AP93	Section B, Sheet 3
Corban Lane	AP94, AP95	Section B, Sheet 1
Plainville Lane	AP101, AP102	Section B, Sheet 1
Murton Way	AP103, AP104	Section A, Sheet 1

**PART 2**  
**LEEDS CITY COUNCIL**

<i>(1) Street name</i>	<i>(2) Access reference as shown on the access, rights of way and public rights of navigation plan</i>	<i>(3) Plan Reference for the access, rights of way and public rights of navigation plan</i>
Warren Lane	AP36, AP37, AP38	Section D, Sheet 2 of the Access and Rights of Way plans

**PART 3**  
**NORTH YORKSHIRE COUNCIL**

<i>(1) Street name</i>	<i>(2) Access reference as shown on the access, rights of way and public rights of navigation plan</i>	<i>(3) Plan Reference for the access, rights of way and public rights of navigation plan</i>
A162	AP1	Section F, Sheet 1
Rawfield Lane	AP2, AP3, AP4, AP5	Section F, Sheet 1
A63	AP6	Section F, Sheet 1
A63	AP7	Section E, Sheet 7
Red Hill Lane	AP8	Section E, Sheet 7
Westfield Lane	AP9, AP10	Section E, Sheet 7
Whitecote Lane	AP11, AP12	Section E, Sheet 6
B1222	AP13, A14, AP15, AP16	Section E, Sheet 6
B1222	AP17	Section E, Sheet 5
Laith Staid Lane	AP18, AP19	Section E, Sheet 5
Coldhill Lane	AP20, AP21	Section E, Sheet 4

Coldhill Lane	AP22, AP23, AP24	Section E, Sheet 3
B1217	AP25, AP26	Section E, Sheet 3
B1217	AP27	Section E, Sheet 2
A64/A659 Westbound Onslip	AP28	Section D, Sheet 1
A659	AP29, AP30, AP31, AP32	Section D, Sheet 1
Garnet Lane	AP33, AP34, AP35	Section D, Sheet 1 of the Access and Rights of Way Plans
C305/Garnet Lane	AP39	Section D, Sheet 1
A659	AP40, AP41, AP42, AP43, AP44	Section C, Sheet 9
A659	AP45, AP46, AP47	Section C, Sheet 8
Wighill Lane	AP48, AP49, AP50, AP51, AP52	Section C, Sheet 8
Wighill Lane	AP53, AP54	Section C, Sheet 7
Wighill Lane	AP55, AP56, AP57	Section C, Sheet 6
Healaugh Lane	AP58	Section C, Sheet 5
Healaugh Lane	AP59	Section C, Sheet 4
B1224	AP60, AP61	Section C, Sheet 4
Tockwith Road	AP62, AP63, AP64	Section C, Sheet 3
Atterwith Lane	AP65, AP66	Section C, Sheet 3
Marston Lane	AP67, AP68, AP69, AP70, AP71	Section C, Sheet 2
A59	AP72	Section C, Sheet 1
Red House Lane	AP73	Section C, Sheet 1
Church Lane	AP74, AP75, AP76, AP77	Section C, Sheet 1
Overton Road	AP82, AP83, AP84, AP85, AP86, AP87	Section B, Sheet 3
Overton Road	AP88, AP89, AP90	Section B, Sheet 2
A19	AP91, AP92	Section B, Sheet 2
Stripe Lane	AP79, AP80, AP81	Section B, Sheet 3
U1720 (ORPA)	AP96, AP97, AP98, AP99	Section B, Sheet 1
Bull Lane	AP100	Section B, Sheet 1

## MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

### Compensation enactments

**1.** The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restriction as they apply as respects compensation on the compulsory purchase of land and interests in land.

**2.—(1)** Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4 of this Schedule—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

(3) For section 58(1)(b) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5 of this Schedule, substitute—

“(1) In determining under section 8(1) or 34(2) of the Compulsory Purchase Act 1965, or section 166(2) of the Town and Country Planning Act 1990 whether—

- (a) a right over or a restrictive covenant affecting land consisting of a house, building or manufactory can be taken or imposed without material detriment or damage to the house, building or manufactory; or
- (b) a right over or a restrictive covenant affecting land consisting of a park or garden belonging to a house can be taken or imposed without seriously affecting the amenity or convenience of the house,

the Upper Tribunal must take into account not only the effect of the acquisition of the right or imposition of the restrictive covenant but also the use to be made of the right or restrictive covenant proposed to be acquired or imposed, and, in a case where the right or restrictive covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.”

### Application of the 1965 Act

**3.—(1)** The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read

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(a) 1973 c. 26.

(b) Section 58(1) was amended by section 16(3) of, the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66), section 4 of, and paragraph 29(1) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), and Schedule 1 of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009. S.I. 2009/1307.



(according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.

**4.** For section 7 of the 1965 Act (measure of compensation) substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

**5.** For section 8 of the 1965 Act (provisions as to divided land) substitute—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the tribunal; and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the National Grid (Yorkshire Green Energy Enablement Project ) Development Consent Order 20[XX](a) (“the Order”) ceases, in relation to that person, to authorise the purchase of the right or imposition of a restriction and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section must be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”

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(a) S.I. 20[XX].

**6.** The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

**7.** Section 11(a) of the 1965 Act (powers of entry) is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restriction, it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(b) (penalty for unauthorised entry) and 13(c) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

**8.** Section 20(d) of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

**9.** Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) is modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or to enforce the restriction imposed, subject to compliance with that section as respects compensation.

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- (a) Section 11 was amended by section 34(1) of, and Schedule 4, paragraph 14(3)(a) to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1), and section 186 of the Housing and Planning Act 2016 (c. 22). S.I. 2009/1307.
  - (b) Section 12, and 12(3) were amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).
  - (c) Section 13 was amended by section 139(4) to (9) and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
  - (d) Section 20 was amended by paragraph 4 of Schedule 15(1) to the Planning and Compensation Act 1991 (c. 34) and Schedule 1, paragraph 70. S.I. 2009/1307.

SCHEDULE 11

Article 27

EXTINGUISHMENT OF PRIVATE RIGHTS AND RESTRICTIVE COVENANTS RELATING TO APPARATUS REMOVED FROM LAND SUBJECT TO TEMPORARY POSSESSION

PART 1

NATIONAL GRID

<i>(1) Area</i>	<i>(2) Plot</i>
City of York Council	A1-02, A1-03, B3-59, B3-62, B3-64, B3-68
City of York Council and County of North Yorkshire Council	B3-33, B3-58, B4-25
County of North Yorkshire Council	B3-29, B3-30, B3-32, B3-34, B3-39, B3-40, B3-41, B3-46, B3-49, B3-52, B3-54, B3-55, B3-56, B3-57, B5-03, B5-04, B5-05, B5-06, B5-08, B5-11, B5-12, B5-15, B5-24, B5-27, B5-28, B5-29, B5-30, B5-33, E7-19, E7-35, E7-36, E7-37, E7-38, E7-39, E7-40, E7-41, E7-43, E7-44, E7-46, E7-48, E7-49, E7-53, F1-05, F1-07, F1-23, F1-24, F1-29, F1-31, F1-33, F1-36

PART 2

NPG

<i>(1) Area</i>	<i>(2) Plot</i>
City of York Council	B3-68

## SCHEDULE 12

Articles 36, 37 and 38

### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

#### PART 1

#### NATIONAL GRID

City of York Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
B1-20, B1-21, B1-36, B1-39	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 2	
B2-02, B2-04, B2-11, B2-16, B2-17	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 3	
B2-06, B2-12, B2-21	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 4	
B3-58, B3-59	Temporary use for dismantling of redundant electrical infrastructure	Work No. 6	
B3-62	Temporary use for dismantling of redundant electrical infrastructure	Work No. 6	Removal of pylon foundations only to a depth of 1.5 metres
B3-63, B4-06, B4-09, B4-10, B4-12, B4-14, B4-18, B4-19, B4-23, B4-24	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 6	

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>

B1-19	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 2, U1	
B1-20, B1-21, B1-22	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 2	
B1-25	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 2	Removal of pylon foundations only to a depth of 1.5 metres
B1-33B, B1-39, B1-40A, B1-54, B1-55	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 2	
B2-06, B2-12, B2-14, B2-21, B2-28, B2-34, B2-48, B2-49, B2-55, B2-61, B2-64, B2-70, B2-71	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 4	
B2-16, B2-17, B2-20, B2-22	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 3	
B2-31, B3-25	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 5	
B3-29, B3-30, B3-32, B3-34	Temporary use for dismantling of redundant electrical infrastructure	Work No. 5	
B3-39, B3-40, B3-41, B3-49, B3-58	Temporary use for dismantling of redundant electrical infrastructure	Work No. 6	
B3-31, B3-44, B3-45, B3-73, B5-21, B5-58, B5-59	Temporary use for access	Work No. 6	
B3-40, B3-46, B3-52, B3-57	Temporary use for dismantling of redundant electrical	Work No. 6	Removal of pylon foundations only to a depth of 1.5 metres

	infrastructure		
B3-54, B3-55	Temporary use for dismantling of redundant electrical infrastructure	Work No. 6	
B4-14, B4-18, B4-23, B4-24, B5-02, B5-06, B5-10, B5-16, B5-28, B5-29, B5-30, B5-37, B5-38, B5-39	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 6	
B5-03, B5-27	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 6	Removal of pylon foundations only to a depth of 1.5 metres
B5-24	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 6	Removal of 2x pylon foundations only to a depth of 1.5 metres
C9-37, C9-40	Temporary use for access	Work No. 8	
D1-18, D1-21, D1-69, D1-70, D1-72, D1-80, D1-81	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 8, U7	
D1-26, D1-53	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 8	Removal of pylon foundations only to a depth of 1.5 metres
D1-34, D1-37, D1-47, D1-62, D1-78, D1-83	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 8	
D1-35, D1-85	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 8, U8	
E2-06, E2-07	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 9, U9	
E4-12	Temporary use for	Work No. 9	

	construction, mitigation, maintenance dismantling and/or access		
E6-13, E6-31	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 9, U13	
E7-16	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 11	
E7-27, E7-34, E7-37, E7-42, E7-43, F1-16, F1-26, F1-29, F1-31, F1-32, F1-34, F1-35, F1-37, F1-38	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 10	
E7-35	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 10	Removal of pylon foundations only to a depth of 1.5 metres
F1-09	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work No. 11	

## PART 2

### NPG

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
B1-19	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 2, U1	
D1-18, D1-21, D1-69, D1-70, D1-72, D1-80, D1-81, D1-82	Temporary use for construction, mitigation,	Work Nos. 8, U7	

	maintenance dismantling and/or access		
E2-06, E2-07	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 9, U9	
E6-13, E6-31	Temporary use for construction, mitigation, maintenance dismantling and/or access	Work Nos. 9, U13	

### PART 3

#### NGN

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>	<i>(4) Element of Work in respect of which land is not required to be re-instated</i>
D1-35, D1-85	Class 4 – Temporary Construction & Mitigation	Work Nos. 8, U8	



## SCHEDULE 13

Article 25

### LAND IN WHICH ONLY NEW RIGHTS AND RESTRICTIVE COVENANTS ETC. MAY BE ACQUIRED

#### PART 1

#### NATIONAL GRID

City of York Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
A1-01, A1-02	Compulsory acquisition of rights for the authorised development	Work No. 1
A1-04	Compulsory acquisition of rights of access	Work No. 1
B1-01, B1-02, B1-05, B1-08, B1-09, B1-13, B1-15, B1-16, B1-23A, B1-27, B1-28, B1-29, B1-31	Compulsory acquisition of rights for the authorised development	Work No. 2
B1-03, B1-04, B1-06, B1-07, B1-10, B1-11, B1-26, B1-32, B1-35, B1-37, B1-42, B1-50A	Compulsory acquisition of rights of access	Work No. 2
B1-64, B2-08, B2-13	Compulsory acquisition of rights for the authorised development	Work No. 3
B1-65, B1-66	Compulsory acquisition of rights for the authorised development	Work Nos. 3, U2
B2-03, B2-09, B2-23a, B2-23b	Compulsory acquisition of rights of access	Work No. 3
B2-10	Compulsory acquisition of rights for the authorised development	Work No. 4
B2-27	Compulsory acquisition of rights for the authorised development	Work Nos. 5, 6
B2-74, B2-75, B2-79	Compulsory acquisition of rights for the authorised development	Work Nos. 3, U3
B2-78	Compulsory acquisition of rights for the authorised development	Work No. 3
B3-26A	Compulsory acquisition of rights of access	Work No. 5
B3-09A, B3-14A	Compulsory acquisition of rights of access	Work Nos. 5
B3-15, B3-18, B3-27, B3-33, B3-35, B3-36, B3-37, B3-38	Compulsory acquisition of rights for the authorised	Work No. 5

	development	
B3-61, B3-64, B3-71, B4-11, B4-13, B4-15, B4-16, B4-21, B4-22, B4-25	Compulsory acquisition of rights for the authorised development	Work No. 6
B3-67, B3-68, B3-69, B3-70, B3-72, B4-26	Compulsory acquisition of rights for the authorised development	Work No. 6, U4
B4-01, B4-02, B4-03, B4-04, B4-05, B4-07, B4-08, B4-17, B4-20	Compulsory acquisition of rights of access	Work No. 6

Leeds City Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
D1-65, D2-02, D2-03, D2-04, D2-05	Compulsory acquisition of rights of access	Work No. 8
D1-66, D2-01, D2-06	Compulsory acquisition of rights for the authorised development	Work No. 8

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
B1-12, B1-14, B1-17, B1-24, B1-35, B1-38, B1-44, B1-50A, B1-52, B1-56, B1-57	Compulsory acquisition of rights of access	Work No. 2
B1-16, B1-18, B1-23A, B1-33A, B1-34A, B1-47A, B1-51, B1-53, B1-58, B1-59, B1-62	Compulsory acquisition of rights for the authorised development	Work No. 2
B1-60, B1-61, B1-63	Compulsory acquisition of rights for the authorised development	Work No. 2, U1
B2-05, B2-07, B2-29, B2-33, B2-38, B2-45, B2-52, B2-56, B2-58, B2-69	Compulsory acquisition of rights of access	Work No. 4
B2-10, B2-15, B2-43, B2-62, B2-63, B2-68	Compulsory acquisition of rights for the authorised development	Work No. 4
B2-13, B2-19, B2-24, B2-26, B2-78	Compulsory acquisition of rights for the authorised development	Work No. 3
B2-23, B2-23a, B2-23b, B2-76, B2-77	Compulsory acquisition of rights of access	Work No. 3
B2-27	Compulsory acquisition of rights for the authorised development	Work Nos. 5, 6
B2-36, B2-37, B2-40, B2-41, B2-46, B2-50, B2-51, B2-73, B3-28, B3-42, B3-43, B3-47, B3-48, B3-60, B3-61, B4-15, B4-16, B4-21, B4-22, B4-25,	Compulsory acquisition of rights for the authorised development	Work No. 6

B5-04, B5-09, B5-11, B5-12, B5-14, B5-22, B5-23, B5-26, B5-33, B5-36, B5-40, B5-50, B5-51, B5-57		
B2-42, B2-53, B2-54, B2-57, B2-72, B3-50, B3-51, B3-53, B3-56, B5-01, B5-05, B5-07, B5-08, B5-13, B5-15, B5-17, B5-18, B5-19, B5-20, B5-25, B5-31, B5-32, B5-34, B5-35, B5-43, B5-49, C1-01	Compulsory acquisition of rights of access	Work No. 6
B3-33, B3-35, B3-38, B3-15, B3-16, B3-18, B3-19, B3-21, B3-27	Compulsory acquisition of rights for the authorised development	Work No. 5
B3-22, B3-23, B3-24	Compulsory acquisition of rights of access	Work No. 5
B5-54, B5-55, B5--56	Compulsory acquisition of rights for the authorised development	Work Nos. 6, U5
B5-41, B5-42, B5-45, B5-47, C1-02, C1-16	Compulsory acquisition of rights of access	Work No. 7
B5-44, B5-46, B5-48, B5-52, B5-53, C1-03, C1-04, C1-12, C1-13, C1-15, C1-17, C1-18, C2-07, C2-07a, C2-08, C2-09, C2-10, C2-12, C2-14, C2-15, C3-13, C3-14, C3-16, C3-17, C3-18, C3-21, C3-22, C3-24, C4-03, C4-04, C4-08, C4-09, C4-11, C4-12, C4-13, C4-14, C4-16, C5-05, C5-06, C6-04, C6-05, C6-06, C7-01, C7-02, C7-04, C7-05, C8-07, C8-08, C8-09, C8-13, C8-20, C8-25, C8-27, C8-28, C8-29, C8-32, C9-01, C9-02, C9-03, C9-04, C9-05, C9-06, C9-07, C9-08, C9-10, C9-11, C9-13, C9-14, C9-15, C9-20, C9-21, C9-22, C9-23, C9-30, C9-43, C9-46, C9-47	Compulsory acquisition of rights for the authorised development	Work No. 7
C1-05, C1-06, C1-07, C1-08, C1-09, C1-09a, C1-10, C1-11, C1-14, C2-02, C2-03, C2-04, C2-05, C2-06, C2-11, C2-13, C2-16, C2-16a, C3-01, C3-02, C3-03, C3-04, C3-05, C3-06, C3-07, C3-08, C3-09, C3-10, C3-11, C3-12, C3-15, C3-19, C3-20, C3-23, C3-25, C3-26, C4-01, C4-02, C4-05, C4-06, C4-07, C4-10, C4-15, C4-17, C4-18, C5-01, C5-02, C5-03, C5-07, C5-08, C6-01, C6-02, C6-03, C6-07, C6-08, C6-09, C6-10, C6-11, C7-03, C7-06,	Compulsory acquisition of rights of access	Work No. 7

C7-07, C7-08, C7-09, C7-10, C7-11, C7-12, C8-01, C8-02, C8-03, C8-04, C8-05, C8-06, C8-10, C8-11, C8-12, C8-14, C8-15, C8-16, C8-17, C8-18, C8-19, C8-21, C8-22, C8-23, C8-24, C8-26, C8-30, C8-31, C8-33, C8-34, C9-09, C9-12, C9-16, C9-17, C9-18, C9-19, C9-24, C9-25, C9-26, C9-27, C9-31, C9-32, C9-34		
C9-33, C9-36, C9-38, C9-41, D1-02, D1-03, D1-12, D1-24, D1-31, D1-48, D1-50, D1-55, D1-58, D1-63, D1-79	Compulsory acquisition of rights of access	Work No. 8
C9-35, C9-39, C9-52, D1-01, D1-16	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U7
C9-42, C9-44, C9-45	Compulsory acquisition of rights for the authorised development	Work Nos. 7, U6
C9-48, C9-50	Compulsory acquisition of rights for the authorised development	Work Nos. 7
D1-04, D1-08	To extinguish private rights of access	Work No. 8
D1-06, D1-07, D1-11, D1-13, D1-17, D1-20, D1-22, D1-36, D1-38, D1-40, D1-44, D1-45, D1-49, D1-64, D1-66	Compulsory acquisition of rights for the authorised development	Work No. 8
D1-10, D1-23, D1-27	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U8
D1-25, D1-28, D1-29, D1-39, D1-42, D1-43, D1-46, D1-51, D1-52, D1-54, D1-56, D1-60, E1-03, E1-04, E1-06, E1-07, E1-08, E1-09, E1-10, E1-11, E2-01, E2-02, E2-03, E2-09, E2-10, E2-11, E3-01, E3-02, E3-03, E3-05, E3-06, E3-09, E3-10, E3-12, E3-14, E3-16, E3-20, E3-24, E3-25, E3-26, E3-27, E3-28, E3-29, E3-30, E3-31, E3-32, E4-01, E4-04, E4-06, E4-08, E4-13, E4-14, E4-15, E4-16, E4-17, E4-18, E4-19, E5-01, E5-02, E5-03, E5-04, E5-05, E5-06, E5-07, E5-08, E5-09, E5-18, E5-19, E5-20, E6-01, E6-02, E6-03, E6-04, E6-05, E6-06, E6-07, E6-08, E6-09, E6-11, E6-14, E6-15, E6-16, E6-17, E6-32, E6-33, E6-34, E6-35, E6-36, E6-37, E6-38, E6-39, E6-40,	Compulsory acquisition of rights of access	Work No. 9

E7-01, E7-02, E7-03, E7-04, E7-07, E7-09, E7-11, E7-13, E7-13a, E7-14, E7-15, E7-26, E7-56, E7-57		
D1-32, D1-57, E1-01, E1-02, E1-05, E2-04, E3-04, E3-07, E3-08, E3-11, E3-13, E3-15, E3-17, E3-18, E3-21, E3-22, E3-23, E3-23a, E3-36, E3-37, E3-38, E3-39, E3-39a, E3-44, E3-47, E4-02, E4-03, E4-05, E4-07, E4-09, E4-10, E4-11, E5-10, E5-11, E5-12, E5-13, E5-14, E5-15, E5-16, E5-17, E5-21, E5-22, E6-10, E6-18, E6-19, E6-20, E6-21, E6-22, E6-23, E6-24, E6-25, E6-26, E6-27, E6-28, E6-29, E6-30, E7-05, E7-06, E7-08, E7-10, E7-12, E7-53, E7-54, E7-55	Compulsory acquisition of rights for the authorised development	Work No. 9
D1-59, D1-61, D1-67, D1-68, D1-74, D1-76	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U7
D1-71, D1-82	Compulsory acquisition of rights of access	Work Nos. 8, U7
D1-84	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U8
E2-05, E2-08, E2-12, E2-13, E2-14, E2-15, E2-16, E2-17, E2-18	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U9
E3-19, E3-33, E3-34, E3-35, E3-40, E3-41, E3-41a, E3-42, E3-43	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U10
E3-45, E3-46, E3-48, E3-49	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U11
E5-23	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U12
E6-12, E6-41, E6-42, E6-43, E6-44, E6-45, E6-46, E6-47	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U13
F1-01, F1-02, F1-11, F1-12	Compulsory acquisition of rights of access	Work No. 11
E7-17, E7-18, E7-20, E7-21, E7-22, E7-23, E7-24, E7-25, E7-31, E7-36, E7-39, F1-17, F1-19, F1-22, F1-24, F1-28, F1-30	Compulsory acquisition of rights of access	Work No. 10
E7-19, E7-28, E7-29, E7-30, E7-32, E7-33, E7-38, E7-38a, E7-40, E7-41, E7-41a, E7-44, E7-44a, E7-45, E7-46, E7-47, E7-48, E7-49, E7-50, E7-51, E7-52, F1-13, F1-14, F1-18,	Compulsory acquisition of rights for the authorised development	Work No. 10

F1-20, F1-27, F1-33, F1-36, F1-39		
F1-03, F1-04	Compulsory acquisition of rights for the authorised development	Work No. 11

## PART 2

### NPG

#### City of York Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
B1-65, B1-66	Compulsory acquisition of rights for the authorised development	Work Nos. 3, U2
B2-74, B2-75, B2-79	Compulsory acquisition of rights for the authorised development	Work Nos. 3, U3
B3-67, B3-68, B3-69, B3-70, B3-72	Compulsory acquisition of rights for the authorised development	Work Nos. 6, U4
B4-26	Compulsory acquisition of rights for the authorised development	Work Nos. 6, U4

#### North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
B1-60, B1-61, B1-63	Compulsory acquisition of rights for the authorised development	Work Nos. 2, U1
B5-50, B5-51	Compulsory acquisition of rights for the authorised development	Work No. 6
B5-54, B5-55, B5-56	Compulsory acquisition of rights for the authorised development	Work Nos. 6, U5
C9-35, C9-39, C9-52, D1-01, D1-16, D1-30, D1-59, D1-61, D1-67, D1-68, D1-73, D1-74, D1-75, D1-76	Compulsory acquisition of rights for the authorised development	Work Nos. 8, U7
C9-42, C9-44, C9-45	Compulsory acquisition of rights for the authorised development	Work Nos. 7, U6
E2-05, E2-08, E2-12, E2-13, E2-14, E2-15, E2-16, E2-17, E2-18	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U9
E3-19, E3-33, E3-34, E3-35, E3-40, E3-41, E3-41a, E3-42,	Compulsory acquisition of rights for the authorised	Work Nos. 9, U10

E3-43	development	
E3-45, E3-46, E3-48, E3-49	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U11
E5-23	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U12
E6-12, E6-41, E6-42, E6-43, E6-44, E6-46, E6-47	Compulsory acquisition of rights for the authorised development	Work Nos. 9, U13
E7-30, E7-38a, E7-41a, E7-44a	Compulsory acquisition of rights for the authorised development	Work No. 10

### PART 3

#### NGN

North Yorkshire Council

<i>(1) Plot number of land shown on land plan</i>	<i>(2) Purpose for which rights over land may be acquired or restrictive covenants imposed</i>	<i>(3) Relevant part of the authorised development</i>
D1-10	Compulsory Acquisition of Rights for Authorised Development	Work Nos. 8, U8
D1-15, D1-19, D1-84	Compulsory Acquisition of Rights for Authorised Development	Work Nos. 8, U8

## SCHEDULE 14

Article 45

### TRAFFIC REGULATION

<i>Highway Authority</i>	<i>(1) Road</i>	<i>(2) Extent as shown on the traffic regulation order plan</i>	<i>(3) Note</i>
City of York Council and North Yorkshire Council	Plainville Lane and Bull Lane	Between points TR01, and TR02 as shown on Section B, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	U1720 (ORPA)	Between points TR03 and TR04 as shown on Section B, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council/City of York Council	Corban Lane	Between points TR05 and TR06 as shown on Section B, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	A19	Between points TR07 and TR08 as shown on Section B, Sheet 2.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Overton Road	Between points TR09 and TR10 as shown on Section B, Sheets 2 and 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council/City of York Council	Stripe Lane	Between points TR11 and TR12 as shown on Section B, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
City of York Council	Common Croft Lane	Between points TR15 and TR16 as shown on Section B, Sheet 4.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Church Lane	Between points TR17 and TR18 as shown on Section C, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to



			Sunday.
North Yorkshire Council	A59	Between points TR19 and TR20 as shown on Section C, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Marston Lane	Between points TR21 and TR22 as shown on Section C, Sheet 2.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Atterwith Lane	Between points TR23 to TR24 as shown on Section C, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Tockwith Road	Between the point TR25 and TR26 as shown on Section C, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	B1224	Between the point TR27 and TR28 as shown on Section C, Sheet 4.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Healaugh Lane	Between the point TR29 and TR30 as shown on Section C, Sheet 4.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Wighill Lane	Between the point TR31 and TR32 as shown on Section C, Sheet 6.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Wighill Lane	Between the point TR33 and TR34 as shown on Section C, Sheet 8.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	A659	Between the point TR35 and TR36 as shown on Section C, Sheet 8.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North	A659	Between the point TR37 and	Prohibition of vehicular

Yorkshire Council		TR38 as shown on Section C, Sheet 9.	access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Garnett Lane	Between the point TR39 and TR40 as shown on Section D, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	A659	Between the point TR41 and TR42 as shown on Section D, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
Leeds City Council	Warren Lane	Between the point TR43 and TR44 as shown on Section D, Sheet 2.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
National Highways	A64	Between the point TR45 and TR46 as shown on Section D, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
National Highways	A659/A64 Westbound Onslip	Between the point TR47 and TR48 as shown on Section D, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	B1217	Between the points TR49 and TR50 as shown on Section E, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Coldhill Lane	Between the points TR51 and TR52 as shown on Section E, Sheet 3.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Coldhill Lane	Between the points TR53 and TR54 as shown on Section E, Sheet 4.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Laith Staid Lane	Between the points TR55 and TR56 as shown on Section E, Sheet 5.	Prohibition of vehicular access at any time. No waiting restriction

			between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	B1222	Between the points TR57 and TR58 as shown on Section E, Sheet 5.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	B1222	Between the points TR59 and TR60 as shown on Section E, Sheet 6.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Whitecote Lane	Between the points TR61 and TR62 as shown on Section E, Sheet 6.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Westfield Lane	Between the points TR63 and TR64 as shown on Section E, Sheet 7.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	A63	Between the points TR65 and TR66 as shown on Section E, Sheet 7.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.
North Yorkshire Council	Rawfield Lane	Between the points TR67 and TR68 as shown on Section F, Sheet 1.	Prohibition of vehicular access at any time. No waiting restriction between 07:00am to 07:00pm Monday to Sunday.

## PROTECTIVE PROVISIONS

## PART 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE  
UNDERTAKERS

1. For the protection of the statutory undertakers referred to in this Part of this Schedule the following provisions, unless otherwise agreed in writing between the undertaker and the statutory undertaker concerned, have effect.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the relevant statutory undertaker to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the 1989 Act(a)), belonging to or maintained by that electricity undertaker for the purposes of electricity supply;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by that gas undertaker for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other water apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in that undertaker under the Water Industry Act 1991(b); and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act, and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“relevant statutory undertaker” means, in relation to any apparatus, the statutory undertaker that owns the apparatus or is responsible for its maintenance; and

“statutory undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the 1989 Act;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(c);

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(a) 1989 c.29.

(b) 1991 c.56.

(c) 1986 c.44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c.27).

- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991, for the area of the authorised development.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the statutory undertaker are regulated by the provisions of Part 3 of the 1991 Act.

4.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of a statutory undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the relevant statutory undertaker.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the relevant statutory undertaker written notice of that requirement, together with a plan and section of the work proposed.

(3) If alternative apparatus or any part of such apparatus is to be constructed as a consequence of the removal of apparatus placed on the land referred to in sub-paragraph (2), the relevant statutory undertaker, must on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in other land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the relevant statutory undertaker and the undertaker or in default of agreement settled by arbitration in accordance with article 53 (arbitration).

(5) The relevant statutory undertaker must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 53 (arbitration), and after the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the relevant statutory undertaker that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus, that work, instead of being executed by the statutory undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the statutory undertaker.

(7) If the relevant statutory undertaker fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of the relevant statutory undertaker or its contractors.

5.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 4(2) that are near to, or will affect, any apparatus the removal of which has not been required by the undertaker under paragraph 4(2), the undertaker must submit to the relevant statutory undertaker a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a statutory undertaker under sub-paragraph (2) must be made within a period of 28 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a statutory undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 apply as if the removal of the apparatus had been required by the undertaker under paragraph 4(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the relevant statutory undertaker notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

**6.—**(1) Subject to the following provisions of this paragraph, the undertaker must repay to the relevant statutory undertaker the proper and reasonable expenses reasonably incurred by that statutory undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus.

(2) The value of any apparatus removed under the provisions of this Part of the Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 53 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the relevant statutory undertaker by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the relevant statutory undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

## PART 2

### PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

**7.**—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

(2) In this Part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003(a);

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the Communications Act 2003; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 (application of the electronic communications code) of the Communications Act 2003; and

“operator” means the operator of an electronic communications code network.

**8.** The exercise of the powers of article 40 (statutory undertakers) are subject to paragraph 23 of Schedule 2 (the telecommunications code) to the Telecommunications Act 1984(b).

**9.**—(1) Subject to sub-paragraphs (2) to (3), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator) the undertaker must bear and pay the cost reasonably and properly incurred by the operator in making good such damage.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which consent must not be unreasonably withheld or delayed.

(4) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 53 (arbitration).

**10.** This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or

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(a) 2003 c. 21. See section 106.

(b) 1984 c.12. Paragraph 23 of Schedule 2 has been repealed by the Digital Economy Act 2017 (c. 30), Part 2 Section 4(1) and subject to the transitional provisions specified in section 4(10) and Schedule 2 and S.I. 2017/1008 regs 3 and 5.

- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

11. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 3

### FOR THE PROTECTION OF THE CANAL & RIVER TRUST

#### Interpretation

12.—(1) For the protection of the Trust the following provisions of this part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and the Trust, in relation to the removal, installation and maintenance of the overhead electric lines comprised in Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it.

(2) In this part of this Schedule—

“Code of Practice” means the Code of Practice for Works Affecting the Canal and River Trust (April 2023) or any updates or amendments thereto (provided any such updates or amendments do not adversely impact the ability of the undertaker to construct and maintain Work No.6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it);

“the Trust” means the Canal & River Trust;

“the Trust’s network” means the Trust’s network of waterways;

“detriment” means any damage to the waterway or any other property of the Trust caused by the presence of Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it and, without prejudice to the generality of that meaning, includes—

- (a) any obstruction of, or interference with, or hindrance or danger to, navigation or to any use of the waterway (including towing paths);
- (b) the erosion of the bed or banks of the waterway, or the impairment of the stability of any works, lands or premises forming part of the waterway;
- (c) the deposit of materials or the siltation of the waterway so as to damage the waterway;
- (d) the pollution of the waterway;
- (e) any interference with the exercise by any person of rights over the Trust’s network;

“the engineer” means an engineer appointed by the Trust for the purpose in question;

“plans” includes navigational risk assessments, plans, sections, designs, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction) and programmes;

“practical completion” means practical completion of all of the specified work notwithstanding that items which would ordinarily be considered snagging items remain outstanding, and the expression “practically complete” and “practically completed” is to be construed accordingly;

“specified work” means so much of Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development) and any associated development in connection with it as is, may be, or takes place in, on, under or over the surface of land below the water level forming part of the waterway; or may affect the waterway or any function of the Trust, including any projection over the waterway by any authorised work or any plant or machinery;



“the waterway” means each and every part of the River Ouse, and includes any works, lands or premises belonging to the Trust, or under its management or control, and held or used by the Trust in connection with that river.

(3) The Code of Practice applies to any specified work and where there is an inconsistency between these protective provisions and the Code of Practice, the part of the Code of Practice that is inconsistent with these protective provisions does not apply and these protective provisions apply.

#### **Notice to be given prior to specified works**

**13.**—(1) Unless 28 days’ prior written notice is given by the undertaker to the Trust (or such other period as is agreed in writing between the undertaker and the Trust), the undertaker will not construct or, to the extent that it would affect the waterway or any function of the Trust, maintain any specified work between—

- (a) 10pm and 6am during the months April to October; or
- (b) 7pm and 7am during the months November to March.

(2) The undertaker will not construct or, to the extent that it would affect the waterway or any function of the Trust, maintain any specified work outside of the timescales provided for within subparagraphs (1)(a) and (1)(b) unless otherwise agreed in writing between the undertaker and the Trust.

(3) Paragraphs (1) and (2) will not apply in the case of emergency, in which case no prior written notice is required and immediate access must be afforded by the Trust.

#### **Fencing**

**14.** Where so required by the engineer the undertaker must, to the reasonable satisfaction of the engineer, fence off a specified work or take such other steps as the engineer may require to be taken for the purpose of separating a specified work from the waterway, whether on a temporary or permanent basis or both.

#### **Survey of waterway**

**15.**—(1) Before the initial construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of any part of the specified work and again following practical completion of the specified work the undertaker must bear the reasonable and proper cost of the carrying out by a qualified engineer (the “surveyor”), to be approved by the Trust and the undertaker (such approval not to be unreasonably withheld), of a survey (“the survey”) of so much of the waterway and of any land and existing works of the undertaker which may provide support for the waterway as will or may be affected by the specified work.

(2) For the purposes of the survey the undertaker must—

- (a) on being given reasonable notice (save in case of emergency, when immediate access must be afforded) afford reasonable facilities to the surveyor for access to the site of the specified work and to any land and existing works of the undertaker which may provide support for the waterway as will or may be affected by the specified work; and
- (b) supply the surveyor as soon as reasonably practicable with all such information as he may reasonably require and which the undertaker holds with regard to such existing works of the undertaker and to the specified work or the method of their construction.

(3) Copies of the survey must be provided to both the Trust and the undertaker at no cost to the Trust.

(4) The surveyor must undertake the survey required under sub-paragraph (1) in a timely manner so as to cause no unreasonable delay to the initial construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of any part of the specified work.

### **Approval of plans etc.**

**16.—**(1) The undertaker must before the initial construction or, to the extent that it would affect the waterway or any function of the Trust, commencement of maintenance of any specified work including any temporary works supply to the Trust proper and sufficient plans of that work having regard to the Trust's Code of Practice and such further particulars available to it as the Trust may within 14 days of the submission of the plans reasonably require for the approval of the engineer and must not commence such construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of a specified work until plans of that work have been approved in writing by the engineer or settled by arbitration.

(2) Subject to sub-paragraph (3), an application for approval under this paragraph is deemed to have been approved if it is neither given nor refused within 28 days of the specified day.

(3) An approval of the engineer under this paragraph is not deemed to have been unreasonably withheld if approval within the time specified by sub-paragraph (2) has not been given pending the outcome of any consultation on the approval in question that the Trust is obliged to carry out in the proper exercise of its functions.

(4) In this paragraph "the specified day" means, in relation to any specified works:

- (a) the day on which plans and sections of that work are submitted to the Trust under sub-paragraph (1); or
- (b) the day on which the undertaker provides the Trust with all further particulars of the work that have been requested by the Trust under that sub-paragraph,

whichever is the later.

### **Failure to complete specified works**

**17.** In the event that the undertaker fails to complete the construction of, or part of, the specified work by the end of the construction period for the stage within which the specified work is included the Trust may, if it is reasonably required in order to avoid detriment, serve on the undertaker a notice in writing requesting that the specified work be completed. Any notice served under this sub-paragraph must state the works that are to be completed by the undertaker and lay out a reasonable timetable for the works' completion. The undertaker must complete the specified work as soon as reasonably practicable following receipt of any such notice. If the undertaker fails to comply with this notice within 35 days, the Trust may, so far as it is capable, construct any of the specified works, or part of such works, (together with any adjoining works), except for Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development), in order to complete the specified work, or part of them, and the undertaker must reimburse the Trust all costs, fees, charges and expenses it has reasonably incurred in carrying out such works.

### **Lighting**

**18.** The undertaker must provide and maintain at its own expense in the vicinity of the specified work such temporary lighting and such signal lights for the control of navigation as the engineer may reasonably require during the construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of the specified work.

### **Construction of specified works**

**19.—**(1) Any specified work must, be constructed and maintained—

- (a) with all reasonable dispatch in accordance with any such plans approved or deemed to have been approved or settled as aforesaid and with any specifications made under paragraph 16 of this Part;
- (b) under the supervision (if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little detriment as is reasonably practicable;

- (d) in such manner as to cause as little inconvenience as is reasonably practicable to the Trust, its officers and agents and all other persons lawfully using the waterways, except to the extent that any temporary obstruction or restriction or diversion of the rights of navigation have otherwise been agreed by the Trust or are permitted under this Part;
- (e) in such a manner as to ensure that no materials are discharged or deposited into the waterway under this Order otherwise than in accordance with article 19 (discharge of water); and
- (f) in compliance with the Code of Practice.

(2) Nothing in this Order authorises the undertaker to make or maintain any permanent works in or over the waterway so as to impede or prevent (whether by reducing the width of the waterway or otherwise) the passage of any vessel which is of a kind (as to its dimensions) for which the Trust is required by section 105(1)(b) and (2) (maintenance of waterways) of the Transport Act 1968 to maintain the waterway.

(3) Following the completion of the construction and, to the extent that it would affect the waterway or any function of the Trust, any maintenance of the specified work the undertaker must restore the waterway, save in respect of the retention of the new permanent overhead line comprised in Work No. 6 (XC and XCP overhead electric lines, and XC overhead electric line) of Schedule 1 (authorised development), to a condition no less satisfactory than its condition immediately prior to construction or maintenance of that work, unless otherwise agreed between the undertaker and the Trust.

(4) In assessing whether the condition of the waterway is no less satisfactory than its condition immediately prior to the works pursuant to sub-paragraph (3), the Trust and the undertaker must take account of any survey issued pursuant to paragraph 1 and any other information agreed between them pursuant to this Part.

#### **Access to work – provision of information**

**20.**—(1) The undertaker on being given reasonable notice must—

- (a) at all reasonable times allow reasonable facilities to the engineer for access to a specified work during its construction and, to the extent that it would affect the waterway or any function of the Trust, maintenance; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing and maintaining it.

(2) The Trust on being given reasonable notice must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them and the undertaker must reimburse the Trust’s reasonable costs in relation to the supply of such information.

#### **Maintenance of works**

**21.** If at any time after the completion of a specified work, not being a work vested in the Trust, the Trust gives notice to the undertaker informing it that it reasonably considers that the state of maintenance of the work appears to be such that the work is causing or likely to cause detriment, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put the work in such state of maintenance as not to cause such detriment.

#### **Repayment of the Trust’s fees, etc.**

**22.**—(1) The undertaker must repay to the Trust in accordance with the Code of Practice all fees, costs, charges and expenses reasonably incurred by the Trust—

- (a) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of a specified work;

- (b) in respect of the employment during the construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of the specified work of any inspectors, watchmen and other persons whom it is reasonably necessary to appoint for inspecting, watching and lighting any waterway and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of the specified work;
- (c) in bringing the specified work to the notice of users of the Trust's network; and
- (d) in constructing and/or carrying out any measures as a result of any specified work which are reasonably required by the Trust to ensure the safe navigation of the waterway save that nothing is to require the Trust to construct and/or carry out any measures.

(2) If the Trust considers that a fee, charge, cost or expense will be payable by the undertaker pursuant to sub-paragraph (1), the Trust will first provide an estimate of that fee, charge, cost or expense and supporting information in relation to the estimate to the undertaker along with a proposed timescale for payment for consideration and the undertaker may, within a period of twenty-one days—

- (a) provide confirmation to the Trust that the estimate is agreed and pay to the Trust, by the date stipulated, that fee, charge, cost or expense; or
- (b) provide confirmation to the Trust that the estimate is not accepted along with a revised estimate and a proposal as to how or why the undertaker considers that the estimate can be reduced and/or paid at a later date.

(3) The Trust must take in to account any representations made by the undertaker in accordance with this paragraph 22 and must, within twenty-one days of receipt of the information pursuant to sub-paragraph (1), confirm the amount of the fee, charge, cost or expense to be paid by the undertaker (if any) and the date by which this is to be paid.

(4) any dispute as to the fee, charge, cost or expense specified by the Trust pursuant to sub-paragraph (3) will be settled by arbitration in accordance with article 53 (arbitration) of this Order.

**Making good of detriment; compensation and indemnity, etc.**

**23.—**(1) If any detriment is caused by the construction or failure of the specified work if carried out by the undertaker, the undertaker (if so required by the Trust) must make good such detriment and must pay to the Trust all reasonable and proper expenses incurred by the Trust, and compensation for any loss sustained by the Trust in making good or otherwise by reason of the detriment.

(2) The undertaker must be responsible for and make good to the Trust all costs, charges, damages, expenses and losses not otherwise provided for in this Part which may be occasioned to and reasonably incurred by the Trust—

- (a) by reason of the construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of a specified work or the failure of such a work; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon the construction or, to the extent that it would affect the waterway or any function of the Trust, maintenance of a specified work;

and subject to sub-paragraph (4) the undertaker must effectively indemnify and hold harmless the Trust from and against all claims and demands arising out of or in connection with any of the matters referred to in subparagraphs (a) and (b) (provided that the Trust is not entitled to recover from the undertaker any consequential losses which are not reasonably foreseeable) subject to a maximum sum of £10 million (ten million pounds).

(3) Nothing in sub-paragraph (2) imposes any liability on the undertaker with respect to any detriment, damage, loss or interruption to the extent that it is attributable to the act, neglect or default of the Trust, its officers, servants, contractors or agents.

(4) The Trust must give the undertaker reasonable notice of any such claim or demand as aforesaid and no settlement or compromise of such a claim or demand is to be made without the prior consent of the undertaker.

## **Arbitration**

24. Any difference arising between the undertaker and the Trust under this Part (other than a difference as to the meaning or construction of this Part) must be referred to and settled by arbitration in accordance with article 53 (arbitration) of this Order.

## **As built drawings**

25. As soon as reasonably practicable following the completion of the construction of the authorised development, the undertaker must provide to the Trust as built drawings of any specified work to show the position of that work in relation to the waterway.

## **PART 4**

### **FOR THE PROTECTION OF RAILWAY INTERESTS**

26. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 40 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

27. In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form reasonably prescribed from time to time by Network Rail save for matters concerning requirements imposed by Network Rail in order for Network Rail to comply with its statutory duties, regulatory duties or the terms of its network licence in which case such matters shall be in Network Rail’s absolute discretion and in determining whether or not such matters fall within those constraints Network Rail shall at all times act reasonably;

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London, SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under—

- (a) the Railways Act 1993;
- (b) the network licence; and/or
- (c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 39 (temporary use of land for maintaining the authorised development) in respect of such works.

**28.**—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

**29.**—(1) Subject to sub-paragraph (3) the undertaker must not exercise the powers conferred by this Order in—

- (a) article 19 (discharge of water);
- (b) article 21 (authority to survey and investigate the land);
- (c) article 26 (extinguishment and suspension of private rights of way);

(2) The powers in sub-paragraph (1) shall not be exercised in respect of any railway property unless the exercise of such powers is with the consent of Network Rail such consent not to be unreasonably withheld and if by the end of the period of 28 days beginning with the date on which such request for Network Rail’s consent was made Network Rail has not intimated their refusal together with the grounds of any such refusal of such consent the undertaker may serve upon Network Rail written notice requiring Network Rail to intimate approval or disapproval within a further period of 14 days beginning with the date upon which Network Rail receives written notice from the undertaker. If by the expiry of the further 14 days Network Rail has not intimated consent or refusal of consent, Network Rail is deemed to have given consent for the exercise of the respective powers.

(3) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(4) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 40 (*statutory undertakers*), article 28 (*power to override easements and other rights or private rights of way*) or article 26 (*Extinguishment and suspension of private rights*), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion).

(7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

**30.—**(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration under article 53 (arbitration).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval together with the grounds of any such disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 14 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 14 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker and if reasonably required by the undertaker upon reasonable prior written notice Network Rail will construct any adjoining part of the specified work ("adjoining work") without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker subject to:

- (a) such adjoining work being located on railway property;
- (b) Network Rail having sufficient rights to carry out such adjoining work;
- (c) the undertaker first providing Network Rail with the requisite plans, specifications and any other information reasonably required by Network Rail to enable it to carry out such adjoining work;
- (d) the engineer's approval of such adjoining work; and
- (e) Network Rail being able to recover its costs of carrying out such adjoining work pursuant to paragraph 40(1).

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the opinion of the engineer must be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified work), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case with all reasonable dispatch and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

**31.**—(1) Any specified work and any protective works to be constructed by virtue of paragraph 30(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 30;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to operational railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**32.** The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

**33.** Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

**34.**—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work, in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice) , and within 42 days of receipt of an invoice (or other evidence of the liability incurred in carrying out the alterations and additions) from Network Rail the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 30(3), pay to Network Rail all reasonable and proper expenses to which Network Rail may be put and compensation for any loss which it suffers by reason of the execution by Network Rail of that specified work.



(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 40(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

**35.** The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 30(3) or in constructing any protective works under the provisions of paragraph 30(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, need to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work,

Provided That any costs incurred arising from an act or omission of Network Rail, will not be paid by the undertaker.

**36.—**(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph 36 applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 30(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter continue to consult with Network Rail (both before and after formal submission of plans under paragraph 30(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but Network Rail may, in its reasonable discretion, select the means of prevention and the method of their execution, and in relation to such modifications paragraph 30(1) has effect subject to this sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) Any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 31.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 40(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 35(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 53 (arbitration) to the Secretary of State shall be read as a reference to the President of the Institution of Engineering and Technology.

**37.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**38.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**39.** Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail upon the receipt of a VAT invoice.

**40.—(1)** The undertaker must pay to Network Rail all reasonable and proper costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to the provisions of this paragraph) which may be occasioned to or reasonably incurred by Network Rail by reason of—

- (a) the construction, maintenance or operation of a specified work or the failure of such a work; or
- (b) any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development; or
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others; or
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development; and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such sums referred to in sub-paragraph (1) as soon as reasonably possible after Network Rail become aware of the same
- (b) not make any payment without the prior consent of the undertaker;
- (c) take all reasonable steps to mitigate any liabilities; and
- (d) keep the undertaker informed and have regard to the undertaker's representations in relation to any such sums referred to in sub-paragraph (1).

(3) In no circumstances is the undertaker liable to Network Rail under sub-paragraph (1) for any indirect or consequential loss or loss of profits, save that the sums payable by the undertaker under that sub-paragraph shall if relevant include a sum equivalent to the relevant costs in circumstances where Network Rail is liable to make payment of the relevant costs pursuant to the terms of an agreement between Network Rail and a train operator and Network Rail shall use reasonable endeavours in advance of any such liability occurring to assist the undertaker in obtaining copies of any agreements with train operators which may be relevant the purposes of sub-paragraph (1) and identifying the basis of calculation of such relevant costs.

(4) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of Network Rail, its officers, servants, contractors or agents.

(5) Subject to the terms of any agreement between Network Rail and a train operator regarding the amount, timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(6) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs is, in the event of default, enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(7) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by a train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**41.** Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 40) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

**42.** In the assessment of any sums payable to Network Rail under this Part there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.

**43.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works plan and land plan and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**44.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

**45.** The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State’s consent, under article 7 (consent to transfer benefit of the Order) of this Order and any such notice must be given no later than 14 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**46.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 48 (certification of plans etc.) are

certified by the Secretary of State, provide a set of those plans to Network Rail in an electronic format specified by Network Rail.

## PART 5

### FOR THE PROTECTION OF NORTHERN POWERGRID

**47.** For the protection of Northern Powergrid the following provisions have effect, unless otherwise agreed in writing between the undertaker and Northern Powergrid.

**48.** In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means alternative apparatus adequate to enable Northern Powergrid to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means existing electric lines or electrical plant (as defined in the Electricity Act 1989), belonging to or maintained by Northern Powergrid within the Order limits and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“authorised works” means so much of the works authorised by this Order, which do not form NPG Works or NGN Works which affect existing Northern Powergrid’s apparatus within the Order limits; “functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, programmes, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed and shall include measures proposed by the undertaker to ensure the grant of sufficient land or rights in land necessary to mitigate the impacts of the works on Northern Powergrid’s undertaking; and

“Northern Powergrid” means Northern Powergrid (Yorkshire) PLC (Company Number 04112320) whose registered address is Lloyds Court, 78 Grey Street, Newcastle upon Tyne NE1 6AF.

**49.** This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Northern Powergrid are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

**50.** Regardless of any provision in this Order or anything shown on the land plans, or contained in the book of reference, the undertaker shall not acquire any apparatus, or override any easement or other interest of Northern Powergrid otherwise than by agreement with Northern Powergrid, such agreement not to be unreasonably withheld or delayed.

**51.**—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that Northern Powergrid’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Northern Powergrid to maintain that apparatus in that land and to gain access to it must not be extinguished, until alternative apparatus has been constructed and is in operation, and access to it has been provided pursuant to a completed easement for a tenure no less than exists to the apparatus being relocated or diverted, all to the reasonable satisfaction of Northern Powergrid in accordance with subparagraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Northern Powergrid 42 days’ advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in

consequence of the exercise of any of the powers conferred by this Order Northern Powergrid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Northern Powergrid the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker within the Order limits and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Northern Powergrid must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable and at the cost of the undertaker (subject to prior approval by the undertaker of its estimate of costs of doing so) use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Northern Powergrid to use its compulsory purchase powers to this end unless:

- (a) the undertaker has first used reasonable endeavours to acquire the relevant land, rights and/or interests and provided reasonable evidence of the same to Northern Powergrid in accordance with the measures set out in the plan (in default of agreement, the reasonableness of any such measures to be determined through arbitration under article 53 (arbitration)); and
- (b) the undertaker and Northern Powergrid agree (or in default of agreement, it is determined through arbitration under article 53 (arbitration)) that the promotion of compulsory purchase powers by the undertaker would be significantly more onerous than the exercise of Northern Powergrid's own compulsory powers.

(4) Any alternative apparatus to be constructed in land of the undertaker within the order limits under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Northern Powergrid and the undertaker or in default of agreement settled by arbitration in accordance with article 53.

(5) Northern Powergrid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 53, and after the grant to Northern Powergrid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

**52.—**(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Northern Powergrid facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Northern Powergrid or in default of agreement settled by arbitration in accordance with article 53 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Northern Powergrid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Northern Powergrid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

**53.—**(1) Not less than 48 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are within 15m of any above ground apparatus and / or to a depth of between 0.4m below ground level of apparatus (including conducting any activities whether intentionally or unintentionally, through for example ground or machinery collapse, which may affect Northern Powergrid's apparatus or encroach on safety distances to live equipment) or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 51 (2), the undertaker must submit to Northern Powergrid a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Northern Powergrid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Northern Powergrid is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Northern Powergrid under sub-paragraph (2) must be made within a period of 42 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If Northern Powergrid in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 47 to 52 apply as if the removal of the apparatus had been required by the undertaker under paragraph (2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 35 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to Northern Powergrid notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

**54.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Northern Powergrid all reasonable and proper expenses costs or charges incurred by Northern Powergrid—

- (a) in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 51(2) including:
  - (i) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation in the event that it is agreed Northern Powergrid elects to use compulsory purchase powers to acquire any necessary rights under paragraph 51(3) all costs reasonably incurred as a result of such action;
  - (ii) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
  - (iii) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
  - (iv) the approval of plans;
  - (v) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
  - (vi) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule); and
- (b) in assessing and preparing a design for its apparatus to address and accommodate the proposals of the undertaker whether or not the undertaker proceeds to implement those proposals or alternative or none at all,

provided that if it so prefers Northern Powergrid may abandon apparatus that the undertaker does not seek to remove in accordance with paragraph 51(1) having first decommissioned such apparatus.

(2) There is to be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule, that value being calculated

after removal and for the avoidance of doubt, if the apparatus removed under the provisions of this Part of this Schedule has nil value, no sum will be deducted from the amount payable under sub-paragraph (1) if in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 53 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Northern Powergrid by virtue of sub-paragraph (1) is to be reduced by the amount of that excess save where it is not possible on account of project time limits and/or supply issues to obtain the existing type of operations, capacity, dimensions or place at the existing depth in which case full costs shall be borne by the undertaker.

(3) For the purposes of sub-paragraph (2)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the execution of any such works as are referred to in paragraph 51(2); and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(4) Where any payment falls due pursuant to paragraph 54 (1), NPG shall:

- (i) provide an itemised invoice or reasonable expenses claim to the Undertaker; and
- (ii) provide ‘reminder letters’ to the undertaker for payment to be made within the fifty days on the following days after the invoice or reasonable expenses claim to the undertaker:
  - (aa) 15 days (‘reminder letter 1’)
  - (bb) 29 days (‘reminder letter 2’)
  - (cc) 43 days (‘reminder letter 3’)
- (iii) commence debt proceedings to recover any unpaid itemised invoice or reasonable expenses claim on the fiftieth day of receipt of the same where payment has not been made.

**55.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any of the works referred to in in paragraph 51(2), or in consequence of the, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by it) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Schedule or any subsidence resulting from any of these works any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Northern Powergrid, or there is any interruption in any service provided by Northern Powergrid, or Northern Powergrid becomes liable to pay any amount to a third party as a consequence of any default, negligence or omission by the undertaker in carrying out the authorised works, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Northern Powergrid in making good such damage or restoring the supply; and



(b) reimburse Northern Powergrid for any other expenses, loss, damages, penalty, proceedings, claims or costs incurred by or recovered from Northern Powergrid,

by reason or in consequence of any such damage or interruption or Northern Powergrid becoming liable to any third party.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Northern Powergrid, its officers, employees, servants, contractors or agents.

(3) Northern Powergrid must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Northern Powergrid must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which this paragraph 54 applies. If requested to do so by the undertaker, Northern Powergrid must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph (1). The undertaker shall only be liable under this paragraph 54 for claims reasonably incurred by Northern Powergrid.

**56.** Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Northern Powergrid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

**57.** Where in consequence of the proposed construction of any of the authorised development, the undertaker or Northern Powergrid requires the removal of apparatus under paragraph 51 or otherwise or Northern Powergrid makes requirements for the protection or alteration of apparatus under paragraph 53, the undertaker shall use its reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the need to ensure the safe and efficient operation of Northern Powergrid's undertaking taking into account the undertaker's desire for the efficient and economic execution of the authorised development and the undertaker and Northern Powergrid shall use reasonable endeavours to co-operate with each other for those purposes.

**58.** If in consequence of an agreement reached in accordance with paragraph 54 or the powers granted under this Order the access to any apparatus or alternative apparatus is materially obstructed, the undertaker shall provide such alternative means of access to such apparatus or alternative apparatus as will enable Northern Powergrid to maintain or use the said apparatus no less effectively than was possible before such obstruction.

**59.** The plans submitted to Northern Powergrid by the undertaker pursuant to this Part of the Schedule must be sent to Northern Powergrid at [property@northernpowergrid.com](mailto:property@northernpowergrid.com) or such other address as Northern Powergrid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

**60.** Where practicable, the undertaker and Northern Powergrid will make reasonable efforts to liaise and co-operate in respect of information that is relevant to the safe and efficient construction operation and maintenance of the authorised development. Such liaison shall be carried out where any works are:

- (a) within 15m of any above ground apparatus and / or;
- (b) are to a depth of between 0 – 4m below ground level of apparatus.

## PART 6

### FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED

#### Application etc.,

**61.**—(1) The provisions of this Part of this Schedule apply for the protection of National Highways and have effect unless otherwise agreed in writing between the undertaker and National Highways.

(2) Except where expressly amended by the Order the operation of the powers and duties of National Highways or the Secretary of State under the 1980 Act, the 1984 Act, the 1991 Act, the Transport Act 2000, or Town and Country Planning (General Permitted Development) (England) Order 2015 shall continue to apply in respect of the exercise of all National Highways' statutory functions.

#### Interpretation

**62.**—(1) Where the terms defined in article 2 (*interpretation*) of this Order are inconsistent with subparagraph (2) the latter prevail.

(2) In this Part of this Schedule—

“as built information” means one electronic copy of the following information—

- (a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document;
- (b) list of suppliers and materials used, as well as any relevant test results and CCTV surveys (if required to comply with DMRB standards);
- (c) product data sheets and technical specifications for all materials used;
- (d) as constructed information for any utilities discovered or moved during the works;
- (e) method statements for the works carried out;
- (f) in relation to road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works or any replacement or modification of it;
- (g) organisation and methods manuals for all products used;
- (h) as constructed programme;
- (i) test results and records as required by the highway detailed design information and during construction phase of the project;
- (j) a stage 3 road safety audit subject to any exceptions to the road safety audit standard as agreed by the undertaker and National Highways;
- (k) the health and safety file; and
- (l) such other information as is required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway's Asset Data Management Manual as is in operation at the relevant time;

“the bond sum” means the sum equal to 200% of the cost of the carrying out the specified works (to include all costs plus any commuted sum) or such other sum agreed between the undertaker and National Highways;

“the cash surety” means the sum agreed between the undertaker and National Highways;

“commuted sum” means such sum calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 or any successor guidance, for which an estimate is to be provided prior to the commencement of the specified works, to be used to fund the future cost of maintaining the specified works;

“condition survey” means a survey of the condition of National Highways structures and assets within the Order limits that may be affected by the specified works;

“contractor” means any contractor or subcontractor appointed by the undertaker to carry out the specified works;

“defects period” means the period from the date of the provisional certificate to the date of the final certificate which shall be no less than 12 months from the date of the provisional certificate;

“reconducting detailed design information” means such of the following drawings specifications and calculations as are relevant to the development—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting road restraint risk appraisal process assessment;
- (d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage Surveys standards for Highways;
- (e) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (f) landscaping;
- (g) traffic signs and road markings;
- (h) stage 1 and stage 2 road safety audits and exceptions agreed;
- (i) topographical survey;
- (j) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;
- (k) health and safety information including any asbestos survey required by GG105 or any successor document; and
- (l) other such information that may be required by National Highways to be used to inform the detailed design of the specified works;

“highway detailed design information” means such of the following drawings specifications and calculations as are relevant to the development—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting road restraint risk appraisal process assessment;
- (d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways
- (e) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (f) pavement, pavement foundations, kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) traffic signal equipment and associated signal phasing and timing detail;
- (i) road lighting (including columns and brackets);
- (j) regime of California Bearing Ratio testing;
- (k) electrical work for road lighting, traffic signs and signals;
- (l) motorway communications as required by DMRB;
- (m) highway structures and any required structural approval in principle;
- (n) landscaping;
- (o) proposed departures from DMRB standards;

- (p) walking, cycling and horse riding assessment and review report;
- (q) stage 1 and stage 2 road safety audits and exceptions agreed;
- (r) utilities diversions;
- (s) topographical survey;
- (t) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;
- (u) health and safety information including any asbestos survey required by GG105 or any successor document; and
- (v) other such information that may be required by National Highways to be used to inform the detailed design of the specified works;

“DBFO contract” means the contract between National Highways and the highway operations and maintenance contractor for the maintenance and operation of parts of the strategic road network which are within the Order Limits or any successor or replacement contract that may be current at the relevant time;

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of it;

“final certificate” means the certificate relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways pursuant to paragraph 74;

“the health and safety file” means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

“highway operations and maintenance contractor” means the contractor appointed by National Highways under the DBFO contract;

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

“programme of works” means a document setting out the sequence and timetabling of the specified works;

“provisional certificate” means the certificate of provisional completion relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways in accordance with paragraph 70 when it considers the specified works are substantially complete and may be opened for traffic;

“road safety audit” means an audit carried out in accordance with the road safety audit standard;

“road safety audit standard” means DMRB Standard HD GG119 or any replacement or modification of it;

“road space booking” means road space bookings in accordance with National Highways’ Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy;

“Specification for Highways Works” means the specification for highways works forming part of the manual of contract documents for highway works published by National Highways and setting out the requirements and approvals procedures for work, goods or materials used in the construction, improvement or maintenance of the strategic road network;

“specified works” means so much of any work, including highway works and signalisation, authorised by this Order including any maintenance of that work, as is on, in, under or over the strategic road network for which National Highways is the highway authority;

“strategic road network” means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage

infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway;

“utilities” means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991; and

“winter maintenance” means maintenance of the road surface to deal with snow and ice.

(3) References to any standards, manuals, contracts, Regulations and Directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

## **General**

**63.** In respect of any part of the strategic road network that is managed under a DBFO contract both National Highways and the highway operations and maintenance contractor shall have the benefit of this Part of Schedule 15 but for the purposes of any approvals required under this Part of Schedule 15 the undertaker shall liaise directly with National Highways.

**64.** Notwithstanding the limits of deviation permitted pursuant to article 5 (limits of deviation) of this Order, no works in carrying out, maintaining or diverting the authorised development may be carried out on, under or over the strategic road network at a distance within 5.5 metres vertically of the lowest point of the ground unless with the express consent of National Highways save in respect of any temporary oversailing equipment which falls below the 5.5m height temporarily during construction, provided that such equipment’s installed position is above 5.5m, where such express consent is not required.

**65.** References to any standards, manuals, contracts, regulations and directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

## **Works outside the Order limits**

**66.** If the undertaker proposes to carry out works to the strategic road network that are outside of the Order Limits in connection with the authorised development, the undertaker must enter into an agreement with National Highways in respect of the carrying out of those works prior to the commencement of those works.

## **Prior approvals and security**

**67.—(1)** In respect of any specified works being at least 5.5 metres above the surface of the strategic road network (including any temporary oversailing equipment which falls below the 5.5m height temporarily during construction, provided that such equipment’s installed position is above 5.5m), such works must not commence until—

- (a) evidence that a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways;
- (b) the programme of works has been approved by National Highways;
- (c) the reconditioning detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—
  - (i) the detailed design information, including scaffolding to oversail the strategic road network, incorporating all recommendations and any exceptions approved by National Highways under sub-paragraph (a);
  - (ii) details of the proposed road space bookings;
  - (iii) the identity and suitability of the contractor and nominated persons;

- (iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;
  - (v) information demonstrating that the walking, cycling and horse riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding; and
- (d) where necessary, a scheme of traffic management has been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time, unless otherwise agreed by National Highways.
- (2) In respect of specified works save for those which fall under sub-paragraph (1), such works must not commence until—
- (a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways;
  - (b) the programme of works has been approved by National Highways;
  - (c) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—
    - (i) the highway detailed design information, incorporating all recommendations and any exceptions approved by National Highways under sub-paragraph (a);
    - (ii) details of the proposed road space bookings;
    - (iii) the identity and suitability of the contractor and nominated persons;
    - (iv) a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;
    - (v) information demonstrating that the walking, cycling and horse riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding; and
  - (d) a scheme of traffic management has been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;
  - (e) stakeholder liaison has taken place in accordance with the process for such liaison agreed between the undertaker and National Highways under sub-paragraph (c)(v) above;
  - (f) National Highways has approved the audit brief and CVs for all road safety audits and exceptions to items raised in accordance with the road safety audit standard;
  - (g) the undertaker has agreed the estimate of the commuted sum with National Highways;
  - (h) the scope of all maintenance operations (routine inspections, incident management, reactive and third party damage) to be carried out by the undertaker during the construction of the specified works (which must include winter maintenance) has been agreed in writing by National Highways;
  - (i) the undertaker has procured to National Highways collateral warranties in a form reasonably approved by National Highways from the contractor and designer of the specified works in favour of National Highways to include covenants requiring the contractor and designer to exercise all reasonable skill care and diligence in designing and constructing the specified works, including in the selection of materials, goods, equipment and plant; and
  - (j) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways considers will be affected by the specified works, has been agreed in writing by National Highways, unless otherwise agreed by National Highways.

(3) The undertaker must not exercise—

- (a) article 14 (temporary stopping up of streets, cycle tracks and public rights of way);
- (b) article 19 (discharge of water);
- (c) article 20 (protective works to buildings);
- (d) article 21 (authority to survey and investigate the land);
- (e) article 45 (2) (Traffic regulation) of this Order,

over any part of the strategic road network without the consent of National Highways, and National Highways may in connection with any such exercise require the undertaker to provide details of any proposed road space bookings and/or submit a scheme of traffic management for National Highways' approval. The undertaker must provide 28 days' notice of the exercise of Article 45 (1) (Traffic regulation) and National Highways may in connection with any such exercise require the undertaker to provide details of any proposed road space bookings and/or submit a scheme of traffic management for National Highways' approval.

(4) National Highways must prior to the commencement of the specified works or the exercise of any power referenced in sub-paragraph (3) inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (1), (2), (3) or (4).

(5) Any approval of National Highways required under this paragraph—

- (a) must not be unreasonably withheld;
- (b) must be given in writing;
- (c) may be subject to any conditions as National Highways considers necessary;
- (d) in respect of any approval under sub-paragraph (1), must be given by the end of the period of 28 days, beginning with the date on which any request for approval has been made and if National Highways has not intimated disapproval of those works and the grounds of disapproval within that period, the undertaker may serve upon National Highways written notice requiring National Highways to intimate approval or disapproval within a further period of 28 days beginning with the date upon which National Highways receives written notice from the undertaker; and
- (e) in respect of any approval under sub-paragraph (2), shall be deemed to have been refused if neither given nor refused within 56 days of receipt of the information for approval or, where further particulars are requested by National Highways within 56 days of receipt of the information to which the request for further particulars relate.

(6) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways immediately and details of their suitability to deliver the specified works will be provided on request and in respect of any specified works under sub-paragraph (2), collateral warranties in a form agreed by National Highways will be provided.

(7) Any change to the detailed design of the specified works must be approved by National Highways in accordance with this paragraph.

### **Construction of the specified works**

**68.**—(1) The undertaker must give National Highways 28 days' notice in writing of the date on which the specified works will start unless otherwise agreed by National Highways.

(2) The undertaker must comply with National Highways' road space booking procedures prior to and during the carrying out of the specified works and no specified works for which a road space booking is required shall commence without a road space booking having first been secured from National Highways.

(3) The specified works must be carried out by the undertaker to the satisfaction of National Highways in accordance with—

- (a) the relevant detailed design information and programme of works approved pursuant to paragraph 67(1) or 67(2) as appropriate or as subsequently varied by agreement between the undertaker and National Highways;
- (b) the DMRB, the Manual of Contract Documents for Highway Works, including the Specification for Highway Works, together with all other relevant standards as required by National Highways to include, inter alia; all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 save to the extent that exceptions from those standards apply which have been approved by National Highways; and
- (c) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker, as client, must ensure that all client duties (as defined in the said regulations) are undertaken to the satisfaction of National Highways.

(4) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(5) If any part of the specified works is constructed—

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the strategic road network or any other land of National Highways used for its undertaking,

National Highways acting properly and reasonably may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the reasonable satisfaction of National Highways.

(6) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways acting properly and reasonably may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(7) If within 28 days on which a notice under sub-paragraph (6) or sub-paragraph (7) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure incurred by National Highways in so doing such sum to be payable within 30 days of demand.

(8) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(9) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities and all agreed alterations and reinstatement of highway over existing utilities must be constructed to the reasonable satisfaction of National Highways.

(10) During the construction of the specified works approved under paragraph 67(2), the undertaker must carry out all maintenance (including winter maintenance) in accordance with the scope of maintenance operations agreed by National Highways pursuant to paragraph 67(2)(h) and the undertaker must carry out such maintenance at its own cost.

(11) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme pursuant to sub-paragraph 67(1)(b) or 67(2)(b) of this Part or suspends the carrying out of any specified work beyond a reasonable period of time and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.



## Payments

**69.**—(1) The undertaker must pay to National Highways a sum equal to the whole of any reasonable and proper costs and expenses which National Highways incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including—

- (a) the checking and approval of the information required under paragraph 67;
- (b) the supervision of the specified works;
- (c) the checking and approval of the information required to determine approvals under this Order;
- (d) all costs in relation to the transfer of any land required for the specified works; and
- (e) all legal and administrative costs and disbursements incurred by National Highways in connection with the Order and sub-paragraphs (a)-(d); and
- (f) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising “the NH costs”.

(2) The undertaker must pay to National Highways upon demand and prior to such costs being incurred the total costs that National Highways believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the authorised development.

(3) National Highways must provide the undertaker with a schedule showing its estimate of the NH costs prior to the commencement of the specified works and the undertaker must pay to National Highways the estimate of the NH costs prior to commencing the specified works and in any event prior to National Highways incurring any cost but the absence of such estimate will not inhibit the commencement of the specified works by the undertaker.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs it may give notice to the undertaker of the amount that it believes the NH costs will exceed the estimate of the NH costs (the excess) and the undertaker must pay to National Highways within 30 days of the date of the notice a sum equal to the excess.

(5) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) above within 91 days of the issue of the provisional certificate issued pursuant to paragraph 70(4).

(6) Within 30 days of the issue of the final account:

- (a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it;
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(7) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 3% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

## Provisional Certificate

**70.**—(1) Following any closure or partial closure of any of the strategic road network for the purposes of carrying out the specified works, National Highways will carry out a site inspection to satisfy itself that the strategic road network is, in its opinion, safe for traffic and the undertaker

must comply with any requirements of National Highways prior to reopening the strategic road network.

(2) As soon as the undertaker considers that the provisional certificate may be properly issued it must apply to National Highways for the provisional certificate.

(3) Following an application for a provisional certificate, National Highways must as soon as reasonably practicable—

- (a) inspect the specified works; and
- (b) provide the undertaker with a written list of works that are required for the provisional certificate to be issued or confirmation that no further works are required for this purpose.

(4) When—

- (a) a stage 3 road safety audit for the specified works has been carried out and all recommendations raised including remedial works have (subject to any exceptions agreed) been approved by National Highways;
- (b) the specified works incorporating the approved remedial works under sub-paragraph (4)(a) and any further works notified to the undertaker pursuant to sub-paragraph (3)(b) have been completed to the satisfaction of National Highways;
- (c) the as built information has been provided to National Highways; and
- (d) in respect of any specified works captured by paragraph 67(2), the undertaker has paid the commuted sum to National Highways,

National Highways must issue the provisional certificate.

(5) On the issue of the provisional certificate the bond sum (if applicable) shall be reduced to 20% of the total bond sum save insofar as any claim or claims have been made against the bond before that date in which case National Highways will retain a sufficient sum to ensure it does not have to meet any costs for or arising from the specified works.

(6) The undertaker must submit a stage 4 road safety audit as required by and in line with the timescales stipulated in the road safety audit standard. The undertaker must comply with the findings of the stage 4 road safety audit and must pay all costs of and incidental to such and provide updated as-built information to National Highways.

## **Opening**

**71.** The undertaker must notify National Highways not less than 56 days in advance of the intended date of opening to the public of the strategic road network and the undertaker must notify National Highways of the actual date the strategic road network will be opened to the public within 14 days of that date.

## **Final condition survey**

**72.—**(1) In respect of any specified works approved under paragraph 67(1) or 67(2)—

(2) The undertaker must, as soon as reasonably practicable after making its application for a provisional certificate pursuant to paragraph 70(2), arrange for the highways structures and assets that were the subject of the condition survey to be re-surveyed and must submit the re-survey to National Highways for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 if the specified works include any works beneath the strategic road network.

(3) If the re-survey carried out pursuant to sub-paragraph (1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to National Highways for its approval in writing and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(4) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, National Highways may carry out the steps required of the undertaker and may recover any expenditure it reasonably incurs in so doing.

(5) National Highways may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to sub-paragraph (1) give notice in writing that National Highways will remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing.

(6) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

### **Defects Period**

**73.**—(1) In respect of any specified works approved under paragraph 67(2)—

(2) The undertaker must at its own expense remedy any defects in the strategic road network as are reasonably required by National Highways to be remedied during the defects period. All identified defects must be remedied in accordance with the following timescales—

- (a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of National Highways);
- (b) in respect of matters which National Highways considers to be serious defects or faults, within 14 days of receiving notification of the same; and
- (c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.

(3) Following the expiry of the defects period National Highways has responsibility for routine maintenance of the strategic road network save for any soft landscaping works which must be established and which must thereafter be maintained for a period of 3 years by and at the expense of the undertaker.

### **Final Certificate**

**74.**—(1) In respect of any specified works approved under paragraph 67(2)—

- (a) the undertaker must apply to National Highways for the final certificate no sooner than 12 months from the date of the provisional certificate.
- (b) following receipt of the application for the final certificate, National Highways must as soon as reasonably practicable:
  - (i) inspect the strategic road network; and
  - (ii) provide the undertaker with a written list of any further works required to remedy or make good any defect or damage in the strategic road network or confirmation that no such works are required for this purpose.
- (c) The undertaker must carry out such works notified to it pursuant to sub-paragraph 67(2).
- (d) When National Highways is satisfied that:
  - (i) any defects or damage arising from defects during the defects period and any defects notified to the undertaker pursuant to sub-paragraph 67(2) and any remedial works required as a result of the stage 4 road safety audit have been made good to the satisfaction of National Highways; and
  - (ii) the NH costs have been paid to National Highways in full;
  - (iii) National Highways must issue the final certificate after which the bond shall be released in full.
- (e) The undertaker must pay to National Highways within 30 days of demand the costs reasonably incurred by National Highways in identifying the defects and supervising and inspecting the undertaker's work to remedy the defects that it is required to remedy pursuant to these provisions.

(2) In respect of any specified works approved under paragraph 67(1), the undertaker may apply for a final certificate at any time following issue of the provisional certificate, whereupon National Highways must issue a final certificate forthwith.

## **Security**

**75.**—(1) In respect of any specified works approved under paragraph 67(2), the works must not commence until—

(2) the undertaker procures that the specified works are secured by a bond from a bondsman first approved by National Highways in the agreed form between the undertaker and National Highways to indemnify National Highways against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the exercise of the powers under this Order and the specified works under the provisions of this Part of this Schedule provided that the maximum liability of the bond must not exceed the bond sum; and

(3) the undertaker has provided the cash surety which may be utilised by National Highways in the event of the undertaker failing to meet its obligations to make payments under paragraph 69 or to carry out works the need for which arises from a breach of one or more of the obligations of the undertaker under the provisions of this Part of this Schedule.

## **Insurance**

**76.** Prior to the commencement of the specified works the undertaker must effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (ten million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works or use of the strategic road network by the undertaker.

## **Indemnity**

**77.** The undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways directly arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 30 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways.

## **Maintenance of the specified works**

**78.**—(1) The undertaker must, prior to the commencement of any works of maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required shall commence without a road space booking having first been secured (save for in the event of an emergency situation).

(3) The undertaker must comply with any requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days' in advance of the planned commencement date of the maintenance works.

(4) The provisions of paragraph 71 shall apply to the opening of any part of the strategic road network following occupation of any road space under this paragraph.

## **Land**

**79.**—(1) Following the issue of a final certificate pursuant to paragraph 74 National Highways may serve notice on the undertaker that it wishes to take a freehold transfer of land within the extent of strategic road network boundary which is not in the ownership of National Highways but has been acquired by the undertaker for the purposes of carrying out the specified works approved under paragraph 67(2).

(2) If the undertaker receives notice under sub-paragraph (1) then the undertaker must effect a freehold transfer of the land which is the subject of the notice and complete such transfer as soon as reasonably practicable at no cost to National Highways.

(3) The undertaker must not under the powers of this Order—

- (a) acquire freehold land forming part of; and/or
- (b) seek to impose or extinguish any restrictive covenants over

any part of the strategic road network or extinguish any existing rights of National Highways in respect of land owned by National Highways used for its undertaking and any third party property used for National Highways' undertaking, except with the consent of National Highways by written request to [legalservicesinbox@nationalhighways.co.uk](mailto:legalservicesinbox@nationalhighways.co.uk).

(4) Where any land or interest is proposed to be acquired for the benefit of National Highways, the undertaker must, unless otherwise agreed by National Highways, exercise article 22 (compulsory acquisition of land) and article 25 (compulsory acquisition of rights) as applied by articles 32 (modification of Part 1 of the 1965 Act) and article 33 (application of the 1981 Act) of this Order to directly vest in National Highways any such land or interest.

### **Arbitration**

**80.** Any dispute under this Part of this Schedule shall be settled by arbitration in accordance with article 53 (arbitration).

## **PART 7**

### **FOR THE PROTECTION OF NATIONAL GAS TRANSMISSION PLC AS GAS UNDERTAKER**

### **Application**

**81.**—(1) For the protection of National Gas Transmission PLC (“NGT”) as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and NGT.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and NGT, where the benefit of this Order is transferred or granted to another person under article 7 (Consent to transfer benefit of the Order)—

- (a) any agreement of the type mentioned in subparagraph (1) has effect as if it had been made between NGT and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to NGT on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to NGT (but without prejudice to 91(4)(b)).

### **Interpretation**

**82.** In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“acceptable credit provider” means a bank or financial institution with a credit rating that is not lower than: (i) “A-” if the rating is assigned by Standard & Poor’s Ratings Group or Fitch Ratings; and “A3” if the rating is assigned by Moody’s Investors Services Inc.;

“acceptable insurance” means general third party liability insurance effected and maintained by the undertaker with a combined property damage and bodily injury limit of indemnity of not less than £50,000,000 (fifty million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained (a) during the construction period

of the authorised works; and (b) after the construction period of the authorised works in respect of any use and maintenance of the authorised development by or on behalf of the undertaker which constitute specified works and arranged with an insurer whose security/credit rating meets the same requirements as an “acceptable credit provider”, such insurance shall include (without limitation)—

- (a) a waiver of subrogation and an indemnity to principal clause in favour of NGT
- (b) pollution liability for third party property damage and third party bodily damage arising from any pollution/contamination event with a (sub)limit of indemnity of not less than £10,000,000.00 (ten million pounds) per occurrence or series of occurrences arising out of one event or £20,000,000.00 (twenty million pounds) in aggregate;

“acceptable security” means either:

- (a) evidence provided to NGT’s reasonable satisfaction that the undertaker has a tangible net worth of not less than £100,000,000.00 (One Hundred Million Pounds) (or an equivalent financial measure); or
- (b) bank bond or letter of credit from an acceptable credit provider in favour of NGT to cover the undertaker’s liability to NGT for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £50,000,000.00 (fifty million pounds) (in a form reasonably satisfactory to NGT);

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of NGT to enable NGT to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by NGT for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of NGT for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in this Part of this Schedule shall include any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by NGT (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for NGT’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of NGT: construct, use, repair, alter, inspect, renew or remove the apparatus;

“NGT” means National Gas Transmission PLC (Company Number 02006000) whose registered office is at National Grid House Warwick Technology Park, Gallows Hill, Warwick, CV34 6DA or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Network Code” means the network code prepared by NGT pursuant to Standard Special Condition A11(3) of its Gas Transporter’s Licence, which incorporates the Uniform Network Code, as defined in Standard Special Condition A11(6) of NGT’s Gas Transporter’s Licence, as both documents are amended from time to time;

“Network Code Claims” means:

- (a) any claim made against NGT by any person or loss suffered by NGT under the Network Code arising out of any failure by NGT to make gas available for off take at, or a failure to accept gas tendered for delivery from, any entry point to or exit point from the gas national transmission system as a result of the authorised works; or
- (b) any costs and/or expenses incurred by NGT as a result of it taking action (including purchase or buy back of capacity) for the purpose of managing constraint or potential constraint on the gas national transmission system which has arisen as a direct result of the authorised works;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the specified works to be executed;

“parent company” means a parent company of the undertaker acceptable to and which shall have been approved by NGT acting reasonably;

“specified works” means any of the authorised works which:

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 87(2) or otherwise; and/or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 87(2) or otherwise; and/or
- (c) includes any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (NGT’s policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW/22) to the extent that such activities may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 87(2) or otherwise.

“undertaker” means the undertaker as defined in article 2(1) of this Order;

### **On Street Apparatus**

**83.** Except for paragraphs 84 (*Apparatus of NGT in stopped up streets*), 89 (*Retained apparatus: protection*), 90 (*Expenses*) and 91 (*Indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of NGT, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and NGT are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of NGT in stopped up streets**

**84.—**(1) Where any street is permanently stopped up under any article of this Order, if NGT has any apparatus in the street or accessed via that street NGT has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to NGT, or procure the granting to NGT of, legal easements reasonably satisfactory to NGT in respect of

such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph affects any right of the undertaker or NGT to require the removal of that apparatus or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 14 (*Temporary stopping up of streets, cycle tracks and public rights of way*), NGT is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as are reasonably necessary to carry out at the time of the temporary stopping up to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

### **Protective works to buildings**

**85.** The undertaker, in the case of the powers conferred by article 20 (*Protective work to buildings*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of NGT.

### **Acquisition of land**

**86.**—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not (a) appropriate or acquire or take temporary possession of any land or apparatus or (b) appropriate, acquire, extinguish, interfere with or override any easement, other interest or right and/or apparatus of NGT otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the specified works (or in such other timeframe as may be agreed between NGT and the undertaker) that will cause any conflict with or breach the terms of any easement or other legal or land interest of NGT or affect the provisions of any enactment or agreement regulating the relations between NGT and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as NGT reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between NGT and the undertaker acting reasonably and which must be no less favourable on the whole to NGT unless otherwise agreed by NGT, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) Save where otherwise agreed in writing between NGT and the undertaker the undertaker and NGT agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus/including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by NGT and/or other enactments relied upon by NGT as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by NGT under paragraph 89 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under sub-paragraph (1).

### **Removal of apparatus**

**87.**—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of NGT to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of NGT in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to NGT advance written notice of that requirement, together with a plan



of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order NGT reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), secure any necessary consents for the alternative apparatus and afford to NGT to its satisfaction (taking into account paragraph 88(1) below) the necessary facilities and rights

- (a) for the construction of alternative apparatus in other land of or land secured by the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, NGT may in its sole discretion, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances to assist the undertaker to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for NGT to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between NGT and the undertaker acting reasonably.

(5) NGT must, after the alternative apparatus to be provided or constructed has been agreed, and subject to a written diversion agreement having been entered into between the parties and the grant to NGT of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) The provisions of this paragraph 87 only apply to the extent that the apparatus to be removed by the undertaker forms part of NGT's undertaking and has not already been abandoned or decommissioned by NGT and any existing rights in respect of the abandoned or decommissioned apparatus have been surrendered.

### **Facilities and rights for alternative apparatus**

**88.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for NGT facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker acting reasonably and NGT and must be no less favourable on the whole to NGT than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by NGT.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to NGT than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject the matter may be referred to arbitration in accordance with paragraph 95 (*Arbitration*) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to NGT as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection**

**89.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to NGT a plan and, if reasonably required by NGT, a ground monitoring scheme in respect of those works.

(2) In relation to specified works the plan to be submitted to NGT under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until NGT has given written approval of the plan so submitted.

(4) Any approval of NGT required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (6); and
- (b) must not be unreasonably withheld.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, NGT may require, within 21 days of submission of a plan by the undertaker under sub-paragraph (1), such modifications to be made to the plans as is reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under sub-paragraphs (1) or (2) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub paragraph (5), as approved or as amended from time to time by agreement between the undertaker and NGT and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by NGT for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and NGT will be entitled to watch and inspect the execution of those works.

(7) Where NGT requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to NGTs' satisfaction prior to the commencement of any specified works for which protective works are required and NGT must give notice of its requirement for such works within 21 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(8) If NGT in accordance with sub-paragraphs (5) or (7) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 87(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to NGT notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances and comply with sub paragraph (11) at all times;

(11) At all times when carrying out any specified works NGT must comply with NGT's policies for safe working in proximity to gas apparatus "Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties T/SP/SSW22" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker shall implement an appropriate ground mitigation scheme save that NGT retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 90.

## Expenses

**90.**—(1) Save where otherwise agreed in writing between NGT and the undertaker and subject to the following provisions of this paragraph, the undertaker must pay to NGT within 30 days of receipt of an itemised VAT invoice or claim from NGT all charges, costs and expenses or reasonably and properly incurred by NGT in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which is required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by NGT in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by NGT as a consequence of NGT;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 87(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting NGT;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 95 (*Arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to NGT by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to NGT in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on NGT any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

## **Indemnity**

**91.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in direct consequence of the construction of any works authorised by or in direct consequence of the construction, use maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such authorised works, including works carried out by the undertaker under this Part of this Schedule or any subsidence resulting directly from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of NGT, or there is any loss resulting directly from interruption in any service provided, or in the supply of any goods or energy, by NGT, or NGT becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from NGT the cost reasonably and properly incurred by NGT in making good such damage or restoring the supply; and
- (b) indemnify NGT for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from NGT, by reason or in consequence of any such damage or interruption or NGT becoming liable to any third party and including Network Code Claims other than arising from any default of NGT.

(2) For the avoidance of doubt, these indemnities shall not apply to penalties; or any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working) arising from any such damage or interruption, which is not reasonably foreseeable.

(3) The fact that any act or thing may have been done by NGT on behalf of the undertaker or in accordance with a plan approved by NGT or in accordance with any requirement of NGT or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless NGT fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(4) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of NGT, its officers, servants, contractors or agents;
- (b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by NGT as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 7 (*Consent to transfer benefit of the Order*) subject to the proviso that once such works become apparatus (“new apparatus”), any authorised works yet to be executed and not falling within this sub-section 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 91; and/or
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business

interruption) arising from any such damage or interruption, which is not reasonably foreseeable;

(5) NGT must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(6) NGT must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(7) NGT must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within NGT's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of NGT's control and if reasonably requested to do so by the undertaker NGT must provide an explanation of how the claim has been minimised, where relevant.

(8) Not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by NGT or in respect of which NGT has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of NGT's apparatus until the following conditions are satisfied:

- (a) unless and until NGT is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and NGT has confirmed the same to the undertaker in writing; and
- (b) unless and until NGT is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to NGT that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and NGT has confirmed the same in writing to the undertaker.

(9) In the event that the undertaker fails to comply with (7) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent NGT from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.

### **Enactments and agreements**

**92.** Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between NGT and the undertaker, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and NGT in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**93.—**(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or NGT requires the removal of apparatus under paragraph 87(2) or NGT makes requirements for the protection or alteration of apparatus under paragraph 89, the undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of NGT's undertaking and NGT shall use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever NGT's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

## **Access**

94. Subject to paragraph 84, if in consequence of the agreement reached in accordance with paragraph 86(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable NGT to maintain or use the apparatus no less effectively than was possible before such obstruction.

## **Arbitration**

95. Any difference or dispute arising between the undertaker and NGT under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and NGT, be determined by arbitration in accordance with article 53 (*Arbitration*).

## **Notices**

96. Notwithstanding article 49 (*Service of Notices*), any plans submitted to NGT by the undertaker pursuant to paragraph 89 must be submitted to <https://lsbud.co.uk/> or such other address as NGT may from time to time appoint instead for that purpose and notify to the undertaker in writing.

# **PART 8**

## **FOR THE PROTECTION OF NORTHERN GAS NETWORK'S APPARATUS**

## **Application**

97. For the protection of the statutory undertaker the following provisions shall, unless otherwise agreed in writing between the undertaker and the statutory undertaker, have effect.

## **Interpretation**

98. In this Part—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of the Statutory undertaker to enable the Statutory undertaker to fulfil its statutory functions in a manner no less efficient than previously;

“commence” has the same meaning as in Schedule 3 of the Order;

“functions” includes powers and duties;

“in” in a context referring to Works, apparatus or alternative apparatus in land includes a reference to such Works, apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following: construct, use, repair, alter, inspect, renew or remove;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“statutory undertaker” means Northern Gas Networks Limited (Company Number 05167070) whose registered office is at 1100 Century Way, Colton, Leeds, LS15 8TU;

99. Except for paragraphs 100 (*apparatus of Statutory undertaker in stopped up streets*), 104 (*retained apparatus: protection*) and 105 (*expenses*), this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the statutory undertaker are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of Statutory undertaker in stopped up streets**

**100.** Where any street is temporarily stopped up or diverted under the powers of the relevant article of the Order (article 14 (temporary stopping up of streets, cycle tracks and public rights of way) of this Order), the Statutory undertaker shall be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway, subject always to the undertaker's unimpeded ability to carry out the Works.

### **Acquisition of land**

**101.** Regardless of any provision in the Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker shall not acquire any apparatus owned by the Statutory undertaker or override any easement or other interest of the statutory undertaker otherwise than by agreement.

### **Removal or diversion of apparatus**

**102.—(1)** If the undertaker acquires any interest in land in which the statutory undertaker's apparatus is placed, that apparatus shall not be removed and any right of a statutory undertaker to maintain that apparatus in that land shall not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the statutory undertaker provided that the statutory undertaker shall use all reasonable endeavours to construct and install such alternative apparatus as soon as reasonably practicable.

(2) If, for the purpose of executing any Works, the undertaker requires the removal or diversion of any apparatus, it shall give to the statutory undertaker written notice of that requirement, together with a plan of the Works and the removal or diversion works proposed, the proposed position of the alternative apparatus, and the proposed timeline for the works. The statutory undertaker shall reasonably approve these details within 28 days of receipt of such plan. The undertaker shall afford to the statutory undertaker to their reasonable satisfaction the necessary facilities and rights for:

- (a) the construction of alternative apparatus in other land either within the order land or otherwise; and
- (b) the maintenance of that apparatus

and the statutory undertaker shall complete the works using its reasonable endeavours to meet the undertaker's proposed timeline, and in any event without undue delay, in accordance with the details provided by the undertaker under this sub-paragraph or as otherwise reasonably agreed by the Undertaker.

(3) If, in consequence of the Works carried out by the undertaker, the statutory undertaker reasonably needs to remove or divert any of its apparatus, it shall without undue delay give the undertaker written notice of that requirement, together with a plan of the work proposed, the proposed position of the alternative apparatus and the proposed timeline for the works. The undertaker shall reasonably approve these details and shall afford to the statutory undertaker to their reasonable satisfaction the necessary facilities and rights for—

- (a) the construction of alternative apparatus; and
- (b) the maintenance of that apparatus

and the statutory undertaker shall complete the works without undue delay and in accordance with the approved details. If agreement cannot be reached the statutory undertaker reserves the right to terminate the Deed with immediate effect without liability.

(4) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraphs (2) and (3), the statutory undertaker shall, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative

apparatus is to be constructed, but this obligation shall not require the statutory undertaker to use its compulsory purchase powers unless it elects to so do.

(5) Paragraph 105 (Expenses) of this Schedule applies to removal or diversions works under this paragraph 102, but the statutory undertaker must provide to the undertaker a reasonable cost estimate for works that it proposes to carry out for the undertaker's approval.

### **Facilities and rights for alternative apparatus**

**103.**—(1) Where, in accordance with the provisions of this Schedule, the undertaker affords to the statutory undertaker facilities and rights for the construction and maintenance in the undertaker's land of alternative apparatus in substitution for apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the undertaker and the statutory undertaker and shall be no less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed, unless otherwise reasonably agreed.

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus in the undertaker's land are less favourable on the whole to the statutory undertaker than the facilities and rights enjoyed by it in respect of the apparatus to be removed, then the undertaker and the statutory undertaker shall agree appropriate compensation for the extent to which the new facilities and rights render the statutory undertaker less able to effectively carry out its undertaking or require it to do so at greater cost. If the amount of compensation cannot be agreed, then either the undertaker or the statutory undertaker may refer the matter to arbitration as per article 53 (arbitration) of this Order.

### **Retained apparatus: protection**

**104.**—(1) Not less than 28 days before commencing the execution of any Works that will or may affect any apparatus, the removal or diversion of which has not been required by the undertaker under paragraph 102(2) or otherwise or by the statutory undertaker under paragraph 102(3), the undertaker shall submit to the statutory undertaker in question a plan showing the Works and the apparatus.

(2) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of any apparatus, or (wherever situated) impose any load directly upon any apparatus or involve embankment works within 15 metres of any apparatus, the plan to be submitted to the statutory undertaker under sub-paragraph (1) shall be detailed including a method statement and describing—

- (a) the exact position of the Works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made close to (within 15 metres of) any apparatus.

(3) The undertaker shall not commence the construction or renewal of any works to which sub-paragraphs (1) or (2) apply until the statutory undertaker has given written approval of the plan so submitted.

(4) Any approval of the statutory undertaker required under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5) or (7); and
- (b) shall not be unreasonably withheld or delayed.

(5) In relation to works to which sub-paragraph (2) applies, the statutory undertaker may require such modifications to be made to the plans as may be reasonably necessary for the purpose of



securing its system against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works executed under the Order to which this paragraph 104 applies shall be executed only in accordance with the relevant plan, notified under sub-paragraph (1) and approved (with conditions, if applicable) under sub-paragraph (4), as amended from time to time by agreement between the undertaker and the statutory undertaker. The statutory undertaker shall be entitled to watch and inspect the execution of those Works.

(7) Where the statutory undertaker requires any protective works or subsidence monitoring to be carried out either by itself or by the undertaker (whether of a temporary or permanent nature), the statutory undertaker shall give the undertaker notice of such requirement in its approval under sub-paragraph (3), and

- (a) such protective works shall be carried out to the statutory undertakers' reasonable satisfaction prior to the carrying out of the relevant part of the Works;
- (b) ground subsidence monitoring shall be carried out in accordance with a scheme approved by the statutory undertaker (such approval not to be unreasonably withheld or delayed), which shall set out:
  - (i) the apparatus which is to be subject to such monitoring;
  - (ii) the extent of land to be monitored;
  - (iii) the manner in which ground levels are to be monitored;
  - (iv) the timescales of any monitoring activities; and
  - (v) the extent of ground subsidence which, if exceeded, shall require the undertaker to submit for the statutory undertaker's approval a ground subsidence mitigation scheme in respect of such subsidence;
- (c) if a subsidence mitigation scheme is required, it shall be carried out as approved by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(8) Nothing in this paragraph shall preclude the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of the relevant Works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(9) The undertaker shall not be required to comply with sub-paragraphs (1) or (2) where it needs to carry out emergency works as defined in the 1991 Act, but in that case it shall give to the statutory undertaker notice as soon as is reasonably practicable and a plan of those works shall comply with the other requirements in this paragraph insofar as is reasonably practicable in the circumstances, provided that it always complies with sub-paragraph (10).

(10) At all times when carrying out any works authorised under the Order that may or will affect the apparatus, the undertaker shall comply with the statutory undertaker's policies for safe working in proximity to gas apparatus including the "Specification for safe working in the vicinity of Northern Gas Networks, Gas pipelines and associated installation requirements for third parties "NGN/SPSSW22" and the Health and Safety Executive guidance document "HS(G)47 Avoiding Danger from underground services".

## **Expenses**

**105.**—(1) Subject to the following provisions of this paragraph, the undertaker shall repay to the statutory undertaker as soon as reasonably practicable all charges, costs and expenses reasonably and properly incurred by the statutory undertaker in, or in connection with, the inspection, removal or diversion, relaying or replacing, alteration or protection of any apparatus or the construction of any new apparatus which may be reasonably required and necessary in consequence of the execution of the Works, including without limitation—

- (a) any costs reasonably incurred or compensation properly paid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus, including without limitation in the event that the statutory undertaker elects to use compulsory purchase powers to acquire any necessary rights under 102(4);

- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any works carried out pursuant to this Schedule; and
- (g) any statutory loss of supply payments under the ‘Guaranteed Standards of Service’ regime that the statutory undertaker may incur in consequence of the works, but in the event that such payments are likely to become payable, the statutory undertaker shall give the undertaker notice as soon as reasonably practicable of the payments and the likely amount.

(2) The statutory undertaker shall use its reasonable endeavours to mitigate in whole or in part, and in any event to minimise, any expenses capable of being claimed under sub-paragraph (1). If requested to do so by the undertaker, the statutory undertaker shall provide an explanation of how the claimed expenses have been minimised. The undertaker shall only be liable to pay expenses that have been reasonably incurred.

(3) There shall be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal and not including the costs (if any) of disposing that apparatus.

(4) If in accordance with the provisions of this part of this Schedule—

- (a) apparatus of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

then, if this incurs greater expense than would have been incurred by a like-for-like (or as close as practicable to like-for like) replacement at the same depth, the undertaker shall not be liable for this additional expense.

(5) For the purposes of sub-paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus.

### **Enactments and agreements**

**106.** Nothing in this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the undertaker and the statutory undertaker in respect of any apparatus laid or erected in land belonging to the undertaker.

### **Co-operation**

**107.** Where in consequence of the proposed construction of any of the Works the undertaker or the statutory undertaker requires the removal of apparatus in accordance with the provisions of these Protective Provisions, each party shall use all reasonable endeavours to co-ordinate the execution of such works in the interests of safety and the efficient and economic execution of such works, taking into account the absolute need to ensure the safe and efficient operation of the statutory undertaker’s undertaking and its apparatus and the safe and efficient operation of the undertaker’s apparatus.

## **Access**

**108.** If in consequence of the powers granted under the Order, the access to any apparatus is materially obstructed, the undertaker shall provide such alternative means of access to such apparatus as will enable the statutory undertaker to maintain or use the apparatus no less effectively than was possible before such obstruction.

## **Arbitration**

**109.** Any difference or dispute arising between the undertaker and the statutory undertaker under this Schedule shall, unless otherwise agreed in writing between the undertaker and that statutory undertaker, be determined by arbitration in accordance with the relevant article of the Order.

## **Works falling outside of development authorised by the Order**

**110.** Nothing in this schedule shall require the undertaker to carry out works, or require the undertaker to enable the statutory undertaker to carry out works, that are not authorised by the Order. The statutory undertaker shall not request any alteration, diversion, protective work or any other work which is not authorised to be carried out under the Order (but for the avoidance of doubt, it may elect to carry out such works itself under any other planning permission, permitted development rights or statutory powers (including those of compulsory acquisition) available to it).

## **Cathodic protection testing**

**111.** Where in the reasonable opinion of either party:

- (a) the Authorised Development might interfere with the existing cathodic protection forming part of the apparatus; or
- (b) the apparatus might interfere with the proposed or existing cathodic protection forming part of the Authorised Development,

the parties shall co-operate in undertaking the tests which they consider reasonably necessary for ascertaining the nature and extent of such interference and measures for providing or preserving cathodic protection.

SCHEDULE 16

Article 52

AMENDMENT OF LOCAL LEGISLATION

PART 1

LOCAL ENACTMENTS

<i>Year</i>	<i>Chapter</i>	<i>Title</i>	<i>Section</i>
1980	XIV	West Yorkshire Act	9 and 44

PART 2

BYELAWS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Byelaw to be disapplied</i>
Byelaws for the good rule and government of the City of Leeds and for the prevention of nuisances made by the Council of the City in pursuance of Section 235 of the Local Government Act 1972	5, 10, 11 and 17.

SCHEDULE 17

Article 46

HEDGEROWS WHICH MAY BE REMOVED

<i>(1) Hedgerow</i>	<i>(2) Grid reference</i>	<i>(3) Importance</i>	<i>(4) Sheet number on Figure 8.6(B) (Volume 5, Document 5.4.8(C))</i>
HE001	SE 57926 60107	Important	Sheet 1
HE002	SE 56766 59769	Important	Sheet 1
HE003	SE 56528 59909	Important	Sheet 1
HE004	SE 56383 59858	Important	Sheet 1
HE005	SE 56375 59877	Important	Sheet 1
HE006	SE 56228 59999	Important	Sheet 1
HE007	SE 56613 59612	Important	Sheet 1
HE008	SE 56395 59455	Important	Sheet 1
HE009	SE 56466 59439	Important	Sheet 1
HE010	SE 56594 59226	Important	Sheet 1
HE011	SE 56592 58923	Important	Sheet 1
HE012	SE 56590 58905	Important	Sheet 1
HE013	SE 56286 58301	Important	Sheet 1
HE014	SE 55984 57930	Important	Sheet 2
HE015	SE 55423 57809	Not Important	Sheet 2
HE016	SE 55821 57613	Important	Sheet 2
HE019	SE 55941 56647	Not Important	Sheet 2
HE020	SE 56054 56443	Not Important	Sheet 3
HE021	SE 56095 56337	Not Important	Sheet 3
HE022	SE 56199 55768	Not Important	Sheet 3
HE023	SE 56030 56061	Not Important	Sheet 3
HE024	SE 55311 56091	Important	Sheet 3
HE025	SE 55430 56997	Important	Sheet 2
HE026	SE 55425 57100	Important	Sheet 2
HE027	SE 55396 57127	Important	Sheet 2
HE028	SE 55402 57199	Important	Sheet 2
HE029	SE 55176 57051	Not Important	Sheet 2
HE030	SE 54714 56776	Important	Sheet 2
HE031	SE 54195 56282	Important	Sheet 3
HE032	SE 54062 56250	Important	Sheet 3
HE033	SE 53845 55776	Important	Sheet 3
HE034	SE 54044 55433	Important	Sheet 3
HE035	SE 54105 55306	Important	Sheet 3
HE036	SE 54661 54929	Not Important	Sheet 3
HE037	SE 54767 54889	Important	Sheet 3
HE038	SE 54897 54831	Important	Sheet 3
HE039	SE 54915 54811	Important	Sheet 3
HE040	SE 52567 56254	Important	Sheet 4
HE041	SE 52393 56293	Important	Sheet 4
HE042	SE 52378 56407	Important	Sheet 4
HE043	SE 52327 56401	Important	Sheet 4

HE044	SE 52297 56319	Important	Sheet 4
HE045	SE 51974 56589	Not Important	Sheet 4
HE046	SE 51492 56433	Not Important	Sheet 4
HE047	SE 51418 56409	Important	Sheet 4
HE048	SE 51315 56313	Important	Sheet 4
HE049	SE 50992 56234	Important	Sheet 4
HE050	SE 51002 56207	Not Important	Sheet 4
HE051	SE 51192 56053	Important	Sheet 4
HE052	SE 51118 55837	Important	Sheet 4
HE053	SE 514925 5393	Important	Sheet 4
HE054	SE 51147 54638	Not Important	Sheet 5
HE055	SE 50777 54702	Important	Sheet 5
HE056	SE 51028 54457	Important	Sheet 5
HE057	SE 51041 54448	Important	Sheet 5
HE058	SE 50672 54388	Important	Sheet 5
HE059	SE 50391 53678	Important	Sheet 5
HE060	SE 50323 53469	Not Important	Sheet 5
HE061	SE 49062 52067	Important	Sheet 6
HE062	SE 49050 52058	Important	Sheet 6
HE063	SE 48992 52055	Important	Sheet 6
HE064	SE 49251 51962	Important	Sheet 6
HE065	SE 49224 51921	Important	Sheet 6
HE066	SE 49481 51810	Important	Sheet 6
HR067	SE 49045 50836	Important	Sheet 6
HE068	SE 49062 50805	Important	Sheet 6
HE069	SE 48914 50331	Not Important	Sheet 7
HE070	SE 48638 48964	Important	Sheet 7
HE071	SE 48925 48439	Important	Sheet 7
HE072	SE 47954 46665	Important	Sheet 8
HE073	SE 48452 46027	Important	Sheet 8
HE074	SE 47649 45031	Important	Sheet 8
HE075	SE 47612 45002	Important	Sheet 8
HE076	SE 47501 44507	Important	Sheet 8
HE077	SE 46923 42815	Important	Sheet 9
HE078	SE 46856 42552	Important	Sheet 9
HE079	SE 46266 42420	Important	Sheet 9
HE080	SE 46467 42212	Important	Sheet 9
HE081	SE 46287 41936	Important	Sheet 9
HE082	SE 46407 41818	Not Important	Sheet 9
HE083	SE 46401 41805	Not Important	Sheet 9
HE084	SE 45808 41712	Not Important	Sheet 9
HE085	SE 45796 41720	Important	Sheet 9
HE086	SE 45430 41955	Important	Sheet 9
HE087	SE 45627 40876	Important	Sheet 9
HE088	SE 46432 38155	Important	Sheet 10
HE089	SE 46114 38043	Important	Sheet 10
HE090	SE 46154 37942	Important	Sheet 10
HE091	SE 46462 37988	Important	Sheet 10
HE092	SE 46386 37801	Important	Sheet 10
HE093	SE 46733 36981	Important	Sheet 10
HE094	SE 46722 36956	Important	Sheet 10

HE095	SE 46976 35119	Important	Sheet 11
HE096	SE 47840 33184	Important	Sheet 12
HE097	SE 47043 32182	Important	Sheet 12
HE098	SE 47172 30889	Important	Sheet 13
HE099	SE 47219 30876	Important	Sheet 13
HE100	SE 47168 30858	Important	Sheet 13
HE101	SE 48403 30402	Important	Sheet 13
HE102	SE 47535 29902	Not Important	Sheet 13
HE103	SE 47553 29662	Not Important	Sheet 13
HE104	SE 48421 29425	Important	Sheet 13
HE105	SE 48437 29327	Important	Sheet 13
HE106	SE 48625 29000	Important	Sheet 13

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises National Grid to undertake works to the national electricity transmission System between the existing substation at Monk Fryston to the existing substation at Osbaldwick. The proposed development is required to provide sufficient transmission capacity to enable the connection of new electricity generation projects in the region, and to carry out all associated works.

The Order also makes provision in connection with the maintenance of the authorised development.

The Order permits National Grid to acquire compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the plans and book of reference referred to in this Order and certified in accordance with article 48 (certification of plans, etc.) of this Order may be inspected free of charge during working hours at the offices of National Grid Electricity Transmission plc, 1-3 Strand, London WC2N 5EH.



## **ANNEX F – THE EXAMINATION LIBRARY**

### **Yorkshire GREEN Examination Library**

**Updated – 18 September 2023**

This Examination Library relates to the Yorkshire GREEN application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

**EN020024 – Yorkshire GREEN****Examination Library - Index**

<b>Category</b>	<b>Reference</b>
<a href="#">Application Documents</a> As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
<a href="#">Adequacy of Consultation responses</a>	AoC-xxx
<a href="#">Relevant Representations</a>	RR-xxx
<a href="#">Procedural Decisions and Notifications from the Examining Authority</a> Includes Examining Authority’s questions, s55, and post acceptance s51	PD-xxx
<a href="#">Additional Submissions</a> Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination including responses to Rule 6 and Rule 8 letters	AS-xxx
<a href="#">Events and Hearings</a> Includes agendas for hearings and site inspections, audio recordings, responses to notifications and applicant’s hearing notices	EV-xxx
<a href="#">Representations – by Deadline</a>	
<a href="#">Procedural Deadline A</a>	PDA-XXX
<a href="#">Deadline 1:</a> Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the ExA. Comments on any oral submissions put at the Hearings. Local Impact Reports from any Local Authorities. Comments on Relevant Representations. Comments on any Additional Submissions accepted at the discretion of the Examining Authority. Notification by Statutory Parties of their wish to be considered as an Interested Party by the Examining Authority.	REP1-xxx

<p>Requests by Interested Parties to participate in a further Open Floor Hearing.</p> <p>Requests by Affected Persons to participate in a Compulsory Acquisition Hearing.</p> <p>Requests by Interested Parties to attend Accompanied Site Inspection (if held).</p> <p>Applicant's draft itinerary for Accompanied Site Inspection.</p> <p>Initial Statements of Common Ground requested by the Examining Authority.</p> <p>Statement of Commonality for Statements of Common Ground.</p> <p>Applicant's updated Guide to the Application in clean and tracked versions.</p> <p>Applicant's updated Book of Reference and Schedule of Changes to the Book of Reference (if required) in clean and tracked versions.</p> <p>Applicant's cross-section illustration of proposed works.</p> <p>Initial draft s106 Agreement(s) (if required).</p> <p>Applicant's planning obligations and commercial side agreements tracking list.</p> <p>Applicant's updated National Policy Statement schedules of compliance (if required).</p> <p>Applicant's Environmental Statement Addendum: corrections and additions to the Landscape and Visual Impact Assessment.</p> <p>Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</p>	
<p><u>Deadline 2:</u></p> <p>Responses to the Examining Authority's Written Questions (ExQ1).</p> <p>Written Representations.</p> <p>Summaries of Written Representations exceeding 1500 words.</p> <p>Comments on Local Impact Report(s).</p> <p>Comments on initial Statements of Common Ground.</p> <p>Comments on the Applicant's draft itinerary for an Accompanied Site Inspection.</p> <p>Responses to comments on Relevant Representations.</p> <p>Comments on the Applicant's Environmental Statement Addendum (clarifications of and additions to the Landscape and Visual Impact Assessment).</p> <p>Comments on any other submissions received at Deadline 1.</p> <p>Applicant's additional Landscape and Visual viewpoints assessment, wirelines and photomontages.</p> <p>Applicant's updated Guide to the Application in clean and tracked versions.</p> <p>Applicant's updated Compulsory Acquisition, Temporary Possession and Statutory Undertakers Schedules of Negotiations, Powers Sought and Objections.</p>	<p>REP2-xxx</p>

<p>Applicant's updated Book of Reference and Schedule of Changes to the Book of Reference (if required) in clean and tracked versions.</p> <p>Applicant's updated National Policy Statement schedules of compliance (if required).</p> <p>Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</p> <p>Includes R17 responses</p>	
<p><a href="#">Deadline 3:</a></p> <p>Comments on Written Representations.</p> <p>Comments on responses to the Examining Authority's Written Questions (ExQ1).</p> <p>Comments on Applicant's additional Landscape and Visual viewpoints assessment, wirelines and photomontages submitted at Deadline 2.</p> <p>Progressed Statements of Common Ground.</p> <p>Progressed Statement of Commonality for Statements of Common Ground.</p> <p>Applicant's updated draft Development Consent Order in clean and tracked versions.</p> <p>Applicant's updated Explanatory Memorandum in clean and tracked versions.</p> <p>Applicant's consolidated schedule of changes to the draft Development Consent Order.</p> <p>Applicant's updated Guide to the Application in clean and tracked versions.</p> <p>Comments on any other submissions received at Deadline 2.</p> <p>Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</p>	REP3-xxx
<p><a href="#">Deadline 4:</a></p> <p>Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the ExA.</p> <p>Comments on any oral submissions put at the Hearings.</p> <p>Comments on the Applicant's updated draft Development Consent Order and updated Explanatory Memorandum.</p> <p>Comments on progressed Statements of Common Ground.</p> <p>Applicant's updated Compulsory Acquisition, Temporary Possession and Statutory Undertakers Schedules of Negotiations, Powers Sought and Objections.</p> <p>Applicant's updated Book of Reference and Schedule of Changes to the Book of Reference (if required) in clean and tracked versions.</p> <p>Progressed s106 agreement(s) (if required)</p> <p>Applicant's updated National Policy Statement schedules of compliance (if required).</p>	REP4-xxx

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<p>Applicant's updated Guide to the Application in clean and tracked versions.  Comments on any submissions received at Deadline 3.  Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</p>	
<p><a href="#">Deadline 5:</a></p> <p>Responses to the Examining Authority's Further Written Questions (ExQ2) (if issued).  Progressed Statements of Common Ground.  Progressed Statement of Commonality for Statements of Common Ground.  Applicant's updated draft Development Consent Order in clean and tracked versions.  Applicant's final agreed Protective Provisions with all relevant statutory undertakers.  Applicant's consolidated schedule of changes to the draft Development Consent Order.  Applicant's updated Compulsory Acquisition, Temporary Possession and Statutory Undertakers Schedules of Negotiations, Powers Sought and Objections.  Applicant's updated Book of Reference and Schedule of Changes to the Book of Reference (if required) in clean and tracked versions.  Applicant's updated Guide to the Application in clean and tracked versions.  Comments on any submissions received at Deadline 4.  Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</p>	REP5-xxx
<p><a href="#">Deadline 6:</a></p> <p>Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the ExA (if held).  Comments on any oral submissions put at the Hearings (if held).  Comments on progressed Statements of Common Ground.  Comments on the Applicant's updated draft Development Consent Order.  Applicant's updated National Policy Statement schedules of compliance (if required).  Applicant's updated Guide to the Application in clean and tracked versions.  Responses to the Applicant's Change Application received at Deadline 5.  Applicant's amended application documents or addenda following acceptance by the ExA of the Change Application.  Comments on any other submissions received at Deadline 5.</p>	REP6-xxx

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Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.	
<p><a href="#">Deadline 7:</a></p> <p>Comments on the Report on the Implications for European Sites (RIES) and responses to any associated questions (if issued). Responses to the Examining Authority’s commentary on, or proposed schedule of changes to, the draft Development Consent Order (if issued).  Final Statements of Common Ground.  Final Statement of Commonality for Statements of Common Ground.  List of matters not agreed where any Statement of Common Ground could not be finalised.  Applicant’s final draft Development Consent Order in clean and tracked versions.  Applicant’s final draft Development Consent Order to be submitted in the SI template with the SI template validation report.  Applicant’s final consolidated schedule of changes to the draft Development Consent Order.  Applicant’s final amended Explanatory Memorandum.  Applicant’s final updated Book of Reference and Schedule of Changes to the Book of Reference in clean and tracked versions.  Applicant’s final Compulsory Acquisition, Temporary Possession and Statutory Undertakers Schedules of Negotiations, Powers Sought and Objections.  Applicant’s final National Policy Statement schedules of compliance.  Applicant’s final planning obligations and commercial side agreements tracking lists.  Any final signed and dated section 106 agreements together with CIL compliance schedule.  Applicant’s final updated Guide to the Application, in clean and tracked versions.  Comments on responses to the Applicant's Change Application.  Comments on any submissions received at Deadline 6.  Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</p>	REP7-xxx
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APP-166	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.5 ES Chapter 5 Legislative and Policy Overview Figures (No Figures)
APP-167	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 1 of 15) ES Chapter 6 Landscape and Visual Figures
APP-168	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 2 of 15) ES Chapter 6 Landscape and Visual Figures
APP-169	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 3 of 15) ES Chapter 6 Landscape and Visual Figures
APP-170	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 4 of 15) ES Chapter 6 Landscape and Visual Figures
APP-171	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 5 of 15) ES Chapter 6 Landscape and Visual Figures
APP-172	<a href="#">National Grid Electricity Transmission (NGET)</a>

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	5.4.6 (Part 6 of 15) ES Chapter 6 Landscape and Visual Figures
APP-173	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 7 of 15) ES Chapter 6 Landscape and Visual Figures
APP-174	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 8 of 15) ES Chapter 6 Landscape and Visual Figures
APP-175	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 9 of 15) ES Chapter 6 Landscape and Visual Figures
APP-176	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 10 of 15) ES Chapter 6 Landscape and Visual Figures
APP-177	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 11 of 15) ES Chapter 6 Landscape and Visual Figures
APP-178	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 12 of 15) ES Chapter 6 Landscape and Visual Figures
APP-179	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 13 of 15) ES Chapter 6 Landscape and Visual Figures
APP-180	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 14 of 15) ES Chapter 6 Landscape and Visual Figures
APP-181	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.6 (Part 15 of 15) ES Chapter 6 Landscape and Visual Figures
APP-182	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.7 ES Chapter 7 Historic Environment Figures
APP-183	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.8 ES Chapter 8 Biodiversity Figures
APP-184	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.9 (Part 1 of 2) ES Chapter 9 Hydrology Figures
APP-185	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.9 (Part 2 of 2) ES Chapter 9 Hydrology Figures
APP-186	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.10 ES Chapter 10 Geology and Hydrogeology Figures
APP-187	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.11 ES Chapter 11 Agriculture and Soils Figures
APP-188	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.12 ES Chapter 12 Traffic and Transport Figures
APP-189	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.13 ES Chapter 13 Air Quality Figures
APP-190	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.14 ES Chapter 14 Noise and Vibration Figures
APP-191	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.15 ES Chapter 15 Health and Wellbeing Figures
APP-192	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.16 ES Chapter 16 Socio economics Figures
APP-193	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.17 ES Chapter 17 Climate Change Figures (No Figures)
APP-194	<a href="#">National Grid Electricity Transmission (NGET)</a> 5.4.18 ES Chapter 18 Cumulative Effects Figures
APP-195	<a href="#">National Grid Electricity Transmission (NGET)</a> 6.1 Consultation Report
APP-196	<a href="#">National Grid Electricity Transmission (NGET)</a> 6.2 (Part 1 of 3) Consultation Report Appendices
APP-197	<a href="#">National Grid Electricity Transmission (NGET)</a>



	6.2 (Part 2 of 3) Consultation Report Appendices
APP-198	<a href="#">National Grid Electricity Transmission (NGET)</a> 6.2 (Part 3 of 3) Consultation Report Appendices
APP-199	<a href="#">National Grid Electricity Transmission (NGET)</a> 6.3 Electric and Magnetic Fields Report
APP-200	<a href="#">National Grid Electricity Transmission (NGET)</a> 6.4 No Significant Effects Report (Habitats Regulations Assessment Screening)
APP-201	<a href="#">National Grid Electricity Transmission (NGET)</a> 6.5 Statement of Statutory Nuisance
<b>Volume 6 Other Documents</b>	
APP-202	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.1 Planning Statement
APP-203	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.2 Design and Access Statement
APP-204	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.3 Details of Other Consents and Licences
APP-205	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.4 Updated Need Case
APP-206	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.5 Strategic Proposal 2019
APP-207	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.6 Strategic Proposal Back Check and Review 2020
APP-208	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.7 Strategic Proposal Addendum 2021
APP-209	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.8 Corridor and Preliminary Routeing and Siting Study 2021
APP-210	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.9 Biodiversity Net Gain Report
APP-211	<a href="#">National Grid Electricity Transmission (NGET)</a> 7.10 Mineral Resource Assessment
<b>Adequacy of Consultation Responses</b>	
AoC-001	<b>Reference not in use</b>
AoC-002	<b>Reference not in use</b>
AoC-003	<a href="#">City of York Council</a> Adequacy of Consultation Representation
AoC-004	<a href="#">Durham County Council</a> Adequacy of Consultation Representation
AoC-005	<a href="#">East Riding of Yorkshire Council</a> Adequacy of Consultation Representation
AoC-006	<a href="#">Harrogate Borough Council</a> Adequacy of Consultation Representation
AoC-007	<a href="#">Kirklees Council</a> Adequacy of Consultation Representation
AoC-008	<a href="#">Leeds City Council</a> Adequacy of Consultation Representation
AoC-009	<a href="#">North Yorkshire County Council and Selby District Council</a> Adequacy of Consultation Representation
AoC-0010	<a href="#">Redcar and Cleveland Borough Council</a> Adequacy of Consultation Representation

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AoC-011	<a href="#">Ryedale District Council</a> Adequacy of Consultation Representation
AoC-012	<a href="#">Wakefield Council</a> Adequacy of Consultation Representation
<b>Relevant Representations</b>	
RR-001	<a href="#">Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited</a>
RR-002	<a href="#">Ainsty (2008) Internal Drainage Board</a>
RR-003	<a href="#">BNP Paribas Real Estate on behalf of Royal Mail Group</a>
RR-004	<a href="#">Canal &amp; River Trust</a> <b>(WITHDRAWN)</b>
RR-005	<a href="#">Carter Jonas LLP on behalf of Castlegate Trustees - WH Strawson (Farms) Ltd Pension Scheme</a> <b>(WITHDRAWN)</b>
RR-006	<a href="#">Carter Jonas LLP on behalf of Philip Watson</a>
RR-007	<a href="#">Carter Jonas LLP on behalf of S Batty &amp; Son</a> <b>(WITHDRAWN)</b>
RR-008	<a href="#">Carter Jonas LLP on behalf of The Aspinall Family</a> <b>(WITHDRAWN)</b>
RR-009	<a href="#">Carter Jonas LLP on behalf of The Batty Family</a> <b>(WITHDRAWN)</b>
RR-010	<a href="#">Carter Jonas LLP on behalf of The Gittus Family</a> <b>(WITHDRAWN)</b>
RR-011	<a href="#">Carter Jonas LLP on behalf of University of Leeds</a> <b>(WITHDRAWN)</b>
RR-012	<a href="#">Carter Jonas LLP on behalf of William Robert Strawson</a> <b>(WITHDRAWN)</b>
RR-013	<a href="#">Charles Waite and Co Ltd on behalf of Mr Roger Ingham</a>
RR-014	<a href="#">Douglas John Fletcher</a>
RR-015	<a href="#">Foss (2008) Internal Drainage Board</a>
RR-016	<a href="#">George F White LLP on behalf of Mark Godliman</a> <b>(WITHDRAWN)</b>
RR-017	<a href="#">George F White LLP on behalf of The Midgley Family</a> <b>(WITHDRAWN)</b>
RR-018	<a href="#">Hambleton District Council</a>
RR-019	<a href="#">Harrogate Borough Council</a>
RR-020	<a href="#">Linda Palmer</a>
RR-021	<a href="#">Lister Haigh on behalf of Chris Lister</a> <b>(WITHDRAWN)</b>
RR-022	<a href="#">Lister Haigh on behalf of David Blacker</a>
RR-023	<a href="#">Lister Haigh on behalf of James Bell</a>
RR-024	<a href="#">Lister Haigh on behalf of Marion Blacker</a>
RR-025	<a href="#">Lister Haigh on behalf of Richard Elliott</a>
RR-026	<a href="#">Lister Haigh on behalf of Simon Mills</a> <b>(WITHDRAWN)</b>
RR-027	<a href="#">National Air Traffic Services Ltd</a>
RR-028	<a href="#">National Gas Transmission Limited</a>
RR-029	<a href="#">National Highways</a>
RR-030	<a href="#">National Trust</a>
RR-031	<a href="#">Natural England</a>
RR-032	<a href="#">North Yorkshire County Council</a>
RR-033	<a href="#">Paul Swales</a> <b>(WITHDRAWN)</b>
RR-034	<a href="#">Selby District Council</a>
RR-035	<a href="#">The British Horse Society</a>
RR-036	<a href="#">The Woodland Trust</a>
RR-037	<a href="#">UK Health Security Agency</a>

RR-038	<a href="#">Weightmans LLP on behalf of NORTHERN POWERGRID (YORKSHIRE) PLC (WITHDRAWN)</a>
RR-039	<a href="#">York Georgian Society</a>
<b>Procedural Decisions and Notifications from the Examining Authority</b>	
PD-001	<a href="#">Notification of Decision to Accept Application</a>
PD-002	<a href="#">Section 51 advice to the Applicant</a>
PD-003	<a href="#">Section 55 Checklist</a>
PD-004	<a href="#">Notification of the appointment of the Examining Authority</a>
PD-005	<a href="#">Rule 6 letter - Notification of the Preliminary Meeting and matters to be discussed</a>
PD-006	<a href="#">Notification of an amendment to the appointment of the Examining Authority</a>
PD-007	<a href="#">Examining Authority's Written Questions (ExQ1)</a>
PD-008	<a href="#">Rule 8 letter - notification of timetable for the examination</a>
PD-009	<a href="#">Rule 13 &amp; 16 Hearing and ASI notification</a>
PD-010	<a href="#">Rule 13 - Notification of Hearings</a>
PD-011	<a href="#">Examining Authority's Further Written Questions (ExQ2)</a>
PD-012	<a href="#">Rule 9 letter - Notification of Procedural Decisions</a> Examining Authority's response to Notification of Applicant's Intention to Submit a Request for Proposed Changes to the DCO Application
PD-013	<a href="#">Rule 8(3) and Rule 9 letter – Examining Authority's Procedural Decision and changes to the Examination Timetable in relation to Applicant's Change App</a>
PD-014	<a href="#">Rule 17 letter – Examining Authority's Request for Information from Stephenson's Rural LLP</a>
PD-015	<a href="#">The Examining Authority's commentary and questions on the draft Development Consent Order (DCO)</a>
PD-016	<a href="#">The Report on the Implications for European Sites (RIES)</a>
PD-017	<a href="#">Rule 17 letter – Examining Authority's Request for Information from the Applicant</a>
PD-018	<a href="#">Notification of completion of the Examining Authority's Examination</a>
<b>Additional Submissions</b>	
AS-001	<a href="#">Scarborough Borough Council</a> Additional submission, accepted at the discretion of the Examining Authority. Late adequacy of consultation response
AS-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional submission, accepted at the discretion of the Examining Authority. Additional s56 notice dated 17 January 2023
AS-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - Cover Letter
AS-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 1.3(B) Navigation Document and Application Guide
AS-005	<a href="#">National Grid Electricity Transmission (NGET)</a>

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	Additional Submission – accepted at the discretion of the Examining Authority - 2.5.1(B) Land Plan Section A
AS-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 2.5.2(B) Land Plan Section B
AS-007	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 2.5.3(B) Land Plan Section C
AS-008	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 2.5.4(B) Land Plan Section D
AS-009	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 2.5.5(B) Land Plan Section E
AS-010	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 2.5.6(B) Land Plan Section F
AS-011	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 3.1(B) Draft Development Consent Order (DCO) (Clean)
AS-012	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 3.1(B) Draft Development Consent Order (DCO) (Tracked)
AS-013	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 3.2(B) Explanatory Memorandum (Clean)
AS-014	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 3.2(B) Explanatory Memorandum (Tracked)
AS-015	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 5.3.8B(B) Appendix 8B Extended Phase 1 Habitat Survey Report
AS-016	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 5.3.8J Environmental Statement (ES) Chapter 8 Appendix 8J CONFIDENTIAL Schedule 1 Bird Survey Information
AS-017	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 5.4.3(B) Environmental Statement (ES) Chapter 3 Description of the Project Figures
AS-018	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission – accepted at the discretion of the Examining Authority - 6.4(B) No Significant Effects Report (Habitat Regulations Assessment Screening)
AS-019	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Additional Submission – accepted at the discretion of the Examining Authority - 8.1 Schedule of Changes to the draft Development Consent Order (DCO)
AS-020	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission - accepted at the discretion of the Examining Authority. Applicant's Notification of Request for Proposed Changes
AS-021	<a href="#">National Grid Electricity Transmission (NGET)</a> Additional Submission - accepted at the discretion of the Examining Authority. Clarification on Change Application Approach letter
AS-022	<a href="#">National Gas Transmission plc</a> Additional Submission – accepted at the discretion of the Examining Authority - Written submission in lieu of attendance at Compulsory Acquisition Hearing 2 (CAH2)
AS-023	<a href="#">Yorkshire Wildlife Trust</a> Additional Submission – accepted at the discretion of the Examining Authority - Responses to the Examining Authority’s Further Written Questions (ExQ2)
AS-024	<a href="#">Natural England</a> Additional Submission – accepted at the discretion of the Examining Authority - Response to the Issue Specific Hearing 4 (ISH4) Action Points
AS-025	<a href="#">North Yorkshire Council</a> Additional Submission – accepted at the discretion of the Examining Authority - Updated Deadline 6 Action Points
AS-026	<a href="#">Weightmans LLP</a> Additional Submission – accepted at the discretion of the Examining Authority – Withdrawal of Objection by Northern Powergrid (Yorkshire) Plc and Northern Powergrid (Northeast) Plc
<b>Events and Hearings</b>	
<b>Accompanied Site Visits and Unaccompanied Site Visits</b>	
EV-001	<a href="#">Note of Unaccompanied Site Inspection (USI) - 7 and 8 February 2023</a>
EV-001a	<a href="#">Final Itinerary for Accompanied Site Inspection on 23 May 2023</a>
EV-001b	<a href="#">Note of Accompanied Site Inspection on 23 May 2023</a>
EV-002	<b>Reference not in use.</b> The document previously allocated this reference is now <b>OD-005</b>
<b>Preliminary Meeting</b>	
EV-002a	<a href="#">Recording of Preliminary Meeting – 22 March 2023</a>
EV-002b	<a href="#">Preliminary Meeting - Transcript - 22 March 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-002c	<a href="#">Preliminary Meeting note</a>
<b>Issue Specific Hearing 1 – Scope of the Proposed Development and draft Development Consent Order</b>	
EV-003	<a href="#">Issue Specific Hearing 1 - Agenda</a>

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	Agenda for Issue Specific Hearing 1 (ISH1) on the Scope of the Proposed Development and draft Development Consent Order (dDCO)
EV-003a	<a href="#">Issue Specific Hearing 1 (ISH1) Action Points – Thursday 23 March 2023</a>
EV-003b	<a href="#">Recording of Issue Specific Hearing 1 - Session 1 - 23 March 2023</a>
EV-003c	<a href="#">Recording of Issue Specific Hearing 1 - Session 1 - Transcript - 23 March 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-003d	<a href="#">Recording of Issue Specific Hearing 1 - Session 2 - 23 March 2023</a>
EV-003e	<a href="#">Recording of Issue Specific Hearing 1 - Session 2 - Transcript - 23 March 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-003f	<a href="#">Recording of Issue Specific Hearing 1 - Session 3 - 23 March 2023</a>
EV-003g	<a href="#">Recording of Issue Specific Hearing 1 - Session 3 - Transcript - 23 March 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-003h	<a href="#">Recording of Issue Specific Hearing 1 - Session 4 - 23 March 2023</a>
EV-003i	<a href="#">Recording of Issue Specific Hearing 1 - Session 4 - Transcript - 23 March 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Open Floor Hearing 1</b>	
EV-004	<a href="#">Open Floor Hearing 1 (OFH1) agenda – Wednesday 22 March 2023</a>
EV-004a	<a href="#">Open Floor Hearing 1 (OFH1) Action Points - Wednesday 22 March 2023</a>
EV-004b	<a href="#">Recording of Open Floor Hearing 1 - 22 March 2023</a>
EV-004c	<a href="#">Open Floor Hearing 1 - Transcript - 22 March 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Issue Specific Hearing 2 (ISH2) - Green Belt, Environmental Effects and Construction Matters</b>	
EV-005	<a href="#">Issue Specific Hearing 2 - Agenda</a>

	Agenda for Issue Specific Hearing 2 (ISH2) on Green Belt, Environmental Effects and Construction Matters
EV-005a	<a href="#">Issue Specific Hearing 2 (ISH2) Action Points - Wednesday 24 and Thursday 25 May 2023</a>
EV-005b	<a href="#">Recording of Issue Specific Hearing 2 – Session 1 – 24 May 2023</a>
EV-005c	<a href="#">Issue Specific Hearing 2 – Session 1 - Transcript – 24 May 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-005d	<a href="#">Recording of Issue Specific Hearing 2 – Session 2 – 24 May 2023</a>
EV-005e	<a href="#">Issue Specific Hearing 2 – Session 2 - Transcript – 24 May 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-005f	<a href="#">Recording of Issue Specific Hearing 2 – Session 3 – 24 May 2023</a>
EV-005g	<a href="#">Issue Specific Hearing 2 – Session 3 - Transcript – 24 May 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-005h	<a href="#">Recording of Issue Specific Hearing 2 – Session 4 – 24 May 2023</a>
EV-005i	<a href="#">Issue Specific Hearing 2 – Session 4 - Transcript – 24 May 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-005j	<a href="#">Recording of Issue Specific Hearing 2 – Session 5 – 25 May 2023</a>
EV-005k	<a href="#">Issue Specific Hearing 2 – Session 5 - Transcript – 25 May 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Issue Specific Hearing 3 (ISH3) - the Draft Development Consent Order and Related Matters</b>	
EV-006	<a href="#">Issue Specific Hearing 3 - Agenda</a> Agenda for Issue Specific Hearing 3 (ISH3) on the Draft Development Consent Order and Related Matters
EV-006a	<a href="#">Issue Specific Hearing 3 (ISH3) Action Points - Friday 26 May 2023</a>
EV-006b	<a href="#">Recording of Issue Specific Hearing 3 – Session 1 – 26 May 2023</a>
EV-006c	<a href="#">Issue Specific Hearing 3 – Session 1 - Transcript – 26 May 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-006d	<a href="#">Recording of Issue Specific Hearing 3 – Session 2 – 26 May 2023</a>
EV-006e	<a href="#">Issue Specific Hearing 3 – Session 2 - Transcript – 26 May 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence

	voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Compulsory Acquisition Hearing 1 (CAH1) - Compulsory Acquisition, Temporary Possession and Related Matters</b>	
EV-007	<a href="#">Compulsory Acquisition Hearing 1 - Agenda</a> Agenda for Compulsory Acquisition Hearing 1 (CAH1) - Compulsory Acquisition, Temporary Possession and Related Matters
EV-007a	<a href="#">Compulsory Acquisition Hearing 1 (CAH1) Action Points - Afternoon of Thursday 25 May 2023</a>
EV-007b	<a href="#">Recording of Compulsory Acquisition Hearing 1 – Session 1 - 25 May 2023</a>
EV-007c	<a href="#">Compulsory Acquisition Hearing 1 – Session 1 - Transcript – 25 May 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-007d	<a href="#">Recording of Compulsory Acquisition Hearing 1 – Session 2 - 25 May 2023</a>
EV-007e	<a href="#">Compulsory Acquisition Hearing 1 – Session 2 - Transcript – 25 May 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Compulsory Acquisition Hearing 2 (CAH2) – Compulsory Acquisition and Temporary Possession Matters</b>	
EV-008	<a href="#">Compulsory Acquisition Hearing 2 – Agenda</a> Agenda for Compulsory Acquisition Hearing 2 (CAH2) - Compulsory Acquisition and Temporary Possession Matters
EV-008a	<a href="#">Compulsory Acquisition Hearing 2 (CAH2) Action Points - Tuesday 18 July 2023</a>
EV-008b	<a href="#">Recording of Compulsory Acquisition Hearing 2 (CAH2) – Session 1 - 18 July 2023</a>
EV-008c	<a href="#">Transcript of Recording of Compulsory Acquisition Hearing 2 (CAH2) – Session 1 - 18 July 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-008d	<a href="#">Recording of Compulsory Acquisition Hearing 2 (CAH2) – Session 2 - 18 July 2023</a>
EV-008e	<a href="#">Transcript of Recording of Compulsory Acquisition Hearing 2 (CAH2) – Session 2 - 18 July</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-008f	<a href="#">Recording of Compulsory Acquisition Hearing 2 (CAH2) – Session 3 - 18 July 2023</a>



EV-008g	<a href="#">Transcript of Recording of Compulsory Acquisition Hearing 2 (CAH2) – Session 3 - 18 July</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-008h	<a href="#">Recording of Compulsory Acquisition Hearing 2 (CAH2) – Session 4 - 18 July 2023</a>
EV-008i	<a href="#">Transcript of Recording of Compulsory Acquisition Hearing 2 (CAH2) – Session 4 - 18 July</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Issue Specific Hearing 4 (ISH4) - Draft Development Consent Order and Environmental Matters</b>	
EV-009	<a href="#">Issue Specific Hearing 4 – Agenda</a> Agenda for Issue Specific Hearing 4 (ISH4) - Draft Development Consent Order and Environmental Matters
EV-009a	<a href="#">Recording of Issue Specific Hearing 4 (ISH4) – Session 1 – 19 July 2023</a>
EV-009b	<a href="#">Transcript of Recording of Issue Specific Hearing 4 (ISH4) – Session 1 – 19 July 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-009c	<a href="#">Recording of Issue Specific Hearing 4 (ISH4) – Session 2 – 19 July 2023</a>
EV-009d	<a href="#">Transcript of Recording of Issue Specific Hearing 4 (ISH4) – Session 2 – 19 July 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-009e	<a href="#">Recording of Issue Specific Hearing 4 (ISH4) – Session 3 – 19 July 2023</a>
EV-009f	<a href="#">Transcript of Recording of Issue Specific Hearing 4 (ISH4) – Session 3 – 19 July 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-009g	<a href="#">Recording of Issue Specific Hearing 4 (ISH4) – Session 4 – 19 July 2023</a>
EV-009h	<a href="#">Transcript of Recording of Issue Specific Hearing 4 (ISH4) – Session 4 – 19 July 2023</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

EV-009i	<a href="#">Issue Specific Hearing 4 (ISH4) Action Points – Wednesday 19 July 2023</a>
<b>Representations</b>	
<b>Procedural Deadline A - Wednesday 8 March 2023</b>	
PDA-001	<a href="#">Carter Jonas LLP on behalf of Philip Watson</a> Procedural Deadline A Submission - Suggested locations for site inspections, including the reason for nomination, issues to be observed there and whether the location(s) require access to private land.
PDA-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Procedural Deadline A Submission - Written submissions on the Examination Procedure, including any submissions about the draft Examination Timetable and the use of virtual methods.
PDA-003	<a href="#">North Yorkshire County Council</a> Procedural Deadline A Submission - Written submissions on the Examination Procedure, including any submissions about the draft Examination Timetable and the use of virtual methods.
PDA-004	<a href="#">Northern Gas Networks Limited</a> Procedural Deadline A Submission - Written submissions on the Examination Procedure, including any submissions about the draft Examination Timetable and the use of virtual methods.
<b>Deadline 1 – 5 April 2023</b>	
<ul style="list-style-type: none"> <li>• For receipt by the Examining Authority of:</li> <li>• Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the ExA.</li> <li>• Comments on any oral submissions put at the Hearings.</li> <li>• Local Impact Reports from any Local Authorities.</li> <li>• Comments on Relevant Representations.</li> <li>• Comments on any Additional Submissions accepted at the discretion of the Examining Authority.</li> <li>• Notification by Statutory Parties of their wish to be considered as an Interested Party by the Examining Authority.</li> <li>• Requests by Interested Parties to participate in a further Open Floor Hearing.</li> <li>• Requests by Affected Persons to participate in a Compulsory Acquisition Hearing.</li> <li>• Requests by Interested Parties to attend Accompanied Site Inspection (if held).</li> <li>• Applicant’s draft itinerary for Accompanied Site Inspection.</li> <li>• Initial Statements of Common Ground requested by the Examining Authority.</li> <li>• Statement of Commonality for Statements of Common Ground.</li> <li>• Applicant’s updated Guide to the Application in clean and tracked versions.</li> <li>• Applicant’s updated Book of Reference and Schedule of Changes to the Book of Reference (if required) in clean and tracked versions.</li> <li>• Applicant’s cross-section illustration of proposed works.</li> <li>• Initial draft s106 Agreement(s) (if required).</li> <li>• Applicant’s planning obligations and commercial side agreements tracking list.</li> </ul>	

<ul style="list-style-type: none"> <li>• Applicant's updated National Policy Statement schedules of compliance (if required).</li> <li>• Applicant's Environmental Statement Addendum: corrections and additions to the Landscape and Visual Impact Assessment.</li> <li>• Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</li> </ul>	
REP1-001	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - Cover Letter
REP1-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 1.3(C) Navigation Document and Application Guide (Clean)
REP1-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 1.3(C) Navigation Document and Application Guide (Tracked)
REP1-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 2.6.1(B) - Works Plan Section A
REP1-005	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 2.6.2(B) Works Plan Section B
REP1-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 2.6.3(B) Works Plan Section C
REP1-007	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 2.6.4(B) Works Plan Section D
REP1-008	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 2.6.5(B) Works Plan Section E
REP1-009	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 2.6.6(B) Works Plan Section F
REP1-010	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 4.3(B) Book of Reference (BoR) (Clean)
REP1-011	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 4.3(B) Book of Reference (BoR) (Tracked)
REP1-012	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 5.2.19 Environmental Statement Errata Document
REP1-013	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 5.2.20 Environmental Statement (ES) Addendum
REP1-014	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.2 Schedule of Changes to the Book of Reference (BoR)
REP1-015	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.3 Applicant's Response to Relevant Representations
REP1-016	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.4.1.1 Applicant's Written Summary of Oral Representations made at Open Floor Hearing 1 (OFH1)
REP1-017	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.4.1.2 Applicant's Written Summary of Oral Representations made at Issue Specific Hearing 1 (ISH1)
REP1-018	<a href="#">National Grid Electricity Transmission (NGET)</a>

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	Deadline 1 Submission - 8.4.2 Applicant's Response to Open Floor Hearing 1 (OFH1) and Issue Specific Hearing 1 (ISH1) Hearing Action Point
REP1-019	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.4.3 Applicant's Response to comments made at Open Floor Hearing (OFH) on 22 March 2023
REP1-020	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.4.4 Plan of Plans to the Application
REP1-021	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - Document 8.5.1 Statement of Commonality for Statements of Common Ground (SoCG) - Version A
REP1-022	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.2 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and North Yorkshire Council - Version 1
REP1-023	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.3 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and City of York Council - Version 1
REP1-024	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.4 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Leeds City Council - Version 1
REP1-025	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.5 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Natural England - Version 1
REP1-026	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.6 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Yorkshire Wildlife Trust - Version 2
REP1-027	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.7 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Environment Agency - Version 1
REP1-028	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.8 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Historic England - Version 1
REP1-029	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.9 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and National Trust - Version 1
REP1-030	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.10 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Northern Powergrid (Yorkshire) plc and Northern Powergrid (Northeast) plc - Version 1
REP1-031	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 1 Submission - 8.5.11 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Network Rail Infrastructure Limited - Version 1
REP1-032	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.12 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Ainsty Internal Drainage Board - Version 1
REP1-033	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.13 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Kyle and Upper Ouse Internal Drainage Board - Version 1
REP1-034	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.14 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and National Highways - Version 1
REP1-035	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.15 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Canal & River Trust - Version 1
REP1-036	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.16 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Foss Internal Drainage Board - Version 1
REP1-037	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.17 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Cellnex UK Limited - Version 1
REP1-038	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.18 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and EE Limited and Hutchison 3G UK Limited
REP1-039	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.19 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and National Gas Transmission plc - Version 1
REP1-040	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.20 Statement of Common Ground (SoCG) between National Grid Electricity Transmission plc and Northern Gas Networks Limited - Version 1
REP1-041	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.21 Statement of Common Ground (SoCG) Between National Grid Electricity Transmission plc and Yorkshire Water - Version 1
REP1-042	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.5.22 Position Statement between National Grid Electricity Transmission plc and Sustrans - Version 1
REP1-043	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.6 Applicant's draft itinerary for Accompanied Site Inspection (ASI)

REP1-044	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.7 Applicant's cross-section illustration of proposed works
REP1-045	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 1 Submission - 8.8 Applicant's Planning obligations and commercial side agreements tracking list
REP1-046	<a href="#">Canal &amp; River Trust</a> Deadline 1 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP1-047	<a href="#">City of York Council</a> Deadline 1 Submission - Local Impact Report
REP1-048	<a href="#">City of York Council</a> Deadline 1 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP1-049	<a href="#">Douglas John Fletcher</a> Deadline 1 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP1-050	<a href="#">Douglas John Fletcher</a> Deadline 1 Submission - Requests by Interested Parties to attend Accompanied Site Inspection (if held)
REP1-051	<a href="#">ES Pipelines Limited</a> Deadline 1 Submission – confirmation regarding gas or electricity apparatus
REP1-052	<a href="#">GTC Pipelines Limited</a> Deadline 1 submission – Comment on the Proposed Development
REP1-053	<a href="#">Leeds City Council</a> Deadline 1 Submission - Local Impact Report
REP1-054	<a href="#">Marion Blacker</a> Deadline 1 submission - Post-hearing submissions, including written summaries of oral submissions to the hearings
REP1-055	<a href="#">National Highways</a> Deadline 1 submission – Comments on the Proposed Development and requests for a Compulsory Acquisition Hearing
REP1-056	<a href="#">North Yorkshire Council</a> Deadline 1 Submission - Local Impact Report
REP1-057	<a href="#">North Yorkshire Council</a> Deadline 1 Submission - Further information regarding Initial draft s106 Agreement
REP1-058	<a href="#">Weightmans LLP on behalf of Northern Powergrid (Yorkshire) Plc &amp; Northern Powergrid (Northeast) Plc</a> Deadline 1 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the ExA

**Deadline 2 – 26 April 2023**

**For receipt by the Examining Authority of:**

- **Responses to the Examining Authority's Written Questions (ExQ1).**
- **Written Representations.**
- **Summaries of Written Representations exceeding 1500 words.**

- **Comments on Local Impact Report(s).**
- **Comments on initial Statements of Common Ground.**
- **Comments on the Applicant’s draft itinerary for an Accompanied Site Inspection.**
- **Responses to comments on Relevant Representations.**
- **Comments on the Applicant’s Environmental Statement Addendum (clarifications of and additions to the Landscape and Visual Impact Assessment).**
- **Comments on any other submissions received at Deadline 1.**
- **Applicant’s additional Landscape and Visual viewpoints assessment, wirelines and photomontages.**
- **Applicant’s updated Guide to the Application in clean and tracked versions.**
- **Applicant’s updated Compulsory Acquisition, Temporary Possession and Statutory Undertakers Schedules of Negotiations, Powers Sought and Objections.**
- **Applicant’s updated Book of Reference and Schedule of Changes to the Book of Reference (if required) in clean and tracked versions.**
- **Applicant’s updated National Policy Statement schedules of compliance (if required).**
- **Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.**

REP2-001	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Cover Letter
REP2-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 1.3(D) Navigation Document and Application Guide Final Issue D (Clean)
REP2-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 1.3(D) Navigation Document and Application Guide Final Issue D (Tracked)
REP2-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 2.5.2(C) Land Plan Section B Final Issue C
REP2-005	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 2.7.1(B) Access, Rights of Way and Public Rights of Navigation Plan Section A
REP2-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 2.7.2 (B) Access, Rights of Way and Public Rights of Navigation Plan Section B Final Issue B
REP2-007	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 2.7.3 (B) Access, Rights of Way and Public Rights of Navigation Plan Section C Final Issue B
REP2-008	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 2.7.4 (B) Access, Rights of Way and Public Rights of Navigation Plan Section D Final Issue B
REP2-009	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 2.7.5 (B) Access, Rights of Way and Public Rights of Navigation Plan Section E Final Issue B

REP2-010	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 2.7.6 (B) Access, Rights of Way and Public Rights of Navigation Plan Section F Final Issue B
REP2-011	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 2.15(B) Design Drawings Final Issue B
REP2-012	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 4.1-B Statement of Reasons Appendix A - Details of Purpose for Which Compulsory Acquisition and Temporary Possession Powers are Sought Final Issue B (Clean)
REP2-013	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 4.1-B Statement of Reasons Appendix A - Details of Purpose for Which Compulsory Acquisition and Temporary Possession Powers are Sought Final Issue B (Tracked)
REP2-014	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 4.1-B Statement of Reasons Appendix B – Schedule of Negotiations with Land Interests Final Issue B (Clean)
REP2-015	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 4.1-B Statement of Reasons Appendix B – Schedule of Negotiations with Land Interests Final Issue B (Tracked)
REP2-016	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 4.3(C) Book of Reference (Clean) Final Issue C
REP2-017	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 4.3(B) Book of Reference (Tracked) Final Issue B
REP2-018	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.3A(B) Environmental Statement (ES) Chapter 3 Appendix 3A - Embedded Measures Schedule Final Issue B (Clean)
REP2-019	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.3A(B) Environmental Statement (ES) Chapter 3 Appendix 3A - Embedded Measures Schedule Final Issue B (Tracked)
REP2-020	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.3B (B) Environmental Statement (ES) Chapter 3 Appendix 3B - Code of Construction Practice Final Issue B (Clean)
REP2-021	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.3B(B) Environmental Statement (ES) Chapter 3 Appendix 3B - Code of Construction Practice Final Issue A (Tracked)
REP2-022	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.3E(B) Environmental Statement (ES) Chapter 3 Appendix 3E - Outline Soil Management Plan Final Issue B (Clean)
REP2-023	<a href="#">National Grid Electricity Transmission (NGET)</a>



	Deadline 2 Submission - Document 5.3.3E(B) Environmental Statement (ES) Chapter 3 Appendix 3E - Outline Soil Management Plan Final Issue A (Tracked)
REP2-024	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.3G(B) Environmental Statement (ES) Chapter 3 Appendix 3G - Public Rights of Way Management Plan Final Issue B (Clean)
REP2-025	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.3G(B) Environmental Statement (ES) Chapter 3 Appendix 3G - Public Rights of Way Management Plan Final Issue B (Tracked)
REP2-026	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.7I Environmental Statement (ES) Chapter 7 Appendix 7(B) – Lane East of Shipton by Beningbrough Geophysical Survey Report Final Issue B
REP2-027	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.8B(C) Environmental Statement (ES) Chapter 8 Appendix 8B - Extended Phase 1 Habitat Survey Report Final Issue C (Clean)
REP2-028	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.8B(C) Environmental Statement (ES) Chapter 8 Appendix 8B - Extended Phase 1 Habitat Survey Report Final Issue C (Tracked)
REP2-029	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.8H(B) Environmental Statement (ES) Chapter 8 Appendix 8H - Bat Survey Report Final Issue B (Clean)
REP2-030	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.3.8H(B) Environmental Statement (ES) Chapter 8 Appendix 8H - Bat Survey Report Final Issue B (Tracked)
REP2-031	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.4.3(C) Environmental Statement (ES) Chapter 3 Description of the Project - Figures Final Issue C
REP2-032	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.4.6 Environmental Statement (ES) Chapter 6 Landscape and Visual – Figures (Part 1 of 15)(B) Final Issue B
REP2-033	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.4.8(B) Environmental Statement (ES) Chapter 8 Biodiversity - Figures (Part 1 of 2) Final Issue B
REP2-034	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 5.4.8(B) Environmental Statement (ES) Chapter 8 Biodiversity - Figures (Part 2 of 2) Final Issue B
REP2-035	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.2(B) Schedule of Changes to the Book of Reference (Clean) Final Issue B
REP2-036	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 2 Submission - Document 8.2(B) Schedule of Changes to the Book of Reference (Tracked) Final Issue B
REP2-037	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.4.5 Applicant's Deadline 2 Response to Open Floor Hearing 1 (OFH1) and Issue Specific Hearing 1 (ISH1) Hearing Action Points Final Issue A
REP2-038	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.9.1 Applicant's Response to Examining Authority's First Written Questions (ExQ1) Final Issue A
REP2-039	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.9.2 Applicant's Response to Examining Authority's First Written Questions (ExQ1) Appendices Final Issue A
REP2-040	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.10 Applicant's Comments on Local Impact Reports Final Issue A
REP2-041	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.11 Applicant's Response to Interested Parties' Deadline 1 Submissions Final Issue A
REP2-042	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.12 Protective Provisions Progress Schedule Final Issue A
REP2-043	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.13 Summary of Actions and Engagement in Relation to the Traveller Community Final Issue A
REP2-044	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.14 Compulsory Acquisition and Temporary Possession Objections Schedule Final Issue A
REP2-045	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.15 Additional Photomontages (Part 1 of 2) Final Issue A
REP2-046	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.15 Additional Photomontages as requested by Examining Authority (Part 2 of 2) Final Issue A
REP2-047	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.16 Annotated Photomontages for the purposes of ExQ1 Q11.1.3 Final Issue A
REP2-048	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Document 8.17 Annotated Photomontages for the purposes of ExQ1 Q11.1.6 Final Issue A
REP2-049	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 2 Submission - Design 8.18 Design Approach to Site Specific Infrastructure Final Issue A
REP2-050	<a href="#">Ainsty (2008) Internal Drainage Board</a> Deadline 2 Submission - Written Representation and Responses to the Examining Authority's Written Questions (ExQ1).
REP2-051	<a href="#">Ainsty (2008) Internal Drainage Board</a> Deadline 2 Submission - Ainsty (2008) Internal Drainage Board Byelaws.

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REP2-052	<a href="#">Canal &amp; River Trust</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Copy of draft Protective Provisions.
REP2-053	<a href="#">Canal &amp; River Trust</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1).
REP2-054	<a href="#">Carter Jonas LLP on behalf of Carter Jonas LLP on behalf of Philip Watson</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-055	<a href="#">Carter Jonas LLP on behalf of Carter Jonas LLP on behalf of Philip Watson</a> Deadline 2 Submission - Written Representations
REP2-056	<a href="#">Charles Waite and Co Ltd on behalf of Charles Waite and Co Ltd on behalf of Mr Roger Ingham</a> Deadline 2 Submission - Written Representations
REP2-057	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1).
REP2-058	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy D6: Archaeology
REP2-059	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy ENV1: Air Quality.
REP2-060	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy ENV2: Managing Environmental Quality.
REP2-061	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy ENV4: Flood Risk and Policy ENV5: Sustainable Drainage.
REP2-062	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy D1: Placemaking and Policy D2: Landscape and Setting.
REP2-063	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy DP2: Sustainable Development, Policy DP3: Sustainable Communities and Policy DP4: Approach to Development Management.
REP2-064	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy D4: Conservation Areas.
REP2-065	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy D7: The

	Significance of Non-Designated Heritage Assets and Policy D8: Historic Parks and Gardens.
REP2-066	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy D9: City of York Historic Environment Record and Policy D10: York City Walls and St Marys Abbey Walls (York Walls).
REP2-067	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy GB1: Development in the Green Belt and Policy GB2: Development in Settlements within the Green Belt.
REP2-068	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy GI2: Biodiversity and Access to Nature.
REP2-069	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy GI4: Trees and Hedgerows.
REP2-070	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy SS1: Delivering Sustainable Growth for York and Policy SS2: The Role of York's Green Belt.
REP2-071	<a href="#">City of York Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Local Plan Extract Policy T1: Sustainable Access.
REP2-072	<a href="#">Environment Agency</a> Deadline 2 Submission - Written Representations
REP2-073	<a href="#">Environment Agency</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-074	<a href="#">Foss (2008) Internal Drainage Board</a> Deadline 2 Submission - Written Representation and Responses to the Examining Authority's Written Questions (ExQ1).
REP2-075	<a href="#">Historic England</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-076	<a href="#">Leeds City Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1).
REP2-077	<a href="#">Leeds City Council</a> Deadline 2 Submission - Comments on draft S106 agreement
REP2-078	<a href="#">National Gas Transmission plc</a> Deadline 2 Submission - Written Representations
REP2-079	<a href="#">National Highways</a> Deadline 2 Submission - Written Representations
REP2-080	<a href="#">Natural England</a>

	Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-081	<a href="#">Network Rail Infrastructure Limited</a> Deadline 2 Submission - Written Representations
REP2-082	<a href="#">Network Rail Infrastructure Limited</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1).
REP2-083	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1).
REP2-084	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy CS6
REP2-085	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV1
REP2-086	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV2
REP2-087	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV3
REP2-088	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV4
REP2-089	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV9 and ENV17
REP2-090	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV12
REP2-091	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV13
REP2-092	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV16
REP2-093	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV27
REP2-094	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy ENV28
REP2-095	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP1
REP2-096	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP2
REP2-097	<a href="#">North Yorkshire Council</a>

	Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP3
REP2-098	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP12
REP2-099	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP13
REP2-100	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP15
REP2-101	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP16
REP2-102	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP17
REP2-103	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP18
REP2-104	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy SP19
REP2-105	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy T1
REP2-106	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy T2
REP2-107	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.1.2 – Policy T8
REP2-108	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Auxiliary Transformer Compound
REP2-109	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Battery Storage Containers
REP2-110	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Control Room
REP2-111	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Copy of Appeal Decision reference APP/N2739/W/22/3290256
REP2-112	<a href="#">North Yorkshire Council</a>

	Deadline 2 Submission - Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Existing Site Plan
REP2-113	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Fencing and Security
REP2-114	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – General Arrangement
REP2-115	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Illustrative Landscape Proposals
REP2-116	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Inverter / Transformer Stations
REP2-117	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Inverter / Transformer Stations & Battery Storage Containers
REP2-118	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Mains Water Pipe Diversion
REP2-119	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Site Location Plan
REP2-120	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Statutory Plan
REP2-121	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Switchgear Containter
REP2-122	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) – Response to Q1.2.4 – Water Tank
REP2-123	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Hambleton District Council draft Local Plan - July 2019.
REP2-124	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Harrogate Borough Council Extract of Local Plan - Policy DM1: Housing Allocations.
REP2-125	<a href="#">North Yorkshire Council</a>

	Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Harrogate Borough Council Local Plan 2014 - 2035.
REP2-126	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Harrogate Borough Council Local Plan Extract - Policy DM2: Employment Allocations, Policy DM3: Mixed Use Allocations and Policy DM4: Green Hammerton/ Cattal Broad Location for Growth.
REP2-127	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Extract from Harrogate Borough Council Local Plan - District Wide Map.
REP2-128	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Response to EA Q.8.0.1.
REP2-129	<a href="#">North Yorkshire Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Planning Enforcement Notice issued by Selby District Council Reference 2021/0214/MWCU.
REP2-130	<a href="#">Northern Powergrid (Yorkshire) Plc &amp; Northern Powergrid (Northeast) Plc</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1).
REP2-131	<a href="#">Stephensons Rural LLP on behalf of Stephensons Rural LLP on behalf of Benjamin Rab and Fiona Rab</a> Deadline 2 Submission - Written Representations
REP2-132	<a href="#">Stephensons Rural LLP on behalf of Stephensons Rural LLP on behalf of Mrs Pamela Husband, Ms Gill Eves and Mr Paul Bulmer</a> Deadline 2 Submission - Written Representations

### **Deadline 3 - 10 May 2023**

#### **For receipt by the Examining Authority of:**

- **Comments on Written Representations.**
- **Comments on responses to the Examining Authority's Written Questions (ExQ1).**
- **Comments on Applicant's additional Landscape and Visual viewpoints assessment, wirelines and photomontages submitted at Deadline 2.**
- **Progressed Statements of Common Ground.**
- **Progressed Statement of Commonality for Statements of Common Ground.**
- **Applicant's updated draft Development Consent Order in clean and tracked versions.**
- **Applicant's updated Explanatory Memorandum in clean and tracked versions.**
- **Applicant's consolidated schedule of changes to the draft Development Consent Order.**
- **Applicant's updated Guide to the Application in clean and tracked versions.**



<ul style="list-style-type: none"> <li>• <b>Comments on any other submissions received at Deadline 2.</b></li> <li>• <b>Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</b></li> </ul>	
REP3-001	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Covering Letter - Superseded Documents and Examination Submissions
REP3-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 1.3(E) Navigation Document and Application Guide Final Issue E May 2023 (Clean)
REP3-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 1.3(E) Navigation Document and Application Guide Final Issue E May 2023 (Tracked)
REP3-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 3.1(C) Draft Development Consent Order Final Issue C May 2023 (Clean)
REP3-005	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 3.1(C) Draft Development Consent Order Final Issue C May 2023 (Tracked)
REP3-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 3.2(C) Explanatory Memorandum (Clean) Final Issue C May 2023
REP3-007	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 3.2(C) Explanatory Memorandum (Tracked) Final Issue C May 2023
REP3-008	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 5.2.19(B) Environmental Statement Consolidated Errata Final Issue B May 2023 (Clean)
REP3-009	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 5.2.19(B) Environmental Statement Consolidated Errata Final Issue B May 2023 (Tracked)
REP3-010	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 5.2.21 Environmental Statement Addendum (Part 2) Final Issue A May 2023
REP3-011	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 5.3.18A(B) ES Chapter 18 Appendix 18A - Cumulative Effects Assessment: Long List of Other Developments Final Issue B May 2023 (Clean)
REP3-012	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 5.3.18A(B) ES Chapter 18 Appendix 18A - Cumulative Effects Assessment: Long List of Other Developments Final Issue B May 2023 (Tracked)
REP3-013	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 5.4.18(B) ES Chapter 18 Cumulative Effects - Figures Final Issue B May 2023
REP3-014	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.1(B) Schedule of Changes to the Draft Development Consent Order Final Issue B May 2023
REP3-015	<a href="#">National Grid Electricity Transmission (NGET)</a>

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	Deadline 3 Submission - Document 8.4.6 Applicant's Deadline 3 Response to Issue Specific Hearing 1 (ISH1) Hearing Action Points Final Issue A May 2023
REP3-016	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.1(B) Statement of Commonality for Statements of Common Ground Final Version B May 2023 (Clean)
REP3-017	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.1(B) Statement of Commonality for Statements of Common Ground Final Version B May 2023 (Tracked)
REP3-018	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.2(B) Statement of Common Ground between National Grid and North Yorkshire Council Draft Version 2 May 2023 (Clean)
REP3-019	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.2(B) Statement of Common Ground between National Grid and North Yorkshire Council Draft Version 2 May 2023 (Tracked)
REP3-020	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.3(B) Statement of Common Ground between National Grid Electricity Transmission plc and City of York Council Draft Version 2 May 2023 (Clean)
REP3-021	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.3(B) Statement of Common Ground between National Grid Electricity Transmission plc and City of York Council Draft Version 2 May 2023 (Tracked)
REP3-022	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.4(B) Statement of Common Ground between National Grid and Leeds City Council Draft Version 2 May 2023 (Clean)
REP3-023	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.4(B) Statement of Common Ground between National Grid and Leeds City Council Draft Version 2 May 2023 (Tracked)
REP3-024	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.9(B) Statement of Common Ground Between National Grid Electricity Transmission and National Trust Final Version 2 May 2023 (Clean)
REP3-025	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.9(B) Statement of Common Ground Between National Grid Electricity Transmission and National Trust Final Version 2 May 2023 (Tracked)
REP3-026	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.11(B) Statement of Common Ground between National Grid and Network Rail Infrastructure Limited Draft Version 2 May 2023 (Clean)
REP3-027	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.11(B) Statement of Common Ground between National Grid and Network Rail Infrastructure Limited Draft Version 2 May 2023 (Tracked)

REP3-028	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.19(B) Statement of Common Ground between National Grid Electricity Transmission plc and EE Limited and Hutchison 3G UK Limited Final Version 2 May 2023 (Clean)
REP3-029	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.5.19(B) Statement of Common Ground between National Grid Electricity Transmission plc and EE Limited and Hutchison 3G UK Limited Final Version 2 May 2023 (Tracked)
REP3-030	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.6(B) Applicant's revised draft itinerary for Accompanied Site Inspection Final Issue B May 2023
REP3-031	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.19 Applicant's Comments on Responses to Examining Authority's First Written Questions (ExQ1) Final Issue A May 2023
REP3-032	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 3 Submission - Document 8.20 Applicant's Comments on Written Representations and other Interested Parties' Deadline 2 Submissions Final Issue A May 2023
REP3-033	<a href="#">Canal &amp; River Trust</a> Deadline 3 Submission - Request to attend Issue Specific Hearing 3 (ISH3)
REP3-034	<a href="#">North Yorkshire Council</a> Deadline 3 Submission - Comments on Applicant's additional Landscape and Visual viewpoints assessment, wirelines and photomontages submitted at Deadline 2
<b>Deadline 4 – 6 June 2023</b>	
<ul style="list-style-type: none"> <li>• For receipt by the Examining Authority of:</li> <li>• Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the ExA.</li> <li>• Comments on any oral submissions put at the Hearings.</li> <li>• Comments on the Applicant's updated draft Development Consent Order and updated Explanatory Memorandum.</li> <li>• Comments on progressed Statements of Common Ground.</li> <li>• Applicant's updated Compulsory Acquisition, Temporary Possession and Statutory Undertakers Schedules of Negotiations, Powers Sought and Objections.</li> <li>• Applicant's updated Book of Reference and Schedule of Changes to the Book of Reference (if required) in clean and tracked versions.</li> <li>• Progressed s106 agreement(s) (if required)</li> <li>• Applicant's updated National Policy Statement schedules of compliance (if required).</li> <li>• Applicant's updated Guide to the Application in clean and tracked versions.</li> <li>• Comments on any submissions received at Deadline 3.</li> <li>• Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</li> </ul>	
REP4-001	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 4 Submission - Covering Letter
REP4-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 1.3(F) Navigation Document and Application Guide (Tracked) Final Issue F - June 2023
REP4-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 1.3(F) Navigation Document and Application Guide (Clean) - Final Issue F June 2023
REP4-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 2.11.3(B) Trees and Hedgerows Potentially Affected Plan Section C - Final Issue B June 2023
REP4-005	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 4.1- (C) Statement of Reasons Appendix B – Schedule of Negotiations with Land Interests (Tracked) - Final Issue C June 2023
REP4-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 4.1(C) Statement of Reasons Appendix B – Schedule of Negotiations with Land Interests (Clean) - Final Issue C June 2023
REP4-007	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 4.3(D) Book of Reference (Tracked) - Final Issue D June 2023
REP4-008	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 4.3(D) Book of Reference (Clean) - Final Issue D June 2023
REP4-009	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 5.3.3I(B) (Part 1 of 3) Environmental Statement - Chapter 3 - Appendix 3I - Arboricultural Impact Assessment (Part 1 of 3) (Tracked) - Final Issue B - June 2023
REP4-010	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 5.3.3I(B) (Part 1 of 3) Environmental Statement - Chapter 3 - Appendix 3I - Arboricultural Impact Assessment (Part 1 of 3) (Clean) - Final Issue B June 2023
REP4-011	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 5.3.3I(B) (Part 2 of 3) Environmental Statement - Chapter 3 - Appendix 3I - Arboricultural Impact Assessment (Part 2 of 3) - Final Issue B
REP4-012	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 5.3.3I(B) (Part 3 of 3) Environmental Statement - Chapter 3 - Appendix 3I - Arboricultural Impact Assessment (Part 3 of 3) - Final Issue B June 2023
REP4-013	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.2(C) Schedule of Changes to the Book of Reference (Tracked) - Final Issue C June 2023
REP4-014	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.2(C) Schedule of Changes to the Book of Reference (Clean) - Final Issue C June 2023
REP4-015	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.12(B) Protective Provisions Progress Schedule - (Tracked) - Final Issue B June 2023
REP4-016	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 4 Submission - 8.12(B) Protective Provisions Progress Schedule (Clean) - Final Issue B June 2023
REP4-017	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.13(B) Summary of Actions and Engagement in Relation to the Traveller Community (Tracked) - Final Issue B June 2023
REP4-018	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.13(B) Summary of Actions and Engagement in Relation to the Traveller Community (Clean) - Final Issue B June 2023
REP4-019	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.14(B) Compulsory Acquisition and Temporary Possession Objections Schedule (Tracked) - Final Issue B June 2023
REP4-020	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.14(B) Compulsory Acquisition and Temporary Possession Objections Schedule (Clean) - Final Issue B June 2023
REP4-021	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.21 Applicant's Comments on Interested Parties' Deadline 3 Submissions - Final Issue A June 2023
REP4-022	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.22 Draft Section 106 Agreement Final Issue A June 2023
REP4-023	<a href="#">National Grid Electricity Transmission (NGET)</a> Document 8.23.1 Applicant's Written Summary of Oral Representations made at Issue Specific Hearing 2 (ISH2) - Final Version A June 2023
REP4-024	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.23.2 Written Summary of Oral Representations made at Compulsory Acquisition Hearing 1 (CAH1) - Final Issue A June 2023
REP4-025	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.23.3 Applicant's Written Summary of Oral Representations made at Issue Specific Hearing 3 (ISH3) - Final Version A June 2023
REP4-026	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.23.4 Applicant's Response to Issue Specific Hearing 2 (ISH2) Hearing Action Points - Final Issue A June 23
REP4-027	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.23.5 Applicant's Response to Compulsory Acquisition Hearing 1 (CAH1) Hearing Action Points - Final Issue A June 2023
REP4-028	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 4 Submission - 8.23.6 Applicant's Response to Issue Specific Hearing 3 (ISH3) Hearing Action Points - Final Issue A June 2023
REP4-029	<a href="#">National Highways</a>

	Deadline 4 Submission - Post Hearing Submissions in respect of Issue Specific Hearing 2 (ISH2), Issue Specific Hearing 3 (ISH3) and Compulsory Acquisition Hearing 1 (CAH1)
REP4-030	<a href="#">Stephensons Rural LLP on behalf of Benjamin Rab and Fiona Rab</a> Deadline 4 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the Examining Authority
REP4-031	<a href="#">Stephensons Rural LLP on behalf of Benjamin Rab and Fiona Rab</a> Deadline 4 Submission - Post-hearing submissions - Issue Specific Hearing 2 (ISH2) Action Points
REP4-032	<a href="#">Stephensons, Rural LLP on behalf of Mrs Pamela Husband, Ms Gill Eves and Mr Paul Bulmer</a> Deadline 4 Submission - Post hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the Examining Authority and comments on any oral submissions put at the Hearings
REP4-033	<a href="#">Carter Jonas LLP on behalf of Castlegate, Trustees – WH Strawson (Farms) Ltd Pension Scheme, S Batty &amp; Son, University of Leeds, WR Strawson &amp; the Batty, Aspinall &amp; Gittus Families</a> Deadline 4 Submission - Withdrawal of submissions [RR-005, RR-007, RR-008, RR-009, RR-010, RR-011, RR-012] in respect of the Development Consent Order (DCO) application
REP4-034	<a href="#">Canal &amp; River Trust</a> Deadline 4 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the Examining Authority
REP4-035	<a href="#">Leeds City Council</a> Deadline 4 Submission - Copy of letter to Applicant regarding Leeds City Council's second response to Version 1 Draft S106 Agreement
REP4-036	<a href="#">Leeds City Council</a> Deadline 4 Submission - Post-hearing submissions - Response to Issue Specific Hearing 2 (ISH2) Action Points
REP4-037	<a href="#">Leeds City Council</a> Deadline 4 Submission - Post-hearing submissions, written summary of oral submissions by Leeds City Council to Issue Specific Hearings 2 and 3 (ISH2 and ISH3)
REP4-038	<a href="#">Leeds City Council</a> Deadline 4 Submission - Update on the draft s106 Agreement
REP4-039	<a href="#">North Yorkshire Council</a> Deadline 4 Submission - Environmental Impact Assessment (EIA) Screening Matrix for Hayton House Site
REP4-040	<a href="#">North Yorkshire Council</a> Deadline 4 Submission - Decision on Environmental Impact Assessment (EIA) Screening Request at Hayton House site
REP4-041	<a href="#">North Yorkshire Council</a> Deadline 4 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the Examining Authority
REP4-042	<a href="#">North Yorkshire Council</a>

	Deadline 4 Submission - Environmental Impact Assessment (EIA) Screening Report for Hayton House Solar Farm with Battery Storage
REP4-043	<a href="#">Yorkshire Wildlife Trust</a> Deadline 4 Submission - Accepted at the discretion of the Examining Authority (ExA). Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the ExA
<b>Deadline 5 - 11 July 2023</b>	
For receipt by the Examining Authority of:	
<ul style="list-style-type: none"> <li>• Responses to the Examining Authority's Further Written Questions (ExQ2) (if issued).</li> <li>• Progressed Statements of Common Ground.</li> <li>• Progressed Statement of Commonality for Statements of Common Ground.</li> <li>• Applicant's updated draft Development Consent Order in clean and tracked versions.</li> <li>• Applicant's final agreed Protective Provisions with all relevant statutory undertakers.</li> <li>• Applicant's consolidated schedule of changes to the draft Development Consent Order.</li> <li>• Applicant's updated Compulsory Acquisition, Temporary Possession and Statutory Undertakers Schedules of Negotiations, Powers Sought and Objections.</li> <li>• Applicant's updated Book of Reference and Schedule of Changes to the Book of Reference (if required) in clean and tracked versions.</li> <li>• Applicant's updated Guide to the Application in clean and tracked versions.</li> <li>• Comments on any submissions received at Deadline 4.</li> <li>• Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</li> </ul>	
REP5-001	<a href="#">From National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - Cover letter
REP5-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 1.3(G) Navigation Document and Application Guide (Clean) - Final Issue G
REP5-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 1.3(G) Navigation Document and Application Guide (Tracked) - Final Issue G
REP5-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 3.1(D) Draft Development Consent Order (Clean) - Final Issue D
REP5-005	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 3.1(D) Draft Development Consent Order (Tracked) - Final Issue D
REP5-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 3.2(D) Explanatory Memorandum (Clean) - Final Issue D
REP5-007	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 5 Submission - 3.2(D) Explanatory Memorandum (Tracked) - Final Issue D
REP5-008	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 4.1(D) Statement of Reasons Appendix B – Schedule of Negotiations with Land Interests (Clean) - Final Issue D
REP5-009	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 4.1(D) Statement of Reasons Appendix B - Schedule of Negotiations with Land Interests (Tracked) - Final Issue D
REP5-010	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 4.3(E) Book of Reference (Clean) - Final Issue E
REP5-011	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 4.3(E) Book of Reference (Tracked) - Final Issue E
REP5-012	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.2.19(C) Environmental Statement Consolidated Errata (Clean) - Final Issue C
REP5-013	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.2.19(C) Environmental Statement Consolidated Errata (Tracked) - Final Issue C
REP5-014	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.2.22 Environmental Statement Addendum (Consolidated) (Clean) - Final Issue A
REP5-015	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.2.22 Environmental Statement Addendum (Consolidated) (Tracked) - Final Issue A
REP5-016	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.3.3B(C) Environmental Statement Chapter 3 - Appendix 3B - Code of Construction Practice (Clean) - Final Issue C
REP5-017	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.3.3B(C) Environmental Statement - Chapter 3 - Appendix 3B - Code of Construction Practice (Tracked) - Final Issue C
REP5-018	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.3.3F(B) Environmental Statement - Chapter 3 - Appendix 3F Construction Traffic Management Plan (Clean) - Final Issue B
REP5-019	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.3.3F(B) Environmental Statement - Chapter 3 - Appendix 3F Construction Traffic Management Plan (Tracked) - Final Issue B
REP5-020	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.3.8B(D) Environmental Statement - Chapter 8 - Appendix 8B - Extended Phase 1 Habitat Survey Report (Clean) - Final Issue D
REP5-021	<a href="#">National Grid Electricity Transmission (NGET)</a>



	Deadline 5 Submission - 5.3.8B(D) Environmental Statement - Chapter 8 - Appendix 8B - Extended Phase 1 Habitat Survey Report (Tracked) - Final Issue D
REP5-022	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.4.8(C) Environmental Statement - Chapter 8 - Biodiversity Figures (Part 1 of 2)
REP5-023	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 5.4.8(C) Environmental Statement - Chapter 8 - Biodiversity Figures (Part 2 of 2)
REP5-024	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 7.3 Details of Other Consents and Licences (Clean) - Final Issue B
REP5-025	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 7.3 Details of Other Consents and Licences (Tracked) Final Issue B
REP5-026	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.1(C) Schedule of Changes to the Draft Development Consent Order - Final Issue C
REP5-027	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.2(D) Schedule of Changes to the Book of Reference (Clean) - Issue D
REP5-028	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.2(D) Schedule of Changes to the Book of Reference (Tracked) -Final Issue D
REP5-029	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.1(C) Statement of Commonality for Statements of Common Ground (Clean) - Final Version C
REP5-030	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.1(C) Statement of Commonality for Statements of Common Ground (Tracked) - Final Version C
REP5-031	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.2(C) Statement of Common Ground between National Grid Electricity Transmission plc and North Yorkshire Council Draft Version 3 (Clean)
REP5-032	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.2(C) Statement of Common Ground between National Grid Electricity Transmission plc and North Yorkshire Council Draft Version 3 (Tracked)
REP5-033	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.3(C) Statement of Common Ground between National Grid Electricity Transmission plc and City of York Council Final Version 3 (Clean)
REP5-034	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.3(C) Statement of Common Ground between National Grid Electricity Transmission plc and City of York Council Final Version 3 (Tracked)
REP5-035	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.4(C) Statement of Common Ground between National Grid Electricity Transmission plc and Leeds City Council Draft Version 3 (Clean)
REP5-036	<a href="#">National Grid Electricity Transmission (NGET)</a>

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	Deadline 5 Submission - 8.5.4(C) Statement of Common Ground between National Grid Electricity Transmission plc and Leeds City Council Draft Version 3 (Tracked)
REP5-037	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.5(B) Statement of Common Ground between National Grid Electricity Transmission and Natural England Final Version 2 (Clean)
REP5-038	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.5(B) Statement of Common Ground between National Grid Electricity Transmission and Natural England Final Version 2 (Tracked)
REP5-039	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.6(B) Statement of Common Ground between National Grid Electricity Transmission and Yorkshire Wildlife Trust Final Version 3 (Clean)
REP5-040	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.6(B) Statement of Common Ground between National Grid Electricity Transmission and Yorkshire Wildlife Trust Final Version 3 (Tracked)
REP5-041	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.7(B) Statement of Common Ground between National Grid Electricity Transmission and Environment Agency Draft Version 2 (Clean)
REP5-042	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.7(B) Statement of Common Ground between National Grid Electricity Transmission and Environment Agency Draft Version 2 (Tracked)
REP5-043	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.8(B) Statement of Common Ground between National Grid Electricity Transmission and Historic England Final Version 2 (Clean)
REP5-044	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.8(B) Statement of Common Ground between National Grid Electricity Transmission and Historic England Final Version 2 (Tracked)
REP5-045	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.9(C) Statement of Common Ground Between National Grid Electricity Transmission and National Trust Final Version 3 (Clean)
REP5-046	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.9(C) Statement of Common Ground between National Grid Electricity Transmission and National Trust Final Version 3 (Tracked)
REP5-047	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.10(B) Statement of Common Ground between National Grid Electricity Transmission plc and Northern Powergrid (Yorkshire) plc and Northern Powergrid (Northeast) plc Final Version 2 (Clean)
REP5-048	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.10(B) Statement of Common Ground between National Grid Electricity Transmission plc and Northern

	Powergrid (Yorkshire) plc and Northern Powergrid (Northeast) plc Final Version 2 (Tracked)
REP5-049	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.11(C) Statement of Common Ground between National Grid and Network Rail Infrastructure Limited Draft Version 3 (Clean)
REP5-050	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.11(C) Statement of Common Ground between National Grid and Network Rail Infrastructure Limited Draft Version 3 (Tracked)
REP5-051	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.12(B) Statement of Common Ground between National Grid Electricity Transmission and Ainsty Internal Drainage Board Draft Version 2 (Clean)
REP5-052	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.12(B) Statement of Common Ground between National Grid Electricity Transmission and Ainsty Internal Drainage Board Draft Version 2 (Tracked)
REP5-053	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.13(B) Statement of Common Ground between National Grid Electricity Transmission and Kyle and Upper Ouse Internal Drainage Board Final Version 2 (Clean)
REP5-054	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.13(B) Statement of Common Ground between National Grid Electricity Transmission and Kyle and Upper Ouse Internal Drainage Board Final Version 2 (Tracked)
REP5-055	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.14(B) Statement of Common Ground between National Grid Electricity Transmission and National Highways Draft Version 2 (Clean)
REP5-056	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.14(B) Statement of Common Ground between National Grid Electricity Transmission and National Highways Draft Version 2 (Tracked)
REP5-057	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.15(B) Statement of Common Ground between National Grid Electricity Transmission plc and Canal & River Trust Final Version 2 (Clean)
REP5-058	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.15(B) Statement of Common Ground between National Grid Electricity Transmission plc and Canal & River Trust Final Version 2 (Tracked)
REP5-059	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.16(B) Statement of Common Ground between National Grid Electricity Transmission and Foss Internal Drainage Board Final Version 2 (Clean)
REP5-060	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.16(B) Statement of Common Ground between National Grid Electricity Transmission and Foss Internal Drainage Board Final Version 2 (Tracked)
REP5-061	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 5 Submission - 8.5.17(B) Statement of Common Ground between National Grid Electricity Transmission plc and Cellnex UK Limited Final Version 2 (Clean)
REP5-062	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.17(B) Statement of Common Ground between National Grid Electricity Transmission plc and Cellnex UK Limited Final Version 2 (Tracked)
REP5-063	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.18(C) Statement of Common Ground between National Grid Electricity Transmission plc and EE Limited and Hutchison 3G UK Limited Final Version 3 (Clean)
REP5-064	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.18(C) Statement of Common Ground between National Grid Electricity Transmission plc and EE Limited and Hutchison 3G UK Limited Final Version 3 (Tracked)
REP5-065	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.19(B) Statement of Common Ground between National Grid Electricity Transmission plc and National Gas Transmission plc Draft Version 2 (Clean)
REP5-066	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.19(B) Statement of Common Ground between National Grid Electricity Transmission plc and National Gas Transmission plc Draft Version 2 (Tracked)
REP5-067	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.20(B) Statement of Common Ground between National Grid Electricity Transmission plc and Northern Gas Networks Limited Draft Version 2 (Clean)
REP5-068	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.20(B) Statement of Common Ground between National Grid Electricity Transmission plc and Northern Gas Networks Limited Draft Version 2 (Tracked)
REP5-069	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.21(B) Statement of Common Ground between National Grid Electricity Transmission and Yorkshire Water Final Version 2 (Clean)
REP5-070	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.5.21(B) Statement of Common Ground Between National Grid Electricity Transmission and Yorkshire Water Final Version 2 (Tracked)
REP5-071	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.12(C) Protective Provisions Progress Schedule (Clean) - Final Issue C
REP5-072	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.12(C) Protective Provisions Progress Schedule (Tracked) - Final Issue C
REP5-073	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.13(C) Summary of Actions and Engagement in Relation to the Traveller Community (Clean) - Final Issue C
REP5-074	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 5 Submission - 8.13(C) Summary of Actions and Engagement in Relation to the Traveller Community (Tracked) - Final Issue C
REP5-075	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.14(C) Compulsory Acquisition and Temporary Possession Objections Schedule (Clean) - Final Issue C
REP5-076	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.14(C) Compulsory Acquisition and Temporary Possession Objections Schedule (Tracked) - Final Issue C
REP5-077	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.18(B) Design Approach to Site Specific Infrastructure (Clean) - Final Issue B
REP5-078	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.18(B) Design Approach to Site Specific Infrastructure (Tracked) - Final Issue B
REP5-079	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.23.7 Applicant's Deadline 5 Response to Issue Specific Hearing 2 (ISH2) Hearing Action Points - Final Issue A
REP5-080	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.23.8 Applicant's Deadline 5 Response to Compulsory Acquisition Hearing 1 (CAH1) Hearing Action Points - Final Issue A
REP5-081	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.23.9 Applicant's Deadline 5 Response to Issue Specific Hearing 3 (ISH3) Hearing Action Points - Final Issue A
REP5-082	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.24 Applicant's Comments on Interested Parties' Deadline 4 Submissions
REP5-083	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.25.1 Applicant's Response to Examining Authority's Second Written Questions (ExQ2) - Final Issue A
REP5-084	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.25.2 Applicant's Response to Examining Authority's Second Written Questions (ExQ2) Appendices - Final Issue A
REP5-085	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.26 CIL Compliance Statement for S106 Agreement Pursuant to Section 106 of the Town and Country Planning Act 1990 - Final Issue A
REP5-086	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.27.1 Application under section 127 and 138 Planning Act 2008 – Network Rail Infrastructure Limited - Final Issue A
REP5-087	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 5 Submission - 8.27.2 Application under section 127 and 138 Planning Act 2008 – National Highways Limited - Final Issue A
REP5-088	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.27.3 Application under section 127 and 138 Planning Act 2008 – National Gas Transmission plc - Final Issue A
REP5-089	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 8.27.4 Application under section 127 and 138 Planning Act 2008 – Northern Gas Networks Limited - Final Issue A
REP5-090	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - Cover letter for Change Application
REP5-091	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 9.1 Change Application: Report on Proposed Changes - Final Issue A
REP5-092	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 9.2 Change Application: Plans and Drawings - Final Issue A
REP5-093	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 9.3 Change Application: Book of Reference (Clean) - Final Issue A
REP5-094	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 9.3 Change Application: Book of Reference (Tracked) - Final Issue A
REP5-095	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - Document 9.4 Change Application: Flood Risk Assessment (Clean) - Final Issue A
REP5-096	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 5 Submission - 9.4 Change Application: Flood Risk Assessment (Tracked) - Final Issue A
REP5-097	<a href="#">Ainsty (2008) Internal Drainage Board</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-098	<a href="#">Canal &amp; River Trust</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-099	<a href="#">Canal &amp; River Trust</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2) - Appendix A Article 54 and Protective Provisions for the Protection of Canal and River Trust included in draft DCO (Document 3.1(D)) submitted at Deadline 5
REP5-100	<a href="#">Carter Jonas LLP on behalf of Philip Watson</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-101	<a href="#">City of York Council</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-102	<a href="#">Foss (2008) Internal Drainage Board</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)

REP5-103	<a href="#">George F White LLP on behalf of Mark Godliman and the Midgley Family</a> Deadline 5 Submission - Withdrawal of submissions [RR-016, RR-017]
REP5-104	<a href="#">Historic England</a> Deadline 5 Submission - Copy of letter to Applicant dated 16 February 2023
REP5-105	<a href="#">Kyle and Upper Ouse Internal Drainage Board</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-106	<a href="#">Leeds City Council</a> Deadline 5 Submission - Copy of letter regarding Draft s106 Agreement
REP5-107	<a href="#">Leeds City Council</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-108	<a href="#">Lister Haigh on behalf of Chris Lister</a> Late Deadline 5 Submission - Accepted at the discretion of the Examining Authority. Responses to the Examining Authority's Further Written Questions (ExQ2) and Withdrawal of Objection [RR-021]
REP5-109	<a href="#">Lister Haigh on behalf of David Blacker and Marion Blacker</a> Late Deadline 5 Submission - Accepted at the discretion of the Examining Authority. Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-110	<a href="#">Lister Haigh on behalf of James Bell</a> Late Deadline 5 Submission - Accepted at the discretion of the Examining Authority. Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-111	<a href="#">Lister Haigh on behalf of Richard Elliot</a> Late Deadline 5 Submission - Accepted at the discretion of the Examining Authority. Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-112	<a href="#">Lister Haigh on behalf of Simon Mills</a> Late Deadline 5 Submission - Accepted at the discretion of the Examining Authority. Responses to the Examining Authority's Further Written Questions (ExQ2) and Withdrawal of Objection [RR-026]
REP5-113	<a href="#">National Gas Transmission Limited</a> Deadline 5 Submission - Update regarding negotiations and Protective Provisions
REP5-114	<a href="#">National Highways</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2) and Protective Provisions
REP5-115	<a href="#">Natural England</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-116	<a href="#">Network Rail Infrastructure Limited</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-117	<a href="#">North Yorkshire Council</a>

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	Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-118	<a href="#">Stephensons Rural LLP on behalf of Benjamin Rab and Fiona Rab</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP5-119	<a href="#">Stephensons Rural LLP on behalf of Mrs Pamela Husband, Ms Gill Eves and Mr Paul Bulmer</a> Deadline 5 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
<b>Deadline 6 - 28 July 2023</b>	
For receipt by the Examining Authority of:	
<ul style="list-style-type: none"> <li>• Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the ExA (if held).</li> <li>• Comments on any oral submissions put at the Hearings (if held).</li> <li>• Comments on progressed Statements of Common Ground.</li> <li>• Comments on the Applicant's updated draft Development Consent Order.</li> <li>• Applicant's updated National Policy Statement schedules of compliance (if required).</li> <li>• Applicant's updated Guide to the Application in clean and tracked versions.</li> <li>• Responses to the Applicant's Change Application received at Deadline 5.</li> <li>• Applicant's amended application documents or addenda following acceptance by the ExA of the Change Application.</li> <li>• Comments on any other submissions received at Deadline 5.</li> <li>• Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</li> </ul>	
REP6-001	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - Cover Letter
REP6-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 1.3(H) Navigation Document and Application Guide (Clean) - Final Issue H
REP6-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 1.3(H) Navigation Document and Application Guide (Tracked) - Final Issue H
REP6-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 1.4(B) Glossary (Clean) - Final Issue B
REP6-005	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 1.4(B) Glossary (Tracked) - Final Issue
REP6-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.2(B) Master Key to Section Identification Plan - Final Issue B
REP6-007	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.4.2(B) Land Affected Plan Section B - Final Issue B
REP6-008	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.5.2(D) Land Plan Section B - Final Issue D
REP6-009	<a href="#">National Grid Electricity Transmission (NGET)</a>



	Deadline 6 Submission - 2.5.3(C) Land Plans Section C - Final Issue C
REP6-010	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.6.2(C) Works Plan Section B - Final Issue C
REP6-011	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.6.3(C) Works Plan Section C - Final Issue C
REP6-012	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.6.4(C) Works Plan Section D - Final Issue C
REP6-013	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.6.5(C) Works Plan Section E - Final Issue C
REP6-014	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.7.2(C) Access, Rights of Way and Public Rights of Navigation Plan Section B - Final Issue C
REP6-015	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.8.2(B) Statutory or Non-Statutory Sites or Features of Nature Conservation Plan Section B - Final Issue B
REP6-016	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.9.2(B) Habitats of Protected Species, Important Habitats or Other Diversity Features and Water Bodies Plan Section B - Final Issue
REP6-017	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.10.2(B) Statutory or Non Statutory Sites or Features of the Historic Environment Plan Section B - Final Issue B
REP6-018	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.11.2(B) Trees and Hedgerows Potentially Affected Plan Section B - Final Issue B
REP6-019	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.11.3(C) Trees and Hedgerows Potentially Affected Plan Section C - Final Issue C
REP6-020	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.11.6(B) Trees and Hedgerows Potentially Affected Plan Section F - Final Issue B
REP6-021	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.12.2(B) Traffic Regulation Order Plan Section B - Final Issue B
REP6-022	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.13(B) Crown and Special Category Land Plan - Final Issue B
REP6-023	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.14(B) Extinguishment of Easements Servitudes and Other Private Rights Plan - Final Issue B
REP6-024	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 2.15(C) Design Drawings - Final Issue C
REP6-025	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 6 Submission - 3.1(E) Draft Development Consent Order (Clean) - Final Issue E
REP6-026	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 3.1(E) Draft Development Consent Order (Tracked) - Final Issue E
REP6-027	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 3.2(E) Explanatory Memorandum (Clean) - Final Issue E
REP6-028	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 3.2(E) Explanatory Memorandum (Tracked) - Final Issue E
REP6-029	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 4.1(B) Statement of Reasons (Clean) - Final Issue B
REP6-030	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 4.1(B) Statement of Reasons (Tracked) - Final Issue B
REP6-031	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 4.3(F) Book of Reference (Clean) - Final Issue F
REP6-032	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 4.3(F) Book of Reference (Tracked) - Final Issue F
REP6-033	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.2.19(D) Environmental Statement Consolidated Errata (Clean) - Final Issue D
REP6-034	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.2.19(D) Environmental Statement Consolidated Errata (Tracked) - Final Issue D
REP6-035	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3A(C) Environmental Statement (ES) Chapter 3 Appendix 3A - Embedded Measures Schedule (Clean) - Final Issue C
REP6-036	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3A(C) Environmental Statement (ES) Chapter 3 Appendix 3A - Embedded Measures Schedule (Tracked) - Final Issue C
REP6-037	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3B(D) Environmental Statement (ES) Chapter 3 Appendix 3B - Code of Construction Practice (Clean) - Final Issue D
REP6-038	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3B(D) Environmental Statement (ES) Chapter 3 Appendix 3B - Code of Construction Practice (Tracked) - Final Issue D
REP6-039	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3D(B) Environmental Statement (ES) Chapter 3 Appendix 3D - Biodiversity Mitigation Strategy (Clean) - Final Issue B
REP6-040	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 6 Submission - 5.3.3D(B) Environmental Statement (ES) Chapter 3 Appendix 3D - Biodiversity Mitigation Strategy (Tracked) - Final Issue B
REP6-041	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3F(C) Environmental Statement (ES) Chapter 3 Appendix 3F - Construction Traffic Management Plan (Clean) - Final Issue C
REP6-042	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3F(C) Environmental Statement (ES) Chapter 3 Appendix 3F - Construction Traffic Management Plan (Tracked) - Final Issue C
REP6-043	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3I(C) Environmental Statement (ES) Chapter 3 Appendix 3I - Arboricultural Impact Assessment (Part 1 of 3) (Clean) - Final Issue C
REP6-044	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3I(C) Environmental Statement (ES) Chapter 3 Appendix 3I - Arboricultural Impact Assessment (Part 1 of 3) (Tracked) - Final Issue C
REP6-045	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3I(C) Environmental Statement (ES) Chapter 3 Appendix 3I - Arboricultural Impact Assessment (Part 2 of 3) - Final Issue C
REP6-046	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.3I(C) Environmental Statement (ES) Chapter 3 Appendix 3I - Arboricultural Impact Assessment (Part 3 of 3) - Final Issue C
REP6-047	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.9D(B) Environmental Statement (ES) Chapter 9 Appendix 9D - Flood Risk Assessment (Clean) - Final Issue B
REP6-048	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.3.9D(B) Environmental Statement (ES) Chapter 9 Appendix 9D - Flood Risk Assessment (Tracked) - Final Issue B
REP6-049	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.4.3(D) Environmental Statement (ES) Chapter 3 Description of the Project - Figures - Final Issue D
REP6-050	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.4.9(B) Environmental Statement (ES) Chapter 9 Hydrology - Figures Part 1 of 2 - Final Issue B
REP6-051	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.4.9(B) Environmental Statement (ES) Chapter 9 Hydrology - Figures Part 2 of 2 - Final Issue B
REP6-052	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 5.4.12(B) Environmental Statement (ES) Chapter 12 Traffic and Transport - Figures - Final Issue B
REP6-053	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.1(D) Schedule of Changes to the Draft Development Consent Order - Final Issue D
REP6-054	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 6 Submission - 8.2(E) Schedule of Changes to the Book of Reference (Clean) - Final Issue E
REP6-055	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.2(E) Schedule of Changes to the Book of Reference (Tracked) - Final Issue E
REP6-056	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.13(D) Summary of Actions and Engagement in Relation to the Traveller Community (Clean) - Final Issue D
REP6-057	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.13(D) Summary of Actions and Engagement in Relation to the Traveller Community (Tracked) - Final Issue D
REP6-058	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.28 Applicant's Comments on Interested Parties' Deadline 5 Submissions
REP6-059	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.29.1 Applicant's Written Summary of Oral Representations made at Compulsory Acquisition Hearing 2 (CAH2)
REP6-060	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.29.2 Applicant's Written Summary of Oral Representations made at Issue Specific Hearing 4 (ISH4)
REP6-061	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.29.3 Applicant's Response to Compulsory Acquisition Hearing 2 (CAH2) Hearing Action Points
REP6-062	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.29.4 Applicant's Response to Issue Specific Hearing 4 (ISH4) Hearing Action Points
REP6-063	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.30.1 Proposed Protective Provisions to benefit Network Rail - Final Issue A
REP6-064	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.30.2 Proposed Protective Provisions to benefit National Highways - Final Issue A
REP6-065	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.30.3 Proposed Protective Provisions to benefit National Gas Transmission - Final Issue A
REP6-066	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 6 Submission - 8.30.4 Proposed Protective Provisions to benefit Northern Gas Networks - Final Issue A
REP6-067	<a href="#">Ainsty (2008) Internal Drainage Board</a> Deadline 6 Submission - Comments on the Applicant's updated draft Development Consent Order
REP6-068	<a href="#">Carter Jonas on behalf of Philip Watson</a> Deadline 6 Submission - Responses to the Examining Authority's Further Written Questions (ExQ2)
REP6-069	<a href="#">Leeds City Council</a> Deadline 6 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the Examining Authority

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REP6-070	<a href="#">Leeds City Council</a> Deadline 6 Submission - Response to Issue Specific Hearing 4 (ISH4) Action Point 5
REP6-071	<a href="#">Marion and David Blacker</a> Deadline 6 Submission - Post hearing submissions including written summaries of oral submissions to the hearing and any documents requested by the Examining Authority
REP6-072	<a href="#">National Gas Transmissions Plc</a> Deadline 6 Submission - Preferred Protective Provisions
REP6-073	<a href="#">National Gas Transmissions Plc</a> Deadline 6 Submission - Response to Compulsory Acquisition Hearing 2 (CAH2) Action point 16
REP6-074	<a href="#">National Gas Transmissions Plc</a> Deadline 6 Submission - Response to Compulsory Acquisition Hearing 2 (CAH2) Action point 18
REP6-075	<a href="#">National Gas Transmissions Plc</a> Deadline 6 Submission - Response to Compulsory Acquisition Hearing 2 (CAH2) Action point 18 - Appendix 1 - List of Development Consent Orders with Protective Provisions for National Grid Gas.
REP6-076	<a href="#">National Highways Limited</a> Deadline 6 Submission - Post-hearing submissions, including written summaries of oral submissions to the hearings and any documents requested by the Examining Authority.
REP6-077	<a href="#">North Yorkshire Council</a> Deadline 6 Submission - Response to Action Points
REP6-078	<a href="#">Stephensons Rural LLP on behalf of Mrs Pamela Husband, Ms Gill Eves, Mr Paul Bulmer, Benjamin Rab and Fiona Rab</a> Deadline 6 Submission - Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.
REP6-079	<a href="#">The Coal Authority</a> Deadline 6 Submission - Response to Letter regarding Procedural Decision dated 25 July 2023
REP6-080	<a href="#">The Coal Authority</a> Deadline 6 Submission - Response to Letter regarding Procedural Decision dated 26 July 2023

### **Deadline 7 - 6 September 2023**

For receipt by the Examining Authority of:

- Comments on the Report on the Implications for European Sites (RIES) and responses to any associated questions (if issued).
- Responses to the Examining Authority's commentary on, or proposed schedule of changes to, the draft Development Consent Order (if issued).
- Final Statements of Common Ground.
- Final Statement of Commonality for Statements of Common Ground.
- List of matters not agreed where any Statement of Common Ground could not be finalised.
- Applicant's final draft Development Consent Order in clean and tracked versions.

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- Applicant's final draft Development Consent Order to be submitted in the SI template with the SI template validation report.
- Applicant's final consolidated schedule of changes to the draft Development Consent Order.
- Applicant's final amended Explanatory Memorandum.
- Applicant's final updated Book of Reference and Schedule of Changes to the Book of Reference in clean and tracked versions.
- Applicant's final Compulsory Acquisition, Temporary Possession and Statutory Undertakers Schedules of Negotiations, Powers Sought and Objections.
- Applicant's final National Policy Statement schedules of compliance.
- Applicant's final planning obligations and commercial side agreements tracking lists.
- Any final signed and dated section 106 agreements together with CIL compliance schedule.
- Applicant's final updated Guide to the Application, in clean and tracked versions.
- Comments on responses to the Applicant's Change Application.
- Comments on any submissions received at Deadline 6.
- Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.

REP7-001	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - Cover Letter
REP7-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 2.1(B) Overall Location Plan
REP7-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.2.19(E) Environmental Statement Consolidated Errata (Clean) - Final Issue E
REP7-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.2.19(E) Environmental Statement Consolidated Errata (Tracked) - Final Issue E
REP7-005	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.2.22(B) Environmental Statement Addendum (Consolidated) (Clean) - Final Issue B
REP7-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.2.22(B) Environmental Statement Addendum (Consolidated) (Tracked) - Final Issue B
REP7-007	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.18A(C) Environmental Statement Chapter 18 Appendix 18A - Cumulative Effects Assessment: Long List of Other Developments (Clean) - Final Issue C
REP7-008	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.18A(C) Environmental Statement Chapter 18 Appendix 18A - Cumulative Effects Assessment: Long List of Other Developments (Tracked)

REP7-009	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.3F(D) Environmental Statement Chapter 3 Appendix 3F - Construction Traffic Management Plan (Clean) - Final Issue D
REP7-010	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.3F(D) Environmental Statement Chapter 3 Appendix 3F - Construction Traffic Management Plan (Tracked) - Final Issue D
REP7-011	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.3I(D) (Part 1 of 3) Environmental Statement Chapter 3 Appendix 3I - Arboricultural Impact Assessment (Part 1 of 3) (Clean) - Final Issue D
REP7-012	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.3I(D) (Part 1 of 3) Environmental Statement Chapter 3 Appendix 3I - Arboricultural Impact Assessment (Part 1 of 3) (Tracked) - Final Issue D
REP7-013	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.3I(D) (Part 2 of 3) Environmental Statement Chapter 3 Appendix 3I - Arboricultural Impact Assessment (Part 2 of 3) - Final Issue D
REP7-014	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.3I(D) (Part 3 of 3) Environmental Statement Chapter 3 Appendix 3I - Arboricultural Impact Assessment (Part 3 of 3) Final Issue D
REP7-015	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.4.3(E) Environmental Statement Chapter 3 Description of the Project - Figures
REP7-016	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 7.3(C) Details of Other Consents and Licences (Clean) - Final Issue C
REP7-017	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 7.3(C) Details of Other Consents and Licences (Tracked) - Final Issue C
REP7-018	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.26(B) Community Infrastructure Levy Compliance Statement for S106 Agreement Pursuant to Section 106 of the Town and Country Planning Act 1990 (Clean) - Final Issue B
REP7-019	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 7 Submission - 8.26(B) Community Infrastructure Levy Compliance Statement for S106 Agreement Pursuant to Section 106 of the Town and Country Planning Act 1990 (Tracked) - Final Issue B
REP7-020	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.29.6 Applicant's Deadline 7 Response to Issue Specific Hearing 4 Action Points - Final Issue A
REP7-021	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.32 Applicant's Comments on the Report on the Implications for European Sites (RIES) - Final Issue A
REP7-022	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.12(C) Statement of Common Ground between National Grid Electricity Transmission and Ainsty Internal Drainage Board (Clean) - Final Version 3
REP7-023	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.12(C) Statement of Common Ground between National Grid Electricity Transmission and Ainsty Internal Drainage Board (Tracked) - Final Version 3
REP7-024	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.13(C) Statement of Common Ground between National Grid Electricity Transmission and Kyle and Upper Ouse Internal Drainage Board (Clean) - Final Version 3
REP7-025	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.13(C) Statement of Common Ground between National Grid Electricity Transmission and Kyle and Upper Ouse Internal Drainage Board (Tracked) - Final Version 3
REP7-026	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.16(C) Statement of Common Ground between National Grid Electricity Transmission and Foss Internal Drainage Board (Clean) - Final Version 3
REP7-027	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.16(C) Statement of Common Ground between National Grid Electricity Transmission and Foss Internal Drainage Board (Tracked) - Final Version 3
REP7-028	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.4(D) Statement of Common Ground between National Grid Electricity Transmission plc and Leeds City Council (Clean) - Final Version 4
REP7-029	<a href="#">National Grid Electricity Transmission (NGET)</a>



	Deadline 7 Submission - 8.5.4(D) Statement of Common Ground between National Grid Electricity Transmission plc and Leeds City Council (Tracked) - Final Version 4
REP7-030	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.7(C) Statement of Common Ground between National Grid Electricity Transmission and Environment Agency (Clean) - Final Version 3
REP7-031	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.7(C) Statement of Common Ground between National Grid Electricity Transmission and Environment Agency (Tracked) - Final Version 3
REP7-032	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.22(B) Final Section 106 Agreement
REP7-033	Reference not used
REP7-034	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.34.2 Applicant's Position Statement with North Yorkshire Council and City of York Council on Green Belt
REP7-035	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.34.3 Applicant's Position Statement - Protective Provisions Not Yet Agreed with Network Rail
REP7-036	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.34.4 Applicant's Position Statement - Protective Provisions Not Yet Agreed with National Gas Transmission
REP7-037	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.34.5 Applicant's Position Statement - Protective Provisions Not Yet Agreed with National Highways
REP7-038	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.34.6 Applicant's Position Statement - Protective Provisions Not Yet Agreed with Northern Gas Networks
REP7-039	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.35 Applicant's Closing Statement
REP7-040	Reference not used
REP7-041	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 4.2(B) Funding Statement (Tracked)
REP7-042	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.3B(E) Environmental Statement Chapter 3 Appendix 3B - Code of Construction Practice (Clean)

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REP7-043	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 5.3.3B(E) Environmental Statement Chapter 3 Appendix 3B - Code of Construction Practice (Tracked)
REP7-044	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.12(D) Protective Provisions Progress Schedule (Clean)
REP7-045	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.12(D) Protective Provisions Progress Schedule (Tracked)
REP7-046	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.29.5 Applicant's Deadline 7 Response to Compulsory Acquisition Hearing 2 Hearing Action Points
REP7-047	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.34.1 Applicant's Position Statement with North Yorkshire Council on Working Hours
REP7-048	Reference not used
REP7-049	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 3.2(F) Explanatory Memorandum (Tracked)
REP7-050	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 3.2(F) Explanatory Memorandum (Clean)
REP7-051	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 4.1(C) Statement of Reasons (Tracked)
REP7-052	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.13(E) Summary of Actions and Engagement in Relation to the Traveller Community (Clean)
REP7-053	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.13(E) Summary of Actions and Engagement in Relation to the Traveller Community (Tracked)
REP7-054	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.14(D) Compulsory Acquisition and Temporary Possession Objections Schedule (Clean)
REP7-055	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.14(D) Compulsory Acquisition and Temporary Possession Objections Schedule (Tracked)
REP7-056	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 4.1(C) Statement of Reasons (Clean)

REP7-057	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.1(E) Schedule of Changes to the Draft Development Consent Order
REP7-058	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 3.1(F) Draft Development Consent Order (Tracked)
REP7-059	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 3.1(F) Draft Development Consent Order (Clean)
REP7-060	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.8(B) Applicant's Planning obligations and commercial side agreements tracking list (Tracked)
REP7-061	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.8(B) Applicant's Planning obligations and commercial side agreements tracking list (Clean)
REP7-062	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 4.3(G) Book of Reference (Tracked)
REP7-063	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.2(F) Schedule of Changes to the Book of Reference (Clean)
REP7-064	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.2(F) Schedule of Changes to the Book of Reference (Tracked)
REP7-065	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 4.3(G) Book of Reference (Clean)
REP7-066	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 1.3(I) Navigation Document and Application Guide (Tracked)
REP7-067	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 1.3(I) Navigation Document and Application Guide (Clean)
REP7-068	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.31 Applicant's Comments on Interested Parties' Deadline 6 Submissions
REP7-069	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 4.2(B) Funding Statement (Clean)
REP7-070	<a href="#">National Grid Electricity Transmission (NGET)</a>

	Deadline 7 Submission - 8.1.1 Track Changes Comparison Between Submission Draft Development Consent Order and Final Draft Development Consent Order
REP7-071	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.1.2 Track Changes Comparison Between Submission Explanatory Memorandum and Final Explanatory Memorandum
REP7-072	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.1(D) Statement of Commonality for Statements of Common Ground (Tracked)
REP7-073	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.1(D) Statement of Commonality for Statements of Common Ground (Clean)
REP7-074	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.2(D) Statement of Common Ground between National Grid Electricity Transmission plc and North Yorkshire Council (Tracked)
REP7-075	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.11(D) Statement of Common Ground between National Grid and Network Rail Infrastructure Limited (Clean)
REP7-076	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - Document 8.5.11(D) Statement of Common Ground between National Grid and Network Rail Infrastructure Limited (Tracked)
REP7-077	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.14(C) Statement of Common Ground Between National Grid Electricity Transmission and National Highways (Clean)
REP7-078	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.14(C) Statement of Common Ground Between National Grid Electricity Transmission and National Highways (Tracked)
REP7-079	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.19(C) Statement of Common Ground between National Grid Electricity Transmission plc and National Gas Transmission plc (Clean)
REP7-080	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.19(C) Statement of Common Ground between National Grid Electricity Transmission plc and National Gas Transmission plc (Tracked)

REP7-081	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.20(C) Statement of Common Ground between National Grid Electricity Transmission plc and Northern Gas Networks Limited (Clean)
REP7-082	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.20(C) Statement of Common Ground between National Grid Electricity Transmission plc and Northern Gas Networks Limited (Tracked)
REP7-083	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.5.2(D) Statement of Common Ground between National Grid Electricity Transmission plc and North Yorkshire Council (Clean)
REP7-084	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 7 Submission - 8.33 Applicant's Response to the Examining Authority's commentary and questions on the draft Development Consent Order (DC1)
REP7-085	<a href="#">North Yorkshire Council</a> Deadline 7 Submission - Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.
REP7-086	<a href="#">Ainsty Internal Drainage Board</a> Deadline 7 Submission - Response to Examining Authority's Further Written Questions (ExQ2)
REP7-087	<a href="#">Ainsty Internal Drainage Board</a> Deadline 7 Submission - Responses to the Examining Authority's commentary on, or proposed schedule of changes to, the draft Development Consent Order
REP7-088	<a href="#">Association of Drainage Authorities</a> Deadline 7 Submission - Accepted at the discretion of the Examining Authority as a non-Interested Party
REP7-089	<a href="#">National Gas Transmission plc</a> Deadline 7 Submission - Response to Examining Authority
REP7-090	<a href="#">National Highways Limited</a> Deadline 7 Submission - Responses to the Examining Authority's commentary on, or proposed schedule of changes to, the draft Development Consent Order
REP7-091	<a href="#">Network Rail Infrastructure Limited</a> Deadline 7 Submission - Responses to Examining Authorities Questions
REP7-092	<a href="#">Carter Jonas</a> Deadline 7 Submission - Comments on Submissions Deadline 6
REP7-093	<a href="#">The British Horse Society</a> Deadline 7 Submission
REP7-094	<a href="#">Paul Swales</a> Deadline 7 Submission - Withdrawal of Objection [RR-033]
<b>Deadline 8 - 13 September 2023</b>	

For receipt by the Examining Authority of:	
<ul style="list-style-type: none"> <li>Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.</li> <li>Comments on any submissions received at Deadline 7.</li> </ul>	
REP8-001	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - Cover Letter
REP8-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 1.3(J) Navigation Document and Application Guide (Clean)
REP8-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 1.3(J) Navigation Document and Application Guide (Tracked)
REP8-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 3.1(G) Draft Development Consent Order (Clean)
REP8-005	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 3.1(G) Draft Development Consent Order (Tracked)
REP8-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 3.2(G) Explanatory Memorandum (Clean)
REP8-007	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 3.2(G) Explanatory Memorandum (Tracked)
REP8-008	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.1(F) Schedule of Changes to the Draft Development Consent Order
REP8-009	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.1.1(B) Track Changes Comparison Between Submission Draft Development Consent Order and Final Draft Development Consent Order
REP8-010	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.1.2(B) Track Changes Comparison Between Submission Explanatory Memorandum and Final Explanatory Memorandum
REP8-011	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.12(E) Protective Provisions Progress Schedule (Clean)
REP8-012	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.12(E) Protective Provisions Progress Schedule (Tracked)
REP8-013	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.36 Applicant's Comments on Interested Parties' Deadline 7 Submissions
REP8-014	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.37 Applicant's Response to the Examining Authorities 8th September 2023 Rule 17 Request for Further Information
REP8-015	<a href="#">National Grid Electricity Transmission (NGET)</a>

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	Deadline 8 Submission - 8.5.1(E) Statement of Commonality for Statements of Common Ground (Clean)
REP8-016	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.5.1(E) Statement of Commonality for Statements of Common Ground (Tracked)
REP8-017	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.5.19(D) Statement of Common Ground between National Grid Electricity Transmission plc and National Gas Transmission plc (Clean)
REP8-018	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.5.19(D) Statement of Common Ground between National Grid Electricity Transmission plc and National Gas Transmission plc (Tracked)
REP8-019	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.5.20(D) Statement of Common Ground between National Grid Electricity Transmission plc and Northern Gas Networks Limited (Clean)
REP8-020	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.5.20(D) Statement of Common Ground between National Grid Electricity Transmission plc and Northern Gas Networks Limited (Tracked)
REP8-021	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.8(C) Applicant's Planning obligations and commercial side agreements tracking list (Clean)
REP8-022	<a href="#">National Grid Electricity Transmission (NGET)</a> Deadline 8 Submission - 8.8(C) Applicant's Planning obligations and commercial side agreements tracking list (Tracked)
REP8-023	<a href="#">Stephensons Rural LLP on behalf of Mrs Pamela Husband, Ms Gill Eves and Mr Paul Bulmer</a> Deadline 8 Submission - Comments on any submissions received at Deadline 7
REP8-024	<a href="#">Stephensons Rural LLP on behalf of Benjamin and Fiona Rab</a> Deadline 8 Submission - Comments on any submissions received at Deadline 7
REP8-025	<a href="#">Canal and River Trust</a> Deadline 8 Submission - Withdrawal of Objection
REP8-026	<a href="#">National Gas Transmission plc</a> Deadline 8 Submission - Comments on any submissions received at Deadline 7
REP8-027	<a href="#">National Highways Limited</a> Deadline 8 Submission - Comments on any submissions received at Deadline 7
REP8-028	<a href="#">Natural England</a> Deadline 8 Submission - Any further information requested by the Examining Authority under Rule 17 of The Infrastructure Planning (Examination Procedure) Rules 2010.
REP8-029	<a href="#">Network Rail Infrastructure Limited</a> Deadline 8 Submission - Cover letter
REP8-030	<a href="#">Network Rail Infrastructure Limited</a> Deadline 8 Submission - Protective Provisions and position in relation to s.127 and s.138 cases.

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REP8-031	<a href="#">North Yorkshire Council</a> Deadline 8 Submission - Comments on any submissions received at Deadline 7
<b>Other Documents</b>	
OD-001	<a href="#">National Grid Electricity Transmission (NGET)</a> Section 56 Notice
OD-002	<a href="#">National Grid Electricity Transmission (NGET)</a> Certificate of Compliance with Regulation 16 Notice
OD-003	<a href="#">National Grid Electricity Transmission (NGET)</a> Certificate of Compliance with Section 56 of the Planning Act 2008
OD-004	<a href="#">National Grid Electricity Transmission (NGET)</a> Certificate of Compliance with Section 59 of the Planning Act 2008
OD-005	<a href="#">National Grid Electricity Transmission (NGET)</a> Applicant's notice of March 2023 hearings
OD-006	<a href="#">National Grid Electricity Transmission (NGET)</a> Applicant's notice of May 2023 hearings
OD-007	<a href="#">National Grid Electricity Transmission (NGET)</a> Applicant's notice of July 2023 hearings
OD-008	<a href="#">Regulation 32 - Transboundary Screening</a>