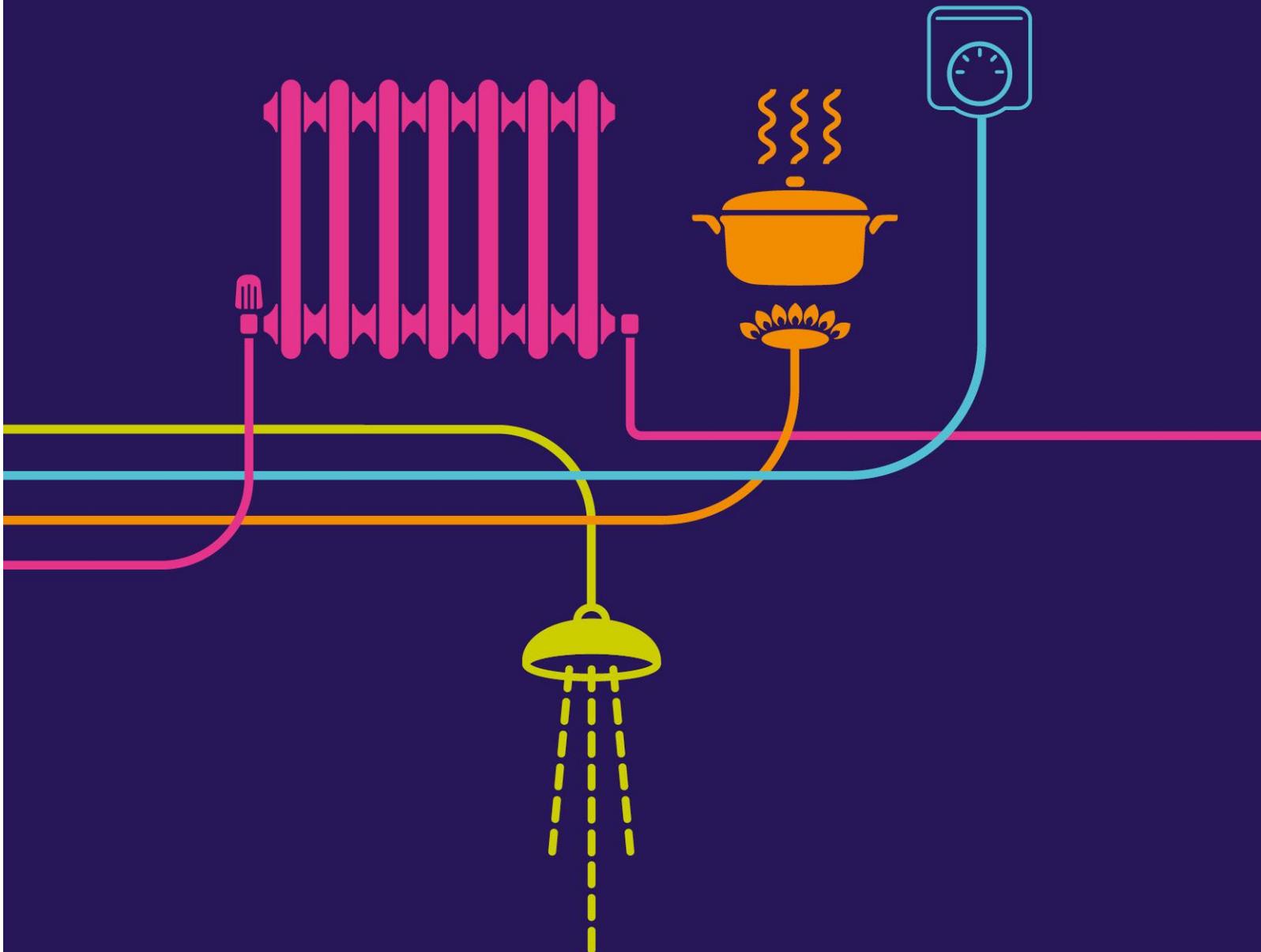


# Statement of Reasons

## River Humber Gas Pipeline Replacement Project





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## **BACKGROUND**

- (A) This Statement of Reasons ("Statement") relates to a Development Consent Order application by National Grid Gas Plc ("National Grid") under the Planning Act 2008 (the "Act") for the River Humber (Gas Pipeline Replacement) Order (the "DCO").
- (B) National Grid is proposing to construct and operate a replacement high-pressure gas transmission pipeline and associated infrastructure between the existing Above Ground Installations ("AGIs") at Goxhill and Paull (the "Scheme"). The Scheme is a nationally significant infrastructure project requiring development consent pursuant to sections 14(1)(f) and 20 of the Act.
- (C) The total length of the pipeline route is up to 6km. Approximately 400m of pipeline would be laid onshore at Paull and 120m at Goxhill for the connections to each AGI.
- (D) In summary, the DCO will grant powers to construct, operate and maintain the Scheme.
- (E) This Statement has been updated as requested by the Examining Authority to reflect the minor variations to the Project as a result of feedback received during the Examination.

### **1. EXECUTIVE SUMMARY**

- 1.1 This Statement has been prepared in accordance with the requirements of regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the "APR 2009") and the Planning Act 2008: Guidance related to procedures for compulsory acquisition produced by the Department for Communities and Local Government (the "Guidance") dated September 2013.
- 1.2 This Statement is required because the DCO will authorise the compulsory acquisition of land and/or rights in land as described in **Part 4** below.

- 1.3 Paragraphs 31 and 32 of the Guidance acknowledge that the APR 2009 require a statement of reasons and Paragraph 32 advises that:  
  
“The statement of reasons should seek to justify the compulsory acquisition sought, and explain in particular why in the applicant’s opinion there is a compelling case in the public interest for it. This includes reasons for the creation of new rights.”
- 1.4 This Statement sets out the reasons for seeking powers for the compulsory purchase of land and/or rights in land and temporary use of land. These powers are being sought to ensure that National Grid has the requisite powers to construct, operate and maintain the Scheme.
- 1.5 This Statement will show that there is a compelling case in the public interest for the relevant land to be subject to the powers of compulsory purchase and certain other powers within the DCO.
- 1.6 The use of powers of compulsory purchase in these circumstances is legitimate and proportionate, and any interference with the human rights of those with interests in the land proposed to be acquired is justified.
- 1.7 This Statement is informed by, and should be read alongside, application and examination documents. To avoid repetition this Statement makes cross-reference to other documents as appropriate.
- 1.8 In particular, National Grid has submitted the following documents relating to the powers of compulsory purchase sought as part of the Scheme:
  - 1.8.1 This Statement;
  - 1.8.2 Land Plans (Document 2.1C) showing the land over which the various interests or rights in land would be acquired;
  - 1.8.3 A Funding Statement (Document 4.2) which explains how the proposals contained in the DCO will be funded;

- 1.8.4 A Book of Reference (Document 4.3C) containing details of the interests or rights in land which may be acquired and the names and addresses of all those who may be affected by the proposed acquisition of those interests or rights;
- 1.8.5 A Need Case (Document 7.4) providing the case as to why the Scheme is necessary; and
- 1.8.6 The Environmental Statement which sets out in Chapter 3 (Document 6.3) the consideration of Scheme alternatives.

2. **DESCRIPTION OF THE PROPOSALS FOR THE USE AND DEVELOPMENT OF THE LAND**

The Scheme includes approximately 6km of pipeline of up to 1050mm diameter with a maximum operating pressure of 70 bar gauge from Goxhill AGI to Paull AGI (Work No. 1) comprised of:

- 2.1.1 5.03km of concrete lined tunnel under the Humber Estuary with a minimum internal diameter of 3.65m and a maximum internal diameter of 4m (to be confirmed through the design process);
- 2.1.2 approximately 120m of pipeline laid onshore at Goxhill and 400m at Paull for the connections to each AGI;
- 2.1.3 cathodic protection and nitrogen monitoring facilities at either end of the pipeline (Work Nos. 2A, 2B, 2C, 3B, 3C, 3D and 3E);
- 2.1.4 connection works and minor modifications to the Paull AGI (Work Nos. 3A and 3D);
- 2.1.5 connection works to the existing pipeline at the Goxhill AGI (Work No. 2C);
- 2.1.6 two construction compounds, one each side of the river at Goxhill and Paull, adjacent to the existing AGIs (Work Nos. 4 and 5); and

- 2.1.7 associated works for permanent and temporary accesses, highways works, drainage works, temporary spoil storage, land for environmental mitigation, temporary lay-down and work areas and ancillary works (Work Nos. 3E, 6, 7, 8, 9, 10, 11, 12 and 13).
- 2.2 For the pipeline within the tunnel under the River Humber, design standards require that the pipeline should be located at such a depth as to give a depth of cover of not less than 7m from the true bed of the watercourse, after the removal of any silting, to the top of the tunnel.
- 2.3 The onshore sections of the pipeline would be typically laid to contour at a depth of cover of not less than 1.2m from the original surface to the top of the pipe. The trench would be excavated so that pipes are evenly bedded throughout their length. Minor variations in contour would be excavated in order to minimise field bending.
- 2.4 The minimum depth of cover for the onshore sections of the pipeline in relation to a public highway is 2m. The depths of highway crossings (shown on the Works Plans (Document 2.2C) are also influenced by third party services and the depth of adjacent ditches.
- 2.5 The pipeline is designed to have a minimum operational life of 40 years and the tunnel a minimum design life of 100 years.
- 2.6 Figure 2.1 below shows the redline boundary for the Scheme.



- 2.7 On either side of the proposed pipeline route shown on the Works Plans (Document 2.2C) is up to an additional 50m limit of lateral deviation. This additional tolerance is to allow for in-field route alterations that may arise once the Scheme is being constructed, such as, for example, adverse ground conditions for the tunnel build. This tolerance is known as the 'limits of deviation' or "LoD".
- 2.8 The alignment proposed for the tunnel infrastructure is dependent on the physical location of drive pit and location of the receptor. The centre-line of Work No 1 is the proposed pipeline alignment.
- 2.9 The standard working width of 40m is required for constructing a 1050mm nominal bore pipeline. This is determined by the weight and size of the pipe. The standard working width enables the trench to be excavated safely (taking into account the angle of repose); an adjacent running track to perform the linear pipeline construction; top soil storage and separate subsoil storage.
- 2.10 The additional working width for constructing trenchless crossings is typically extended to 58m wide, with a set back distance of 1.5 times the length of the crossing or 30m, whichever is the greater.
- 2.11 The horizontal LoD shown on the Works Plans by a broken black line defines the maximum lateral extent of the pipeline and ancillary works.
- 2.12 The vertical LoD are defined in article 6 of the DCO (Document 3.1D), and extend downwards to a maximum depth of 70 metres below the surface of the ground.
- 2.13 The LoD define the limits within which the proposed pipeline can be routed. The LoD associated with the pipeline corridor allows for a degree of routing flexibility; changes to the indicative route occur typically as a result of ground conditions or environmental factors established post consent.
- 2.14 It is necessary that a level of flexibility is built into the DCO to allow for a degree of deviation of the pipeline route (both pre- and post-

construction). A range of matters may necessitate a deviation from the proposed centre line of the pipeline, these include:

- 2.14.1 Ground Investigation - detailed surveys have been carried out along the route corridor but it will not be possible to understand all ground and groundwater conditions until construction commences. It may be necessary for the pipeline alignment to deviate to avoid ground conditions such as localised potentially contaminated land, unregistered landfill sites, pockets of highly compressive soils such as peat, pockets of very hard and/or shallow rock head and karstic features.
- 2.14.2 Ecology - detailed surveys have been carried out along the route corridor. The ecological conditions within the construction corridor may change between submission and determination of the DCO and as such the most appropriate means of mitigating or minimising the environmental impact may be a minor re-route of the pipeline.
- 2.14.3 Archaeology - whilst the geophysical surveys carried out along the draft pipeline alignment indicate some archaeological remains, there is still the potential for further undiscovered remains to be found. Minor alterations may be necessary in such circumstances.
- 2.14.4 Third Party Services - a number of services run adjacent to or fall within the order limits which will need to be crossed by the pipeline. Whilst these have been identified, detailed design work will be needed to agree crossing arrangements.
- 2.14.5 Variation in crossing techniques - National Grid are currently considering the range of crossing techniques available to cross road, rail and water services encountered along the draft pipeline alignment to identify the most appropriate crossing technique. Detailed surveys have been carried out but detailed design will require information on ground

conditions etc. in order to identify crossing technique and detailed location.

### **3. THE NEED FOR THE RIVER HUMBER GAS PIPELINE REPLACEMENT PROJECT**

- 3.1 The need for the Scheme and for replacement works for the existing pipeline is set out fully in the Need Case (Document 7.4).
- 3.2 In summary, the existing Feeder 09 pipeline regularly transports between 70 and 100 million cubic metres per day. It is a key pipeline on the National Transmission System (NTS) and remains the highest throughput single pipeline section on the NTS. It is essential for ensuring National Grid can comply with its licence obligations to meet 1-in-20 peak aggregate daily demand.
- 3.3 The existing River Humber pipeline crossing was laid in 1984 by dredging a channel approximately 30m wide and 4m deep and pulling the pipe across the estuary. Backfilling of the trench was primarily via the natural process of tidal flows within the estuary.
- 3.4 These strong tidal currents have, over time, led to the gradual erosion of the riverbed and pipeline coverage, leading to exposure of the pipeline. Interim remedial works have been effective however they are only a short-term solution. Ongoing survey work has confirmed that replacement of the pipeline is the most viable option for guaranteeing the long term security of the pipeline and the key role it plays in the continuity of supply to the NTS.
- 3.5 National Planning Policy provides support for the Scheme in the Overarching National Policy Statement (NPS) for Energy (EN-1) and the NPS for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4).
- 3.6 EN-1 explicitly recognises that the "UK is highly dependent on natural gas" and that "gas will continue to play an important part in the UK's fuel mix for many years to come" (paragraph 3.8.1).

3.7 It is therefore relevant to the consideration of need to note that EN-1 states that "Great Britain's gas supply infrastructure must, amongst other things, be sufficient to:

3.7.1 meet 'peak' demand. This is a much more demanding requirement than meeting annual demand. Gas market participants may aim to have some "redundancy" in their supply arrangements, above the minimum amount to meet peaks, to manage the risk that other capacity may not be available (for example, if undergoing maintenance); and

3.7.2 allow for a sustained delivery of large volumes of gas, for example, due to the need to be prepared to meet demand over a particularly cold winter" (paragraph 3.8.5).

3.8 EN-1 goes on to state in paragraph 3.8.7 that: "Great Britain needs a diverse mix of gas storage and supply infrastructure (including gas import pipelines and terminals) to respond effectively in future to the large daily and seasonal changes in demand, and to provide endurance capacity during a cold winter."

3.9 EN-4 also recognises that "The efficient import, storage and transmission of natural gas and oil products is crucial to meeting our energy needs during the transition to a low carbon economy. We cannot achieve national objectives relating to security of supply without enabling investment in new infrastructure" (paragraph 1.1.1).

#### 4. **DESCRIPTION OF LAND SUBJECT TO THE COMPULSORY PURCHASE AND OTHER POWER**

The land to be subject to the powers of compulsory purchase, and other powers, is described below. The land is shown as numbered plots on the Land Plans (Document 2.1C) and a description of each plot together with the details of those parties with an interest in each plot are set out in the Book of Reference (Document 4.3C).

The route for the pipeline has been selected following an extensive optioneering and consultation process, which is described in the

Environmental Statement (Document 6.3.1) Strategic Options Report. The siting and routing had regard to engineering, environmental and ecological constraints, as well as the views of stakeholders and members of the public.

The following paragraphs describe the works that comprise the Scheme by sheet numbers in the Works Plans (Doc Ref 2.2C).

#### **4.1 Sheets 1-5 – South End temporary access track and Goxhill construction traffic route**

4.1.1 The controlled temporary construction traffic access route is proposed to cross agricultural land from Chapel Field Road in the North as shown on Sheet 1. Some culverting works are proposed to accommodate the access track. The route follows south, crossing the existing public footpath, turning west to connect into the existing private access road and in to Soff Lane public highway. The existing private access road is shared by a number of rights holders, and improvement works are proposed to mitigate the impact upon their continued use of the track during construction.

4.1.2 Permanent widening of the carriageway and creation of new passing places are proposed (Work Nos. 6D, 6F, 6G, 6H, 6I, 6J, 6K, 6L, 6M, 6N, 6O, 6P and 6Q). It has been agreed that these road works will be adopted by North Lincolnshire Council at the end of the construction period (please see doc 8.27 for further details).

4.1.3 Temporary construction traffic passing places, minor improvements and enabling junction works are proposed (Work Nos. 6A, 6B, 6C, 6E and 6R). This includes creation of new passing places, extension of some existing passing places, and restoration following completion of the construction activities. These works will be in place for the 35 month-long duration of construction.

#### **4.2 Sheet 5 - Marshlands to Goxhill AGI**

- 4.2.1 A total area of approximately 20.5ha of agricultural land is to be occupied temporarily to accommodate the main construction laydown area for the Scheme. Temporary possession is required for construction activities and temporary access (Work No. 4). This comprises arable farmland with the main drain running to the south. Access is required from Chapel Field Road to the north.
- 4.2.2 Also located within this area are the project office, welfare facilities and car parking, the 8m wide running track for pipe stringing, haul roads, along with the storage area for pipe stringing operations. A one way system is proposed to manage construction traffic movements.
- 4.2.3 To the south approximately 12.3ha of agricultural land is to be occupied temporarily to accommodate topsoil storage and tunnel arisings storage (Work No. 10). This area also will be subject to drainage works and associated development.
- 4.2.4 These works will be in place for the 35 month-long duration of construction.

#### 4.3 **Sheet 5 - Goxhill AGI to Goxhill Side Estuary**

- 4.3.1 The AGI site at Goxhill lies to the east of an unclassified road, comprising a flat, low lying agricultural field bordered by trees and thick hedges.
- 4.3.2 Within the land immediately surrounding the AGI site is an additional 12.9 ha identified as a temporary construction site for construction activities, and temporary access (Work No. 4).
- 4.3.3 In this section, the launch pit for the tunnel is to be located and the onshore section of pipeline (Work No. 1A).
- 4.3.4 From the AGI, the pipeline heads north-eastwards towards the estuary through flat open arable land. Land is required

within this area for monitoring purposes throughout the construction period (Work No. 8).

- 4.3.5 Adjacent to this area to the north is an area of land approximately 31.03 ha required for temporary environmental mitigation and management (Work Nos. 11 and 13). To the south are two narrow temporary work areas for water abstraction hoses (Work No. 12) and water discharge hoses (Work No 4D).
- 4.3.6 To the north and west of the existing AGI is the route of the proposed cathodic protection cable for which permanent acquisition of rights for easement are proposed (Work Nos. 2A and 2B).
- 4.3.7 Temporary possession is required the for construction activities, management and mitigation measures and temporary access and these works will be in place for the 35 month-long duration of construction.

#### **4.4 Sheets 5-7 – Humber crossing**

- 4.4.1 In the river crossing permanent rights are required for the tunnel infrastructure at a depth of at least 7m below the true clean bed of the Humber Estuary. Tunnelling and construction of the crossing will take approximately 23 months (Work No. 1B).
- 4.4.2 Compulsory acquisition powers are sought in respect of this section from Associated British Ports, who hold a long leasehold interest from the Crown Estate. National Grid is negotiating private treaty rights from Associated British Ports and heads of terms have been agreed. Once terms have been settled, Crown Consent can be secured.

#### **4.5 Sheet 7 - Paull Side Estuary to Thorngumbald Road**

- 4.5.1 In this section the pipeline will be laid in a tunnel at depths of between 7m and 70m under the flood defences and Environment Agency land. Within this section approx. 1.6 ha

of land is required temporarily for monitoring purposes (Work No. 7).

#### 4.6 **Sheet 7 - Thorngumbald Road to Paull AGI**

4.6.1 The route of the tunnel infrastructure is proposed to cross Thorngumbald Road into a former brick works, which is currently approx. 2.7 ha scrub land where the existing Feeder Main 9 connects in to Paull AGI (Work No. 1C). A further 4.7 ha. of flat agricultural land is required for temporary construction (Work No. 5).

4.6.2 Approx. 1.3 ha of land is required to enable suitable controlled drainage into the Humber, and water discharge monitoring (Work No. 5B).

4.6.3 The duration of works for these areas is approximately 20 months.

#### 4.7 **Sheet 7-8 - Rosehill Track**

4.7.1 On the north side temporary access rights are required in order to mitigate the negative impact of construction traffic on the local area. The use of this private track (Work No. 9) enables the construction traffic route to bypass the villages of Paull and Thorngumbald (Works No. 9). Heads of terms are agreed with the landowner for the rights required.

4.7.2 Between Lakes Farm and Rosehill Track permanent rights are required for cathodic protection cables (Work No. 3C).

4.7.3 Temporary junction works at either end of Rosehill track are proposed (Work Nos. 9A and 9C). These include creation of new passing places, extension of the existing highway and remediation following completion of the construction activities.

5. **EXTENT OF THE COMPULSORY PURCHASE POWERS AND CERTAIN OTHER POWERS SOUGHT**

- 5.1 The nature of the Scheme is such that it is necessary to acquire certain land and rights in land permanently, to acquire and exercise rights temporarily, and to seek other powers under the DCO that may interfere with property rights and private interests.
- 5.2 The powers of compulsory acquisition, and temporary possession powers, that would be granted by the DCO, are described in the Book of Reference (Document 4.3C) and shown on the Land Plans (Document 2.1C). This is notwithstanding National Grid's intention to acquire the necessary land and rights in land through negotiation and voluntary agreement.
- 5.3 It is the intention of National Grid to construct the authorised development using powers to enter and use land temporarily for the purposes of construction. This will provide National Grid with the assurance that it has fixed the pipeline alignment within the LoD and so can take precisely the land and rights it requires and no more.
- 5.4 The permanent powers would be exercised on completion of construction of the Scheme, i.e. when the precise pipeline alignment and the strips and areas over which rights will be required are known.
- 5.5 National Grid will require the compulsory rights to be exercisable for a period of five years from the date of the DCO.
- 5.6 It should also be noted that National Grid cannot preclude exercising the powers of compulsory acquisition in advance of construction should the circumstances require it.
- 5.7 In summary, the Scheme requires that the following permanent land and rights in land are acquired:
- 5.7.1 freehold acquisition of small areas of land to accommodate monitoring kiosks and apparatus;

- 5.7.2 permanent easement rights in the land subject to the pipeline route to a width of 24.4m;
  - 5.7.3 permanent lease in the river crossing subject to the pipeline route to a width of 6m;
  - 5.7.4 permanent easement rights in the land subject to underground cathodic protection cables to a width of 6m;
  - 5.7.5 permanent easement rights for cathodic protection ground bed locations; and
  - 5.7.6 permanent access rights required for access to easement strips not directly abutting public highway to a width of 6m.
- 5.8 The draft DCO includes the following compulsory acquisition provisions:
- 5.8.1 Article 20 – Compulsory acquisition of land. National Grid will have the power to acquire compulsorily the Order land as shown on the Land Plans and described in the Book of Reference, so far as it is required to construct, operate and maintain the authorised development, to facilitate it, or are incidental to it.
  - 5.8.2 Article 21 – Compulsory acquisition of rights. This article allows National Grid to compulsorily acquire rights (e.g. to create new rights over the Order land or impose restrictive covenants) over the Order land as described in the Book of Reference, insofar as they are necessary to construct, operate and maintain the authorised development, to facilitate it, or are incidental to it.
  - 5.8.3 Article 22 – Extinguishment and suspension of private rights. This article allows for the extinguishment rights over land subject to compulsory acquisition and the extinguishment of all private rights and restrictive covenants over land owned by National Grid within the Order limits and required for the purposes of the authorised development.

- 5.8.4 Article 23 – Acquisition of subsoil only. National Grid would have the power to acquire so much of, or such rights in, the subsoil of the land subject to the Order without acquiring the whole. This enables National Grid to acquire subsoil below a stated depth rather than take all interests at all depths.
  - 5.8.5 Article 24 – Power to override easements and other rights. This article allows for the extinguishment of private rights over land, such as easements, liberties, privileges, rights or advantages annexed to land and adversely affecting any other land, including any natural right to support or restrictions as to the user of land resulting from a contract. This prevents third parties from impeding the delivery of the Scheme through enforcement of their own private interests.
  - 5.8.6 Article 25 - Application of the Compulsory Purchase (Vesting Declarations) Act 1981. This article incorporates the general law in relation to the ability to execute powers of compulsory purchase using a general vesting declaration, rather than just the notice to treat/notice of entry method.
- 5.9 The Scheme requires the following temporary powers authorised under article 26 of the DCO:
- 5.9.1 temporary possession to construct and carry out the authorised development across the areas shown shaded dark grey and light grey on the Land Plans (see Section 6.2 below for further explanation);
  - 5.9.2 temporary possession of land for the carrying out of drainage works, management and mitigation works which may include soil storage, environmental mitigation and access across the Order land;
  - 5.9.3 temporary possession of land for settlement monitoring including access; and
  - 5.9.4 temporary construction access rights.

- 5.10 The Scheme requires temporary possession powers for maintaining the authorised development under Article 27 of the draft DCO.
- 5.11 The DCO contains additional powers related to the construction and carrying out of the authorised development, which may interfere directly or indirectly with private rights and interests, including:
- 5.11.1 Article 10 – the power to carry out street works;
  - 5.11.2 Article 11 – the power to alter layout, etc., of streets;
  - 5.11.3 Article 12 – the power to construct and maintain new, altered or diverted streets;
  - 5.11.4 Article 13 – the power to temporarily stop up streets and public rights of way;
  - 5.11.5 Article 14 – the power to form and lay out means of access to works;
  - 5.11.6 Article 17 – the power to discharge water into watercourses;
  - 5.11.7 Article 18 – the power to survey and investigate the land;
  - 5.11.8 Article 24 – the power to override rights, easements and other such rights of third parties;
  - 5.11.9 Article 36 – the incorporation of the mineral code; and
  - 5.11.10 Article 37 – the application of landlord and tenant law.
- 5.12 A more detailed explanation of all powers sought in the DCO is provided in the Explanatory Memorandum (Document 3.2A).
- 5.13 Any person suffering a loss due to the exercise of the rights and powers outlined above may be entitled to compensation pursuant to the compensation code (as applied and amended by the DCO). Any dispute in respect of the compensation payable is to be determined by the Lands Chamber of the Upper Tribunal.

## 6. **PURPOSE FOR WHICH THE POWERS ARE SOUGHT**

The Scheme requires compulsory acquisition and temporary possession rights for the purposes of carrying out the construction, maintenance, operation, protection and monitoring of the works. They are also required to allow restoration and remediation of the land post-construction, including agricultural field drainage.

Tables 1, 2 and 3 below set out the purposes for which the land subject to compulsory acquisition is required. This describes the particular works applicable to each plot as identified on the Land Plans (Document 2.1C) and in the Book of Reference (Document 4.3C).

### 6.1 **Permanent acquisition of land or rights over land**

6.1.1 Table 1 lists land that is subject to permanent acquisition of land or rights in land essential for the operation and maintenance of the Scheme. This land is within the Order Limits shown shaded dark grey on the Land Plans (Document 2.1C).

6.1.2 The purpose of acquiring the land referred to in Table 1, including freehold interests, is for essential pipeline infrastructure and monitoring facilities in respect of which National Grid requires absolute and unfettered rights and access, such as the cathodic protection kiosks and nitrogen monitoring kiosks for the tunnel. Freehold acquisition of this land will ensure that National Grid has the exclusive possession and control of the land necessary for the safe construction, operation and maintenance of the kiosks.

6.1.3 The kiosk locations have been selected as part of the design taking into consideration the necessary engineering parameters for the safe and efficient operation of the pipeline whilst mitigating the impact upon the ability to continue the agricultural operation of the land affected.

6.1.4 New permanent easement rights are required for those sections of pipeline where an interest is required to keep the pipeline installed below-ground, and also to afford access to this infrastructure and prevent erection of development above-ground. The permanent easement forms a strip with a width of 24.4m to allow for sufficient space for safe working access and maintenance activities during the operation of the authorised development. Usually the pipeline will sit centrally within the easement strip.

6.1.5 The precise location of the easement strip will depend on the route alignment. National Grid require the right to restrict the grantor's use of the land in as much as it could damage the infrastructure. Restrictions will be sought in so far as: placing anything on the easement land that could cause damage including digging, drilling or breaking up the land, restrictions on permanent development on the easement land, and restrictions on planting trees and shrubs on the easement land. These rights are necessary to allow National Grid to construct and operate a safe and efficient pipeline.

6.1.6 Accordingly six classes of permanent rights are sought:

6.1.6.1 Permanent Type 1:

(a) Freehold acquisition of land where infrastructure is proposed above-ground for cathodic protection kiosks and stopple infrastructure (Work Nos 2C, 3B and 3D), required to ensure that National Grid have sufficient control of the land to enable safe and efficient use of the kiosks for the protection of the tunnel and pipeline and connection to the existing infrastructure via the stopple.

6.1.6.2 Permanent Type 2:

Acquisition by the creation of new permanent rights in a 24.4m wide strip of land for

underground and above-ground easement rights for:

- (a) rights to construct, lay, install, adjust, survey, retain, inspect, test, maintain, repair, upgrade, protect, alter, reconstruct, replace, re-lay, divert, make safe, dismantle, remove or render unusable the authorised development in upon or over the land;
- (b) the right to use the authorised development for the purposes for which it was designed;
- (c) rights to prevent the planting of any trees, bushes or similar vegetation within the 24.4 metre wide easement strip of land without the prior written consent of National Grid and the right to remove any such tree, bush or similar vegetation planted without consent;
- (d) right with or without vehicles, plant and equipment to enter the land to fell, trim or lop trees and bushes which may obstruct or interfere with the rights sought by National Grid;
- (e) right with or without vehicles, plant and equipment to enter the land to access any adjoining land for the purposes of the authorised development;
- (f) right with or without vehicles, plant and equipment to enter the land to exercise the rights over and across any access route;
- (g) rights to prevent the construction or remove any new building, structure or erection which is within the said 24.4 metre wide easement strip;

- (h) rights of continuous vertical and lateral support for the pipeline and ancillary apparatus (if any) within the said 24.4 metre wide strip of land;
- (i) rights to install, adjust, alter and remove cathodic protection posts, aerial markers, field boundary markers and electricity cabinets;
- (j) right to require the landowner not to do or suffer anything to be done upon the land which may interfere with or cause damage to the authorised development or interfere with National Grid's access including without limitation not to erect any building or structure or allow any plant or tree to grow within the land, not to change the level of the surface, ground cover or composition of the land or do or allow to be done anything that may cause the level of the surface, ground cover or composition to be altered, not to drill, dig or break up the land;
- (k) right of access to create an access, with or without vehicles, plant, apparatus and materials to pass over the land in connection with the construction and use of the authorised development;
- (l) rights of access to execute any other works for the purpose of or incidental to the construction, use or maintenance of the pipeline or in consequence of it being place there including but not limited to drainage works, ground and aerial marker posts, temporary bridges and pedestrian crossings over ditches, protective concrete slabs, culverts to facilitate inspection and maintenance and cathodic or other protection works;

- (m) right of access, once the pipeline is laid, to inspect and excavate and to open up or carry out works on the 24.4 metre wide easement strip in order to maintain the pipeline;
- (n) rights to enter, pass and repass with or without vehicles over the said 24.4 metre wide strip of land for all purposes associated with these rights; and
- (o) to carry out any activities ancillary or incidental thereto.

#### 6.1.6.3 Permanent Type 3:

Acquisition by the creation of new permanent rights in a 6m wide strip of land beneath the true clean bed of the Humber Estuary at a depth of not less than 7 metres:

- (a) rights to construct, lay, install, adjust, survey, retain, inspect, test, maintain, repair, upgrade, protect, alter, reconstruct, replace, re-lay, divert, make safe, dismantle, remove or render unusable the authorised development in the land;
- (b) the right to use the authorised development for the purposes for which it was designed;
- (c) to carry out any activities ancillary or incidental thereto.

#### 6.1.6.4 Permanent Type 4

Acquisition by the creation of new permanent rights in a 6 metres wide strip of land for underground and above-ground easement rights for the installation of cathodic protection cabling and access rights (Work Nos 2B and 3C) including:

- (a) rights to construct, lay, install, adjust, survey, retain, inspect, test, maintain, repair, upgrade, protect, alter, reconstruct, replace, re-lay, divert, make safe, dismantle, remove or render unusable the authorised development in upon or over the land;
- (b) the right to use the authorised development for the purposes for which it was designed;
- (c) rights to prevent the planting of any trees, bushes or similar vegetation within the 6 metre wide easement strip of land without the prior written consent of National Grid and the right to remove any such tree, bush or similar vegetation planted without consent;
- (d) right with or without vehicles, plant and equipment to enter the land to fell, trim or lop trees and bushes which may obstruct or interfere with the rights sought by National Grid;
- (e) right with or without vehicles, plant and equipment to enter the land to access any adjoining land for the purposes of the authorised development;
- (f) right with or without vehicles, plant and equipment to enter the land to exercise the rights over and across any access route;
- (g) rights to prevent the construction or remove any new building, structure or erection which is within the 6 metre wide easement strip;
- (h) rights of continuous vertical and lateral support for apparatus (if any) within the 6 metre wide strip of land;

- (i) rights to install, adjust, alter and remove cathodic protection posts, aerial markers, field boundary markers and electricity cabinets;
- (j) right to require the landowner not to do or suffer anything to be done upon the land which may interfere with or cause damage to the authorised development or interfere with National Grid's access including without limitation not to erect any building or structure or allow any plant or tree to grow within the land, not to change the level of the surface, ground cover or composition of the land or do or allow to be done anything that may cause the level of the surface, ground cover or composition to be altered, not to drill, dig or break up the land;
- (k) right of access to create an access, with or without vehicles, plant, apparatus and materials to pass over the land in connection with the construction and use of the authorised development;
- (l) rights of access to execute any other works for the purpose of or incidental to the construction, use or maintenance of the pipeline or in consequence of it being place there including but not limited to drainage works, ground and aerial marker posts, temporary bridges and pedestrian crossings over ditches, protective concrete slabs, culverts to facilitate inspection and maintenance and cathodic or other protection works;
- (m) right of access, once the cable is laid, to inspect and excavate and to open up or carry out works on the 6 metre wide easement strip in order to maintain the cable;

- (n) rights to enter, pass and repass with or without vehicles over the said 6 metre wide strip of land for all purposes associated with these rights; and
- (o) to carry out any activities ancillary or incidental thereto.

#### 6.1.6.5 Permanent Type 5

Acquisition by the creation of new permanent rights in the areas of land comprising Work Nos 2A and 3E for underground and above-ground easement rights for:

- (a) rights to construct, lay, install, adjust, survey, retain, inspect, test, maintain, repair, upgrade, protect, alter, reconstruct, replace, re-lay, make safe, dismantle, remove or render unusable the authorised development in upon or over the land;
- (b) the right to use the authorised development for the purposes for which it was designed;
- (c) rights to prevent the planting of any trees, bushes or similar vegetation within the said areas of land without the prior written consent of National Grid and the right to remove any such tree, bush or similar vegetation planted without consent;
- (d) right with or without vehicles, plant and equipment to enter the land to fell, trim or lop trees and bushes which may obstruct or interfere with the rights sought by National Grid;
- (e) right with or without vehicles, plant and equipment to enter the land to access any adjoining land for the purposes of the authorised development;

- (f) right with or without vehicles, plant and equipment to enter the land to exercise the rights over and across any access route;
- (g) rights to prevent the construction or remove any new building, structure or erection which is within the said areas of land;
- (h) rights of continuous vertical and lateral support for apparatus (if any) within the said areas of land;
- (i) rights to install, adjust, alter and remove cathodic protection posts, aerial markers, field boundary markers and electricity cabinets;
- (j) right to require the landowner not to do or suffer anything to be done upon the land which may interfere with or cause damage to the authorised development or interfere with National Grid's access including without limitation not to erect any building or structure or allow any plant or tree to grow within the land, not to change the level of the surface, ground cover or composition of the land or do or allow to be done anything that may cause the level of the surface, ground cover or composition to be altered, not to drill, dig or break up the land;
- (k) right of access to create an access, with or without vehicles, plant, apparatus and materials to pass over the land in connection with the construction and use of the authorised development;
- (l) rights of access to execute any other works for the purpose of or incidental to the construction, use or maintenance of the pipeline or in consequence of it being place there including but

not limited to drainage works, ground and aerial marker posts, protective concrete slabs, culverts to facilitate inspection and maintenance and cathodic or other protection works;

- (m) right of access, once the cathodic protection groundbeds are laid, to inspect and excavate and to open up or carry out works on the said areas of land in order to maintain the groundbeds;
- (n) rights to enter, pass and repass with or without vehicles over the said areas of land for all purposes associated with these rights; and
- (o) to carry out any activities ancillary or incidental thereto.

#### 6.1.6.6 Permanent Type 6

Acquisition by the creation of new permanent rights in a 6m wide strip of land for above-ground easement rights for access to the authorised development including:

- (a) create an access, with or without vehicles, plant, apparatus and materials to pass over the land in connection with the use and maintenance of the authorised development;
- (b) remove any buildings, structures, apparatus and vegetation (including hedgerows) from that land;
- (c) construct works including the provision of means of access; and

6.1.7 carry out activities ancillary or incidental thereto. The purpose of acquiring the land referred to in Table 1 below is to enable National Grid to construct, operate and maintain the Scheme.

6.1.8 Table 1:

| <b>No. on Land Plans</b>   | <b>Purpose for which rights are required</b>   |
|--|--|
| <b>PERMANENT TYPE 1 - ACQUISITION OF LAND</b>  |  |
| 26, 39.1, 87   | Freehold acquisition within these plots is required for the construction of the stopple, cathodic protection infrastructure and kiosks. Freehold ownership is necessary to provide sufficient ability to access and control the land for the safe and efficient operation of the pipeline and associated infrastructure. Absolute control is required over the land within these plots for the onward operation and maintenance of the infrastructure. |
| <b>PERMANENT TYPE 2 - PIPELINE EASEMENT OVER LAND</b>                                    |  |
| 31, 32, 33, 35.1, 35.2, 39.2, 42, 44, 50, 51, 52, 53, 54.1, 54.2, 60, 72, 74, 78, 79, 86 | The plots are required to secure a permanent 24.4m wide easement, to enable and formalise the construction, use and maintenance of the pipeline, and includes rights for the protection of the pipeline such as rights of support and the right to prevent the grantor digging or drilling into the ground and causing damage to the pipeline and ancillary infrastructure.  |
| <b>PERMANENT TYPE 3 – LEASE UNDER RIVER HUMBER</b>                                       |  |
| 55, 56, 57, 58, 59   | The plots are required to secure a permanent 6m wide sub lease, to enable and formalise the construction, use and maintenance of the pipeline within the tunnel. This includes rights for the  |

| <b>No. on Land Plans</b>   | <b>Purpose for which rights are required</b>   |
|--|--|
|  | protection of the tunnel (pipeline) such as rights of support and the right to prevent the grantor digging or drilling into the ground and causing damage to the pipeline and ancillary infrastructure.  |
| <b>PERMANENT TYPE 4 – CABLE EASEMENTS OVER LAND</b>                |  |
| 14, 15, 17, 18, 35.1, 35.2, 39.1, 39.2, 44, 77, 78, 82, 84, 85, 86 | The plots are required to secure a permanent 6m wide easement, to enable and formalise the laying, use and maintenance of the cathodic protection cables and associated infrastructure. This includes rights for the protection of the cathodic protection cables such as the right to prevent the grantor planting or removing any trees, bushes or similar vegetation within the 6m strip of land without the prior written consent of National Grid and the right to remove any such tree, bush or similar vegetation planted without consent. Also including the right to prevent the construction of or removal any new building, structure or erection which is within the easement. |
| <b>PERMANENT TYPE 5 – GROUNDBED EASEMENTS OVER LAND</b>            |  |
| 12, 74, 75   | The plots are required to secure a permanent easement for the laying and maintenance of the cathodic protection groundbeds. This includes rights for the protection of the groundbeds such as the  |

| <b>No. on Land Plans</b>                          | <b>Purpose for which rights are required</b>   |
|---|--|
|   | right to prevent grantor planting or removing any trees, bushes or similar vegetation within the easement without the prior written consent of National Grid and the right to remove any such tree, bush or similar vegetation planted without consent. Also including the right to prevent the construction of or removal any new building, structure or erection which is within the easement.   |
| <b>PERMANENT TYPE 6 – ACCESS RIGHTS OVER LAND</b> |  |
| 23, 25, 77, 80, 91                                | The plots are required to enable permanent access rights to land held on agreements as described within Permanent Type 1, 2, 3, 4 or 5 above which is not directly adjacent to public highway. Access rights are required at any time for maintenance, repair and/or replacement of the authorised development and the associated infrastructure with or without vehicles, plant and equipment and across any access route within the 6m strip of land to be identified on a plan appended to the right granted. |

## 6.2 Temporary possession

- 6.2.1 National Grid requires temporary possession and rights for constructing the pipeline, access, and installing pre-construction and remedial land drainage. The purpose of using this land is for the construction of the authorised development.

- 6.2.2 This land is within the Order Limits shown on the Land Plans (Document 2.1C) submitted with the DCO application.
- 6.2.3 Schedule 8 to the DCO (Land of which temporary possession may be taken) lists those land plots of which temporary possession can be taken. The drafting of the DCO allows for temporary possession to be taken of plots over which permanent rights are sought, allowing National Grid to exercise the lesser right if this is possible.
- 6.2.4 Land that is only temporarily required for access to land, construction purposes, and ancillary works is referred to as Temporary (Construction Access Only) in the Book of Reference (Document 4.3C), and is shown cross hatched on the Land Plans.
- 6.2.5 Land that is only temporarily required for construction, ancillary works and drainage is referred to as Temporary in the Book of Reference (Document 4.3C), and is shown as light grey on the Land Plans.
- 6.2.6 National Grid will require temporary possession of all land subject to the permanent acquisition of land and the permanent acquisition of rights in land as listed in Table 1 and Table 2 to facilitate construction of the pipeline.
- 6.2.7 Construction of the pipeline involves the following activities: surveying (to peg the route and locate and mark existing services); preparation of the working width; fencing out the working width; installing pre-construction drainage; stripping topsoil; archaeological surveys and watching brief; levelling and benching; blasting (if rock is encountered); pipe stringing (lay out the pipe along the working width); field bending (i.e. pipes bent to angles previously determined by the bending engineer); welding and inspection (end preparation, front end welding, back end welding, fabrication welding); non-destructive weld testing; joint coating; dewatering (well-point de-watering, pumping

and discharge); trench excavation; lowering and laying the pipe; backfilling; tying-in the pipeline; re-grading of soil; post-construction drainage; reinstatement (cross-ripping of subsoil and reinstatement of topsoil, boundary walls, hedges and fences); hydrostatic testing and final tie-ins (swab and gauge pipeline test sections, fill, test and dewater); and pipeline commissioning (final gauge plate and calliper surveys, drying and commissioning).

- 6.2.8 The width of land required is necessary to accommodate these operations and ensure that these operations do not conflict with each other. Such conflicts are likely to impact on National Grid's duty to construct in a safe manner that protects its personnel, the public and the environment. All these activities are fundamental industry-recognised pipeline construction activities without which construction cannot take place safely and responsibly. Likewise construction cannot proceed safely and responsibly if there is no land to accommodate these activities.
- 6.2.9 Wider areas are required at major crossings to accommodate additional machinery to bore or drill under these constraints, as well as construct temporary water storage lagoons to temporarily hold groundwater emanated during construction.
- 6.2.10 Particularly critical is the need to have sufficient land to store and protect the top soil during construction. National Grid will also require temporary possession of the land to enable construction of the remedial drainage. Both these requirements are necessary to restore the land into its pre-construction condition.
- 6.2.11 National Grid requires land to facilitate construction of the pipeline from the Goxhill AGI to the mean high water mark. This is to accommodate the following: drive pit; tunnel boring; control cabin; crane working areas; dewatering systems; water tanks; spoil storage; spoil separators;

settlement lagoons; materials and pipe storage area; waste storage area; workshops and stores; generators and switchgear; air receivers and compressors; oil stores; welfare facilities; offices; security; access to the drive pit and; parking.

6.2.12 Temporary access will be required from the village of Goxhill to facilitate construction of the River Humber crossing.

6.2.13 National Grid will require the two construction yards and storage compound sites at Goxhill and Paull for the following: offices, welfare and security facilities; power supplies; enclosures; pipe, equipment and fittings storage; plant storage; fabrication; waste storage; spoil storage; access parking; internal haul roads; and water management. These activities are fundamental to safe and efficient construction and without these sites construction cannot take place. The land affected will be required for the full construction period which is 35 months, other land required for Temporary rights will be required for less than the 35 month construction period.

6.2.14 Table 2:

| <b>No. on Land Plans</b>   | <b>Purpose for which rights are required</b>  |
|--|---|
| <b>TEMPORARY TYPE 1 – CONSTRUCTION</b>   |   |
| 9, 12, 13, 14, 15, 17, 18, 19, 20.1, 20.2, 21, 22, 23, 24, 25, 26, 27.1, 27.2, 28, 31, 32, 33, 34, 35.1, 35.2, 38, 39.1, 39.2, 42, 43, 44, 50, 51, 52, 53, 54.1, | The plots are required on a temporary basis to construct the authorised development including the provision of means of access, to remove any buildings, structures, apparatus and vegetation, undertake drainage works and carry out ancillary or incidental activities. Exclusive possession of this land is required for a defined period in order to enable adherence to CDM Regulations and to enable the management |

| <b>No. on Land Plans</b>   | <b>Purpose for which rights are required</b>   |
|--|--|
| 54.2, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 91, 100, 101, 105, 106 | of risk to members of the public or the landowner from the construction activity.  |
| <b>TEMPORARY TYPE 2 – MANAGEMENT AND MITIGATION</b>  |  |
| 60, 67, 71, 72, 74, 102, 103, 104, 132, 133  | These plots are required on a temporary basis to provide management and mitigation measures associated with the construction of the authorised development including the installation of pre- and post-construction drainage, temporary earthworks, soil treatment and storage and provision of an environmental offset area for foraging birds. |
| <b>TEMPORARY TYPE 3 – MONITORING</b>   |  |
| 39.2, 42, 44, 47, 48, 49, 50, 51, 52, 53, 54.1, 60, 69, 72, 74, 78, 79, 80   | These plots are required for pre- and post-construction settlement monitoring of the authorised development, including inspection of drainage works and the placement of ground and aerial marker posts.   |
| <b>TEMPORARY TYPE 4 – CONSTRUCTION ACCESS</b>  |  |
| 1, 2, 3, 6, 7, 8, 10, 16, 46, 91,  | The plots are required to enable temporary access rights to land within Permanent Type   |

| <b>No. on Land Plans</b>  | <b>Purpose for which rights are required</b>  |
|---|---|
| 91, 92, 93, 94, 107, 108, 109, 110, 111, 112, 115, 116.1, 116.2, 117, 119, 121, 122, 123, 124, 125, 126, 127, 129, 130, 131 | 1, 2, 3, 4 or 5, Temporary Type 1, 2 and 3 above which is not directly adjacent public highway. Access rights are required at any time for maintenance, repair and/or replacement of the associated infrastructure development with or without vehicles, plant and equipment and across any access route within the land. |

## 7. JUSTIFICATION FOR POWERS OF COMPULSORY ACQUISITION

### 7.1 Section 122 of the Act

7.1.1 Section 122 of the Act provides that an order granting development consent may only authorise compulsory acquisition if the decision maker is satisfied that two conditions are met.

7.1.2 The first condition (s.122(2)) requires one of three criteria to be met, as follows:

7.1.2.1 the land is required for the development to which the development consent relates; or

7.1.2.2 the land is required to facilitate or is incidental to that development; or

7.1.2.3 the land is replacement land to be given in exchange for land which is open space or common land.

7.1.3 The second condition (s.122(3)) is that there is a compelling case in the public interest for compulsory acquisition.

- 7.1.4 Paragraph 7 of the Guidance expands on section 122 of the Act and makes it clear that applicants must be prepared to justify their proposals for compulsory acquisition to the satisfaction of the Secretary of State.
- 7.1.5 In particular, and elsewhere in the Guidance, it is stated that applicants should demonstrate that:
- 7.1.5.1 all reasonable alternatives to compulsory acquisition have been explored, including modifications to the scheme (paragraph 8);
  - 7.1.5.2 the development is of legitimate purpose, necessary and proportionate (paragraph 8);
  - 7.1.5.3 how the land is intended to be used and that there is no doubt as to the particular purposes for which any land is to be compulsorily acquired (paragraph 9);
  - 7.1.5.4 there is a reasonable prospect of the requisite funds becoming available (paragraph 9);
  - 7.1.5.5 there is justification for interfering with the human rights of those with an interest in the land affected (paragraph 10);
  - 7.1.5.6 there is a compelling case for the compulsory acquisition (paragraph 12);
  - 7.1.5.7 the public benefit will outweigh the private loss and (paragraph 12); and
  - 7.1.5.8 any risks or impediment to the scheme have been properly managed (paragraph 19).
- 7.1.6 The following paragraphs explain how the pre-conditions to the grant of powers of compulsory acquisition are met in this case.

## 7.2 **Test under Section 122(2)**

With respect to the condition set out in s.122 (2), part **4** of this Statement has described the land and rights in land required by the Scheme. Part **6** of this Statement has explained why the land is and the rights in land are required.

### **7.3 Test under Section 122(3)**

With respect to the condition set out in s.122 (3), part **3** of this Statement and the Need Case (Document 7.4) have explained how the Scheme. Compulsory acquisition powers will guarantee expedient acquisition of the necessary rights for constructing, operating and maintaining the Scheme.

### **7.4 Alternatives to compulsory acquisition**

7.4.1 National Grid has conducted extensive consultation with both the public and those affected Persons with an Interest in the Land (PILS). There has been a series of non-statutory and statutory consultation, including statutory consultation under sections 42 and 47 of the Planning Act 2008.

7.4.2 In addition there has been ongoing dialogue direct with PILS to obtain the necessary rights and interests via private treaty.

7.4.3 While National Grid seek authorisation from the Secretary of State for rights of compulsory acquisition, the intention is first and foremost to acquire land and rights in land through negotiation and voluntary agreement. In this way, if the DCO is confirmed, National Grid will be able to either utilise the powers of compulsory acquisition or rely on the voluntary agreements, as appropriate.

7.4.4 This approach is in accordance with paragraph 25 of the Guidance. In this regard the Guidance recognises that for long linear schemes (such as pipelines) it may not always be practicable to acquire each plot of land by agreement.

7.4.5 The rationale for this approach to compulsory acquisition is as follows:

- 7.4.5.1 An agreement for an easement may be obtained by agreement prior to the DCO application, not the substantive right itself. The compulsory powers therefore provide a fallback should the voluntary agreements fail and cover instances where the person with an interest in land is unwilling to grant the relevant land interest or right once the option has been exercised.
- 7.4.5.2 Including all interests in the DCO allows all required rights to be obtained in the same way and through one process, potentially by General Vesting Declaration ("GVD"). This is an effective way of compulsorily acquiring uniform/consistent rights from multiple owners.
- 7.4.5.3 Compulsory acquisition by GVD is effective against all interests in the land, so avoiding the risk of a failure to disclose a relevant interest; the GVD is effective even against interests that may be unknown.
- 7.4.5.4 Acquisition of all land and rights by single GVD ensures consistency of approach and avoids uncertainty that individual easements may not be created validly because of an incomplete connection to National Grid's undertaking at the time of grant. The alternative is to ensure completion of all negotiated easements on the same day, which is impracticable.
- 7.4.5.5 Compulsory powers are more readily enforceable, so reducing additional risk, cost and delay.

## **7.5 The proposed interference with interests in the land is for a legitimate purpose, and is necessary and proportionate**

- 7.5.1 The need for the Scheme is established in the Need Case (Document 7.4) and the purposes for which the interests in

land are required are set out above. The Consultation Report (Document 5.1) describes not only how the statutory requirement for public consultation has been strictly adhered to, but also how there has been an ongoing consultation process at key stages of the evolution of the Scheme, and how regard has been had along the way to responses received.

- 7.5.2 The compulsory acquisition of land and rights in land is necessary to deliver the Scheme. The rationale for the extent of the required rights is described above with the Order Limits drawn as tightly as possible to avoid any unnecessary interference with or extinguishment of third party rights.
- 7.5.3 National Grid seeks to acquire the minimum rights necessary to ensure long-term network security. Permanent land rights are commensurate with the life of the Scheme. For short-term occupancies, such as during construction, National Grid seeks temporary rights.
- 7.5.4 Permanent easements run with the land and so remove the risk of interruption to operations which could occur at the end of a termed agreement through re-negotiation. Conversely, weaker rights under a licence (e.g. a wayleave) cannot provide the long-term necessary security.
- 7.5.5 For the pipeline, but not the associated AGIs, easements are sufficient (as opposed to acquiring the land outright) as National Grid does not wish to disadvantage to an unnecessary degree the affected landowners and occupiers.

## 7.6 **Use of the land to be acquired**

The use of the land to be acquired is outlined in part **2**. Principally the land acquired permanently will be used to access, construct, operate, maintain, protect, replace, remove and/or render unusable the pipeline.

## 7.7 **Availability of funds for compensation**

The Funding Statement (Document 4.2) which accompanies the application sets out how the Scheme would be funded and demonstrates that there is a reasonable prospect of the requisite funds being available.

## 8. **NATIONAL GRID'S APPROACH TO ACQUIRING THE REQUIRED LAND AND RIGHTS IN LAND BY AGREEMENT**

8.1 National Grid sent out offers for easement options to all relevant landowners and occupiers in February 2015 and negotiations are ongoing. Follow up contact meetings with landowners and/or their agents across the route for various purposes are planned for April 2015.

8.2 The Crown Estate – due to the significance of Crown Land under s.135 of the Act, National Grid Gas has been discussing terms for agreements for a lease across the River Humber with long leaseholder Associated British Ports. Contact and negotiation have been ongoing for several months with heads of terms agreed. The latest position is set out in Position on Negotiations with ABP and the Crown Estate (section 135 consent) (Doc 8.28).

8.3 A Schedule of Progress on Voluntary Negotiations (Doc Ref 7.8E) reflects the latest position in relation to negotiations with relevant landowners.

## 9. **RELATED APPLICATIONS, ORDERS, CONSENTS**

9.1 The DCO for the Scheme will grant consent for the development to allow it to proceed. There will additionally be other consents required from authorities and bodies and these are set out in the List of Other Consents (Document 5.5).

9.2 It is not anticipated that securing these consents will present any impediments to the Scheme. There has been longstanding discussion and engagement with these stakeholders at various stages of the evolution of the Scheme. Statements of common ground are being negotiated, and where comments have been made

or concerns raised along the way, regard has been had to these in formulation of the design. A Statement of Common Ground Schedule (Document 7.9E) sets out the latest position.

10. **SPECIAL CATEGORY LAND AND LAND HELD BY STATUTORY UNDERTAKERS**

10.1 The Scheme will not affect any open space land as referred to in section 132 of the Act and falling within the definition of 'special category land' in the APR 2009.

10.2 In relation to Statutory Undertakers land the Scheme will affect land owned by Statutory Undertakers, and protective provisions have now been agreed with the relevant statutory undertakers for the protection of their apparatus.

11. **CROWN LAND**

11.1 The Scheme will affect an interest in Crown Land which is held otherwise than by or on behalf of the Crown, as referred to in section 135 of the Planning Act 2008. The affected land comprises Plot Nos. 55, 56, 57, 58 and 59 shown on the Crown Land plans, under the Humber Estuary.

11.2 In this section permanent rights are required for the tunnel infrastructure at a depth of at least 7m and approximately 3.2km long.

11.3 This land is held by Associated British Ports under a lease from The Crown Estate for the controlling interest of the Riverbed and foreshore of the Humber Estuary.

11.4 National Grid is negotiating private treaty rights from Associated British Ports which it anticipates completing prior to the end of examination.

11.5 In order to ensure that the rights can be secured compulsory acquisition powers are also being sought under section 135. National Grid is in active discussions with Associated British Ports and the Crown Estate to secure consent to the acquisition powers.

11.6 Temporary rights are sought over plots 62 and 63 which are also held by Associated British Ports for Work No. 12 (temporary abstraction hoses).

11.7 The Crown Estate have confirmed that they are happy with the wording of article 42 of the draft DCO (Crown Rights).

## 12. **JUSTIFICATION FOR INTERFERENCE WITH HUMAN RIGHTS**

### 12.1 **Interference with rights is proportionate**

The information set out in this Statement and elsewhere in the DCO application documents demonstrates that the interference with rights is for a legitimate purpose, both considered in its own right, and when considered in the light of the tests imposed under the 2008 Act. National Grid has described the specific purposes for which the Order land will be used and demonstrated why this is necessary for the delivery of the Scheme.

### 12.2 **The Human Rights Act: relevant Convention rights**

12.2.1 The European Convention on Human Rights (the "Convention") was applied within UK domestic law by the Human Rights Act 1998.

12.2.2 The Articles of the Convention that are relevant to the determination as to whether the DCO should be made so as to include powers of compulsory acquisition are:

12.2.2.1 Article 6 entitles those affected by powers sought for the Scheme to a fair and public hearing by an independent and impartial tribunal. The requirements may be secured by the availability of judicial review if the decision-making is not independent within the meaning of article 6;

12.2.2.2 Article 8 protects the right of the individual to respect for his private and family life, his home and his correspondence. No public authority can interfere with these interests except if it is in

accordance with the law and is necessary in the interests of inter alia national security, public safety or the economic well-being of the country. Any interference if justified must be proportionate;

12.2.2.3 Article 1 of the First Protocol to the Convention, which protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the conditions provided by relevant national and international laws. Any interference with possessions must be proportionate and in determining whether a particular measure is proportionate, a "fair balance" should be struck between the demands of the general interest and the protection of the individual's rights.

12.2.3 The decision-maker, as a public body, is under a duty to consider whether the exercise of its powers engages the rights protected by the Convention. The approach to be taken to give effect to rights under the Convention is set out in the Guidance.

12.2.4 The DCO has the potential to infringe the human rights of persons who own property in the Order land or have (unknown) rights over the Order land. Such infringement is authorised by law provided (1) the statutory procedures for making the DCO are followed and there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the DCO; and (2) any interference with any Convention right is proportionate to the legitimate aim(s) served.

### **12.3 Compliance with the Convention and the Human Rights Act**

- 12.3.1 National Grid is satisfied that, although Convention rights are likely to be engaged, the Scheme will not conflict with Convention rights and will be proportionate in that there is a compelling case in the public interest for the Scheme which outweighs the impact on individual rights. In this context, it is relevant that those affected will be entitled to compensation.
- 12.3.2 With regard to article 1, First Protocol and article 8, National Grid has weighed any interference with these Convention rights as a result of including compulsory powers within the DCO with the potential public benefits if the DCO is made. First, National Grid considers that there would be very significant public benefit arising from the grant of the DCO. That benefit can only be realised if the DCO includes the grant of powers of compulsory acquisition and temporary use. National Grid has concluded that the significant public benefits outweigh the effects of the DCO upon persons who own property in the Order land such that there would not be a disproportionate interference with their article 8 and article 1, First Protocol rights. Second, those affected by the exercise of compulsory acquisition or temporary use powers will be entitled to compensation and National Grid has the resources to provide such compensation.
- 12.3.3 As for article 6, third parties have been able to make representations on the application for the DCO whilst it is being prepared. In accordance with Part 5 of the 2008 Act, National Grid consulted persons set out in the categories contained in section 44 of the 2008 Act. This included the known owners and occupiers of the Order land and those who might be able to make claims either under section 10 of the Compulsory Purchase Act 1965 in respect of injurious affection, or under Part 1 of the Land Compensation Act 1973. The beneficiaries of restrictive covenants and other rights that would be overridden by the exercise of powers in

the DCO would be capable of making claims under section 10 of the Compulsory Purchase Act 1965.

12.3.4 Furthermore, representations could also be made by way of objections to the application in response to any notice given under section 56 of the 2008 Act (“Notifying persons of accepted application”). The 2008 Act provides for a detailed examination of any application for a DCO by an independent Examining Authority. The examination includes careful scrutiny of any powers of compulsory acquisition or other compulsory powers, to ensure that they are justified and proportionate. Although the examination is a process mainly conducted in writing, where the Examining Authority received one or more requests for a compulsory acquisition hearing from affected persons within the date specified, it must cause a hearing to be held. A compulsory acquisition hearing was held on 18 November 2015 to which all affected persons were invited and were able to make representations.

12.3.5 Should the DCO be made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out. In relation to disputes about compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), an independent tribunal.

12.3.6 For these reasons, National Grid considers that the inclusion of powers of compulsory acquisition would not breach the Convention rights of those whose are affected and that it would be appropriate and proportionate to make the DCO, including the grant of powers of compulsory acquisition.

## 13. **CONCLUSIONS**

This Statement explains why it is necessary and justifiable for the DCO to contain the rights and powers referred to in part **5**. The matters addressed in this Statement may be summarised as follows:

- 13.1 Description of the proposals for the use and development of the land (part **2**).
- 13.2 Need for the Scheme (part **3**).
- 13.3 Description of the land subject to the compulsory purchase and other powers (part **4**).
- 13.4 Scope of the compulsory purchase and certain other powers sought (part **5**).
  - 13.4.1 Rule 5(2)(h) of the APR 2009 requires a Statement of Reasons seeking powers to authorise compulsory acquisition of land or interests in land.
  - 13.4.2 **Part 5** describes those powers which are to be granted by the DCO. It provides an outline of those compulsory purchase powers sought. It additionally details other rights and powers sought which may interfere with property rights and private interests, are to be granted by the DCO.
- 13.5 Purpose for which the powers are sought (part **6**).
  - 13.5.1 Compulsory acquisition powers are necessary to enable construction, operation and maintenance of the Scheme, which is to be authorised by the DCO. This section sets out the purpose for acquiring each of the interests and rights in land, without which delivery of the Scheme would not be possible.
- 13.6 Justification for the powers of compulsory acquisition (part 7).
  - 13.6.1 This clause sets out the criteria to be satisfied for the authorising of compulsory acquisition in a development consent order. The certainty required for the Scheme means that there is no alternative to compulsory acquisitions of land and rights. There must be certainty that these works part-funded by the European Union and UK Government can be constructed.

13.7 National Grid's approach to acquire land and rights in land by agreement (**part 8**).

13.7.1 This clause outlines National Grid's approach to landowners to seek voluntary agreements where possible for all requisite land and interests in land.

13.8 Related Applications, Orders, Consents (part **9**).

13.8.1 In addition to the development to be consented by the DCO there are other consents required relating to matters such as temporary traffic orders, Natural England Assents, etc. It is not considered that securing these present any issues for the Scheme.

13.9 Special Category Land (part **10**).

13.9.1 The Scheme will not affect open space land categorised as special category land in the APR 2009, and as described in part **10**.

13.10 Crown Land (**part 11**).

13.10.1 The Scheme will affect open Crown Land as categorised in s. 135 of the Act, and as described in part **11**.

13.11 Justification for interference with human rights (part **12**).

13.11.1 The inclusion of powers of compulsory acquisition would not breach the Convention rights of those whose are affected and that it would be appropriate and proportionate to make the DCO, including the grant of powers of compulsory acquisition.

13.12 Whilst private interests will be affected, there is a compelling case in the public interest for the grant of the compulsory acquisition powers needed to allow the Scheme to proceed.

13.13 For these reasons, the inclusion of powers of compulsory acquisition within the DCO in respect of land and rights in land as set out in the Book of Reference (Document 4.3C) and shown on the Land Plans

(Document 2.1C) is justified, and the DCO should be granted containing these powers.