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THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

THE H2 TEESSIDE PROJECT

**WRITTEN REPRESENTATION ON BEHALF OF NATIONAL GRID ELECTRICITY
TRANSMISSION PLC**

&

**RESPONSE TO THE EXAMINING AUTHORITY'S FIRST WRITTEN QUESTIONS &
REQUESTS FOR INFORMATION [PD-008]**

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1 INTRODUCTION

1.1 National Grid Electricity Transmission Plc ("**NGET**") made a relevant representation in this matter on 1 July 2024 [**RR-024**] in order to protect both apparatus and operational land owned by NGET.

1.2 NGET does not object in principle to the development proposed by H2 Teesside Limited ("**the Applicant**") and as defined as the "**Authorised Development**" in the draft Development Consent Order (the "**Draft Order**") [**APP-027**].

1.3 NGET does, however, **strongly object** to:

(a) the Authorised Development being carried out in close proximity to its apparatus in the area unless and until suitable protective provisions and related agreements have been secured to its satisfaction, to which see further at Paragraph 6; and

(b) any compulsory acquisition powers for land or rights or other related powers to acquire land temporarily, override or otherwise interfere with easements or rights or stop up public or private rights of access being invoked which would affect its land interests, rights apparatus, or right to access and maintain its apparatus. This is unless and until suitable protective provisions and any necessary related amendments have been agreed and included in the Draft Order.

1.4 NGET owns and operates the electricity transmission network in England and Wales. NGET operates but does not own the Scottish networks. NGET is required to comply with the terms of its Electricity Transmission Licence in the delivery of its statutory responsibility. Under Section 9 of the Electricity Act 1989, NGET has a statutory duty to maintain 'an efficient, co-ordinated and economical' system of electricity transmission.

2 ENABLING NET ZERO

2.1 Demand for electricity in the United Kingdom is expected to rise as the way in which power for the country's homes, businesses and transport changes. As the nation moves towards net zero, the fossil fuels that once powered the economy will be replaced with sources of low-carbon electricity, such as offshore wind farms.

2.2 The UK Government has committed to reach net zero emissions by 2050. This means achieving a balance between the greenhouse gases put into the atmosphere and those taken out. Decarbonising the energy system is vital to this aim.

2.3 NGET's ongoing infrastructure projects in England and Wales will support the country's energy transition and make sure that the electricity transmission network

is ready to connect to more and more sources of low carbon electricity generated in Britain.

- 2.4 The way in which electricity is generated in the United Kingdom is also changing rapidly. This means that NGET needs to move swiftly to build new infrastructure and to make upgrades to the electricity transmission network in order to bring this clean, green energy from where it is generated to where it is needed by homes and businesses.
- 2.5 NGET is therefore unable to release, for third party development, any land immediately adjacent to its existing operational assets, including substations, on the basis that the land in question must remain safeguarded to allow for the development of those assets which is needed to enable NGET to discharge its statutory and regulatory duties and to fulfil its vital role in facilitating the transition to net zero.

3 **NGET ASSETS**

3.1 NGET owns or operates the following infrastructure within or in close proximity to the proposed Order Limits for the Project. These assets (the "**NGET Assets**") form an essential part of the electricity transmission network in England and Wales.

3.2 The NGET Assets presently comprise the following:

- (a) Substations:
- (i) Grangetown 66kV Substation;
 - (ii) Saltholme 275kV and 132kV Substation;
 - (iii) Tod Point 275kV Substation(including buried fibre cables from Tod Point Substation); and
 - (iv) Associated overhead and underground apparatus including cables
- (b) Overhead Lines ("**OHL**"):
- (i) ZZA 400kV OHL (Hartlepool – West Boldon, Hartlepool – Hartmoor, Hartlepool – Saltholme, Hartlepool – Tod Point, Lackenby – Norton, Hartlepool – Tod Point);
 - (ii) YYJ 400kV OHL (Lackenby – Norton 1, Norton – Saltholme);
 - (iii) YYQ 275kV OHL (Hartlepool – Tod Point, Lackenby – Tod Point);
 - (iv) XA 400kV OHL (Lackenby – Norton 1, Hartlepool – Tod Point); and
 - (v) Associated underground apparatus including cables.
- (c) Cable Apparatus:
- (i) Grangetown - Lackenby 275kV underground cable.

3.3 As a responsible statutory undertaker, NGET's primary concern is to meet its statutory obligations and ensure that any development does not impact in any adverse way upon those statutory obligations. As such, NGET has a duty to protect its position in relation to the NGET Assets, and any other infrastructure and land which is within or in close proximity to the draft Order Limits.

- 3.4 In respect of the NGET Assets (and any other NGET infrastructure located within the proposed Draft Order limits or in close proximity to the Authorised Development and associated works), NGET will require protective provisions to be put in place to ensure that:
- (a) all NGET interests and rights including rights of access to the substations listed above are unaffected by the power of compulsory acquisition, temporary possession, and the grant and/or extinguishment of rights as set out in the Draft Order; and
 - (b) appropriate protection for the NGET Assets and any other retained apparatus is maintained during and after construction of the Authorised Development. This includes compliance with all relevant safety standards as further described below.

4 **REGULATORY PROTECTION FRAMEWORK**

- 4.1 NGET has issued guidance in respect of standards and protocols for working near to electricity transmission equipment in the form of:
- (a) Third Party Working near National Grid Electricity Transmission equipment - Technical Guidance Note 287. This cross-refers to statutory electrical safety clearances which are used as the basis for ENA (TA) 43-8, which must be observed to ensure safe distance is kept between exposed conductors and those working in the vicinity of electrical assets; and
 - (b) Energy Network Associations Development near Overhead Lines ENA (TS) 43-8, which sets out the derivation and applicability of safe clearance distances in various circumstances including crossings of overhead lines and working in close proximity.
- 4.2 Additionally, HSE's guidance note 6 "Avoiding Danger from Overhead Power Lines" summarises advice to minimise risk to life/personal injury and provides guidance to those planning and engaging in construction activity in close proximity to overhead lines.
- 4.3 NGET requires specific protective provisions in place to provide for an appropriate level of control and assurance that industry standards will be complied with in connection with works to and in the vicinity of its electricity assets (including the OHL).

5 **PROPERTY ISSUES**

- 5.1 Maintaining appropriate property rights to support and protect the NGET Assets from compulsory acquisition and related powers in the Draft Order is a fundamental safety issue, and particularly so in the context of the Authorised Development where a high pressure hydrogen pipeline is proposed to be situated in very close proximity to a number of operational assets, including Saltholme Substation and the YYJ 400kV OHL.
- 5.2 Insufficient property rights would have the following safety implications in relation to the NGET Assets:
- (a) an inability for qualified personnel to access apparatus for its maintenance, repair and inspection;

- (b) a risk of strike to buried assets, including the Grangetown - Lackenby 275kV underground cable, if the Authorised Development occurs within the easement zone which seeks to protect such assets; and
- (c) a risk of inappropriate development within the vicinity of the NGET Assets, thereby increasing the risk of damage to those assets and to the integrity of the electricity transmission network.

6 PROTECTIVE PROVISIONS

Overview

6.1 NGET seeks to protect its statutory undertaking, and insists that in respect of connections and work in close proximity to its Apparatus as part of the Authorised Development the following procedures are complied with by the Applicant:

- (a) NGET is in control of the plans, methodology and specification for works within 15 metres of any retained Apparatus; and
- (b) works in the vicinity of NGET apparatus are not authorised or commenced unless protective provisions are in place preventing compulsory acquisition of NGET's land or rights or the overriding or interference of the same. Any acquisition of rights must be subject to NGET's existing interests and rights and not contradict with or cut across such rights; and
- (c) appropriate surety and insurance provisions are in place to back up an uncapped indemnity to protect NGET from any damage, losses or claims arising from the Authorised Development.

6.2 NGET maintains its position that without an agreement or qualification on the exercise of unfettered compulsory powers or connection to its apparatus the following consequences will arise:

- (a) Failure to comply with industry safety standards, legal requirements and Health and Safety Executive standards create a health and safety risk;
- (b) Any damage to apparatus has potentially serious hazardous consequences for individuals located in the vicinity of the apparatus if it were to fail; and
- (c) Prevention of NGET's ability to access its land or exercise its rights over land caused by the Authorised Development could inhibit NGET's ability to comply with its duties as statutory undertaker to provide electricity transmission.

Current Status

6.3 NGET is aware that a form of protective provisions for the benefit of NGET (the "**Protective Provisions**") has been included by the Applicant in Part 4 of Schedule 12 to the Draft Order [APP-027].

6.4 NGET considers the current form of Protective Provisions to be materially deficient.

6.5 In particular, where the Applicant intends to acquire land or rights held by NGET compulsorily, to take temporary possession of the same, or otherwise to interfere with any of NGET's interests in land, any powers authorising such acquisition, temporary possession or interference must only ever be exercised with the prior agreement and consent of NGET.

- 6.6 A failure to secure such prior agreement risks compromising the safety and integrity of NGET's operational assets, in addition to inhibiting the proper discharge of NGET's statutory obligations and functions.
- 6.7 This risk is particularly acute in the context of the Project, where it is understood that land and rights are intended to be compulsorily acquired and extinguished by the Applicant immediately to the west of NGET's existing Saltholme Substation for the purposes of Works Nos. 6A.1 and 6B.1 [APP-010] and [APP-016]. The land affected, which comprises Plots 3/17 to 3/23 and 3/24 to 3/26 (as shown on Sheet 3 of the Land Plans [APP-008]), is owned by NGET and also comprises a strategically important angle tower (Tower YYJ037) which forms part of the YYJ 400kV overhead line.
- 6.8 Furthermore, it is understood the Applicant is seeking compulsory purchase powers over a number of plots which include NGET assets and/or interests. These plots include access rights across plots 3/24, 3/69 to 3/76 (Marsh Lane, Cowpen Bewley).
- 6.9 It is essential that the Applicant's proposals do not prevent NGET from being able to maintain, repair, refurbish, replace or upgrading this tower in order to fulfil its statutory duties.
- 6.10 As part of NGET's ongoing programme of works to reinforce the electricity transmission network in England and Wales, which is being undertaken in alignment with HM Government's British Energy Security Strategy (April 2022), NGET is in the early stages of assessing the impact of a number of connection applications at Saltholme Substation. This also includes connection applications to the Northern Power Grid ("NPG") distribution network, whose 132kV Grid Supply Point is also located within the extent of the site.
- 6.11 As matters stand, and based on the current list of connection applications, NGET anticipates bringing forward proposals for a new 275kV air insulated double busbar substation in the immediate vicinity of the existing Saltholme Substation comprising of 2 no. super grid transformer connection bays, 4 no. feeder connection bays, 1 no. bus section and 2 no. bus couplers, alongside additional bays for further customer connections which are reasonably expected to materialise in the near future. It is expected that any such substation would have a minimum footprint of 80m by 280m (excluding any areas required either temporarily or permanently for construction access, storage and laydown of materials and electrical apparatus and/or the diversion and realignment of existing OHL and other cabling).
- 6.12 Owing to existing geographical constraints, it is anticipated that any extension, modification, or offline replacement of either NGET's or NPG's substation may need to be brought forward on undeveloped land owned by NGET. It is reasonably foreseeable that land to both the east and to the west of the existing Substation will be required in the future to accommodate such works. Any such extension, modification or offline replacement would also likely involve the relocation of Tower YYJ037 and the realignment of the relevant section of the YYJ 400kV OHL.
- 6.13 In the event that the undeveloped land to the east and/or the west of the existing Substation is sterilised (either wholly or partially) by the Authorised Development, NGET anticipates that it would encounter significant engineering, ecological and economic challenges in securing a suitable alternative site in the immediate vicinity of Saltholme Substation. In order to avoid existing environmentally designated sites, it is likely that any alternative substation locations would require extensive (and, in NGET's opinion, wholly unnecessary) additional works in order to reinforce and/or divert existing OHLs, and to realign local distribution assets, including those belonging to NPG.

- 6.14 As currently drafted, the Protective Provisions permit the unfettered exercise by the Applicant of powers of compulsory acquisition and/or temporary possession.
- 6.15 NGET considers that the Protective Provisions will, therefore, prevent the delivery of any future extension of Saltholme Substation and, in turn, hinder the effective discharge by NGET of its statutory duties at a critical location in the electricity transmission network.
- 6.16 The exercise of those powers in the manner contemplated by the Applicant is also likely to significantly impact on NGET's ability to undertake routine maintenance to the YYJ 400kV overhead line.
- 6.17 Despite repeated requests for engagement, it remains the case that no explanation has been provided by the Applicant as to the omission of the relevant elements of drafting from the Protective Provisions, noting the established line of precedent which supports the position adopted by NGET (and, indeed, other statutory undertakers) as to the need for a restriction on the actual exercise of powers of compulsory acquisition and/or temporary possession.
- 6.18 So far as NGET is aware, the Applicant has also failed to explain why it is necessary for Works Nos. 6A.1 and 6B.1 to be sited on land owned by NGET and, indeed, to demonstrate the absence of suitable alternative locations for constructing the relevant aspects of the Project. It is therefore essential that the Protective Provisions contain the consent mechanism noted above and, in doing so, enable NGET to continue to deliver planned reinforcements to the electricity transmission network and to accommodate connection requests received from electricity generation customers.
- 6.19 In the absence of an agreed form of Protective Provisions, NGET continues to strongly object to the compulsory acquisition, temporary possession of, or interference with, its assets, land or rights over its land.

Next Steps

- 6.20 The Draft Order does not yet contain fully agreed Protective Provisions expressed to be for the protection of NGET to NGET's satisfaction, making it currently deficient from NGET's perspective.
- 6.21 NGET has not yet received any substantive response from the Applicant in relation to an amended form of Protective Provisions shared with the Applicant on 1 July 2024. Given the nature of the points which remain outstanding between the parties, NGET is both surprised and disappointed by the Applicant's absence of genuine engagement.
- 6.22 NGET notes the cursory responses on these points provided by the Applicant at Deadline 1 in its Comments on Relevant Representations and Additional Submissions **[REP1-007]**.
- 6.23 Notwithstanding the fact that NGET disagrees with the Applicant's characterisation in **[REP1-007]** of both the duration and the nature of engagement between the parties on matters related to the Protective Provisions (and, by extension, to development in proximity to Saltholme Substation), the Applicant's contention that it is *"committed to ensuring that the Protective Provisions and a voluntary land agreement are appropriately structured to facilitate NGET's future use of the [Saltholme] site, including any necessary extensions or modifications, while maintaining the feasibility of the Proposed Development"* overlooks the ultimate position, which the Applicant is already cognisant of, that the Authorised

Development in the form proposed and under consideration as part of this Examination is fundamentally incompatible with the effective discharge of NGET’s regulatory obligations and statutory duties, including those related to net zero.

6.24 NGET contends that it is essential that the current deficiencies in the Protective Provisions are addressed to its satisfaction to ensure adequate protection for the NGET Assets, including for those likely to be brought forward in the near future.

6.25 Should it not be possible to reach agreement with the Applicant, National Grid reserves its right to attend a Compulsory Acquisition Hearing to address the required format of the Protective Provisions and any necessary amendment to the Draft Order.

6.26 If this is necessary NGET reserve the right to provide further written information in advance in support of any detailed issues remaining in dispute between the parties at that stage.

7 RESPONSE TO THE EXAMINING AUTHORITY’S FIRST WRITTEN QUESTIONS & REQUESTS FOR INFORMATION [PD-008]

7.1 NGET’s response to ExQ1 Q1.1.5 is as follows:

ExQ1	Question To:	Question:	Response:
Q1.1.5	National Grid	<p>Clarification.</p> <p>(a) Please confirm that the location of the proposed Above Ground Installation (AGI) next to the pylon and Saltholme Sub Station, as shown on Works Plans [AS-005] Sheet 15 of 44, is acceptable.</p> <p>(b) Please also comment on any other locations where the Order Limits are in close proximity to similar infrastructure.</p>	<p>(a) The proposed location of the Above Ground Installation adjacent to Saltholme Substation is unacceptable from NGET’s perspective. The reasons for this are fully articulated in the Written Representation submitted on behalf of NGET.</p> <p>(b) The Written Representation submitted on behalf of NGET sets out the existing operational apparatus situated in proximity to the Order limits.</p> <p>Whilst there are no concerns of the same order of magnitude as in relation to Saltholme Substation, in all cases NGET will still require protective provisions to be put in place to ensure that:</p> <ul style="list-style-type: none"> - all interests and rights, including rights of access, are unaffected by the powers of compulsory acquisition, temporary possession, and the grant and/or extinguishment of rights as set out in the Draft Order; and

			<ul style="list-style-type: none">- appropriate protection is maintained during and after construction of the Authorised Development. This includes compliance with all relevant safety standards as further documented in the Written Representation.
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For and on behalf of National Grid Electricity Transmission Plc

3 October 2024