

**A38 DERBY JUNCTIONS SCHEME (THE PROJECT)  
DEADLINE 1 – 5 NOVEMBER 2019  
CADENT GAS LIMITED**

**RESPONSE TO EXAMINING AUTHORITY’S (EXA) FIRST ROUND OF WRITTEN QUESTIONS**

**1. INTRODUCTION**

1.1 Cadent Gas Limited (**Cadent**) is a statutory undertaker for the purposes of the Planning Act 2008 (**PA 2008**) and is responding to the ExA’s first round of written questions which include questions directed at Cadent.

**2. HEARINGS**

2.1 Cadent would wish to attend an issue specific hearing on the dDCO on 11 December 2019 given the outstanding issues, identified below, in relation to the protective provisions.

**3. EXA QUESTIONS**

3.1 Please see below Cadent’s response to the ExA’s first round of written questions.

ExA’s Question	Cadent’s Response
2.1.11	<p>Cadent has set out its status as the licensed operator of a gas distribution network, and has identified the importance of maintaining the integrity of its gas distribution network, in its relevant representations.</p> <p>Cadent’s position, as set out at in its relevant representations, is that it is not satisfied that the tests under section 127 of the PA 2008 can be met unless and until it has appropriate protective provisions in place which adequately protect its existing apparatus and which properly regulate any diversions that may be required. Cadent has a preferred form of protective provisions which it has issued to Highways England and which it is awaiting a response on.</p> <p>Until that time, Cadent is not satisfied that:</p> <ol style="list-style-type: none"> <li>1. its land can be purchased and not replaced, or that any rights over its land can be acquired, without serious detriment to the carrying on of Cadent’s undertaking;</li> <li>2. (where its land is to be purchased) it can be replaced by other land belonging to, or available for acquisition by, Highways England without serious detriment to the carrying on of Cadent’s undertaking; or</li> <li>3. (where rights over its land are to be acquired) any detriment to the carrying on of Cadent’s undertaking, in consequence of the acquisition of the right, can be made good by Highways England by</li> </ol>

	<p>the use of other land belonging to or available for acquisition by them.</p> <p>For the purpose of section 127 of the PA 2008, land includes any interest in or right over land<sup>1</sup>. Therefore, even where rights over land are acquired thi</p> <p>Cadent will not be satisfied that the tests under section 127 and 138 will be met until such time as appropriate protective provisions are put in place.</p> <p><b><u>Protective Provisions Update</u></b></p> <p>By way of an update to the ExA, Cadent is in discussion with Highways England over the protective provisions which Cadent expects to be in the same form as those recently agreed with Highways England in respect of its Windy Harbour scheme and included within the final dDCO. Cadent is awaiting confirmation from Highways England that this position is agreed.</p>
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**CMS CAMERON MCKENNA NABARRO OLSWANG LLP**

**5 NOVEMBER 2019**

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<sup>1</sup> Please see section 159(2) of the PA 2008