

**THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010**

**LAKE LOTHING THIRD CROSSING**

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**WRITTEN REPRESENTATION ON BEHALF OF CADENT GAS LIMITED**

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**Ref: AW/975110.14**

## WRITTEN REPRESENTATION ON BEHALF OF CADENT GAS LIMITED

### 1. INTRODUCTION

- 1.1 Cadent Gas Limited have made a relevant representation in this matter on 21<sup>st</sup> September 2018 in order to protect apparatus owned by Cadent Gas Limited ("Cadent"). Cadent does not object in principle to the development proposed by the Promoter.
- 1.2 Cadent does, however, object to the Authorised Works being carried out in close proximity to their Apparatus in the area unless and until suitable protective provisions and related agreements have been secured to their satisfaction, to which see further at paragraph 4.
- 1.3 They also object to any compulsory acquisition powers for land or rights or other related powers to survey, temporary acquisition powers or to override easements or rights or the stopping up public or private rights of access being invoked which would affect their Apparatus, or right to access and maintain their Apparatus. This is unless and until suitable protective provisions and any necessary related amendments to the wording of the DCO have been agreed and included in the Order or otherwise addressed between the parties.
- 1.4 Cadent wish to ensure appropriate land rights are available for any diversion of their assets and will require crossing agreements where there are proposals to work within the easement strip of any existing Cadent's Apparatus sitting outside the highway boundary, to which see further at paragraph 2.
- 1.5 Cadent is holder of a licence under section 7 of the Gas Act 1986 and operates four gas distribution networks in North London, Central England (West and East) and the North West.
- 1.6 Cadent is required to comply with the terms of its Licence in the delivery of its statutory responsibilities. It is regulated by the Network Code which contains relevant conditions as to safe transmission of gas and compliance with industry standards on transmission, connection and safe working in the vicinity of its Apparatus, to which see paragraph 3.

### 2. CADENT ASSETS

- 2.1 Cadent has Low and Intermediate Pressure Gas Pipelines ("Apparatus") within the highway in the Order Boundary as shown on the Plan in **Appendix 1**. Low Pressure and Intermediate Pressure mains are located in the highway and will be affected by Works 1E, 2, 4, 5 and 6.
- 2.2 These interactions result in some diversion of apparatus including the diversion of the Low Pressure mains which is proposed to be moved to a location that will sit outside of the adopted highway boundary in future for part of the diversion route. In these circumstances Cadent require that the promoter obtains and grants to Cadent adequate rights to lay, access and maintain such apparatus on Cadent's standard easement terms or equivalent rights obtained by compulsion including the necessary imposition of restrictive covenants to protect the easement strip and corresponding assets. In circumstances where full land rights are not being taken (i.e. pink plots), it is important that the rights acquired (i.e in blue plots) are sufficient to meet Cadent's requirements to be granted sufficient land rights for their Apparatus by compulsion, where it is not possible for the promoter to reach agreement with the land owner concerned. Cadent have provided the Promoter with the necessary wording to amend the order and give effect to their requirements on the 11<sup>th</sup> October 2018. Cadent have had no substantive response from the promoter as to whether the wording that they require will be included in the Order or not or how the Promoter otherwise intends to address this issue. Only holding e-mails have been received. A response is still awaited from the Promoter on this point. This is the only outstanding point between the parties of any

substance. As soon as this point is resolved to Cadent's satisfaction, agreed protective provisions put in place and a side agreement entered into, Cadent will be able to withdraw their objection to the Order.

- 2.3 In respect of all Cadent infrastructure located within the DCO boundary, or in close proximity to the proposed project and associated works, Cadent will require protective provisions to be put in place to ensure (i) that all Cadent interests and rights of access are unaffected by the power of compulsory acquisition, grant and extinguishment of rights, survey powers and temporary use powers and temporary or permanent stopping up unless and until diverted under the Protective Provisions and (ii) to ensure that appropriate protection for the retained apparatus is maintained during and after construction of the project. This includes compliance with all relevant standards on safety as set out in paragraph 3 below. The parties have been negotiating the Protective Provisions for some time and have largely reached agreement on all issues such that it is anticipated that the parties should be able to conclude agreements shortly and that appropriate protective provisions will be provided. Cadent also have various concerns about the drafting of the Order but have reached draft agreement with the promoter about such issues in a side agreement which the parties anticipate will be entered into in due course. Accordingly we have not raised any of these issues in detail at this stage but reserved the right to raise issues on the drafting of the DCO should the promoter not proceed to put in place agreed Protective Provisions and conclude the Side Agreement currently agreed between the parties.

## **2 REGULATORY PROTECTION FRAMEWORK**

- 3.1 Cadent require all Promoters carrying out Authorised Development in the vicinity of their Apparatus to comply with
- TSP/SSW/22 – Safe Working in the vicinity of Cadent's Gas Assets;
  - ICE (institution of Gas Engineers) recommendations IGE/SR/18 Edition 2 Safe Working Practices to Ensure the Integrity of Gas Pipelines and Associated Installations, and
  - The HSE's guidance document HS(G)47 Avoiding Danger from Underground Services.
- 3.2 The industry standards referred to above have the specific intention of protecting:
- (a) The integrity of the pipelines and thus the distribution of gas;
  - (b) The safety of the area surrounding gas pipelines;
  - (c) The safety of personnel involved in working with gas pipelines;
- 3.3 Cadent requires specific protective provisions in place for an appropriate level of control and assurance that the industry regulatory standards will be complied with in connection with works in the vicinity of Cadent's Apparatus.

#### 4 PROTECTIVE PROVISIONS

4.1 Cadent seeks to protect its statutory undertaking, and insists that in respect of connections and work in close proximity to their Apparatus as part of the authorised development the following procedures are complied with by the Applicant:

- (a) Cadent is in control of the plans, methodology and specification for works within 15 metres of any Apparatus, works which will adversely affect their Apparatus or otherwise breach distances/guidance set out in paragraph 3 above;
- (b) DCO works in the vicinity of Cadent's apparatus are not authorised or commenced unless protective provisions are in place preventing compulsory acquisition of Cadent's land or rights or overriding or interference with the same.

4.2 Cadent maintain that without an agreement or qualification on the exercise of unfettered compulsory powers or connection to its Apparatus the following consequences will arise:

- Failure to comply with industry safety standards, legal requirements and Health and Safety Executive standards create a health and safety risk;
- Any damage to Apparatus has potentially serious hazardous consequences for individuals/property located in the vicinity of the pipeline/apparatus if it were to fail;
- Potentially significant consequences arising from lack of continuity of supply;

4.3 Insufficient property rights have the following safety implications:

- Inability for qualified personnel to access apparatus for its maintenance, repair and inspection.
- Risk of strike to pipeline if development occurs within the easement zone in respect of which an easement/restrictive covenant is required to protect the pipeline from development.
- Risk of inappropriate development within the vicinity of the pipeline increasing the risk of the above.

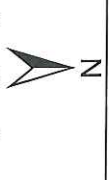
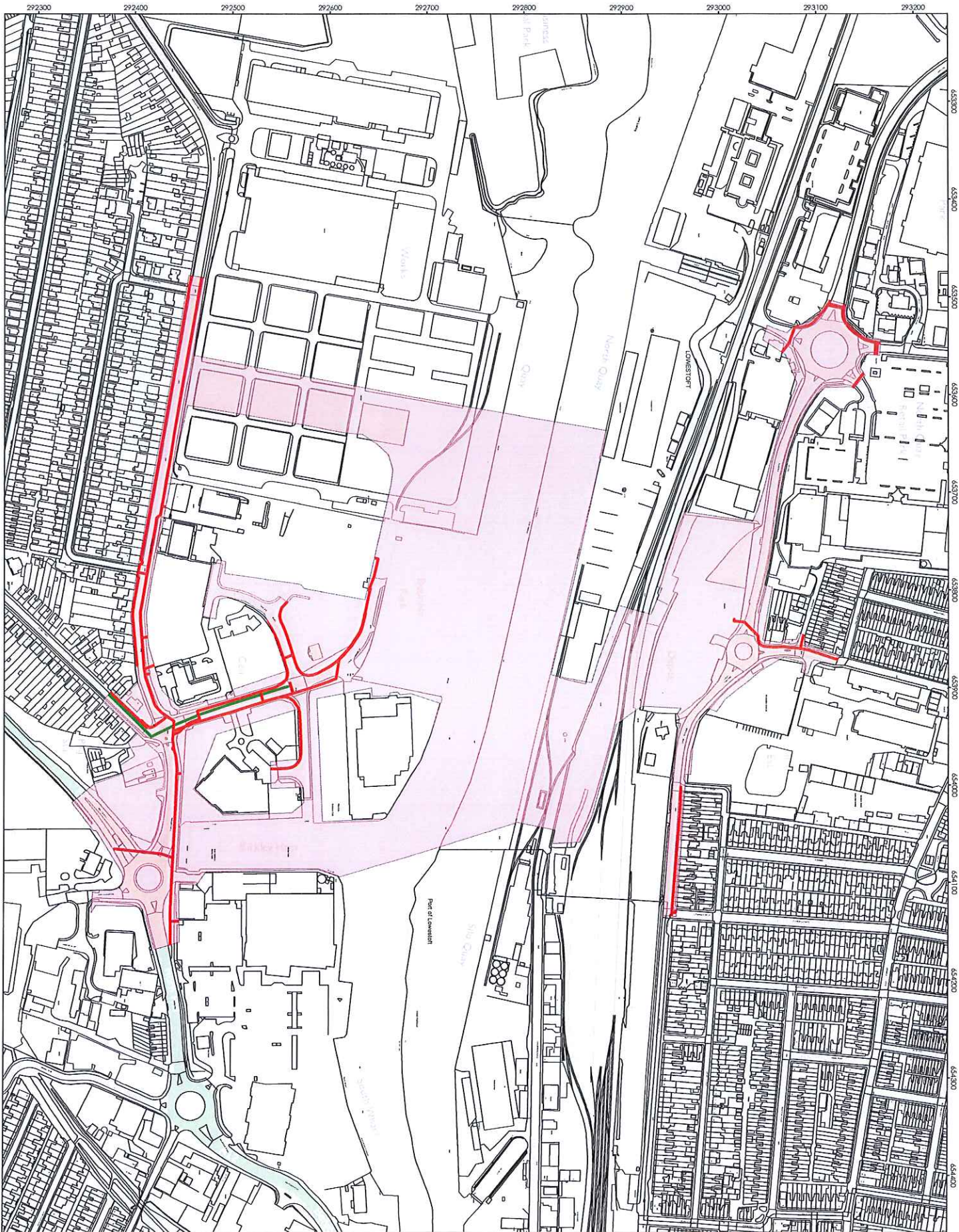
4.4 The proposed Order does not yet contain fully agreed Protective Provisions expressed to be for the protection of Cadent to Cadent's satisfaction, making it currently deficient from Cadent's perspective nor does it address fully how property rights will be made available for the diversion of Cadent's assets to their satisfaction where compulsion, rather than agreement with a third party land owner is necessary.

4.5 Cadent contend that it is essential that these issues are addressed to their satisfaction to ensure adequate protection for their Apparatus and that Protective Provisions on their standard terms are provided. As set out above the parties have largely concluded negotiations on protective provisions and a side agreement, and subject to resolving the issue over land rights, an agreement is capable of being reached and Cadent's objection withdrawn. It would however be helpful if the promoter would engage with Cadent on this issue, no substantive response having been received since the 11<sup>th</sup> October 2018.

4.6 Should this not be possible and attendance at a Compulsory Acquisition Hearing or Issue Specific Hearing is necessary then Cadent 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 once they have received a substantive response from the promoter.

4.7 List of Appendices:

Appendix 1 – Location of Cadent's Assets overlaid on Land Plans



OVERVIEW WINDOW



LEGEND:

- LP
- JP
- WORKING AREA

REVISION: A

CLIENT:  
**Cadent**  
Water & Gas Networks

SCHEME:  
LAKE LOITHING

TITLE:  
ASSET INTERACTION PLAN

SCALE: 1:3,500 @ A3  
DATE: 08/09/2017

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