

17 JULY 2023

**INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010
THE A122 (LOWER THAMES CROSSING) DEVELOPMENT CONSENT ORDER**

**WRITTEN REPRESENTATION ON BEHALF OF NATIONAL GAS TRANSMISSION
PLC**

REF: PGRC/TWHI/3011593.1



WRITTEN REPRESENTATION ON BEHALF OF NATIONAL GAS TRANSMISSION PLC

1 INTRODUCTION

- 1.1 National Gas Transmission Plc ("**NGT**") made a Relevant Representation in this matter on 23 February 2023 [**RR-0782**] in order to protect apparatus and land rights owned and held by NGT.
- 1.2 NGT does not object in principle to the development proposed by National Highways (the "**Applicant**") and as defined as the "**Authorised Development**" in the draft Development Consent Order (the "**Draft Order**").
- 1.3 Indeed, the Draft Order would (if made) secure powers to enable the diversion of parts of two of NGT's existing high pressure gas transmission pipelines which are required to be diverted for the purposes of the Project. The diversion of three sections of these pipelines (Work Numbers G2, G3 and G4 respectively) are each a Nationally Significant Infrastructure Project in their own right.
- 1.4 NGT has therefore been working closely with the Applicant during the preparation of the DCO application and will continue to do so through the Examination in order to seek to ensure that all outstanding matters between the parties are addressed.
- 1.5 However, as a responsible statutory undertaker, NGT does also 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 **Error! Reference source not found.7**); 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 NGT's land interests, rights, apparatus, or right to access and maintain its apparatus. This is unless and until suitable protective provisions and any other necessary and related amendments have been agreed and included in the Draft Order.

2 NGT'S ROLE & RESPONSIBILITIES

- 2.1 NGT is the sole owner and operator of the gas transmission system in Great Britain. NGT has licences to operate the gas transmission network, and is required to comply with the terms of these licences in the delivery of its statutory responsibilities.
- 2.2 NGT is under a statutory duty (under section 9 of the Gas Act 1986) to, inter alia, develop and maintain an efficient and economical network for the conveyance of gas.

3 NGT ASSETS

- 3.1 NGT's existing assets form an essential part of the gas transmission network in Great Britain.
- 3.2 The following existing assets owned and/or operated by NGT are situated within close proximity to the proposed Order Limits:
- (a) Feeder Main 5; and

- (b) Feeder Main 18.
- 3.3 Certain of NGT's existing assets are proposed to be diverted as part of the Authorised Development. (These diversions are referenced within the DCO as Work Numbers):
- (a) Work No. G2;
 - (b) Work No. G3; and
 - (c) Work No. G4,
- (together the "**Proposed Diversions**").

4 **MATTERS OF CONCERN**

4.1 NGT's primary concern is to meet its statutory obligations and ensure that any development proposed to be undertaken by the Applicant does not impact in any adverse way upon those statutory obligations.

4.2 As such, NGT has a duty to protect its position in relation to: (i) the Authorised Development and the Proposed Diversions and (ii) any other infrastructure and land owned or held by NGT which is within or in close proximity to the draft Order Limits.

Proposed Diversions:

4.3 In this context, there are certain key matters which remain to be addressed in respect of the Proposed Diversions:

(a) **Permanent, Temporary and Mitigation Design conflict/clash resolution:** there are currently still a number of areas with potential clashes/conflicts as between NGT's designs for the Proposed Diversions (such as the A2/Claylane attenuation pond), the Applicant's designs and the designs produced by other affected statutory undertakers. Whilst NGT appreciates the need to work collaboratively alongside the Applicant and other statutory undertakers, given the nature and extent of the works to be undertaken by NGT as part of the Proposed Diversions, NGT requires absolute priority within any shared working areas. Although the Applicant has acknowledged NGT's position, NGT remains particularly concerned as to how joint working arrangements will be practically implemented and monitored during the construction phase in order to achieve this outcome.

(b) **Phasing of Works and Division of Responsibility:** NGT requires confirmation that the Applicant and/or its main delivery partner will undertake all necessary preparatory surveys, mitigation and enabling works in order to allow NGT's contractors to commence works in respect of the Proposed Diversions in accordance with agreed programmes.

(c) **Environmental Statement and Supporting Management Plans and Mitigation:** NGT is keen to confirm the apportionment of responsibilities as between the Applicant and NGT for mitigation proposed as part of the Project, noting in particular that the delivery of mitigation measures set out in the Environmental Statement will be controlled via the related Management Plans (including but not limited to: the Code of Construction Practice (CoCP) and REAC; the draft Archaeological Mitigation Strategy and Outline Written Scheme of Investigation; the Environmental Masterplan; the Outline Landscape and Ecology Management Plan; the Framework Construction Travel Plan; the Outline Traffic Management Plan for

Construction; the Carbon and Energy Management Plan; the Outline Site Waste Management Plan (Appendix A of the CoCP) and the Outline Materials Handling Plan (Appendix B of the CoCP));

- (d) **24 Hour Working:** NGT require 24 hour working, in particular whilst operating the tunnel boring machine (“**TBM**”) required for each of the Proposed Diversions. This will involve the TBM operating 24 hours a day and the associated above ground compounds also being active 24 hours a day. NGT have sought confirmation from the Applicant that this work has been appropriately assessed in the Environmental Statement and are awaiting confirmation from the Applicant on this matter. NGT also expects that the Applicant will obtain all necessary consents, permits and other licences to enable those operations to take place.
- (e) **Decommissioned Apparatus:** following completion of each of the Proposed Diversions, NGT intends to decommission and subsequently remove the existing sections of pipeline and associated apparatus which form part of Feeder Main 5 and Feeder Main 18. Therefore, NGT requires confirmation from the Applicant that works to remove the decommissioned gas pipelines and associated apparatus have been appropriately assessed in the Environmental Statement and, where necessary, that additional land rights will be sought by the Applicant to enable the removal to take place. Where any sections of pipeline are to remain in situ at the request of the Applicant, NGT expects that the Applicant will assume ownership of the same (including responsibility for future maintenance and liabilities).

4.4 Whilst NGT is reassured by the positive progress made to date in addressing each of these requirements and concerns, a number of matters remain to be resolved to NGT’s satisfaction, particularly in relation to the Proposed Diversions. NGT anticipates that further updates and detail on each of these outstanding or unresolved matters will be provided in the Statement of Common Ground and Principal Areas of Disagreement (PADs) Tracker, alongside NGT’s Written Representation.

4.5 NGT remains committed to working with the Applicant during the remainder of the Examination to reach a satisfactory conclusion on each of these matters.

Other Infrastructure & Assets

4.6 In respect of other NGT infrastructure located within the Order Limits or in close proximity to the Authorised Development and associated works, NGT will require protective provisions to be put in place to ensure that:

- (a) all existing interests and rights are unaffected by the powers of compulsory acquisition and temporary use and possession as presently sought by the Applicant;
- (b) NGT’s rights of access to inspect, protect, maintain, renew, repair and retain such apparatus must also be maintained at all times and must not be restricted; and
- (c) appropriate protection for retained apparatus is maintained during and after construction of the Authorised Development. This includes compliance with all relevant standards and guidelines for working in proximity to high pressure gas transmission apparatus.

4.7 Where the Applicant intends to acquire land or rights, or interfere with any of NGT’s interests in land, NGT will require further discussion with the Applicant and where

such land or rights are to be acquired for the benefit of NGT, NGT's approval must be obtained in respect of the nature and extent of any rights to be secured.

5 **NGT REGULATORY PROTECTION FRAMEWORK**

- 5.1 Relevant guidance in respect of standards and protocols for working in the vicinity of high pressure gas pipelines applies in the form of "*National Grid Guidance for Safe Working in the vicinity of High Pressure Pipelines T/SP/SSW/22*," which is aimed at parties carrying out work in the vicinity of high pressure gas pipelines and associated installations and is provided to ensure that those planning and undertaking work take appropriate measures to prevent damage.
- 5.2 The requirements in T/SP/SSW/22 are also in line with the IGE (Institution of Gas Engineers) recommendations in "*IGE/SE/18 Edition 2 – Safe Working Practices to Ensure the Integrity of Gas Pipelines and Associated Installations*" and HSE's guidance document "*HS (G) 47 Avoiding Danger from Underground Services*."
- 5.3 NGT requires specific protective provisions to be put in place to provide for an appropriate level of control and protection for all retained assets (including Feeder Mains) and assurance that industry standards will be complied with in connection with works to and in the vicinity of the same.

6 **PROPERTY ISSUES**

- 6.1 NGT asserts that maintaining appropriate property rights to support its assets and protecting these from compulsory acquisition and related powers in the Draft Order is a fundamental safety issue.
- 6.2 Insufficient property rights would have the following safety implications:
- (a) inability for qualified personnel to access apparatus for its maintenance, repair and inspection;
 - (b) risk of strike to buried assets if development occurs within the easement zone which seeks to protect such apparatus; and
 - (c) risk of inappropriate development within the vicinity of the assets, thereby increasing the risk of damage to the asset and to the integrity of the gas transmission network.

7 **PROTECTIVE PROVISIONS**

- 7.1 NGT seeks to protect its statutory undertakings, and requests 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 Promoter:
- (a) NGT is in control of the plans, methodology and specification for works within specified distances of any retained Apparatus;
 - (b) works within the vicinity of NGT's apparatus are not authorised or commenced unless protective provisions are in place preventing compulsory acquisition of NGT's land or rights or the overriding or interference of the same. Any acquisition of rights must be subject to NGT's existing interests and rights and not contradict or cut across such rights; and

- (c) appropriate surety and insurance provisions are in place to back up an uncapped indemnity to protect NGT from any damage, losses or claims arising from the Authorised Development.
- 7.2 NGT maintains 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 NGT's ability to access its land or exercise its rights over land caused by the Authorised Development could inhibit NGT's ability to comply with its duties as statutory undertaker to provide gas transmission.
- 7.3 Taking account of the points made above, NGT will require protective provisions to be included within the Draft Order to ensure that its interests are adequately protected and to ensure compliance with relevant safety standards.
- 7.4 NGT is liaising with the Applicant in relation to such protective provisions, along with any supplementary agreements which may be required. However, the Draft Order does not yet contain fully agreed protective provisions expressed to be for the protection of NGT to NGT's satisfaction, making it currently deficient from NGT's perspective.
- 7.5 NGT therefore requests that the Applicant continues to engage with it to provide explanation and reassurances as to how the Applicant's works pursuant to the Draft Order (if made) will ensure protection for those NGT assets which will remain in situ, along with facilitating all future access and other rights as are necessary to allow NGT to properly discharge its statutory obligations.
- 7.6 Should it not be possible to reach agreement with the Applicant, NGT reserves its right to attend a Compulsory Acquisition Hearing or Issue Specific Hearing to address the required format of the Protective Provisions and any necessary amendment to the Draft Order.
- 7.7 If this is necessary, NGT reserves the right to provide further written information in advance in support of any detailed issues remaining in dispute between the parties at that stage.

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For and on behalf of National Gas Transmission Plc

17 July 2023