

17 JULY 2023

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

THE A122 (LOWER THAMES CROSSING) DEVELOPMENT CONSENT ORDER

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

REF: PGRC/TWHI/2026502.294



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WRITTEN REPRESENTATION ON BEHALF OF NATIONAL GRID ELECTRICITY TRANSMISSION PLC

1 INTRODUCTION

- 1.1 National Grid Electricity Transmission Plc ("**NGET**") made a Relevant Representation in this matter on 23 February 2023 [**RR-0783**] in order to protect apparatus and land rights owned and held by NGET.
- 1.2 NGET 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 a number of NGET's existing overhead electricity transmission lines which are required to be diverted for the purposes of the Project. The diversion of one section of overhead line (Work Number OH7, in relation to the ZB Route) is a Nationally Significant Infrastructure Project in its own right.
- 1.4 NGET 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, NGET 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 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 NGET's 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.

2 NGET'S ROLE & RESPONSIBILITIES

- 2.1 NGET owns and operates the electricity transmission network in England and Wales, with day-to-day responsibility for balancing supply and demand. NGET operates but does not own the Scottish networks.
- 2.2 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, coordinated and economical' system of electricity transmission.

3 NGET ASSETS

- 3.1 NGET's existing assets form an essential part of the electricity transmission network in England and Wales.

- 3.2 The following existing assets owned and/or operated by NGET are situated within close proximity to the proposed Order Limits:
- (a) Singlewell Substation;
 - (b) Tilbury Substation (including underground cables);
 - (c) Northfleet East Substation;
 - (d) 4VG overhead line (south and north of the River Thames);
 - (e) 4YN overhead line;
 - (f) ZJ overhead line;
 - (g) ZB overhead line;
 - (h) YYJ overhead line; and
 - (i) Kingsnorth to Beddington underground cables (now decommissioned).
- 3.3 Other electricity transmission infrastructure is proposed to be constructed by or on behalf of NGET in the vicinity of the Order Limits, subject to, amongst other things, all necessary consents and approvals being obtained.
- 3.4 Certain of NGET'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. OH1 (4YN Route);
 - (b) Work No. OH4 (ZJ Route);
 - (c) Work No. OH6 (YYJ Route);
 - (d) Work No. OH7 (ZB Route);
 - (e) Work No. OHT1 (4YN Route Temp);
 - (f) Work No. OHT2 (ZJ Route Temp);
 - (g) Work No. OHT4 (ZB Route Temp);
 - (h) Work No. OHT5 (YYJ Route Temp);
 - (i) Work No. OHT6 (YYJ Route Temp);
 - (j) Work No. OHT7 (ZB Route Temp); and
 - (k) Work No. OHT8 (ZB Route Temp),
- (together the "**Proposed Diversions**").

4 **MATTERS OF CONCERN**

4.1 NGET'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, NGET 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 NGET 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 NGET's designs for the Proposed Diversions, the Applicant's designs and the designs produced by other affected statutory undertakers.

(b) **Phasing of Works and Division of Responsibility:** NGET 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 NGET'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:** NGET is keen to confirm the apportionment of responsibilities as between the Applicant and NGET 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)).

4.4 Whilst NGET 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 NGET's satisfaction, particularly in relation to the Proposed Diversions. NGET 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 NGET's Written Representation.

4.5 NGET 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 NGET infrastructure located within the 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 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 on safety clearances EN 43-8 (Development near overhead lines), and HSE Guidance Note GS6 Avoiding Danger from Overhead Electric Lines.

4.7 Where the Applicant intends to acquire land or rights, or interfere with any of NGET's interests in land, NGET will require further discussion with the Applicant and where such land or rights are to be acquired for the benefit of NGET, NGET's approval must be obtained in respect of the nature and extent of any rights to be secured.

4.8 NGET would also welcome continued cooperation with the Applicant in terms of the construction and other interfaces likely to materialise as between the Authorised Development and proposed reinforcements and/or upgrades to the electricity transmission network within proximity to the Order Limits.

5 REGULATORY PROTECTION FRAMEWORK

5.1 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"*, which gives guidance and information to third parties working close to NGET assets. 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 OHL and working in close proximity.

5.2 Additionally HSE's guidance note 6 *"Avoidance of Danger of Overhead Lines"* summarises advice to minimise risk to life/personal injury and provide guidance to those planning and engaging in construction activity in close proximity to overhead lines.

5.3 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 transmission assets (including the NGET Assets).

6 PROPERTY ISSUES

6.1 NGET 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 and/or cable/overhead lines if Authorised Development occurs within the easement zone which seeks to protect such assets; and
 - (c) risk of inappropriate development within the vicinity of the assets, thereby increasing the risk of damage to the asset and integrity of the electricity transmission network.

7 **PROTECTIVE PROVISIONS**

7.1 NGET seeks to protect its statutory undertaking, 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 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.

7.2 NGET 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 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.

7.3 Taking account of the points made above, NGET 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 NGET 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 NGET to NGET's satisfaction, making it currently deficient from NGET's perspective.

7.5 NGET 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 NGET assets which will remain in situ, along with facilitating all future access and other rights as are necessary to allow NGET to properly discharge its statutory obligations.

- 7.6 Should it not be possible to reach agreement with the Applicant, NGET 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, NGET 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.

Bryan Cave Leighton Paisner LLP

For and on behalf of National Grid Electricity Transmission Plc

17 July 2023