

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

A585 WINDY HARBOUR TO SKIPPOOL IMPROVEMENT SCHEME

WRITTEN REPRESENTATION ON BEHALF OF CADENT GAS LIMITED



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PINS Ref: 20013144

Ref: AW/975110.14

WRITTEN REPRESENTATION ON BEHALF OF CADENT GAS LIMITED

1. INTRODUCTION

- 1.1 Cadent Gas Limited ("Cadent") have made a relevant representation in this matter on 22nd January 2019 in order to protect apparatus owned by 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 existing Apparatus, or right to access and maintain their existing 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 sitting outside the adopted highway boundary and will require crossing agreements where there are proposals to work within the easement strip of any existing Cadent's Apparatus, 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 Medium Pressure Gas Pipelines, assets and associated equipment ("Apparatus") within the highway in the Order Boundary as shown on the Plan in **Appendix 1**. Low Pressure and Medium Pressure mains are located in the highway and will be affected by the Authorised Works. In particular the Authorise Works provide for seven diversions of Cadent Apparatus, namely in Works No. 16, 33, 51, 67, 69, 80 and 112.
- 2.2 As Highways England have not yet commissioned and paid for the C4 diversion design work, the detail of the alignment of these diversions are currently unknown. Accordingly it is not possible to confirm whether these diversions will be capable of being carried out fully under the New Roads and Street Works Act 1981 or not. Where they extend beyond the adopted highway boundary, Cadent will require new land rights to be secured by the Promoter through the DCO for any diverted apparatus. Such rights will need to be made available to Cadent by the Promoter before any existing Apparatus is removed, in order to prevent an impact on the Apparatus required for the delivery of Cadent's Statutory Undertaking, which is protected by Section 127 and s138 of the Planning Act 2008. Cadent's apparatus required for the purposes of their statutory undertaking should not be authorised for acquisition where it's replacement by way of diversion and delivery of appropriate corresponding rights cannot be secured. Appropriately worded protective provisions for the benefit of Cadent will secure this and prevent detriment to the Statutory Undertakers undertaking.

- 2.3 At this stage in the absence of the detailed design of the diversion works Cadent cannot comment on (i) diversion route and/or (ii) whether the necessary land rights have been secured by the Order. In these circumstances therefore it is essential that Protective Provisions on Cadent's standard terms are agreed and included in the Order to prevent the acquisition of any of their existing Apparatus other than by agreement. Diversion will then follow in future by agreement between the parties in accordance with the terms of the Protective Provisions which will require the grant of property rights before the overriding of any existing rights can occur, thus protecting the Statutory Undertaker's undertaking. It should be noted that any consequent program delay arising from the Promoter failing to include the necessary land or rights within the Order, will be as a direct result of the Promoters failure to commission sufficiently detailed design of the Diversions in advance of promotion of the Development Consent Order.
- 2.4 In respect of all Cadent infrastructure located within the DCO boundary, or in close proximity to the proposed project and associated works, Cadent will therefore 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; and
 - (iii) to ensure that Deeds of Consent/Crossing Agreements are entered into where any work is proposed in the easement strip of Cadent, which doesn't necessitate it's diversion.
- 2.5 Cadent have sought to engage with the Promoter since at least April 2018 in order to seek to agree in advance the Protective Provisions ahead of the submission of the DCO and to avoid engagement in the examination process. However there was no substantive engagement or response from the Promoter until 26th March 2019, although reasonable progress towards agreeing protective provisions is now being made. Cadent also have various concerns about the drafting of the Order but will liaise with the Promoter directly to seek to resolve any such issue in the first instance. 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 in the dDCO

3. 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.

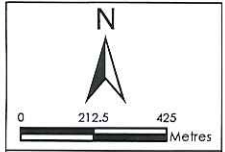
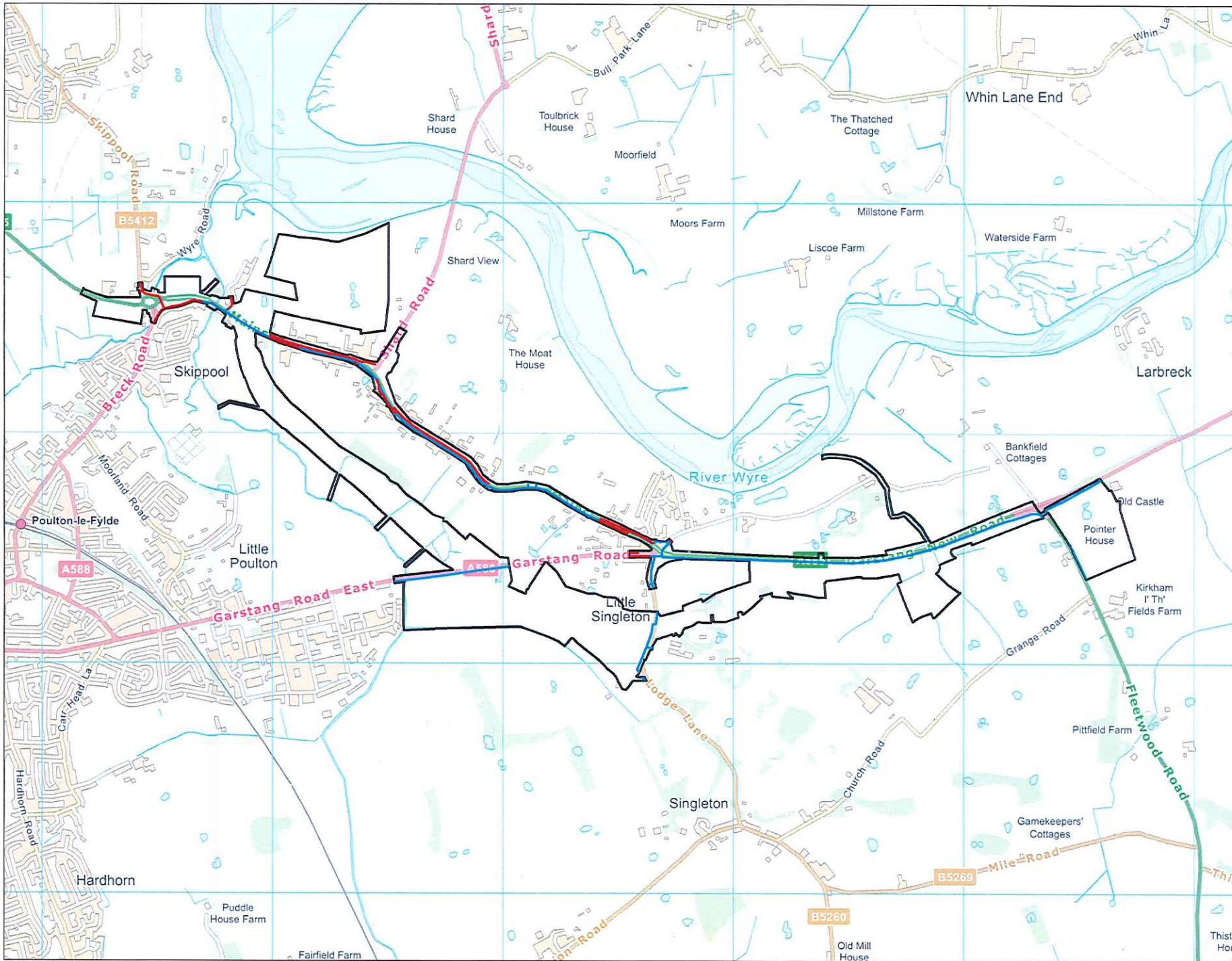
4 PROTECTIVE PROVISIONS

- 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'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.
- 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 against the Order Boundary



- LEGEND:
- LP
 - MP
 - Boundary

REVISION: B

CLIENT: **Cadent**
Your Gas Network

SCHEME: A585 WINDY HARBOUR

TITLE: INTERACTION PLAN

SCALE: 1:15,000 @ A3
DATE: 05/04/2018

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