

M54 to M6 Link Road Development Consent Order

National Grid's response to ExA's Written Questions of the 20th July 2020

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ExA's First Written Questions – Issued July 20th 2020

Response on behalf of National Grid :

Question No.	Question	Response
1.4.7	<p>Statutory Undertakers</p> <p>a) Can the latest position of the Utilities be updated and in particular with regard to the protective provisions?</p> <p>b) Could the Applicant also set out the current progress on Statements of Common Ground?</p>	<p>National Grid have provided the promoter with draft protective provisions for approval on the 26th June 2020. These are in a template form agreed with Highways England and just require minor amendment to fit in the dDCO for this scheme. We are anticipating that they are therefore substantially agreed but we await the promoters confirmation to this point and that they have been included in the dDCO as agreed.</p> <p>We have not been provided with a draft SoCG to review. National Grid are happy to agree a statement of common ground with the promoter if necessary but understand from the promoters solicitor that one is not required.</p>
1.5.19	<p>Article 23(6)</p> <p>This provision allows the undertaker to create right for third parties. However, this appears to be very widely drawn and does not specify which third parties and thus could apply to any legal person. Could the parties consider whether this should be more tightly drawn to specify a limit and/or purpose for those third parties?</p>	<p>In this case, National Grid have assets which are being retained in situ only and not diverted, so National Grid will not require any new rights to be acquired for their benefit as a result of this DCO and therefore are not making direct comments on the wording of Article 23 (6). However generally in cases where new easements are required for diversion routes, we can see why a widely worded Article 23(6) would be helpful to ensure that sufficiently wide rights and restrictive covenants could be acquired by compulsion to replicate an easement for the construction, retention and protection of statutory undertakers apparatus.</p>
1.5.25	<p>Article 37</p> <p>There appears to be a possible difference between the dDCO and the EM. The dDCO states that section 264(3) refers to</p>	<p>National Grid do not have their own operational land in the order boundary of this DCO, only overhead lines under an existing easement/property right</p>

	cases in which land is to be treated as not being operational land for the purposes of that Act. However, the EM suggests that the land within the order limits is operational land. Can this be clarified.	and therefore are not immediately concerned by the provisions of Article 37. However we think that the application of Article 37, is such that by indicating that the DCO is a specific planning permission in line with section 264 (3), this means that all land within the order limits is operational land, as per the EM and there is no conflict between the provisions.
1.5.52	Schedule 9 For each of the statutory undertakers, could they please confirm that they are content with the provisions set out in the draft DCO in relation to their apparatus, the latest situation in relation to resolving these matters, and if not, please explain fully your reasoning?	We are awaiting confirmation from the Promoter's solicitors that the agreed version of the Protective Provisions have now been incorporated into the Order. National Grid will confirm once they are happy with the Protective Provisions and withdraw their relevant representation at that point.