



# Pinsent Masons

## **A12 CHELMSFORD TO A120 WIDENING SCHEME – TR010060 POST-HEARING SUBMISSION - ROYAL LONDON AND EDMUNDSON ELECTRICAL LIMITED**

**10 MAY 2023**

### **1. INTRODUCTION**

- 1.1. This post-hearing submission is made by Pinsent Masons LLP on behalf of its clients Royal London UK Real Estate Fund (**Royal London**) and Edmundson Electrical Limited (**EEL**). This submission is made in order to summarise the oral submissions provided at Compulsory Acquisition Hearing 2 (**CAH2**) on 27 April 2023 in relation to the A12 to A120 Widening Scheme (**the Scheme**), promoted by National Highways (**the Applicant**).
- 1.2. Although the substantive oral submissions were made at CAH2, we request that the submissions are taken into account, where relevant, for the purposes of the other hearings which took place on 26 April and 27 April 2023.
- 1.3. Where necessary, the summary below has been supplemented to provide any relevant additional information or further observations from CAH2 to support the points being made.
- 1.4. Our clients have made previous representations to the examination and we refer the Examining Authority to Royal London's relevant representation [**RR-032**] and written representation [**REP2-100**], and EEL's relevant representation [**RR-030**] and written representation [**REP2-099**]. Royal London and EEL have also made two joint submissions: Post-Hearings Submission dated 9 March 2023 [**REP3-077**] and Response to ExQ2 [**REP4-094**].

### **2. OVERVIEW OF THE CURRENT POSITION**

- 2.1. It was disappointing to have to attend the hearings on behalf of Royal London and EEL. However, it was necessary due to the limited engagement from the Applicant in recent months.
- 2.2. Royal London and EEL remain strongly of the view that in relation to the rights proposed across plots 1/10f, 1/10g, 1/16a and to plot 1/10c, there has not been sufficient consideration to justify the use of the proposed access or whether in fact, the access is appropriate for the use required.
- 2.3. Since the hearings in week commencing 27 February 2023, the Applicant has not been forthcoming in its engagement with our clients or providing information requested by us or our clients. In fact, there has been very limited communication from the Applicant, despite numerous chasers from our side, since the site visit which took place on 8 March 2023 (a summary of the site visit is provided at [**REP4-094**]). Draft heads of terms relating to a licence and easement were received on 21 April 2023 followed by a response to emails on 25 April 2023. This delay and lack of engagement is frustrating for our clients.
- 2.4. It is worth noting that at the CAH2, the Applicant stated that there have been "a number of meetings" between the parties on site and virtually since the last set of hearings (week commencing 27 February) and that the heads of terms were "progressing well". This is not correct. In fact there had been no response or engagement from the Applicant between the site visit on 8 March 2023 and the draft heads of terms being provided on 21 April 2023.



### 3. ALTERNATIVES AND OPTIONEERING

- 3.1. In relation to the explanations provided by the Applicant during the examination for discounting various proposed alternatives, we have not been provided with any evidence to support that position. For example, we have disputed the reasoning put forward by the Applicant against taking forward access through the Trilux yard ('Ref 2' in **REP2-099**) and **REP2-100**) or directly from the A12 ('Ref 3'), and provided evidence as to why the Applicant's explanations are not accurate as is set out in its response to ExQ2.5.14 **REP4-055**. We have not been provided with any further information to support the Applicant's view.
- 3.2. As a wider comment on alternatives, Royal London and EEL would like to draw the Examining Authority's attention to the lack of consideration in the Environmental Statement (see chapters 2 and 3 **APP-069** and **APP-070**) of alternatives of the utility diversions relevant to Royal London and EEL's land (Work No.U2 and Work No.U2A). The Applicant considers that there was inadequate consideration of potential alternative routes and encourages the Examining Authority to scrutinise this further.
- 3.3. As requested at CAH2, we ask that the Examining Authority requests that the Applicant shares their work on optioneering for the gas pipeline diversion route. Royal London and EEL's views on this issue are set out in paragraphs 4.5 to 4.8 of **REP3-077**. The Applicant sought to explain at CAH2 the justification for why the diversion must be undertaken, but there was no clear explanation for the proposed route. The commitment from the Applicant at CAH2 to provide more information on this issue is welcomed and we await this information.

### 4. DCO / PROPOSED REQUIREMENTS

- 4.1. With the dDCO as drafted and with no legal agreement in place and notwithstanding the Applicant's repeated confirmations that no exclusive possession of our client's land interests will be taken, the Applicant would be able to take exclusive possession over the relevant interests. Royal London and EEL consider that in the absence of a legal agreement to regulate the exercise of the DCO powers, it is reasonable and necessary that the requirements sought, as set out in ISH2 and **REP3-077**, should be included in the DCO.
- 4.2. Separately, Royal London and EEL welcome the Applicant's willingness, as stated at CAH2, to provide further commitments in the Outline Construction Traffic Management Plan **REP4-033**. Our clients note the Applicant's intention to submit an updated version of this document at Deadline 6 (12 June). We request that the Applicant consults with our clients in sufficient time before that date with a view to agreeing the relevant additional measures to be included in the next iteration.

### 5. INPUT FROM CADENT

- 5.1. Royal London and EEL believe it is necessary for the Examining Authority to hear from Cadent in relation to the suitability of the proposed rights being requested by the Applicant through the dDCO on Royal London and EEL's land interests.
- 5.2. In addition, our clients would like to hear from Cadent in relation to the alternative accesses proposed in **REP2-099** and **REP2-100** particularly given that the gas diversion works (No. U2) will be carried out by Cadent. In addition, one of the proposed alternatives is through Cadent's adjoining compound ('Ref 1') and our clients would like Cadent to verify the Applicant's reasons that this alternative is not suitable.
- 5.3. With reference to the discussion during CAH2, our clients welcome the commitment from the Applicant to seek to organise a meeting between Cadent, the Applicant and our clients. Royal London and EEL would like to emphasise that there remains just c.2 months left of the examination and requests that this is arranged expeditiously.



## **6. CONCLUSION**

- 6.1. Royal London and EEL maintain their objections. There has been a disappointing lack of engagement by the Applicant in recent months and robust evidential basis for alternatives and optioneering has not been provided.
- 6.2. Having now received draft heads of terms, Royal London and EEL continue to be ready and willing to engage with the Applicant in order to resolve the outstanding queries and concerns and in order to try and reach agreement as to the exercise of the rights requested by the dDCO but, in the absence of an agreement, the proposed requirements are reasonable and necessary.