



# Pinsent Masons

**A12 CHELMSFORD TO A120 WIDENING SCHEME – TR010060  
COMPULSORY ACQUISITION HEARING 3 - POST-HEARING SUBMISSION  
ROYAL LONDON AND EDMUNDSON ELECTRICAL LIMITED  
3 JULY 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 our oral submissions made at Compulsory Acquisition Hearing 3 (**CAH3**) on 27 June 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 CAH3, we request that the submissions are taken into account where relevant for the purposes of the other hearing, Issue Specific Hearing 5, which also took place on 27 June 2023.
- 1.3. Where necessary, the summary below has been supplemented to provide any relevant additional information or further observations from CAH3 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 various joint submissions: a Post-Hearing Submission dated 9 March 2023 [**REP3-077**], a Response to ExQ2 [**REP4-094**], a Post-Hearing Submission dated 10 May 2023 [**REP5-054**] and a Response to ExQ3 [**REP6-116**].

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

- 2.1. Our clients' objections remain in place on the basis that no agreement has been reached with the Applicant and that there is inadequate protection in the documentation before the examination. It is concerning that the examination is due to close in a matter of weeks and our clients have very limited protection from the impact of the proposals.
- 2.2. The points and concerns that we have raised throughout the examination principally relate to the justification for the use and adequacy of the proposed access and adjoining land interests required for the purposes of the gas pipe diversion works (Work No.U2 in the draft DCO) to be undertaken by Cadent. These issues remain.
- 2.3. As explained at the hearing and within our previous representations, a fundamental concern is that the proposed access is not sufficient for the purposes for which it is required, and it is very difficult to determine the full extent of the impact and whether the access proposed is sufficient without engagement from Cadent. As discussed during CAH3, we would like the Applicant to facilitate a meeting with Cadent as soon as possible, which it committed to doing during Compulsory Acquisition Hearing 2 on 27 April 2023.
- 2.4. At the hearing the Applicant referred to the recent correspondence from Cadent to National Highways which provides Cadent's reasoning as to why the adjoining Cadent site cannot be used to access the area proposed for the gas pipe diversion works (see Appendix C of the Applicant's Responses to ExQ3 [**REP6-089**]). As mentioned at the hearing, the correspondence does not negate or resolve the need for Cadent to engage in the DCO process not least because it is necessary in order to determine the extent and size of expected vehicle movements, detailed design and location of the gas pipe diversion works and whether the access and the land identified for these works is in fact sufficient for the purposes required.



- 2.5. In addition, there is no restriction on the proposed use of our clients' site under the draft DCO [REP6-036] notwithstanding the promises made to the examination that the exercise of temporary possession powers over the EEL site would not be exclusive. It remains our position that a compelling case in the public interest has not been established. This test is appropriate as the implications of the unfettered powers would be analogous to compulsory acquisition – see [REP3-077].
- 2.6. We have proposed various mechanisms for protecting our clients' position, including provision in management documents, proposed requirements in the dDCO [see REP3-077] and relevant legal agreements.
- 2.7. Discussions in relation to the grant of a licence to access the site are being progressed, alongside heads of terms for an easement for the purposes of the gas pipe diversion and use of the land on which the gas pipe sits. The heads of terms are currently with the Applicant for consideration and discussions remain at an early stage. Absent any agreement, the requirements that we have proposed to be added to the dDCO are reasonable and necessary.
- 2.8. Another issue previously raised is the overhead line diversion (Work No.U2A in the draft DCO, intended to be undertaken by UKPN) which has not been considered in any detail as part of the discussions at the various hearings as far as we are aware. This is an additional interface with and has an impact on our clients' interests and our clients must be protected suitably from the consequences of this Work – see our summary at [REP6-116].

### **3. CONCLUSION**

- 3.1. Royal London and EEL maintain their objections.
- 3.2. Our clients remain willing to continue discussions with the Applicant with a view to reaching an agreement such that both objections can be withdrawn by the end of the examination. However, we are unclear whether it will be possible to complete an agreement within that short remaining period.
- 3.3. In the absence of an agreement, the proposed requirements that we have proposed are reasonable and necessary.
- 3.4. We can provide the Examining Authority with a further update at Deadline 8 if that would be helpful.