

14 DECEMBER 2022

**THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010
A66 NORTHERN TRANS-PENNINE PROJECT**

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

REF: BCLP/2026502.480



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1 INTRODUCTION

1.1 National Grid Electricity Transmission Plc ("**NGET**") made a relevant representation in this matter on 24 August 2022 in order to protect its existing apparatus.

1.2 NGET does not object in principle to the development proposed by National Highways Limited (the "**Promoter**") and as defined as the "**Authorised Development**" in the draft Development Consent Order (the "**Draft Order**").

1.3 NGET does, however, 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 5; 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 its land interests, rights, apparatus, or right to access and maintain its apparatus. This is unless and until suitable protective provisions and any other necessary and related amendments have been agreed and included in the Draft Order.

1.4 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. 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, co-ordinated and economical' system of electricity transmission.

2 NGET ASSETS

2.1 Overview

2.1.1 NGET has had an opportunity to review the documentation and plans submitted with the Promoter's application for the Authorised Development. NGET's specific concerns and/or operational requirements relating to the Authorised Development, which have already been raised with the Promoter, are summarised in the following paragraphs of this Written Representation.

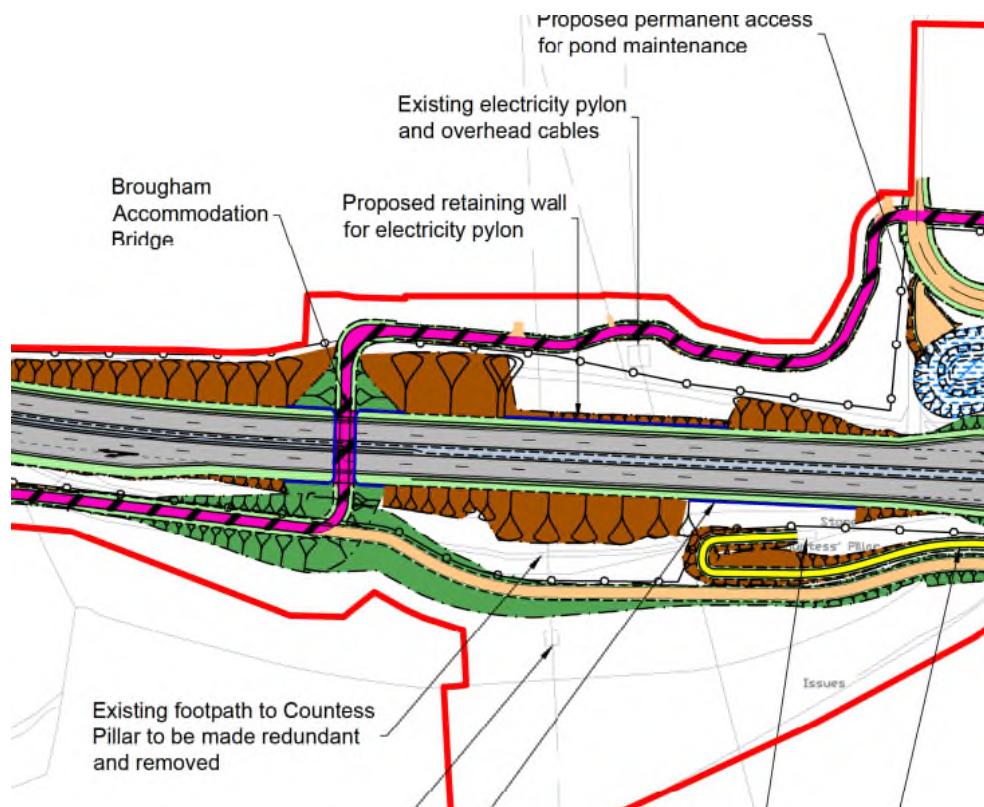
2.1.2 NGET's existing 400kV high voltage overhead electricity transmission line 4ZX (the "**OHL**"), which runs from Harker to Hutton 1 and 2, is situated within close proximity to the Authorised Development.

2.1.3 The OHL and associated towers form an essential part of the electricity transmission network in England and Wales.

2.2 Proximity to Tower ZX117R

2.2.1 NGET is particularly concerned about the close proximity of tower number ZX117R to the new shared cycle track and private means of access (Work No. 03-7A) which is proposed to be constructed as part of the Authorised Development. The close proximity of Tower ZX117R to the widened eastbound carriageway of the A66 (including proposed retaining wall) is also of concern.

2.2.2 Tower ZX117R is shown in the following extract from Sheet 1 of the General Arrangement Drawings (Scheme 03 Penrith to Temple Sowerby) submitted by the Promoter as part of its application for development consent:



2.2.3 NGET understands that the distance currently shown between the base of Tower ZX117R and the shared cycle track forming part of Work No. 03-7A is four (4) metres. This is significantly less than the ten (10) metre minimum clearance which is stipulated in NGET's published guidance.

2.2.4 Discussions on this matter have already taken place between NGET and the Promoter. At a meeting on 13 December 2022, the Promoter shared revised design drawings which indicated there would now be a ten (10) metre clearance from the base of Tower ZX117R to works proposed to be constructed as part of the Authorised Development. This would include a ten (10) metre clearance in respect of the shared cycle track to the north of Tower ZX117R and a ten (10) metre clearance to the south in respect of the eastbound carriageway of the A66.

2.2.5 Whilst the Promoter has, as part of those discussions, committed to relocate the cycle track so that it is a minimum of ten (10) metres away from the base of Tower ZX117R, NGET has not yet received satisfactory confirmation from the Promoter as to when and how any change to the route of the cycle track in this location will be shown in updated versions of the Works Plans and General Arrangement Drawings.

2.2.6 Without further reassurance on this point (including relevant submissions being made to the Examining Authority by the Promoter), NGET must continue to note its strong concerns as to the design of the Authorised Development in its present location.

2.3 **Design & Operation of the Cycle Track**

2.3.1 In addition to the above, NGET would request clarification from the Promoter as to the proposed design and specification of the cycle track and any associated furniture or other landscaping which are to be constructed or installed adjacent to Tower ZR117R.

2.3.2 Given the proximity of the cycle track to Tower ZR117R, and the need for NGET to enjoy an unimpeded right of access to Tower ZR117R in order to carry out routine and emergency maintenance and other operations (including cable restringing), it is important that:

- (a) the cycle track is constructed to a specification which allows for vehicles, plant and other machinery operated by or on behalf of NGET to be moved across and along it in all directions;
- (b) no items of street furniture or hard or soft landscaping are installed as part of the Authorised Development which might prevent or impede access to the base of Tower ZR117R and its immediate surroundings; and
- (c) the cycle track can be closed or diverted temporarily in the interests of public or operational safety when routine or emergency works are required to be carried out by NGET to Tower ZR117R and the associated spans of overhead transmission line. NGET would expect the Promoter to ensure that an appropriate diversion is made available through the Order in the event that the cycle track does have to be temporarily closed or diverted.

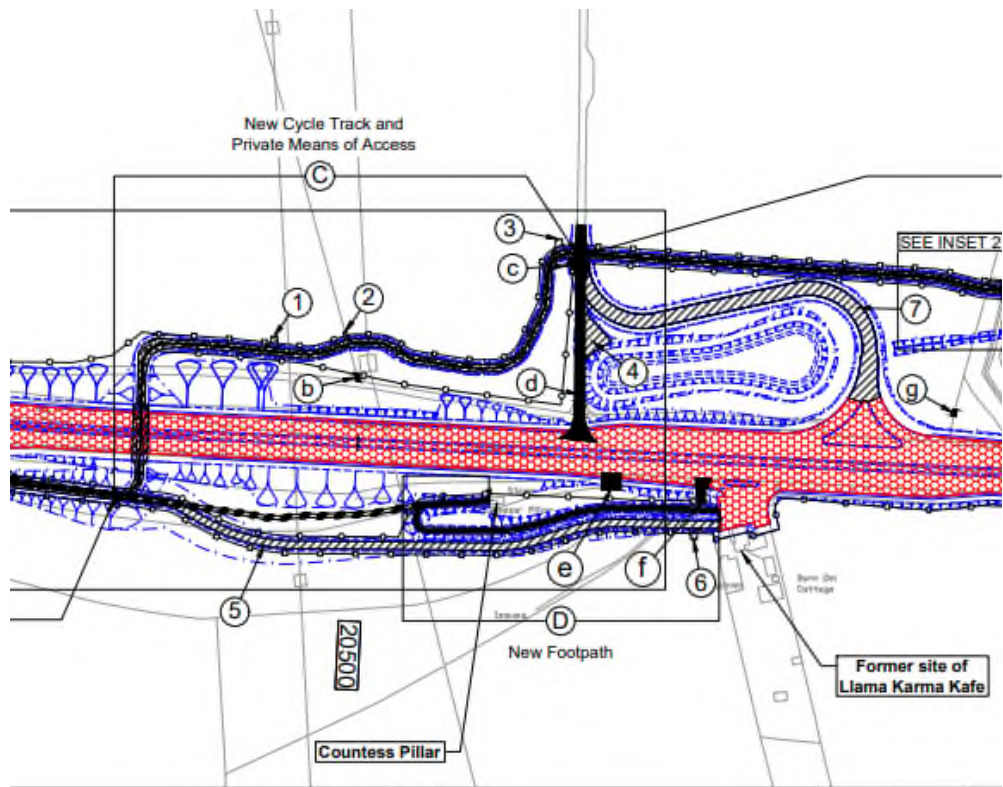
2.3.3 NGET remains committed to working with the Promoter to ensure that the design of the Authorised Development in this location can ensure compliance with each of the abovementioned requirements.

2.4 **Access to Tower ZR117R**

2.4.1 NGET also remains concerned as to the access arrangements in respect of Tower ZX117R which will be facilitated by the Promoter, both during and after construction of the Authorised Development.

2.4.2 As matters currently stand, NGET utilises the existing private access road which leads due north from the A66 in order to gain access to Tower ZR117R and the associated spans of overhead transmission line. This longstanding right of access is pursuant to a voluntary agreement entered into with the adjacent landowner.

2.4.3 With reference to the following extract from Sheet 1 of the Rights of Way and Access Plans (Scheme 03 Penrith to Temple Sowerby) submitted by the Promoter as part of its application for development consent, NGET is aware that the existing private access road (shown shaded black) is to be permanently stopped up, with a replacement means of access (shown cross-hatched black) to be provided as part of the Authorised Development.



2.4.4 Whilst NGET does not object to the replacement of the private access road, NGET remains concerned to ensure:

- (a) that the new private access road is constructed to a standard and specification which is at least equivalent to the standard and specification of the existing private access road which is to be stopped up. More particularly, the new private access road must be capable of accommodating the vehicles, plant and other machinery which NGET may from time to time require to be transported along it for the purposes of maintaining the existing overhead line in the vicinity of Tower ZR117R;
- (b) that the existing private access road is not stopped up until either the new private access road has been completed and made available for use or an alternative means of access has been provided to NGET to enable uninterrupted access to Tower ZR117R and its immediate surroundings;
- (c) that the Promoter secures on behalf of NGET all necessary rights of access along the private access road and, where necessary, any other temporary alternative access; and
- (d) that the Promoter ensures that any junction or slip road which is to be constructed as part of the Authorised Development in order to allow vehicles to exit the eastbound carriageway of the A66 and access the private access road includes sufficient space for vehicles belonging to NGET and its contractors to seek 'refuge' whilst waiting to gain access to the private road. This is to avoid the obvious safety concerns which would arise if such vehicles were required to wait on the eastbound carriageway before gaining access to the private access road.

2.5 **Next Steps**

2.5.1 In respect of all of NGET's apparatus and infrastructure located within the Order Limits, or in close proximity to the Authorised Development and associated works (together the "**Apparatus**"), NGET will require protective provisions to be put in place to ensure that:

- (a) all NGET interests and rights including rights of access are unaffected by the power of compulsory acquisition, grant and extinguishment of rights and temporary use powers; and
- (b) appropriate protection for the 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 Power Lines). In this instance, the safe working by the Promoter and its contractors under and around the OHL is of particular concern to NGET.

3 **NGET - REGULATORY PROTECTION FRAMEWORK**

3.1 NGET have 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:

This document gives guidance and information to third parties working close to NGET assets. It cross-refers to statutory electrical safety clearances which are used as the basis for EN (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:

This document sets out the derivation and applicability of safe clearance distances in various circumstances including crossings of, and works in close proximity to, OHLs.

3.1.2 Additionally HSE's Guidance Note GS6 (Avoiding Danger from Overhead Power Lines) provides summary advice designed to minimise risk to life and/or personal injury and provides guidance to those planning and engaging in construction activity in close proximity to OHLs.

3.1.3 NGET requires specific protective provisions to be put 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 Apparatus.

4 **PROPERTY ISSUES**

4.1 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.

4.2 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 if development occurs within the easement zone which seeks to protect the such buried assets; and
- (c) risk of inappropriate development within the vicinity of the assets, thereby increasing the risk of damage to the asset and to the integrity of the gas transmission network.

5 PROTECTIVE PROVISIONS

- 5.1 NGET seeks to protect its statutory undertaking, and insists 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 Promoter:
- (a) NGET is in control of the plans, methodology and specification for works within 15 metres of any retained Apparatus; and
 - (b) works within the vicinity of NGET's 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.
- 5.2 Whilst discussions with the Promoter remain ongoing, the Draft Order does not yet contain agreed protective provisions expressed to be for the protection of NGET to NGET's satisfaction, making it currently deficient from NGET's perspective.
- 5.3 Should it not be possible to reach agreement with the Promoter, NGET reserves the right to attend a Compulsory Acquisition Hearing or Issue Specific Hearing to address the required format of the Protective Provisions and any necessary amendments to the Draft Order.
- 5.4 If this is necessary, NGET reserves the right to provide the Examining Authority with 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

14 December 2022