

FAO Edwin Maund

Lead Member of Panel
National Infrastructure Planning
Temple Quay House 2
The Square
Bristol
BS1 6PN

M5Junction10@planninginspectorate.gov.uk

Our reference AHPK/1218485

Your reference TR010063

19 June 2024

Dear Mr Maund

Application for a development consent order for the M5 Junction 10 Highways Improvements Scheme (Reference: TR010063)**National Grid Electricity Distribution (West Midlands) plc – Deadline 1 Relevant Representation**

1. This Representation is submitted by Osborne Clarke LLP on behalf of National Grid Electricity Distribution (West Midlands) plc ("**NGED**").
2. NGED remains the licensed distribution network operator under Section 6 Electricity Act 1989 (the "**EA 1989**") for the area in which The M5 Junction 10 Development Consent Order 202* (the "**Order**") is proposed to have effect and which was submitted by Gloucestershire Country Council (the "**Applicant**").
3. For the avoidance of doubt, NGED is the relevant statutory consultee and Interested Party for the purposes of the Order. We note that two representations have also been submitted on behalf of National Grid Electricity Distribution; [**RR-024**] and [**RR-029**].
4. Please note that because NGED is the licensed distribution network operator for the purposes of the Order (and so the relevant National Grid Electricity Distribution entity affected by the Order) then the satisfaction of the outstanding matters required by NGED's relevant representation [**RR-025**] will also satisfy the matters under [**RR-024**] and [**RR-029**].

Outstanding matters under [RR-025]

Osborne Clarke LLP

Halo, Counterslip, Bristol, BS1 6AJ or DX 7818 Bristol T +44 117 917 3000 F +44 117 917 3005

Osborne Clarke LLP is a limited liability partnership registered in England and Wales with registered number OC397443 whose registered office is at One London Wall, London EC2Y 5EB. It is authorised and regulated in the UK by the Solicitors Regulation Authority (SRA) and is registered as a recognised body with SRA number 619990.

The term 'partner' refers to a member of Osborne Clarke LLP. A list of members of Osborne Clarke LLP and their professional qualifications is available for inspection at the registered office. Any advice given by any individual member, employee, or consultant is the responsibility of Osborne Clarke LLP and not the individual. Osborne Clarke LLP does not accept service by fax.

Osborne Clarke LLP is part of an international legal practice.

5. At the recent Issue Specific Hearing 2 ("ISH2") on 6 June 2024, NGED re-confirmed its relevant requirements in respect of the proposed Order and what would be required before its holding objection would be withdrawn.
6. These remain as set out in **[RR-025]** and read as follows:
 - (i) *a satisfactory set of protective provisions in favour of NGED has been agreed with the Applicant and these have been included in the Order; and*
 - (ii) *an asset protection agreement has been entered into between on the parties on terms which are satisfactory to NGED.*
7. In the absence of these two requirements being met, NGED maintains its position that the granting of the Order has the potential to cause serious detriment (for the purpose of Section 127 of the Planning Act 2008) to NGED's assets and interests which form part of its undertaking.

Update on negotiations

8. By way of an update on discussions in respect of Requirements (i) and (ii), we provided the Applicant's legal advisors with copies of both NGED's required form protective provisions and asset protection agreement on 18 October 2023. In response, the Applicant provided its comments on 22 May 2024.
9. We then subsequently returned our further comments/clarifications to the Applicant in respect of the protective provisions and asset protection agreement on 31 May 2024. We are now awaiting further comments/confirmation from the Applicant on the documents.
10. Additionally, as discussed at ISH2, we understand that the Applicant is reviewing the position in respect of Article 47 (*Inconsistent planning permissions*) of the draft Order. We note that we will need to explore the effect of the final wording of this Article with the Applicant (and may need to include additional provisions in either the protective provisions or asset protection agreement) before NGED withdraws its objection to the Order.
11. Based on the progress made to date, NGED hopes that both Requirements (i) and (ii) will be satisfied by the close of Examination. However, until both matters are resolved, NGED will not be in a position to withdraw its objection.

Yours sincerely



Arthur Hopkinson

Associate

for **Osborne Clarke LLP**

T

E @osborneclarke.com