

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

BEACON FEN ENERGY PARK DEVELOPMENT CONSENT ORDER

PINS REFERENCE EN010151

DEADLINE 3 SUBMISSION ON BEHALF OF CADENT GAS LIMITED

CADENT'S RESPONSE TO THE APPLICANT'S RESPONSE TO CADENT'S WRITTEN REPRESENTATION

1 INTRODUCTION

- 1.1 Cadent Gas Limited ("Cadent") is a licensed gas transporter under the Gas Act 1986, with a statutory responsibility to operate and maintain the gas distribution networks in North London, Central and Northwest England. Cadent's primary duties are to operate, maintain and develop its networks in an economic, efficient and coordinated way.
- 1.2 This document responds to the Applicant's comments on Cadent's Written Representation [REP1-035] as set out in section 3 of Document Reference [REP2-043]. Cadent has previously identified that it will require adequate protective provisions to be included within the DCO to ensure that its apparatus and land interests are adequately protected and to include compliance with relevant safety standards. Discussions are continuing on the form of the Protective Provisions and Cadent's response set out below records the outstanding issues regarding those negotiations.

2 CADENT'S RESPONSE TO THE APPLICANT'S COMMENTS ON CADENT'S WRITTEN REPRESENTATION

Cadent's Written Representation Text	Applicant's Response	Cadent's Deadline 3 Response
1 Introduction Please refer to Written Representation for full introduction text.	The Applicant has reviewed Cadent's written representation and had regard to its content.	
2 Regulatory Protection Framework Cadent require all Applicants carrying out development in the vicinity of their Apparatus to comply with: a) CD/SP/SSW/22 Cadent's policies for safe working in the vicinity of Cadent's Assets; b) ICE (institution of Gas Engineers) recommendations IGE/SR/18 Edition 2 Safe Working c) Practices to Ensure the Integrity of Gas Pipelines and Associated Installations, and the HSE's guidance document HS(G)47 Avoiding Danger from Underground Services.	The Applicant will adhere to such policies when carrying out development in the vicinity of Cadent's apparatus and this will be confirmed in the form of protective provisions to be agreed with Cadent and placed on the face of the Draft DCO (AS-008).	Cadent agree that this is covered in the draft currently being negotiated.
The industry standards referred to above have the specific intention of protecting: a) the integrity of the pipelines and thus the distribution of gas; b) the safety of the area surrounding gas pipelines; c) the safety of personnel involved in working with gas pipelines.	This is noted by the Applicant and, as above, the Applicant agrees to adhere to such standards.	As above
Cadent requires specific protective provisions in place for an appropriate level of control and assurance that the industry regulatory standards will be complied with in connection with works in the vicinity of Cadent's Apparatus.	The Applicant agrees to the principle of protective provisions being provided for Cadent's benefit.	Cadent would wish to see the protective provisions appearing in the next draft of the draft Development Consent Order as proposed by the Applicant as noted further below.
3 Protective Provisions Cadent seeks to protect its statutory undertaking, and insists that in respect of works in close proximity to its Apparatus as part of the authorised development the following procedures are complied with by the Applicant: a) Cadent has had the opportunity to review and consent to the plans, methodology and specification for works within 15 metres of any Apparatus, works which will adversely affect their Apparatus or otherwise breach distances/guidance set out in paragraph 2 above. b) DCO works in the vicinity of Cadent's apparatus are not authorised or commenced unless protective provisions are in place preventing compulsory acquisition of Cadent's land or rights or overriding or interference with the same. c) DCO works in the vicinity of Cadent's apparatus are not commenced unless there is third party liability insurance effected and maintained for the construction period of the relevant authorised works and that the	Protective provisions are presently being negotiated between the Applicant and Cadent. The Applicant is confident that a satisfactory solution to protect Cadent's interests in this respect will be agreed and secured through the protective provisions.	As noted below there are still matters which are to be agreed and which are fundamental to Cadent.

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<p>person or body undertaking the works (acknowledging the ability to transfer the benefit of the DCO) has the appropriate net worth to enable it to meet any liability arising from damage to Cadent's apparatus (acknowledging the potential significant consequences of damaging a gas pipeline) or there is appropriate security in place through a bond or guarantee.</p>		
<p>Cadent maintain that without an agreement or qualification on the exercise of unfettered compulsory powers or works in the vicinity of its Apparatus the following consequences will arise:</p> <ul style="list-style-type: none"> a) Failure to comply with industry safety standards, legal requirements and Health and Safety Executive standards create a health and safety risk. b) Any damage to Apparatus has potentially serious hazardous consequences for individuals/property located in the vicinity of the pipeline/apparatus if it were to fail. c) Potentially significant consequences arising from lack of continuity of supply; 	<p>The Applicant is in active negotiations with Cadent on the form of protective provisions to be agreed and placed on the face of the Draft DCO (AS-008). The latest draft of protective provisions was returned to Cadent by the Applicant on 16 October 2025 and the Applicant awaits a response whilst this is being considered by Cadent.</p>	<p>Cadent agree that the Applicant is in active negotiations with Cadent on the form of protective provisions. The latest draft of protective provisions has been returned to the Applicant.</p>
<p>Insufficient property rights have the following safety implications:</p> <ul style="list-style-type: none"> a) Inability for qualified personnel to access apparatus for its maintenance, repair and inspection. b) Risk of strike to pipeline if development occurs within the easement zone in respect of which an easement/restrictive covenant is required to protect the pipeline from development. c) Risk of inappropriate development within the vicinity of the pipeline increasing the risk of the above. 		
<p>The dDCO [AS-009] does not contains specific protective provisions for the protection of Cadent. For the purposes of the Planning Act 2008 and section 127, Cadent is a statutory undertaker. Cadent require its own protective provisions in a form which is consistent with its template protective provisions to ensure that there is no serious detriment to the carrying on of Cadent's undertaking.</p>	<p>Whilst the current Draft DCO (AS-008) does not contain bespoke protections for the benefit of Cadent, the Applicant agrees to the principle of such protections being secured and will include these provisions once a more progressed and final draft has been agreed with Cadent. Until such point, the protective provisions for Electricity, Gas, Water and Sewerage Undertakers would apply to Cadent's benefit. The Applicant is confident that, once placed on the fact of the Draft DCO, the form of bespoke protective provisions will be capable of ensuring that there will be no serious detriment to Cadent's undertaking.</p>	<p>As explained in Cadent's Written Representation protective provisions for Electricity, Gas, Water and Sewerage Undertakers are not appropriate to Cadent. Protective Provisions should be included for the benefit of Cadent on the face of the order now in accordance with the Advice Note referenced, even if these reflect the form which the Applicant is currently prepared to agree. At least then we can make representations in respect of the same and the ExA can consider those representations when publishing its proposed changes to the dDCO.</p>
<p>The Applicant received a first draft of Cadent Gas Limited's protective provisions on 8th April 2025. Section 3.1.4. of "Advice Note Fifteen 15: drafting Development Consent Orders" ("Advice Note 15") provides:</p> <p><i>"4.1 Applicants are encouraged to agree Protective Provisions with the protected party(ies) prior to submitting the application for development consent. Where agreement on Protective Provisions has not been reached during the Preapplication stage, applicants should, as a minimum, submit with their application the standard Protective Provisions for all relevant protected parties with any amendments that the Applicant is seeking annotated with full justification included within the Explanatory Memorandum."</i></p>		
<p>Notwithstanding Advice Note 15, the draft Development Consent Order has been submitted with no protective provisions for the benefit of Cadent. This is not an acceptable position. It is widely understood and has been rehearsed in numerous</p>		

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Development Consent Order applications that the protective provisions for Electricity, Gas, Water and Sewerage Undertakers are not acceptable to Cadent.		
4 Status of Negotiations Cadent has been in discussion with the Applicant regarding the form of the protective provisions to be included in the dDCO. Cadent would hope to be able to reach agreement but there are a several matters that remain to be agreed and which need to be addressed through a side agreement, if the requirements are not to appear on the face of the DCO.	The Applicant is confident that agreement with Cadent on the form of protective provisions should be possible prior to the close of the examination.	There are a number of matters which are not agreed as noted above and referenced below
Provision needs to be included within the dDCO or in a side agreement that the works in the vicinity of Cadent's apparatus are not commenced unless: (1) there is third party liability insurance effected and maintained for the construction period of the relevant works; and (2) the person or body undertaking the works (acknowledging the ability to transfer the benefit of the DCO) has the appropriate net worth at the time of commencing works to enable it to meet any liability arising from damage to Cadent's apparatus or that there is appropriate security in place through a bond or guarantee.	The Applicant agrees to the principle of acceptable insurance being procured prior to specified works taking place (namely those within 15m of Cadent's apparatus). The Applicant does not agree that acceptable security should be required in addition to the insurance to be procured. Given the minor and discreet nature of the interface between the project and Cadent's gas pipeline (being limited to plot 4-1 within the existing lay-by of the A17), to require security as well as insurance is considered unnecessary and disproportionate.	The provisions around insurance are now agreed save for the level of insurance. On security, appropriate security is required given the nature of the apparatus in the vicinity of the development and the current financial standing of the Applicant. As recorded in the Funding Statement which accompanies the application [APP-043], the Applicant is a special purpose vehicle. The necessary funding support comes from Low Carbon Limited. The security provisions are required to support the indemnity which needs to be provided to Cadent and to address a situation where the conditions of insurance are not met. In particular, the security measures contained in the Cadent Protective Provisions are required to provide certainty that the indemnity afforded to Cadent can be relied upon if damage is caused to the Apparatus and the gas distribution network.
Insurance and appropriate security are required given the nature of the apparatus in the vicinity of the development and the current financial standing of the Applicant. As recorded in the Funding Statement which accompanies the application [APP-043], the Applicant is a special purpose vehicle. The necessary funding support comes from Low Carbon Limited.		
The security provisions are required to support the indemnity which needs to be provided to Cadent and to address a situation where the conditions of insurance are not met. In particular, the security measures contained in the Cadent Protective Provisions are required in order to provide certainty that the indemnity afforded to Cadent can be relied upon in the event that damage is caused to the Apparatus and the gas distribution network.	As the Applicant is open to agreeing the 'acceptable insurance' wording that Cadent requires in the protective provisions, this should be capable of covering the eventualities anticipated to be covered by the indemnity benefiting Cadent too, such that there is no gap to be filled by an additional security provision.	
Cadent also require any indemnity to be uncapped, which is the standard position across all other DCOs affecting Cadent. Cadent derives no benefit from the Project and needs to ensure that it is not be exposed to any costs or losses as a result of the Project. Money spent and costs incurred by Cadent is ultimately passed on to consumers in their energy bills. This is not appropriate in respect of losses caused by a third party and Cadent requires, therefore, the comfort that works near its apparatus are the subject of protective provisions which include an uncapped indemnity and appropriate insurance and security.	The Applicant is in direct discussions with Cadent on the principle of an uncapped indemnity and is working to a resolved position.	Cadent understand that the principle of an uncapped indemnity is now agreed.
Cadent will keep the ExA updated on negotiations. The form of protective provisions which Cadent require are annexed to this Written Representation.	The Applicant will continue to engage with Cadent on an appropriate form of protective provisions, seeking to facilitate the withdrawal of Cadent's objection to the Proposed Development.	The other main matter of disagreement is the matters which are referable to arbitration. Cadent's protective provisions need to regulate the matters that are subject to arbitration, and those that are not subject to arbitration. Cadent seek to carve out of the scope of arbitration matters relating to facilities and rights granted to Cadent, the adequacy of insurance and security and the obligations dealing with the protection of Cadent's retained apparatus. The reason for these carve outs stem from Cadent's statutory functions and the legislation governing pipelines. 1. Major Accident Hazard pipelines are regulated by the Pipeline Safety Regulations 1996. Under Regulation 15, it is an offence to cause damage to a

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		<p>pipeline as may give rise to a danger to persons and could result in enforcement action by the HSE.</p> <p>2. The Pipeline Safety Regulations 1996 requires that pipelines are operated so that the risks are as low as is reasonably practicable. In judging compliance with the Regulations, the HSE expects duty holders to apply relevant good practice as a minimum.</p> <p>3. Well established national standards and protocols for major accident hazard pipelines assist the HSE in ascertaining whether the risks incurred in working with such pipelines have been mitigated as much as reasonably practicable.</p> <p>4. These industry standards have the intention of protecting: a. integrity of the pipelines, Cadent's network and distribution of gas; b. safety of the local area surrounding gas pipelines; and c. safety of personnel involved in working near to gas pipelines.</p> <p>Cadent therefore requires an appropriate level of control and assurance that the industry regulatory standards will be complied with in connection with works in the vicinity of its apparatus. Failure to comply with industry safety standards, legal requirements or Health and Safety standards create a health and safety risk and could have potentially serious consequences for individuals or property located in proximity to the pipeline/s.</p> <p>6. Cadent has the benefit of a gas transporter licence (the Licence) under section 7 of the Gas Act 1986 (the Act). Cadent has a statutory duty under its Licence to ensure that these Regulations and protocols are complied with.</p> <p>For all the above reasons, it is crucial that Cadent retains protection over how its network operates and how its network is protected. It is for Cadent, as an experienced gas undertaker under statutory and Licence obligations, to determine what measures are reasonable for the protection and integrity of its network and not a third party.</p>