



FAO Mr John Wheadon  
Head of Energy Infrastructure Planning Delivery & Innovation  
Department of Energy Security and Net Zero  
3-8 Whitehall Place  
London  
SW1A 2AW

24<sup>th</sup> June 2026

Dear Mr John Wheadon,

**One Earth Response to Request for Information Letter from Secretary of State dated 17 June 2026**

**Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010**

**Reference: EN010159**

The Applicant has noted the 'Secretary of State's Request for Information' letter dated 17 June 2026 and has provided information on the below matters which the Applicant considers should be of assistance:

- > The Crown Estate - Update
- > Network Rail Infrastructure Limited – Framework Agreement Update
- > Railway Paths Limited - Update
- > National Grid Electricity Distribution (East Midlands) plc Protective Provisions (for completeness)
- > Trent Valley Internal Drainage Board - Update

These matters have been addressed in turn below.

**The Crown Estate  
Section 135 Consent Update**

**Heads of Terms**

The Applicant is pleased to confirm that the Heads of Terms are now in an agreed form. The Applicant is awaiting copies of the agreed documents for signature from The Crown Estate's representatives. Once the Heads of Terms have been signed, legal representatives will be instructed to formalise the agreement.

## Network Rail Infrastructure Limited - Framework Agreement Update

The Applicant has continued to engage with Network Rail in relation to the Heads of Terms with the latest meeting between Network Rail and the Applicant's representative taking place on 22 June. There remain a small number of outstanding commercial points which the Applicant is currently reviewing with the intention of providing a response to Network Rail as soon as possible. The Applicant is of the view that the outstanding points can be resolved and that legal representatives will be instructed by the end of July.

The Applicant and Network Rail have reached agreement on the protective provisions and are now in the process of formalising the agreement. The parties will confirm the final wording of the protective provisions to be included within the draft DCO and the Applicant anticipates completion by the end of next week (3 July 2026). This update has been jointly agreed with Network Rail.

## Railway Paths Limited – Update

Following provision of responses to Railway Path's initial queries on 30 April, the Applicant has continued to seek feedback on the Heads of Terms. The Applicant understands that Railway Paths' appointed agent is currently liaising with their client with a view to providing substantive comments on the Heads of Terms in the near future. The Applicant will continue to engage with Railway Paths' appointed agent and does not at this stage envisage that there will be any material reason why an agreement should not be reached.

## NGED Agreed Protective Provisions

For completeness, the Applicant has **enclosed** a copy of the agreed protective provisions for National Grid Electricity Distribution (East Midlands) plc at **Appendix A**. These are provided as part of this response to ensure that the Secretary of State has a complete set of the agreed protective provisions before him.

## Trent Valley Internal Drainage Board – Update

On 22 June 2026, the Applicant notified the Secretary of State that it had finally received comments on draft protective provisions from the Trent Valley Internal Drainage Board ("**TVIDB**"). The Applicant has been actively progressing negotiations on protective provisions with TVIDB in the limited time available and on 23 June 2026 provided further amendments to TVIDB. On the afternoon of 24 June 2026 (today), hours before an update to the Secretary of State was due to be provided, TVIDB has responded with further amendments that the Applicant considers are unreasonable and are not able to be resolved at this late stage.

TVIDB has also alleged that there has been a lack of engagement, which the Applicant finds disappointing given it first contacted TVIDB on 20 November 2024 to negotiate protective provisions and has only had meaningful engagement on the protective provisions this week. Had TVIDB engaged earlier in the DCO process, these matters could have been readily resolved. Subject to agreement with Network Rail being formalised as noted above, all other statutory undertakers have engaged in the DCO Process and agree protective provisions with the Applicant.

In the circumstances, the Applicant considers that the matter is now one for determination by the Secretary of State. The Applicant's proposed protective provisions and TVIDB's preferred drafting are before the Secretary of State and the Applicant invites the Secretary of State to determine the form of protective provisions that should be included in the Order. The Applicant respectfully requests that its preferred protective provisions be included (in the form included within the Draft DCO at Deadline 9 [REP9-006]), given the lack of engagement by TVIDB until this very late stage in the process.

Separately, as agreement has not been reached with TVIDB, the Applicant no longer seeks the disapplication of section 23 of the Land Drainage Act 1991 under Article 6(1)(a) of the Draft DCO. The Applicant has already provided the necessary drafting amendments to remove that disapplication and refers the Secretary of State to **Appendix A** of the **Applicant's Written Summary of ISH3 [REP5-071]**, which contains the relevant drafting changes. The Applicant therefore anticipates that, where required, separate consents under section 23 of the Land Drainage Act 1991 will be obtained in the usual way, should the Secretary of State be minded to grant development consent. The Applicant does not consider there to be any barriers to such authorisations being secured separately.

We would be grateful if you could please confirm receipt of this letter in response to the SoS letter dated 17 June 2026. If we can be of further any assistance, please do not hesitate to contact us using the details provided below.

Yours sincerely,



Daniel Boyd  
One Earth Project Lead



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**Appendix A      NGED Protected Provisions**

## PART [●]

### FOR THE PROTECTION OF NATIONAL GRID ELECTRICITY DISTRIBUTION (EAST MIDLANDS) PLC

#### Application

1. For the protection of NGED the following provisions, unless otherwise agreed in writing between the undertaker and NGED, have effect.

#### Interpretation

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable NGED to fulfil its statutory functions in a manner not less efficient than previously and where the context requires includes any part of such alternative apparatus;

“alternative rights” means all and any necessary legal easements, leases, consents, or permissions required by NGED in order to permit or authorise a diversion and to permit or authorise NGED to lay, keep, operate, maintain, adjust, repair, alter, relay, renew, supplement, inspect, examine, test and remove the alternative apparatus;

“apparatus” means electric lines or electrical plant as defined in the 1989 Act<sup>1</sup>, belonging to or maintained by NGED;

“diversion” means an alteration to the NGED Network in order to enable or facilitate the authorised development;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“NGED” means National Grid Electricity Distribution (East Midlands) plc (Company No. 02366923) whose registered office is at Avonbank, Feeder Road, Bristol, BS2 0TB;

“NGED Network” means NGED’s distribution network operated pursuant to its distribution licence issued pursuant to section 6 of the 1989 Act;

"plan" or "plans" includes all designs, drawings, specifications, method statements, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

"specified work" means so much of any of the authorised development that is carried out within 6 metres of any apparatus; and

other terms have the meaning given in article 2 (interpretation) of the Order.

#### Precedence of 1991 Act in respect of apparatus in streets

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and NGED are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

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(<sup>1</sup>) 1989 C. 29. The definition of “electricity plant” (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c.27).

## **No acquisition except by agreement**

4. Regardless of any provision in this Order, the undertaker must not acquire any apparatus otherwise than by agreement.

## **Removal of apparatus**

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker requires that apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of NGED to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, alternative rights acquired or granted for the alternative apparatus and the alternative apparatus is in operation and access to it has been provided if necessary to the reasonable satisfaction of NGED in accordance with sub-paragraphs (2) to (10) or with such alternative or supplementary provisions as the undertaker and NGED may agree between them.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to NGED written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed.

(3) If as a direct consequence of the exercise of any of the powers conferred by this Order NGED reasonably needs to remove or divert any of its apparatus and the removal of that apparatus has not been required by the undertaker under sub-paragraph (2) then NGED must give to the undertaker written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and this Part has effect as if the removal or diversion of such apparatus had been required by the undertaker under sub-paragraph (2)

(4) If as a direct consequence of the removal or diversion of apparatus under sub-paragraph (2) or (3) alternative apparatus is to be constructed in land owned or controlled by the undertaker then the undertaker must afford to NGED the necessary facilities, alternative rights and any necessary third party consent or approvals for the construction of alternative apparatus in the other land owned or controlled by the undertaker.

(5) If the undertaker or NGED requires to remove or divert any apparatus placed within the Order land and alternative apparatus is to be constructed in land not owned or controlled by the undertaker as a consequence of the removal or diversion of apparatus then NGED shall use its reasonable endeavours to obtain alternative rights in the land in which the alternative apparatus is to be constructed.

(6) If alternative apparatus is to be constructed in land not owned or controlled by the undertaker and NGED is unable to obtain such alternative rights as are mentioned in sub-paragraph (5), the undertaker and NGED shall consider whether there is an alternative engineering solution that can achieve the diversion without the need for the use of compulsory powers. Should such an alternative engineering solution not be practicable and deliverable in a reasonable timescale and at a reasonable cost (which shall be determined by the undertaker acting reasonably), NGED may but shall not be compelled to use the powers of compulsory acquisition set out in this Order or the 1989 Act to obtain the necessary facilities and rights in the land outside the Order limits in which the alternative apparatus is to be constructed in accordance with a timetable agreed between NGED and the undertaker.

(7) Any alternative apparatus required pursuant to sub-paragraphs (2) or (3) must be constructed in such manner and in such line or situation as may be agreed between NGED and the undertaker or in default of agreement settled in accordance with paragraph 10.

(8) NGED must, after the alternative apparatus to be provided or constructed has been agreed or settled pursuant to paragraph 10, and after the acquisition by or grant to NGED of any such facilities and alternative rights as are referred to in sub-paragraphs (2) to (6), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required to be removed by the undertaker under the provisions of this Part of this Schedule.

(9) Regardless of anything in sub-paragraph (8), if the undertaker gives notice in writing to NGED that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land controlled by the undertaker, that work, instead of being executed by NGED, must be executed by the undertaker—

- (a) in accordance with plans and specifications and in such line or situation agreed between the undertaker and NGED, or, in default of agreement, determined in accordance with paragraph (10); and
- (b) without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of NGED.

(10) Nothing in sub-paragraph (9) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus or alternative apparatus, or execute any filling around the apparatus or alternative apparatus (where the apparatus or alternative apparatus is laid in a trench) within 600 millimetres of the point of connection or disconnection of such apparatus or alternative apparatus.

### **Facilities and rights for alternative apparatus**

6.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to NGED facilities and alternative rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and alternative rights must be granted upon such terms and conditions as may be agreed between the undertaker and NGED or in default of agreement settled in accordance with paragraph 10.

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the expert must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker;
- (b) have regard to the terms and conditions, if any, applicable to the apparatus for which the alternative apparatus is to be substituted;
- (c) have regard to NGED's ability to fulfil its service obligations and comply with its licence conditions; and
- (d) have regard to the standard form rights NGED ordinarily secures for the type of alternative apparatus to be constructed in the circumstances similar to the authorised development.

(3) If the facilities and alternative rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and alternative rights are to be granted, are in the opinion of the expert less favourable on the whole to NGED than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the expert must make such provision for the payment of compensation by the undertaker to NGED as appears to the expert to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

7.—(1) Not less than 60 days before the undertaker intends to start the execution of any specified work where the removal of the apparatus in question has not been required under paragraph 5, the undertaker shall submit to NGED a plan of the specified works to be executed. Any submission must note the time limits imposed on NGED under sub-paragraph (3) below.

(2) Subject to sub-paragraph (3) below the undertaker shall not commence any works to which sub-paragraph (1) applies until NGED has identified any reasonable requirements it has for the alteration or protection of the apparatus, or for securing access to it.

(3) If by the expiry of 60 days beginning with the date on which a plan under sub-paragraph (1) is submitted NGED has not advised the undertaker in writing of any reasonable requirements for the alteration or protection of the apparatus, or for securing access to it, it shall be deemed not to have any such requirements and the undertaker shall be at liberty to proceed with the specified works.

(4) The specified works referred to in sub-paragraph (1) must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with any reasonable requirements as may be notified in accordance with sub-paragraph (2) by NGED and NGED shall be entitled to watch and inspect the execution of those works.

(5) At all times when carrying out the authorised development the undertaker must comply with NGED's *Avoidance of Danger from Electricity Overhead Lines and Underground Cables* (2014), the Energy Network Association's *A Guide to the Safe Use of Mechanical Plant in the Vicinity of Electricity Overhead Lines* (undated), the Health and Safety Executive's *GS6 Avoiding Danger from Overhead Power Lines* and the Health and Safety Executive's *HSG47 Avoiding Danger from Underground Services (Third Edition)* (2014) as the same may be replaced from time to time.

(6) If NGED, in accordance with sub-paragraph (2) and in consequence of the specified works proposed by the undertaker, reasonably requires the removal or diversion of any apparatus and gives written notice to the undertaker of that requirement, this Part of this Schedule applies as if the removal or diversion of the apparatus had been required by the undertaker under paragraph 5(2).

(7) Nothing in this paragraph 7 precludes the undertaker from submitting at any time or from time to time, but in no case less than 60 days before commencing the execution of any specified works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(8) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to NGED notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with any reasonable requirements stipulated by NGED under sub-paragraph (2) and with sub-paragraphs (4) and (5) in so far as is reasonably practicable in the circumstances. Nothing in this sub-paragraph prevents NGED from exercising its rights under sub-paragraph (6).

## **Expenses and costs**

**8.—**(1) Subject to the following provisions of this paragraph, the undertaker must pay to NGED the reasonable expenses incurred by NGED in, or in connection with, the inspection, removal, diversion, alteration or protection of any apparatus, the construction of any alternative apparatus and the acquisition or grant of alternative rights for the alternative apparatus, arising as a result of the powers conferred upon the undertaker pursuant to this Order.

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule NGED requires that alternative apparatus of better type, of greater capacity, of greater dimensions or at a greater depth is necessary in substitution for existing apparatus which for NGED's network requirements is over and above what is necessary as a consequence of and for the purpose of the authorised development, NGED shall reduce the cost of such additional requirements from the amount payable by the undertaker pursuant to sub-paragraph (1).

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus where such extension is required in consequence of the authorised development as determined by NGED at its absolute discretion; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1) if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any

financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

### **Liability**

9.—(1) Subject to sub-paragraph (2) and (3) if by reason or in consequence of the construction of any specified work or any subsidence resulting from any of those works any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of NGED the undertaker is to—

- (a) bear and pay the cost reasonably and properly incurred by NGED in making good such damage or restoring the supply; and
- (b) reimburse NGED for any other expenses, loss, damages, penalty or costs reasonably and properly incurred by NGED, by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of NGED, its officers, servants, contractors or agents.

(3) NGED must give the undertaker reasonable notice of any such claim or demand and no settlement, or compromise, unless payment is required in connection with a statutory compensation scheme, is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) NGED must act reasonably in relation to any claim or demand served under sub-paragraph (1) and use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands and penalties to which a claim or demand under sub-paragraph (1) applies.

(5) NGED's liability to the undertaker for negligence or breach of contract, in respect of each diversion, shall be limited to the value of that diversion and NGED shall not otherwise be liable to the undertaker for any losses or costs incurred by the undertaker resulting from delays to the authorised development as a result of its failure to undertake works to deliver any alternative apparatus.

(6) Nothing in sub-paragraph (1) is to impose any liability on the undertaker in respect of any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption which is not reasonably foreseeable.

### **Expert determination**

10.—(1) Article 42 (arbitration) shall apply to any difference as to the legal interpretation of this Part of this Schedule and as provided for in sub-paragraph (7).

(2) Save as provided for in sub-paragraph (1) or sub-paragraph (7) any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Institution of RICS or the President of the Institution of Engineering and Technology (as relevant and agreed between NGED and the undertaker, both acting reasonably and without delay).

(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The costs and fees of the expert and the costs of NGED and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;

- (b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;
  - (c) issue a decision within 14 days of receipt of the submissions under sub-paragraph (b); and
  - (d) give reasons for the decision.
- (6) The expert must consider where relevant—
- (a) the development outcome sought by the undertaker;
  - (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
  - (c) the nature of the power sought to be exercised by the undertaker;
  - (d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;
  - (e) NGED's service obligations and licence conditions; and
  - (f) any other important and relevant consideration.
- (7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 42.

#### **Access**

**11. -** (1) If in consequence of the agreement reached under paragraph 4 or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable NGED to maintain or use the apparatus no less effectively than was possible before such obstruction.