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Bramford to Twinstead Reinforcement

Volume 8: Examination Submissions

Document 8.8.4.3: Applicant's Written Summaries of Oral Submissions to Compulsory Acquisition Hearing 2

Final Issue A
December 2023

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The Infrastructure Planning (Examination Procedure) Rules 2010 Regulation 8(1)(k)

nationalgrid

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1. About this document

1.1 Introduction

- 1.1.1 This document summarises the case put by National Grid Electricity Transmission plc (the Applicant), at Compulsory Acquisition Hearing 2 on 13 December 2023 for the Bramford to Twinstead Reinforcement (referred to as the project).
- 1.1.2 The virtual hearing opened at 09:30 on 13 December 2023 and closed at 10:35 on 13 December 2023. The agenda for the hearing [EV-028] was published on the Planning Inspectorate's website on 4 December 2023.
- 1.1.3 In what follows, the Applicant's submissions on the points raised broadly follow the items set out in the Examining Authority's agenda.

1.2 Attendees on behalf of the Applicant

- 1.2.1 Rebecca Clutten, Counsel, instructed by Bryan Cave Leighton Paisner LLP (BCLP) appeared on behalf of the Applicant.
- 1.2.2 The following expert witnesses also made submissions throughout the hearing:
 - John Bevan, National Grid (Senior Project Manager);
 - Matthew Bell, National Grid (Lands Officer); and
 - Robert Jones, National Grid (Engineering and Design).

2. The Applicant's Summary of Case on Item 3: Site-specific Representations from Affected Persons

2.1 Item 3. Site-specific Representations from Affected Persons

Table 2.1 – Item 3. Site-specific Representations from Affected Persons

Issue Discussed	Summary of Oral Case
i. Applicant's Response to November Hearings Action Points [REP4-042]	
Action Point 1 arising from Compulsory Acquisition Hearing 1	<p>The Applicant provided a summary of its response to Action Point 1, as set out at Table 2.1 (Response to Compulsory Acquisition Hearing 1 (8 November 2023)) of the Applicant's Response to November Hearings Action Points [REP4-042].</p> <p>The voluntary agreements currently provide for:</p> <ul style="list-style-type: none">• Three months' notice of entry should it be necessary to re-build the temporary access route off the A131; and• 28 days' notice of entry where it is not necessary to rebuild the temporary access route. <p>These notice periods do not apply in the case of an emergency.</p> <p>In the absence of a voluntary agreement (the Compulsory Acquisition (CA) approach) three months' notice would be given on exercise of the CA power. Thereafter, the Applicant would be entitled to exercise the right itself at a later date without being subject to any such notice periods.</p> <p>The Applicant acknowledged that the notice provisions under the voluntary agreements are more favourable to Affected Persons; greater flexibility is provided for in the heads of terms, voluntary agreements being the appropriate means for securing contractual notice provisions.</p>
Action Point 2 arising from Compulsory Acquisition Hearing 1	<p>The Applicant confirmed that reports of the swept-path analysis of the alternative routes proposed for the temporary access route off the A131 would be submitted at Deadline 6.</p> <p>Please refer to Swept Path Assessment for Alternative Temporary Access Routes off the A131 (document 8.8.10 submitted at Deadline 6.</p>
Action Point 4 arising from Compulsory Acquisition Hearing 1	<p>The Applicant confirmed that in its response to Action Point 4, as set out at Table 2.1 (Response to Compulsory Acquisition Hearing 1 (8 November 2023)) of the Applicant's Response to November Hearings Action Points [REP4-042], it had not intended to depart from the security measures suggested at Compulsory Acquisition Hearing 1 for preventing the unauthorised use of the temporary access route off the A131.</p> <p>Security measures at this location would include:</p>

Issue Discussed	Summary of Oral Case
	<ul style="list-style-type: none"> • A manned security hub just off the A131; • The gating of any intermediate road crossings; • The operation of ‘digital policeman’ devices (a droid-type device that records and communicates back to the security company); and • Patrols of the temporary access route by the security company.
ii. Applicant’s Comments on Other Submissions Received at Deadline 3 [REP4-022]	
Section 3: Applicant’s Comments on the Submissions from Francis Prosser [AS-008 and REP3-072]	The Applicant agreed to consider as part of its Applicant’s Response to the December Hearing Action Points (document 8.8.3, CAH2 Action Point 2) how access across plots 630, 631 and 632 would be restricted solely to access the biodiversity mitigation area.

3. The Applicant's Summary of Case on Item 4: Site-specific Matters for the Applicant

3.1 Item 4. Site-specific Matters for the Applicant

Table 3.1 – Item 4. Site-specific Matters for the Applicant

Issued	Discussed	Summary of Oral Case
i. Voluntary Agreements with Landowners		
Applicant's update on seeking voluntary agreements with landowners		<p>The Applicant provided the following update on the position set out in Table 4.1 of the Applicant's Written Summaries of Oral Submissions to Compulsory Acquisition Hearing 1 [REP4-023]:</p> <ul style="list-style-type: none">• Heads of terms have been signed by 30 landowners;• Negotiations have effectively concluded with, and heads of terms are out for final approval and signature by, 47 landowners;• Heads of terms have been issued to, and negotiations are ongoing with, 30 landowners;• There have been two instances where there has been no recent engagement by landowners, but the Applicant continues to take steps to engage; and• Only one landowner has made it clear that they do not wish to engage further with the Applicant. <p>The Applicant commented that heads of terms are being signed on a fairly regular basis, and that its surveyors on the ground will continue to be actively engaged in negotiations during the festive period.</p>
Applicant's approach to voluntary agreements		<p>The Applicant confirmed that its preference is to secure voluntary agreements, and that it would promote voluntary agreement as far as possible until the project programme would be impacted.</p>
ii. Robert Arthur David Cowlin [RR-067 and REP2-036]		
Applicant's update regarding Robert Arthur David Cowlin [RR-067 and REP2-036]		<p>The Applicant confirmed that agreement had been reached, notwithstanding Mr Cowlin's previously expressed concerns. Signed heads of terms were received on 29 November 2023, as noted in the Compulsory Acquisition and Temporary Possession Objections Schedule [REP5-022].</p>

Issued Discussed	Summary of Oral Case
iii. Mead Farms [RR-041]	
Applicant's update regarding Mead Farms [RR-041]	The Applicant confirmed that the project no longer required any interaction with Mead Farms. Early proposals included interactions with the land for the purposes of biodiversity net gain and hedgerow reinforcement, but this was reassessed and the relevant land was removed at Deadline 1 [REP1-005] and therefore is not included in the Book of Reference [REP4-037].
iv. Robert Shelley [REP5-040]	
Applicant's update regarding Robert Shelley	<p>The Applicant confirmed that it had reviewed Mr Shelley's suggested alternative route for accessing the Stour Valley East cable sealing end (CSE) compound [REP5-040].</p> <p>The reasons for the Applicant's preferred route for accessing the Stour Valley East CSE compound are as set out in the Applicant's response to the Parish Councils at pages 138 and 139 of the Applicant's Comments on Other Submissions Received at Deadline 4 [REP5-025].</p>

4. The Applicant's Summary of Case on Item 5: Statutory Undertakers

4.1 Item 5. Statutory Undertakers

Table 4.1 – Item 5. Statutory Undertakers

Issued Discussed	Summary of Oral Case
i. Applicant's Update on Discussions with Statutory Undertakers	
Anglian Water Services Ltd	<p>The Applicant confirmed that productive discussions have continued with Anglian Water Services Ltd. Legal discussions have now largely settled the last outstanding point (concerned with when the Anglian Water Services Ltd construction compound located at the interface would be in use).</p> <p>The Applicant was hopeful that full resolution would be reached ahead of Deadline 7.</p>
Cadent Gas Limited	<p>The Applicant confirmed that the position remained as set out in the Applicant's Protective Provisions and Commercial Side Agreements Tracking List [REP5-029], with legal discussions ongoing regarding a side agreement.</p> <p>The Applicant did not anticipate agreement being reached ahead of Deadline 7 but was hopeful that it would be concluded by Deadline 9.</p>
Network Rail Infrastructure Limited	<p>The Applicant noted that since Compulsory Acquisition Hearing 1, progress had slowed due to a number of commercial matters that had arisen. However, recent meetings held with Network Rail Infrastructure Limited had been productive.</p> <p>The Applicant was hopeful that agreement would be reached ahead of Deadline 9 on outstanding commercial and technical matters.</p> <p>Given it may need to make section 127 and section 138 submissions around Deadline 9, the Applicant confirmed that it would be seeking clarity from Network Rail Infrastructure Limited in January 2024 regarding whether resolution is likely to be reached, and if so by when, to inform its section 127 and section 138 position.</p>
Pivoted Power LLP	<p>The Applicant confirmed that the position remained largely as set out in the Applicant's Protective Provisions and Commercial Side Agreements Tracking List [REP5-029], subject to further progress having been made in negotiations over the side agreement.</p> <p>The Applicant anticipated that agreement would be reached ahead of Deadline 9.</p>
TC East Anglia One OFTO Ltd	<p>The Applicant confirmed that they had been able to re-engage with TC East Anglia One OFTO Ltd and that productive discussions had been held in the week commencing 11 December 2023. Although the parties are in the early stages of understanding the interface, the Applicant anticipated that it would be similar to that with East Anglia Three Limited. TC East Anglia One OFTO Ltd were in the process of appointing legal representatives, following which negotiations could progress further.</p>

Issued Discussed	Summary of Oral Case
	<p>The Applicant anticipated that bespoke protective provisions would be agreed for inclusion in the draft Development Consent Order [REP5-005], as well as a side agreement covering commercial elements. Fundamental issues were not expected, and the Applicant was hopeful of resolution by the end of the Examination.</p>
East Anglia Three Limited	<p>The Applicant confirmed that the position remained as set out in the Draft Statement of Common Ground – East Anglia Three Limited [REP5-018] and East Anglia Three Limited’s Deadline 5 Submission [REP5-036].</p> <p>The Applicant anticipated that agreement would be reached by the end of the Examination.</p>

5. The Applicant's Summary of Case on Item 6: Policy

5.1 Item 6. Policy

Table 5.1 – Item 6. Policy

Issued Discussed	Summary of Oral Case
i. Draft National Policy Statement for Electricity Networks Infrastructure (EN-5) (November 2023 draft EN-5)	
Section 2.6 (Land Rights and Land Interests)	<p>The Applicant noted that the relevant National Policy Statements for the project remain those designated in 2011, although the updated drafts issued in November 2023 are capable of being important and relevant considerations.</p> <p>The Applicant considered that it was closely aligned with section 2.6 of the November 2023 draft EN-5 regarding:</p> <ul style="list-style-type: none">• Its approach to compulsory acquisition;• Making efforts to seek voluntary agreements with the landowners;• Relying on compulsory acquisition powers only as a last resort; and• Minimising the amount of freehold acquisition, instead taking the rights required for the cables and overhead lines. <p>In addition, section 2.6 of the November 2023 draft EN-5 makes clear that compulsory acquisition powers could be used or exercised for land / rights required for mitigation, landscape enhancement and biodiversity net gain, whilst making clear the strong policy preference for permanent arrangements being in place for the cable and overhead line rights (i.e. easements, as opposed to wayleaves).</p> <p>Therefore, the Applicant considered that it was aligned with section 2.6 of the November 2023 draft EN-5, just as it was aligned with the July 2011 National Policy Statement for Electricity Networks Infrastructure (EN-5). The November 2023 draft EN-5 provides further support for the Applicant's position regarding the acquisition of easements and mitigation and enhancement land and rights.</p>
Biodiversity net gain	<p>The Applicant agreed to consider as part of its Applicant's Response to the December Hearing Action Points (document 8.8.3, CAH2 Action Point 3) its position regarding compulsory acquisition in the context of biodiversity net gain ahead of the introduction of the mandatory biodiversity net gain requirements in 2025.</p>

6. The Applicant's Summary of Case on Item 7: Human Rights

6.1 Item 7. Human Rights

Table 6.1 – Item 7. Human Rights

Issued Discussed	Summary of Oral Case
	There was nothing that the Examining Authority wished to raise in relation to Item 7. Consequently, the Applicant made no oral submissions.

7. The Applicant's Summary of Case on Item 8: Consideration of Duties under the Equalities Act 2010

7.1 Item 8. Consideration of Duties under the Equalities Act 2010

Table 7.1 – Item 8. Consideration of Duties under the Equalities Act 2010

Issued Discussed	Summary of Oral Case
	There was nothing that the Examining Authority wished to raise in relation to Item 8. Consequently, the Applicant made no oral submissions.

8. The Applicant's Summary of Case on Item 9: Funding

8.1 Item 9. Funding

Table 8.1 – Item 9. Funding

Issued Discussed	Summary of Oral Case
i. The Applicant's Responses to First Written Questions [REP3-052]	
Question MG1.0.41	The Applicant confirmed that National Grid Group's regulatory asset value should read "£58,977m", rather than "£58.977m", in the Applicant's response to Question MG1.0.41 in the Applicant's Responses to First Written Questions [REP3-052].

9. The Applicant's Summary of Case on Item 10: Any Other Business

9.1 Item 10. Any Other Business

Table 9.1 – Item 10. Any Other Business

Issued Discussed	Summary of Oral Case
There was nothing that the Examining Authority wished to raise in relation to Item 10. Consequently, the Applicant made no oral submissions.	

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